

# DRIVEWAY ORDINANCE 2020-001

Town of Underhill

Oconto County

Ordinance 2020-001

## Town of Underhill Driveway Ordinance

### Section 1. Title and Purpose

The title of this ordinance is the Town of Underhill Driveway and Highway Access Permit Ordinance. The purpose is to regulate, for public health and safety reasons, the establishment, repair, construction, improvement, modification, and reconstruction of private driveways, to assure that the methods of repair, construction, improvement, modification, and reconstruction practices used in any driveway will protect properly the public health, safety, and general welfare of persons in the Town of Underhill, and to limit and regulate highway access by motor vehicles to any town highway in the town. This is not a town zoning ordinance.

### Section 2. Authority

The town board has the specific authority under secs. 66.0425 and 86.07, Wis. Stats., to adopt a town driveway permit ordinance, and has the general authority under its village powers under sec. 60.22, Wis. Stats., to adopt this ordinance.

### Section 3. Adoption of Ordinance

The town board, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the town board present and voting, provides the authority for the town to regulate and permit certain driveways and highway access locations in the town.

### Section 4. Definitions

In this ordinance:

- A. "Driveway" means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any town highway, and will provide vehicular access from the highway to a residence, business, recreational site, or other similarly appropriate use.
- B. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the town.
- C. "Town" means the Town of Underhill, Oconto County, Wisconsin.
- D. "Town Board" means the board of supervisors for the Town of Underhill, Oconto County, Wisconsin and includes any designee of the board authorized to act for the board.
- E. "Town Clerk" means the clerk of the Town of Underhill, Oconto County, Wisconsin.
- F. "Wis. Stats" means the Wisconsin Statutes, including successor provisions to cited statutes.

## **Section 5. Coverage**

- A. No person may establish or construct a driveway or reconstruct, reroute or alter any highway access onto a town highway without first obtaining a town driveway permit to be issued by the Town Board chairperson, Town Board or its designee.
- B. Any person prior to and at the time of seeking a town driveway permit must own or have a legal interest in and current legal access to the land to which the permit will apply.

## **Section 6. Specifications**

- A. All driveways in the town for which a Town Driveway Permit is required under Section 5 shall meet all of the following minimum requirements:
  - 1. Access driveways shall have a setback of 15 feet from an adjacent property line.
  - 2. The maximum number and width of access driveways to highways and service roads shall be as follows:
    - a. Real estate parcels used primarily for commercial, industrial and agricultural purposes shall be allowed two access driveways with a maximum 35 feet and minimum 20 feet width measured from the pavement edge or the edge of the graded portion of non-paved roads. The access driveways shall be located at least 15 feet from an adjacent private property line and shall meet at least a 75 foot spacing from adjacent access points, measured from the edge of the driveways.
    - b. Field accesses shall not be restricted regarding the number of driveways or width requirements, but are subject to the approval of the Town Board chairperson, Town Board or its designee.
    - c. Residential properties shall be allowed one improved access drive with a maximum width of 32 feet and a minimum width of 20 feet measured from the pavement edge or the edge of the graded portion of non-paved roads. The width, measured ten feet from the pavement edge or the edge of the graded portion of non-paved roads, shall not be less than 15 feet. The access driveways shall be located at least 15 feet from an adjacent private property line.
  - 3. All driveways shall have culverts of an appropriate size to maintain proper ditching unless deemed unnecessary by the Town Board chairperson, Town Board or its designee.
- B. Access drives shall be designed and constructed to provide adequate access for emergency vehicles to the building location. Where it is deemed that a driveway may not meet this requirement, local emergency personnel may be contacted for verification. If it is found that the driveway is unsafe or inaccessible the driveway permit can be denied.

## **Section 7. Application and permit provisions**

- A. The Town Board shall approve a form for application for the town driveway permit, which shall be available from the Town Board chairperson, Town Board, or its designee.
- B. The applicant for a town driveway permit shall submit to the Town Board Chairperson, Town Board, or its designee a completed application for each proposed driveway with the appropriate fee and with the following attachments:
  - 1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions of the project.
  - 2. Plat Map. A plat map indicating the location and dimensions of the desired driveway as well as the parcels immediately adjacent to the applicant's property.
  - 3. Other Documents. The town board may require other documents to be attached to the Driveway Permit Application.
- C. The Town Board Chairperson, Town Board or its designee shall approve or deny every Town Driveway Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit. Reasons for denying a town driveway permit application may include factors impacting on public health, safety, and general welfare of persons in the Town of Underhill.
- D. In the event of a denial of a Town Driveway Permit Application, the Town Board chairperson, Town Board or its designee shall recite in writing the particular facts upon which it bases its denial of the permit. The Town Board shall also afford the applicant an opportunity for review of the decision and present evidence at a public hearing after a Class 1 Notice under sec. 985.07, Wis. Stats., of the hearing. Thereafter, the decision may be affirmed reversed, or modified.
- E. A Town Driveway Permit is effective for 12 months from the date of issuance.
  - 1. The applicant shall notify the Town Board Chairperson or designee within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or highway access. Within 30 days of notification, the town shall conduct an inspection of the driveway to ensure full compliance with all of permit conditions and provisions of this ordinance.
- F. The Town Board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under sec. 66.0119, Wis. Stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for the safe and timely travel by emergency vehicles or vehicles of the general public.

## **Section 8. Waiver of Requirements**

The Town Board may waive the requirements set forth in this ordinance, upon application to and hearing by the Board, for good cause shown and when the waiver will secure substantially the purposes described in Section 2, and will not be detrimental to public safety, health or welfare, or injurious to other persons or property.

## **Section 9. Penalty Provision**

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall be required to remove noncompliant driveway, and return the right of way to previous condition. If the driveway is not removed, the Town of Underhill will remove the driveway, and bill the property owner for the cost of removal.

**Section 10. Severability Clause**

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

**Section 11. Effective Date**

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance as required under sec. 60.80, Wis. Stats.

Adopted this 3<sup>rd</sup> day of March 2020.



Peter Vorpahl, Town Chairman



Pat Nelson, Town Supervisor



Robert McCarthy, Town Supervisor



Tracy Winkler, Town Clerk

## Permit for Driveway Access to Town Road

Applicant Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Property Owner Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

\_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

### Driveway Location

Road Name: \_\_\_\_\_

Property Description: \_\_\_\_ 1/4 \_\_\_\_ 1/4 Sec. \_\_\_\_, T \_\_\_\_ N, R \_\_\_\_ E

Location: \_\_\_\_\_ side of the road, \_\_\_\_\_ miles/feet, \_\_\_\_\_ of \_\_\_\_\_

### Reason for driveway

Residential Access \_\_\_\_\_

Commercial Access \_\_\_\_\_

Field/Forest Access \_\_\_\_\_

Temporary Access \_\_\_\_\_

Culvert Required: \_\_\_\_ yes \_\_\_\_ no If yes, Diameter \_\_\_\_\_ Length \_\_\_\_\_

Material \_\_\_\_\_ Other \_\_\_\_\_

Please attach the following (may use space below): Sketch map of the project, Plat map indicating location, and any other documentation necessary.

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Signature of Applicant

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Date

Approved By:

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Town Chair

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Date