

Town of Sumner Driveway Ordinance and Highway Access Ordinance D-20131007

STATE OF WISCONSIN

Town of Sumner
Jefferson County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Sumner Driveway Ordinance and Highway Access Ordinance, both of which require permits (also see Section IV Definitions). 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 Sumner, 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 II – AUTHORITY

The town board has the specific authority under ss. 66.0425 and 86.07, Wis. stats., to adopt a town highway access permit ordinance, and has the general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by permit of certain driveways and highway access locations in the town.

SECTION IV – 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 public 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. "Highway Access" means the location of the private "access" onto any public highway.
 - D. "Highway" or "Public Highway" means any Town, County or State Road, Street, Highway, etc.
 - E. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- Down
Up
- F. "Prime or productive agricultural or forestry land" means any land within the town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
 - G. "Town" means the Town of Sumner, Jefferson County, Wisconsin.
 - H. "Town board" means the board of supervisors for the Town of Sumner, Jefferson County, Wisconsin, and includes any designee of the board authorized to act for the board.
 - I. "Town clerk" means the clerk of the Town of Sumner, Jefferson County, Wisconsin.
 - J. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V – COVERAGE

- A. **Town Driveway Permit** - No person may establish or construct a driveway or reconstruct, reroute, or alter the existing slope of any existing driveway or any town or other highway or highway right-of-way in the town in relation to the connection of the highway or highway right-of-way to a driveway, whether new or previously existing, without first obtaining a Town Driveway Permit to be issued by the town board or designee. 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.
- B. **Highway Access Permit** - 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 Highway Access Permit to be issued by the town board or designee. Any person prior to and at the time of seeking a Town Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit will apply. Note: Access onto a County or State highway requires approval and/or permits from the applicable governing body.

SECTION VI – SPECIFICATIONS

Commencing on the effective date of this ordinance, all new driveways being constructed and all driveways in the town for which a Town Driveway Permit or Highway Access Permit is required under Section V shall meet all of the minimum requirements in the Driveway and Highway Access - Addendum A. No permit shall be issued unless the materials submitted as required under Sections VII(B) and VIII(C) demonstrate compliance with the requirements of this section.

To provide unobstructed access to conventional drive vehicles, including Sedans and FIRE ENGINES, the driveway must conform to the specific minimum driveway specifications as provided in the **attached Town of Sumner Driveway Ordinance and Highway Access Ordinance - Addendum A** (including page 2 of the Addendum, the Jefferson County Highway Department’s driveway regulations “Driveway Installation Requirements”).

SECTION VII – APPLICATION AND PERMIT PROVISIONS

- A. The town board, or designee, shall approve a form for application for both the Town Driveway Permit and the Town Highway Access Permit, which shall be available from the town clerk.
- B. The applicant for a Town Driveway Permit or a Town Highway Access Permit shall submit to the town clerk a completed application for each with the appropriate fee and with the following attachments:
 1. Sketch Map. A rough sketch shows the conceptual idea of the project and approximate location and dimensions of the project. The sketch map may be submitted to the town board, or designee, prior to the preparation or submission of the other supporting documents in order for the town board, or designee, to provide initial comments and review of the proposal. However, formal approval for a Town Driveway Permit or Town Highway Access Permit will not be granted without the submission of complete supporting documents.
 2. Plat Map. A plat map indicates the location and dimensions of the desired driveway and highway access locations, if any, as well as the parcels immediately adjacent to the applicant's property. The applicant may first submit only a sketch plat. Once the town board, or designee, has reviewed the sketch plat, the applicant may be asked to submit an additional preliminary plat or final plat, or both.
 3. Aerial Photo/Site Analysis.
 4. Soil/Slope Analysis.
Down
Up
 5. Driveway Construction Plan.
 6. Highway Access Location Plan, along with the proposed access location visibly marked on pavement with appropriate paint.
 7. Other Documents. The town board, or designee, may require other documents to be attached to the Driveway Permit Application, including a Town Highway Access Permit.
- C. Procedures for the evaluation of the Town Driveway Permit Application and any required Town Highway Access Permit Application by the town board or designee, including any required site inspection of the proposed driveway, are as follows:
 1. The Application with all applicable Attachments listed in VII (B) and VIII (C) must be received by the town board or designee;
 2. The town board or designee will review, follow-up with any questions or for additional information, as needed, and conduct site inspection;
- D. The town board, or designee, shall approve or deny every Town Driveway Permit Application or Town Highway Access Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the permittee. Reasons for denying a Town Driveway Permit Application or Town Highway Access Permit Application may include, but are not limited to:
 1. The inconsistency or nonconformance of the proposed driveway or highway access with any of the following:
 - a. The Town of Sumner Driveway Ordinance and Highway Access Ordinance.
 - b. Any existing town comprehensive plan, master plan, or land use plan.
 - c. Town ordinances, rules, regulations, or plans.
 - d. Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.
 2. The driveway, bridge, culvert, or highway access, or any combination, when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the town.
 3. The application as filed and submitted is incomplete or contains false material as determined by the town board, or designee.
 4. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons ingressing or egressing on the driveway and access point by motor vehicle or for persons traveling on the adjacent highway by motor vehicle.
 5. Alternative driveway locations or alternative highway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.
 6. Alternative driveway locations or alternative access highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or

environmentally sensitive parcels of land or facilities in the town, including land adjacent to or near the proposed driveway.

7. The driveway will not provide timely and adequate ingress and egress for emergency vehicles.
- E. In the event of a denial of a Town Driveway Permit Application or Town Highway Access Permit Application, the town board or 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 to review the town board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the town board refuting the determination. Thereafter, the town board may affirm, reverse, or modify its decision. The town board shall recite in writing findings for any decision to modify or reverse its initial determination.
- F. If the town board denies two consecutive applications for a Town Driveway Permit or denies two consecutive applications for a Town Highway Access Permit on the same parcel, no subsequent reapplication for a permit of the same type that was denied for that parcel will be considered within 12 months of the second denial of either.
- G. Both the Town Driveway Permit and the Town Highway Access Permit are effective for 24 months from the date of issuance. Each permit shall expire after 24 months unless renewed. The driveway or highway access must be started within 6 months from the date of the permit, or the permit becomes null and void and a new application must be submitted for a new permit.
- H. Each permit may be renewed for an additional period of 6 months. If the driveway or highway access has not been constructed by the end of one 6-month renewal period, a new application and fee must be submitted and approved.
- I. The applicant shall notify Town Building Inspector 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 or highway access to ensure full compliance with all of the permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the town board shall issue a Town Driveway Occupancy Permit.
- J. No building permit for any construction of buildings or structures will be issued by the town until the driveway or highway access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued in accordance with this ordinance.
- K. An **application fee** that is nonrefundable in an amount determined by a resolution of the town board will be charged for each permit application as follows:
 1. **Town Driveway Permit Fee** \$200, which may be adjusted by a resolution of the town board
 2. **Town Highway Access Permit Fee** \$50, which may be adjusted by a resolution of the town board
 3. If an engineer is deemed necessary by the town board or designee, the applicant will be responsible for the cost of any and all engineer's fees.
 4. The **application fees are doubled** if the application is received "after the fact" i.e. after the commencement of the construction, reconstruction, rerouting or other alteration for which a permit is required. Also see Section X – Penalty Provision.
- L. The town board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under s. 66.0119, Wis. stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for safe and timely travel by emergency vehicles or vehicles of the general public.

SECTION VIII – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN

- A. The town board, or designee, may in writing require a driveway construction plan or highway access plan prior to any proposed driveway or highway access construction, reconstruction, rerouting, or alteration. A **driveway construction plan is required** for any of the following unless the requirement is waived by the town board, or designee, in writing:
 1. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than 12%.
Down
Up
 2. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the town board, town building inspector, or other designated officer and prior to any permit issuance.
 3. A driveway that crosses a waterway or has the potential to significantly alter existing drainage patterns or quantity of runoff.
 4. Construction or modification of a driveway that necessitates construction or improvement of a bridge or culvert.
 5. When the town board, or designee, in writing requests a driveway construction plan or town highway access plan.
- B. A **highway access plan is required** for all sections of any proposed driveway by the applicant that will enter onto a town highway.
- C. If required by the town board or its designee, a driveway construction plan or highway access plan will include a scale plan attachment showing all of the following:
 1. Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required, including the width and length of the driveway.

The proposed location of the driveway will also be visibly marked on pavement with appropriate paint and flags inserted marking the driveway location for the site inspection.

2. Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 12%.
 3. Retaining Walls. The location and structure of any retaining walls.
 4. Bridges. The location, size, and design calculations of any bridges.
 5. Culverts. The location, size, and design calculations of any culverts.
 6. Cross-section. Typical cross-sections of the driveway.
 7. Erosion Control. Required mulching, matting, or other erosion control.
 8. Storm Water Management. Drainage methods engineered for the particular surface type, including location and dimensions of ditches, proper grading technique, projected water handling capability, and water loads at the point of access to the public highway.
 9. Other Access Points. The location of any other access points onto the town highway within one mile of the proposed access point.
- D. No construction, reconstruction, rerouting, or alteration of a driveway nor construction of a highway access onto a town highway may commence until all of the following conditions are met:
1. The driveway construction plan or highway access plan, if required, is approved by the town board.
 2. A Town Driveway Permit is issued by the town, and, if applicable, a Town Highway Access Permit is issued by the town.
 3. When applicable, any other necessary approvals are obtained from Jefferson County or the State of Wisconsin.
 4. The town board, or designee, shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premises.
- E. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Driveway Construction Permit or Town Highway Access Permit by the town board or designee.
- F. As a condition of any Town Driveway Permit and any Town Highway Access Permit, the driveway and highway access shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.
- G. The approval of a Town Driveway Permit or Town Highway Access Permit application by the town board does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with this ordinance. No person may rely on the issuance of either permit to determine that a driveway, bridge, culvert, or highway access location is fit or safe for any purpose or that any person is in compliance with this ordinance or any State or County laws or ordinance. The town board may require issuance of a Town Driveway Occupancy Permit prior to any determination by the town board that the driveway is fit for timely and safe travel by vehicles of the general public and emergency vehicles and that such travel is authorized. Issuance of a Town Driveway Occupancy Permit does not insure that the driveway will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance of the Town Driveway Occupancy Permit.
- H. The approval of the Town Driveway Permit, Town Driveway Occupancy Permit, or Town Highway Access Permit application does not establish or commit the town to future approval of any driveway as a public road or highway in the town.
- I. A Request Review of Petition for Variance may be considered for approval only if convincing evidences is provided that (1) no other practical alternative exists, (2) the proposed alternative is in the best interest of the Town of Sumner, and (3) the proposed alternative serves the purposes of this ordinance as well or better than a strict interpretation of the rules and standards. A Petition for Variance could apply to the specified driveway installation requirements and specifications as provided in Town of Sumner Driveway Ordinance and Highway Access Ordinance – Addendum A (including page 2 of the Addendum, the Jefferson County highway Department’s driveway regulations “Driveway

SECTION IX – SIGNING AND BUILDING

- A. “Signs” facilitate locating a fire or any other situation requiring emergency vehicle assistance and help to avoid delays in response.
1. All newly or previously constructed or approved roads, streets and building shall be designated by names or numbers, posted on signs clearly visible and legible from the roadway. All signs must be meet the approved town board specifications for sign size and color, letter and number size and collar, and post height and color.
 2. The “fire number” will be ordered & supplied by the town clerk or designee. The fire number will be installed by the town clerk or designee and must be installed and maintained on the provided post in a location consistent with the instructions supplied. The property owner will be responsible for the cost. “Fire number” signs and posts which are damaged or removed from their initial location will be replaced by the town clerk or designee with the property owner responsible for the cost.
 3. New home construction cannot have occupancy until the fire number is posted.

- B. All buildings shall be issued an address by the local jurisdiction, which conform to that jurisdiction's overall address system. Each dwelling unit within a building shall be separately identified. Accessory buildings will not be required to have a separate address, however, may be assigned a separate address.
- C. Setback for structure defensible space:
 - 1. All parcels 1 acre and larger shall provide a minimum 30 feet setback for buildings and accessory buildings from all property lines and/or the center of the road.
 - 2. For parcels less than 1 acre, local jurisdictions shall provide for the same practical effect. Setbacks established by the zoning on parcels less than 1 acre is regard as meeting this section.
- D. Disposal of flammable vegetation and fuels:
 - 1. Disposal, including chipping, burying, burning or removal to a landfill site approved by local jurisdiction of flammable vegetation and fuels caused by site development and construction, road and driveway construction and fuel modification shall be completed prior to completion of road construction or final inspection of a building permit.

SECTION X – PENALTY PROVISION

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$1,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION XI – ENFORCEMENT

A Town Law enforcement officer, any member of the Town Board or a Town Board designee is authorized and directed to make investigations, to issue citations and forfeitures to make notice to property owner(s) of alleged violations of this Town of Sumner Driveway Ordinance and Highway Access Ordinance. The town is authorized to retain legal counsel to assist in prosecution of this ordinance.

SECTION XII – 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 XIII – EFFECTIVE DATE This Ordinance is effective upon publication on 23rd day of October, 2013. The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 7th day of October, 2013.

_____ John Dohner, Jr., Chairman

_____ Randall Burdick, Supervisor I

_____ Frank Micale, Supervisor II

Attest: [Barbara McGann, Clerk]

**Town of Sumner Driveway Ordinance and Highway Access Ordinance
Addendum A**

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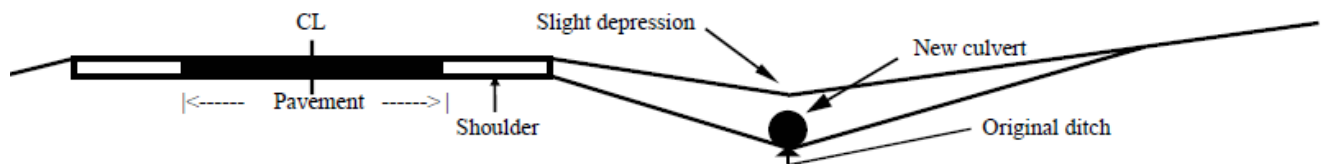
- A. **Surface** should be established in conformance with local Ordinances and be capable of supporting a 50,000 pound load as evidenced by
 - 1. Written statement of a licensed engineering contractor indicating the prepared driveway is an all-weather surface capable of supporting a 50,000 pound load; or
 - 2. Written statement indicating not less than six (6) inches of aggregate base of 90% compacted soil.
- B. **Width** must meet the width specifications in the Jefferson County Driveway Installation Requirements.
- C. **Length** shall not exceed 800 feet.
 - 1. No driveway shall exceed 800 feet in length.
 - 2. Driveways exceeding 400 feet in length, but less than 800 feet in length, shall provide a turnout or hammerhead near the midpoint of the driveway. A turnaround shall be provided at all building sites on driveways over 400 feet in length, and shall be within 50 feet of the building required.
 - 3. Turnarounds or hammerheads shall have an 8% maximum grade. The turnaround terminus bulb shall have a minimum 40 foot radius to centerline.
- D. **Grade** for all roads, streets, private lanes and driveways shall not exceed 12%. Steeper grades may be permitted but only after the responsible Fire Department has approved the mitigation measures.
- E. **Entrance** should have a 40 foot minimum turning radius measured to the center line of the driveway.
 - 1. In steep terrains where a switchback driveway is used, the equivalent for a terminus bulb or hammerhead will be permitted, in lieu of a 40 foot centerline radius, to allow a fire truck to negotiate the turns.
 - 2. Vertical curves on driveways may use a radius determined by a licensed engineering contractor that will not cause a fire truck to “bottom out”.
 - 3. Curves which cannot be made to conform to the above will be handled on a case by case basis in consultation with the involved Town.
- F. **Unobstructed vertical clearance** of a minimum of 15 feet is required along the entire length of driveway
- G. **Turnarounds** are required at the end of driveway and termini and dead ends roads and as otherwise specified. The minimum turning radius for a turnaround shall be 40 feet from the centerline of the road. If a hammerhead/T is used, the top of the “T” shall be a minimum of 60 feet in length
- H. **Driveway bridges** are required to be designed by a licensed professional designer for a minimum load of 50,000 pounds using recognized engineering criteria.
 - 1. Culverts used in lieu of bridges over year-round streams must be designed as for bridges. A licensed engineering contractor may size other culverts
- I. **Gate entrances** shall be at least four (4) feet wider than the width of the traffic lane(s) serving that gate.
 - 1. All gates providing access from a road to a driveway shall be located at least 30 feet from the right-of-way and shall open to allow a vehicle to stop without obstruction traffic on that road.
 - 2. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40 foot turning radius shall be used. Entry onto the driveway may use the entire access road width in determining the radius.
- J. **Agricultural use** will require a Highway Access Permit, with the specifications to be determined based upon the proposed use.

DRIVEWAY INSTALLATION REQUIREMENTS

RULES COVERING THE INSTALLATION OF DRIVEWAYS ON COUNTY TRUNK HIGHWAYS IN JEFFERSON COUNTY

(page 2 of 2)

- No. 1 The permittee, his successors or assignees agree to hold harmless the Jefferson County Highway Department and its duly appointed agents and employees against any action for personal injury or property damage sustained by the issuance of a driveway permit.
- No. 2 The driveway shall always be the sole responsibility of the land owner, adjacent to said highway.
- No. 3 Jefferson County does not assume any responsibility for the removal or clearance of snow, ice, or sleet, or the opening of windrows of such material, upon any portion of the driveway or entrance along any County highway, even though snow, ice, or sleet is deposited or windrowed on said driveway or entrance by its authorized representatives engaged in normal Winter Maintenance Operations.
- No. 4 No portion of the driveway shall be closer than 150 feet from the nearest edge of the right-of-way of an intersecting public road.
- No. 5 Design controls for the minimum stopping sight distance of 450 feet on crest vertical curves will be in effect.
Design criteria to be followed: Design speed: 55 MPH
Drivers eye above pavement surface: 3.5 feet
Object height above pavement: 1.0 foot
- No. 6 The edge of the driveway, or the end of the culvert, shall NOT be closer than five (5) feet from an adjacent property line.
- No. 7 The number of driveways permitted, serving property frontage along a County Trunk Highway, shall be the minimum deemed necessary by the Highway Commissioner for reasonable service to the property without undue impairment of safety, convenience, and utility to the highway.
- No. 8 The edge of the driveway, at the center of the highway ditch, shall NOT be closer than 30 feet from the edge of another driveway at the center of the highway ditch.
- No. 9 *Non-commercial driveways* shall NOT have a width of less than 16 feet, nor greater than 30 feet, measured at right angles to the centerline of the driveway, except as increased by permissible radii.
- No. 10 *Commercial driveways* shall NOT have a width of less than 16 feet, nor greater than 40 feet, as measured at right angles to the centerline of the driveway, except as increased by permissible radii.
- No. 11 The centerline of that part of the driveway lying on the County right-of-way shall always be at right angles to the pavement.
- No. 12 The driveway shall not obstruct or impair drainage in highway side ditches or roadside areas. The size (diameter and length) and the location of the culvert shall be as specified by Jefferson County Highway Department Personnel.
- No. 13 No concrete, stone, timber, or any other material that could constitute a menace or danger to the traveling public will be permitted to be used as endwalls to the driveway. Only standard manufactured apron endsections shall be used. The ground surrounding the end of the driveway shall be sloped in a gradual manner, back to the highway ditch.
- No. 14 If the property has frontage on both a Town road and a County road, the property shall have access from the Town road only.
- No. 15 When the driveway is in an area sloping UP from the highway, the following general design must be followed:



- No. 16 The permittee agrees to use the driveway in the manner applied for on the Driveway Permit Application. Any use of said driveway other than the applied for purpose may result in the permit being revoked and driveway being removed.
- No. 17 No revisions or additions shall be made to the driveway or its appurtenances on the right-of-way without written permission.
- No. 18 The Jefferson County Highway Commission reserves the right to make such changes, additions, repairs, and relocations within statutory limits to the driveway or its appurtenances on the right-of-way as may at any time be considered necessary to facilitate the relocation, reconstruction, widening, and maintain of the highway, or to provide proper protection to life and property on or adjacent to the highway.
- No. 19 Any exceptions to these regulations must be approved in writing by the Highway Commissioner and included in the driveway permit.

Jefferson County - Rev. 1/98