

Town of Merrill
Driveway/Highway Access Permit Ordinance
Ordinance No. 2011-05B

STATE OF WISCONSIN
Town of Merrill
Lincoln County

SECTION I – TITLE AND PURPOSE

The title of this ordinance is the Town of Merrill Driveway/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 Merrill, 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 Merrill, Lincoln County, Wisconsin.
- F. "Town board" means the board of supervisors for the Town of Merrill, Lincoln 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 Merrill, Lincoln County, Wisconsin.
- H. "Wis. Stats." Means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION VI – COVERAGE

- A. No one 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 to a driveway, whether new or previously existing, without first obtaining a Town of Merrill Driveway/Highway Access 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 of Merrill Driveway/Highway Access Permit to be issued by the town board.
- C. Any person prior to and at the time of seeking a Town of Merrill Driveway/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 of 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 seeks 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 people 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 of Merrill Driveway/Highway Access Permit is required under Section VI shall meet all 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:

A. The Town of Merrill Driveway/Highway Access Permit applicant shall contact the town chairperson or designee to determine if a culvert is required based on a specific location. If required, the town chairperson or designee shall determine the minimum diameter and length of the culvert. The culvert shall be of standard steel culvert material or a double-walled plastic culvert. The culvert shall be provided by the property owner and may be purchased through the Town of Merrill.

- B. The private driveway width shall be a minimum of 20 feet where it intersects with the town road. The driveway shall have a minimum width of 16 feet for single and multi-family dwellings. The driveway shall have 16 feet of side and height clearance to accommodate all emergency vehicles.
- C. The surface of the driveway connecting with the town road section shall slope down and away from the town road shoulder a sufficient amount and distance to preclude ordinary surface water drainage flowing from the driveway area onto the town roadbed.
- D. Any private driveway that intersects a County or State highway will be governed by the Wisconsin Department of Transportation and/or the Lincoln County Highway Department.
- E. All driveways shall be constructed to ingress and egress the town road at an angle of ninety degrees to the town road, unless otherwise approved by the town board.
- F. A driveway should not provide direct access to or from any intersection.
- G. All driveways shall be constructed of solid load bearing material. The top surface of the driveway shall consist of at least six inches of gravel upon the traveled portion.
- H. Concrete approaches or aprons shall be permitted up to the shoulder of the road.
- I. All roads located in the Town of Merrill are four (4) rods wide unless officially dedicated as other than four rods. Road right-of-way is 33 feet measured from the center of the town road.

SECTION VIII – APPLICATION AND PERMIT PROVISIONS

- A. The town board shall approve a form for application for the Town of Merrill Driveway/Highway Access Permit, which shall be available from the town clerk.
- B. The applicant for a Town Driveway/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 or provide initial comments and review of the proposal. However, formal approval for a Town Driveway/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. Soil/Slope Analysis.

5. Driveway Construction Plan.
 6. Highway Access Location Plan.
 7. Other Documents. The town board may require other documents to be attached to the Town of Merrill Driveway/Highway Access Permit.
- C. Procedures for the evaluation of the Town of Merrill Driveway/Highway Access Permit Application by the town board, including any required site inspection of the proposed driveway, public hearing, and town board meetings, are as follows:
1. The Town of Merrill Driveway/Highway Access Permit Application shall be made to the town chairperson or designee.
 2. The town chairperson or designee will meet with the applicant at the proposed driveway site to determine the diameter, length and placement of any required culvert.
 3. Upon completion of the installation of the culvert and driveway, the applicant must notify the town chairperson or designee.
The town chairperson or designee will complete a final inspection and may approve/disapprove the installation.
- D. The town board shall approve or deny every Town of Merrill Driveway/Highway 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 of Merrill Driveway/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 people 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/highway access locations, bridges, and culverts will be safer for people to ingress or egress on the driveway/highway access points by motor vehicle or for people traveling on the adjacent highway by motor vehicle.
 5. Alternative driveway/highway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.
 6. Alternative driveway/highway access 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 of Merrill Driveway/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 of Merrill Driveway/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 twenty-four months of the second denial of either.
- G. The Town of Merrill Driveway/Highway Access Permit is effective for six months from the date of issuance. Each permit shall expire after six months unless renewed.
- H. Permit's may be renewed for an additional period of 6 months. If the driveway/ 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 Chairman or designee within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway/highway access. Within 30 days of notification, the town shall conduct an inspection of the driveway/highway access to ensure full compliance with all the permit conditions and provisions of this ordinance. Upon determination of completeness and compliance, the town board shall issue a Town Driveway/Highway Access Occupancy Permit, which will need to be approved at the monthly Town Board meeting.
- J. No building permit for any construction of buildings or structures will be issued by the town until the driveway/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 by the town board will be charged for each permit application as follows:
 1. Town of Merrill Driveway/Highway Access Permit Fee \$75.
 2. Town of Merrill Driveway/Highway Access Permit Fee after the fact \$150.
- L. The town board, or its designees, shall have the right of inspection on 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 any timely travel by emergency vehicles or vehicles of the public.

SECTION IX – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN

- A. The town board may in writing require a driveway/highway access construction plan prior to any proposed driveway/highway access construction, reconstruction, rerouting, or alteration. A driveway/highway access 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 10%.
 - 2. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measures 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/highway access construction 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/highway access construction plan will include a scale plan showing all 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 14%.
 - 3. Retaining Walls. The location and structure of any retaining walls.
 - 4. Bridges. The location, size and design calculation 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/highway access onto a town highway may commence until all of the following conditions are met:
 - 1. The driveway/highway access construction plan, if required, is approved by the town board.

2. A Town of Merrill Driveway/Highway Access Permit is issued by the town.
 3. When applicable, any other necessary approvals are obtained from Lincoln County or the State of Wisconsin.
 4. 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/highway access construction plan does not guarantee the approval of a Town of Merrill Driveway/Highway Access Permit by the town board.
- F. As a condition of any Town of Merrill Driveway/Highway Access Permit, the driveway/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 of Merrill Driveway/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 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 the permit to determine whether a driveway/highway access, bridge, culvert, or 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 issuance of a Town of Merrill Driveway/Highway Access Occupancy Permit is determined by the town board and that the driveway/highway access is fit for timely and safe travel by vehicles of the public and emergency vehicles and that such travel is authorized. Issuance of a Town of Merrill Driveway/Highway Access Occupancy Permit does not ensure that the driveway/highway access will be suitable for use or otherwise passable for emergency vehicles at any time after the date of issuance of the Town of Merrill Driveway Occupancy Permit.
- H. The approval of the Town of Merrill Driveway/Highway Access Permit, or Town of Merrill Driveway/Highway Access Occupancy 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, 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 \$200 or more than \$500, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense un 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 in publication or posting.

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

Adopted this 13th day of October, 2025.

Signatures of Town Board:

Anthony L Baumann

Matthew Lopez

Will Munk

Daniel Deneg

Attest:

Amanda Skedt