

Ordinance to regulate the development and maintenance of new or existing private roads in the Town of West Bend; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

Town of West Bend ordains:

Section 1 - Title

This ordinance shall be known and cited as the Town of West Bend Private Roads Ordinance.

Section 2 - Purpose

The purpose of this ordinance is to regulate and creation, development and maintenance of private roads in the Town of West Bend, to regulate their size and dimensions, to provide for their assured access, safe passage, and maneuverability along private roads and driveways for police, fire, ambulance, and other safety vehicles, and to otherwise provide for the health, safety and welfare of the residents and property owners of the Town of West Bend by establishing reasonable standards for private roads.

Section 3 – Authority

Theses ordinances and regulations are adopted under the general police powers authority granted pursuant to sections 60.10(2)C, 60.22(3) and 61.34(1) of the Wisconsin Statutes, and under the controlled access highway power granted pursuant to sections 83.027(10) and 84.25(10) of the Wisconsin Statutes. Further to supplement Wisconsin Act99 in regard to private roads.

Section 4 – Definitions

- a. “Private Roads” shall be any undedicated road extending from a public street to a private right-of-way consisting of three (03) or more abutting parcels, principal buildings, dwellings or structures, or any combination thereof, intended to provide ingress and egress for the occupants thereof, whether such road is created by a private right-of-way agreement, or prescription.
- b. “Existing Private Roads” shall mean a legally constructed and maintained private road which existed on or before XX/XX/XX (TBD). A Private Road or portion of a private Road which is created, developed, improved, re-routed, or extended after XX/XX/XX (TBD), shall not be considered an existing Private Road.
- c. “Easement” is a right of the owner of one parcel of land by reason of such ownership, to use the land of another for the purpose of ingress or egress.
- d. “Cul-De-Sac” is a circular vehicular turn-around at the end of a private road or easement.

Section 5 – New Private Road Approval.

- a. A private road may not be created, developed, extended, or re-routed until a permit has been issued by the Town of West Bend. A private road permit is not required for an existing private road, but a permit shall be required for extensions or re-routing of the existing private road.

- b. An applicant(s) shall file an application with the Town of West Bend Clerk in such form, and requiring such information, as may be approved by the Town of West Bend Board.
- c. The Town of West Bend Clerk shall transmit all completed applications to the Town of West Bend Chairperson, who shall determine whether the standards set forth in this ordinance have been satisfied, or by the discretion of the Chairperson, such determination may be made to the Town of West Bend Board.
- d. Private Road applicant(s) shall provide a certification of a licensed professional civil engineer and certified survey of all properties adjoining proposed private road, along with proposed layout and site plan for the proposed private road.
- e. The private road proposal and submitted application requirements are subject to inspection and review by the Town of West Bend Civil Engineer and other inter-governmental entities and statutes. The applicant(s) shall reimburse the Town of West Bend through withdrawals from an escrow account for all expenses incurred by the Town of West Bend for consulting services related to the permit applications, inspections, and approvals. The escrow funds requirement to be reasonably determined based on the size and cost of the road construction at the discretion of the Town Chairman with approvals from the Town of West Bend Board.

Section 6 – Private Road Standards

- a. A private road shall have a recorded permanent right-of-way and easement, with a minimum width of 66 feet. The instrument establishing the easement and right-of-way shall expressly permit public or private utilities to be installed within the right-of-way or, if not within the right-of-way, then within 20 feet on either side thereof.
- b. A private road shall have a roadbed not less than 22 feet wide and shall have a minimum sub-base of 12 inches of sand and 6 inches of finished compacted gravel. Number 22A gravel shall be used for roads with a paved surface, and Number 23A gravel shall be used for roads with a gravel surface.
- c. A private road which terminates at a dead-end shall have a means for vehicle turn-around, either by use of a cul-de-sac or by continuous loop. In the case of a cul-de-sac, there shall be a minimum radius of 35 feet or 60-foot hammerhead turnaround for the accommodation of emergency and commercial vehicles.
- d. A private road surface shall have minimum crown of two-tenths of one foot, from the center line of the road to the outside edge thereof.
- e. The maximum grade of a private road shall not exceed 7%. For a distance of 30 feet back from the intersection of the private road with a public street right-of-way or another private road, there shall be a maximum grade of 4%.

- f. A private road shall be constructed to sufficiently control drainage and stormwater runoff, by means of seepage basins, culverts, and drainage contours, or such other effective methods as may be required by the Town of West Bend and Washington County.
- g. All private roads shall be constructed and continuously maintained in such a manner that (i) their use does not pose a danger to the public health, safety and welfare of the inhabitants of the Town of West Bend or other persons, and (ii) in all weather conditions the roads shall be passable and shall readily afford emergency vehicles access to the dwellings, building and other structures service by such private road.
- h. The applicant(s) and property owner(s) shall record a Homeowners Agreement (HOC) or Private Road Agreement (PRA) or Restrictive Covenant between the owner(s) of the lands served by the private road within the Town of West Bend.
- i. Intersections between private and public roads shall be designed and constructed to provide for clear vision and safe turning and travel of vehicles in all directions at the posted speed limit, including not less than a clear vision triangular area extending two feet along each street right-of-way line as measured from the intersecting right-of-way lines.
- j. All private Roads shall be delineated with signage located at each entry point of the private road. The signage shall meet Washington County standards and approved by the Town of West Bend Board, which shall identify the private road by name or road number.

Section 7 – Access and Safe Passage

All private roads shall construct and maintain sufficient width, surface, and grade to assure access, safe passage and maneuverability of police, fire, ambulance, and other safety vehicles. Passage maintenance shall include the clearing and trimming of all trees, undergrowth, and snow necessary to assure such access.

Section 8 – Inspections

The Town of West Bend Chief of Police, Fire Chief(s) and Town of West Bend Public Works Director, or their designees shall have the right to enter upon the property where any private road is or will be located to conduct inspections that are necessary to assure that the private road is sufficiently constructed, designed, and maintained in compliance with this ordinance.

Section 9 – Existing Private Roads

Private Roads that were constructed prior to XX/XX/XX (TBD) are considered “Existing Private Roads” and shall be required to comply with the new private road standards set-forth in this Ordinance.

Provisions of this ordinance that would not apply to “Existing Private Roads:

- a. Private Road Standards in sections 6(a), 6(b), 6(c), 6(d), 6(e), 6(f) will not apply to existing roads unless the road is being expanded or re-routed.

Section 10 -Appeal

An appeal may be made to the Town of West Bend Board by any person, or by an officer, department, board, or bureau affected by any application of this Ordinance. Such an appeal shall be taken within Ninety (90) days after the date of the action appealed from by filing with the Town of West Bend Clerk a notice of appeal, specifying the grounds for the requested appeal.

The Town Board shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the parties ten (10) calendar days prior to the public hearing.

Section 11 – Appeal/Variances

The Town of West Bend Board shall have the power to act on those matters where this Ordinance provides for an administrative review, interpretation, exception, or special approval permit and to authorize a variance as defined in this Ordinance and the laws and statutes for the state of Wisconsin. Such powers include:

- a. Administrative Review. To hear and decide appeals where it is alleged by appellant that there is an error in any order, requirement, permit, decision, or refusal made by the application of this Ordinance.
- b. Variance. To authorize upon an appeal, a variance from the strict application of the provisions of this Ordinance where it is found that all the following criteria exists:
 - 1. There are exceptional or extraordinary circumstances or conditions applying to the parcel(s) that generally do not apply to other parcels or parcel conditions preventing strict adherence to the private road standards.
 - 2. That such variance is necessary for the preservation and enjoyment of a substantial property rights like that possessed by other properties.
 - 3. That authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the intent and purpose of this Ordinance or the public health, safety, and general welfare of the community.
 - 4. That the variance is applied in consideration of public enjoyment such as trails, paths, and access to areas, or is contradictory to other existing property rights, stimulations, covenants, easements, or public access.
 - 5. In consideration of all appeals and proposed variances, the Town of West Bend Board shall, before granting relief, determine that the proposed variant will not impair the supply of light,

sight, or air to adjacent properties, unreasonably increase congestion in public streets, endanger public safety, unreasonably diminish established property values, or otherwise impair the public health, safety, or welfare of the Town of West Bend residents.

Section 13 – Enforcements/Penalties

(TBD)

Section 14 – Severability

The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, work, section, or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this Ordinance other than the part or portion determined to be void.

Section 15 – Repeal

All previous Ordinances in conflict with this Ordinance are hereby repealed to the extent of such conflict.