DRIVEWAY ORDINANCE

STATE OF WISCONSIN
Town of _Arcadia_____
Trempealeau____ County

Ordinance No. _2025-03

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of _Arcadia___ 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 _Arcadia___, 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. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.

D. "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.

E. "Town" means the Town of _Arcadia__, _Trempealeau__ County, Wisconsin.

F. "Town board" means the board of supervisors for the Town of _Arcadia__, _Trempealeau__ County, Wisconsin, and includes any designee of the board authorized to act for the board.

G. "Town clerk" means the clerk of the Town of _Arcadia__, _Trempealeau___ County, Wisconsin.

H. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers. Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VI – COVERAGE

A. 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.

B. 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.

C. Any person prior to and at the time of seeking a Town Driveway Permit or a Town Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

D. 1. Commencing 6 months after the effective date of this ordinance and upon receipt of written notice from the town, no landowner may maintain or use, or allow the maintenance or use of, any existing driveway on the landowner's land for general public or emergency vehicle access to and from a residential dwelling in the town if the driveway, for any structural, location, or design reasons, has been determined by the town board, or its agents, in writing to substantially limit or negate safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway.

2. The town board shall serve upon any potentially impacted landowner a copy of its written determination under paragraph 1 that a driveway substantially limits or negates safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway. The determination of the town board shall not be final until a public hearing before the town board has been held. The town board shall publish a class 2 notice, under s. 985.07, Wis. stats., of the public hearing.

3. A copy of the town board's written determination and notice of the public hearing on the town board's determination shall be served by registered or certified mail on any potentially impacted landowner within 20 days of the making of the written determination and at least 10 days prior to the hearing date. The notice shall include the names of all potentially impacted landowners and the location of the subject driveway in the town. The notice may specifically contain a warning that, due to the existing condition of the driveway, emergency vehicle access to the dwellings served by the subject driveway may not be possible.

4. Any potentially impacted landowner may provide at the public hearing evidence regarding access provided by and the condition of the driveway. Any potentially impacted landowner may be represented by legal counsel at the public hearing and may present witnesses and cross-examine witnesses presented by the town board. All witnesses testifying before the town board shall be under oath. No person testifying before the hearing shall vote as a member of the town board in making a final determination regarding the subject driveway.

5. The town board, at or after the hearing, may order any of the following:

a. That the town attorney seek a court order providing that the driveway be closed for general vehicle traffic use, but not closed to emergency vehicle use, until the driveway is structurally designed and reconstructed to allow for safe and timely general public and emergency vehicle access to and from the residential dwellings served by the driveway.

b. That the town attorney seek a court order providing that the driveway be reconstructed or repaired to allow for safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway in a proper manner and in a reasonable time specified by the court and that if the driveway is not so reconstructed or repaired by the date specified, the town board may have the driveway reconstructed or repaired and the cost assessed as a special assessment against the land under its police power under ss. 66.0701 and 66.0703, Wis. stats.

c. Other reasonable and necessary action that will serve to protect the public health and safety of persons within the town, including the owner, occupants, or guests of the owner of the land.

SECTION VII – SPECIFICATIONS

Commencing 6 months after the effective date of this ordinance for existing driveways and commencing on the effective date of this ordinance for new driveways being constructed, all driveways in the town for which a Town Driveway Permit is required under Section VI shall meet

all of the following minimum requirements. No permit shall be issued unless the materials submitted as required under Sections VIII and IX demonstrate compliance with the requirements of this section:

6.05 Driveway requirements

1) Every lot upon which uses permitted under this code may take place shall have access to a public highway.

(2) For all uses, except agricultural uses, as listed in Section 2.05, no more than 2 access points per lot shall be permitted.

(3) For all uses, except agricultural uses, as listed in Section. 2.05, access shall not be allowed directly to a state highway if access to a town or county public highway is available.

(4) Driveway width.

(a) For all single family residential and duplex residential uses, driveways shall be at least 12 feet wide and not more than 24 feet wide extending 50 feet back from the highway centerline.

(b) Driveways for all other uses, except agricultural uses, shall be at least 20 feet wide and not more than 35 feet wide extending a minimum of 50 feet back from the highway centerline. Such drives may be reduced to 12 feet wide if they are enter-only or exit-only drives.

(5) Setback. All driveways shall be placed such that the driveway edge nearest to an adjoining property owners lot line is at least 5 feet from the lot line, unless driveways are shared by adjoining property owners.

(6) All driveways, except those to farm fields, shall be surfaced with gravel or paved and pitched to prevent ponding.

(7) Location. Driveways shall be located opposite median crossover where present.

8) Grade. All driveways shall accommodate emergency vehicles. The maximum grade for driveways serving dwelling units constructed after the effective date of this Ordinance shall be 20%. Any applicant seeking to construct a driveway, any portion of which shall contain a grade in excess of 20%, may seek a Conditional Use Permit from the Zoning Committee, a nd present any plans and information which demonstrate that the steeper grade satisfies driveway requirements.

(9) Intersection with highway. All driveways shall intersect a public highway at a 90 degree angle. All driveways shall be sloped down from the highway edge for at least 20 feet from the highway edge so the elevation of the driveway is at least 6 inches below the level of the highway at a point 20 feet from the edge of the highway.

(10) Culverts. All driveways shall have a minimum 24 foot culvert with a 15 inch minimum diameter, the culvert requirement shall remain in effect unless the highway agency with jurisdiction grants an exception.

(11) Clearance. All driveways shall have a minimum elevation clearance of 18 feet.

(12) Emergency Access. Driveways shall be of adequate design to allow for emergency vehicle ingress and egress.

(13) Sight Distance. Driveways shall be so located to have a minimum 400 foot sight distance in either direction. A greater sight distance may be required at the discretion of the highway agency with jurisdiction.

SECTION VIII – APPLICATION AND PERMIT PROVISIONS

A. The town board 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 showing the conceptual idea of the project and approximate location and dimensions of the project. The sketch map may be submitted to the town board prior to the preparation or submission of the other supporting documents in order for the town board 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 indicating 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 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. (Optional) Driveway Construction Plan.

5. (Optional) Highway Access Location Plan.

6. Other Documents. The town board 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, including any required site inspection of the proposed driveway, public hearing, and town board meetings

D. The town board 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. This 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.

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 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 twelve (12) months of the second denial of either.

G. Both the Town Driveway Permit and the Town Highway Access Permit are effective for 12 months from the date of issuance. Each permit shall expire after 12 months unless renewed.

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 the town clerk 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 and 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 $100.00

2. Town Highway Access Permit $ 100.00

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 IX – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN

A. The town board 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 in writing:

1. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than 20 %.

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 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 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.

2. Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of _20__%.

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. The town board 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.

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.

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 $_100.00__ nor more than $500.00_, 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 – 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 XII – EFFECTIVE DATE

This ordinance is effective on publication or posting.

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

Adopted this 12 day of February 2025.

By: Barbara G Tock
Barbara G. Tock, Chair

By:
John Krett, Supervisor #1

By: Bill Haines
Bill Haines, Supervisor #2

By: Michael R. Wineski
Michael R. Wineski, Supervisor #3

By: Ronald F. Tuschner
Ronald F. Tuschner, Supervisor #4

Lynn M. Axness
Attest: Lynn M. Axness, Town of Arcadia Clerk