

Ordinance Number 2024-01
STATE OF WISCONSIN, DOOR COUNTY
Town of Forestville Driveway Permit Ordinance
Replaces Ordinance 2015-02

SECTION I- TITLE AND PURPOSE

The title of this ordinance is the Town of Forestville Driveway 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 Forestville and to limit and regulate road access by motor vehicles to any roadway 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 Driveway Permit ordinance, and has the general authority under its village powers under s.60.22, Wis. Stats., to adopt this ordinance.

SECTION III - ADOPTION AND APPLICABILITY 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 driveways and road access locations in the Town.

This ordinance shall apply to any new driveway in the Town constructed after the date of adoption of this ordinance, and to any driveway in the Town which is being altered or replaced after the date of this ordinance.

SECTION IV- DEFINITIONS

"Driveway" means any 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 or private road and will provide access from the road to a residence, business, recreational site, or other similarly appropriate use.

"Road" means any State, County, Township, or private road within the Town of Forestville.

"Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the Town.

"Impacted landowner" means an owner of real estate that is provided vehicular access to a public or private road by a driveway determined to be unsafe.

"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.

"Town" refers to the Town of Forestville, Door County, Wisconsin.

"Town Board" means the board of supervisors for the Town of Forestville, Door County, Wisconsin, and includes any designee of the board authorized to act for the board.

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

SECTION V - COVERAGE

- A. A Town Driveway Permit is required for:
1. Establishing a new driveway construction connecting a private property to any State, County, Town, or Private Road within the Town.
 2. An existing driveway connecting a private property to any State, County, Town, or Private Road within the Town that is undergoing re-constructing, re-routing, or altering of the existing slope.
- B. Any person, at the time of applying for a Town Driveway Permit, must own or have a current legal interest and legal access to the land to which the permit(s) will apply.

SECTION VI - 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 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.

REQUIREMENTS:

- A. Driveways shall have a minimum hard surface width of 15 feet.
- B. The surface of a driveway connecting with a road shall slope down and away from the road shoulder for a sufficient distance to preclude ordinary surface water drainage from the driveway area to the road.
- C. No driveway shall obstruct or impair drainage in Town road ditches or roadside areas.
- D. Driveways that provide access to properties shall have a width at the point where it meets the abutting road of no less than 16 feet and not more than 35 feet measured at right angles to the centerline of the driveway.
- E. Driveway side slopes shall have a minimum 2:1 slope. If a culvert is required, end walls shall not protrude above the grade of the driveway.
- F. Driveways in excess of 100 feet in length shall provide a turnaround for emergency vehicles. Provisions for a turnaround shall be adequate for a 40-foot vehicle to turn around, as

determined by the Town. At least one segment of driveway surface 25 feet in length and 18 feet in width shall be provided within each 300 feet of driveway length to provide for the safe passage of meeting vehicles.

- G. Driveways shall have a minimum vertical clearance and a minimum horizontal clearance of 15 feet that is maintained free of brush, trees, or other overhanging objects.
- H. Culverts: if required, shall be a minimum of 18" in diameter, and have standard end caps. The Town Chair or Town Supervisor reviewing the application will determine the diameter, type, and conditions of culverts. If needed, they shall be installed as part of the construction of the driveway.
- I. The driveway shall be maintained by the property owner in such a manner not to interfere with the safe passage of emergency vehicles. Culverts in driveways must be kept clear of vegetation and debris in such a manner as not to interfere with the flowage of stormwater. Therefore, driveways and/or culverts obstructed with snow or debris will not hold the Town liable for any damages.
- J. The Town shall not be responsible for any costs of construction, reconstruction, repair, maintenance, or removal of driveways and culverts.

SECTION VII - APPLICATION AND PERMIT PROCESS

- A. The Town Driveway Permit Application is available on the Town website for online entry or downloading, or upon request from the Town Clerk.
- B. The Town Driveway Permit Application shall be submitted online, via email, via postal mail to the Town address, or via the drop box at the Town Hall. The following items need to be included:
 - 1. Fee: The current fee, listed on the application and posted on the Town website, shall be paid online with the application, or if delivered or mailed, with a check made payable to the Town of Forestville. The application fee is non-refundable.
 - 2. Site Plan: Preferably using the Door County GIS map, indicate the proposed driveway with its width and length, any proposed or existing buildings not shown, the distance between buildings and the centerlines of all abutting roads. If the GIS is not used, the site plan shall include the above, along with lot lines, lot size, and Ordinary High Water Mark, if applicable.
 - 3. Size and Use of Proposed Driveway: Include on the application and its proposed use
 - 4. Approved State or County driveway permit, if the proposed or altered driveway provides access to a State Highway or County Road.
- C. The following process is followed after the Town receives a Driveway Permit Application with the required fee and supporting information.
 - 1. The Town Chair will review the application for completeness and request any additional information, if needed.
 - 2. The Town Chair will inspect the property and determine any culvert or other conditions needed for construction.

3. The Town shall, when applicable, see 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 with the premises.
- D. If the Town Chair approves and issues a Town Driveway Permit, they may, as a condition of issuance, place specific restrictions or conditions on the permit which shall require compliance by the permittee.
1. As a condition of any Town Driveway Permit, the driveway shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.
 2. The approval of a Town Driveway 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 a permit to determine whether a driveway or culvert 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.
 3. The approval of the Town Driveway Permit application does not establish or commit the Town to future approval of any driveway as a public road or highway in the Town.
- E. The Town Chair may deny the Town Driveway Application for reasons that may include, but are not limited to:
1. The inconsistency or nonconformance of the proposed driveway with this ordinance, any other Town ordinance, rule, regulation, or plan.
 2. Non-conformance with any applicable county, state, or federal ordinances, rules, regulations, or plans.
 3. The application as filed and submitted is incomplete or contains false material as determined by the Town board.
 4. The driveway, culvert, or any combination, when constructed or rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the Town.
 5. Alternative driveway locations will be safer for driveway users or those traveling on the road, due to visibility or other concerns.
 6. The driveway will not provide adequate ingress and egress for emergency vehicles.
 7. Alternative driveway locations will preserve or better protect more prime or productive agricultural or forestry land, or 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.
- F. In the event of a denial of a Town Driveway Permit Application, procedures will be followed.
1. Town Chair shall deliver in writing the particular facts upon which it bases its denial of the permit.

2. The Town Board shall also afford the applicant an opportunity to review the Town Chair'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 deliver in writing findings regarding any decision to modify or reverse its initial determination.
 3. If the Town board denies two consecutive applications for the Town Driveway 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 six (6) months of the second denial of either.
- G. The Town Driveway Permit is active for twelve (12) months from the date of issuance. If the driveway has not been constructed by the end of twelve (12) months, a new application and fee must be submitted and approved.
- H. The applicant shall notify The Town of Forestville within 30 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway. Within 30 days of notification, the Town shall conduct an inspection of the driveway to ensure full compliance with all the permit conditions and provisions of this ordinance.
- I. The Town Board, or its designees, shall have 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.
- J. The non-refundable application fee for a driveway permit shall be determined by the Town Board from time to time and may be changed without notice or amendment to this ordinance.

SECTION VIII – COMPLIANCE WITH DRIVEWAY ORDINANCE

- A. This section applies to inspections of new driveways for which a Driveway Permit has been approved, and existing driveways within the Town.
- B. 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 if the driveway, for any structural, location, or design reasons, has been determined by the Town Board or its agents, 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.
- C. The Town board shall serve upon any potentially impacted landowner a copy of its written determination under Paragraph A 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.
- D. 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.

- E. Any potentially impacted landowner may provide at the public hearing evidence regarding the 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.
- F. The Town Board, at or after the hearing may order any of the following:
 - 1. That the Town attorney seek a court order providing that the driveway be closed for general vehicle traffic use, but not closed to emergency vehicles 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.
 - 2. 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. 66.07 and 66.0703, Wis. stats.
 - 3. Other reasonable and necessary actions 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 IX - 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 \$50 nor more than \$400, 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 X - 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.

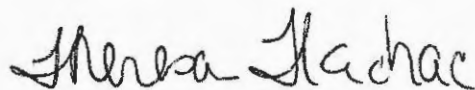
SECTION XI - EFFECTIVE DATE

This ordinance is effective on publication or posting.

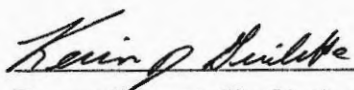
The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted this 21 day of October, 2024.

Attest:



Town of Forestville Clerk, Theresa Tlachac



Town of Forestville Chair, Kevin Guilette