

Town of Bennett

COUNTY OF DOUGLAS

STATE OF WISCONSIN

Ordinance # 2017-04-O

DRIVEWAY & PRIVATE ROAD ORDINANCE

1.01 PURPOSE

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification or reworking of a driveway or private road to assure that the site, method of construction, and conservation practices used will promote the public health, safety, and general welfare of the community, and to enforce the goals and policies to be set forth in the Town of Bennett land use plan or comprehensive plan.

1.02 ABROGATION AND GREATER RESTRICTIONS

It is not the intent of this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations, permits, or approvals previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, and such restrictions do not contravene rights vested under law, the provisions of this Ordinance shall govern.

1.03 INTERPRETATION

The provisions of this Ordinance shall be interpreted to be minimum requirements and shall be liberally construed in favor of the Town, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.04 AMENDMENTS

The Town Board may, upon recommendations of the Town Plan Commission, amend, supplement, or repeal any of these regulations after public notice and hearing.

1.05 SEVERABILITY

The provisions of this Ordinance shall be deemed severable. It is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether one or more provisions may be declared invalid. If any section, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

1.06 REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.07 JURISDICTION AND APPLICABILITY

Jurisdiction of these regulations shall include all driveways and private roads on land within the Town of Bennett. New driveways or private roads and those existing driveways or private roads that undergo repairs involving changes in the existing slope and/or rerouting of the existing driveway or private road are subject to the provisions of this Ordinance. Except as provided in section 1.14 of this Ordinance, the provisions of this Ordinance do not apply to field roads or to repairs to existing driveways or private roads where repair does not involve changes in the existing driveway/private road slope and/or rerouting of the existing driveway or private road.

1.08 AUTHORITY

These regulations are adopted under the general police powers authority granted pursuant to § 60.10(2)(c), 60.22(3), and 61.34(1) of the Wisconsin Statutes, the controlled access highway power granted pursuant to § 83.027(10) and 84.25(10), and 86.02, 86.04, and 86.07(2) of the Wisconsin Statutes, and § 236.45(2) of the Wisconsin Statutes.

1.09 DEFINITIONS

- (1) Agricultural Land. Any land within the Town of Bennett that is currently being farmed, including cropland and pastureland, or land that is included in a government set-aside program.
- (2) Driveway. A private driveway, road, or other avenue of travel that runs through any part of a private parcel of land that connects or will connect with any public highway, and will provide service to a residence, business, recreational site, or other similarly appropriate uses.
- (3) Private Road. A private road, or other avenue of travel that runs through any part of a private parcel of land that connects or will connect with any public highway, and will provide service to one or more residences, businesses, recreational sites, or other similarly appropriate uses.
- (4) Field Road. A road used only for agricultural or recreational purposes that does not connect with a public highway through an improved access point.
- (5) Town. The Town of Bennett

1.10 APPLICATION REQUIREMENTS AND PROCEDURES.

- (1) Who Must Apply. No person or entity shall establish, construct, reroute, or alter the existing slope of any driveway or private road without first obtaining a Driveway/Private Road Construction Permit from the Town Board. The person(s) or entity seeking a permit must own or have a legal interest in and current access to the land to which the permit will apply.
- (2) Application Forms. The Town Board shall approve a form for applications for the Driveway Construction Permits. These are available from the Town Clerk.
- (3) Application Procedure. The person or entity shall submit a completed Driveway/Private Road Construction Permit Application with the appropriate fee and the following attachments, as required, to the Town Clerk. Additional procedural requirements are described in the Applications Guide.
 - (a) Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions. NOTE TO APPLICANT 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 Driveway/Private Road Construction Permit will not be granted without the submission of a complete supporting documents package.
 - (b) Plat Map. Indicating the location and dimensions of the desired driveway or private road, as well as the parcels immediately adjacent to the applicant's property. NOTE TO APPLICANT 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 and/or final plat.
 - (c) Aerial Photo/Site Analysis.
 - (d) Soil/Slope Analysis.
 - (e) Driveway Construction Plan (if required).
 - (f) Driveway/Private Road Location Plan (if Driveway Construction Plan isn't required)

(g) Other Documents. The Town may require other documents to be attached to the Driveway/Private Road Permit Application. Requirements for such documents may be determined by contacting the Town Chairman.

(4) Application Review. Procedures for the evaluation of the Driveway/Private Road Construction Permit Application, including site inspection of the proposed driveway, and Town Board meetings, are described in the Driveway/Private Road Construction Permit Application

(5) Permit Application Denial. The reason or reasons for permit denial may include nonconformance with this Ordinance, with the comprehensive plan/master plan/land use plan, with Town laws, ordinances, rules, regulations, or plans, with applicable County State, or federal laws, ordinances, rules, regulations or plans.

In the event of a denial of the proposed Driveway/Private Road Permit, 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 refuting the determination, if so desired. Thereafter, the Town Board may affirm or modify its decision. The Town Board shall recite in writing findings for any decision to modify or override its initial determination.

(6) Re-application. If the Town Board denies two consecutive applications for a Driveway/Private Road Construction Permit on the same parcel, no subsequent re-application for a Driveway permit for that parcel will be considered within 3 months of the second denial.

(7) Permit Period. The Driveway/Private Road Construction Permit is effective for 12 months from the date of issuance. Driveway or private road construction must begin within the permit period. The permit shall expire after 12 months unless renewed.

(8) Renewal. The permit may be renewed for an additional period of 6 months. If the driveway or private has not been constructed by the end of this period, a new application must be submitted and approved.

(9) Driveway/Private Road Inspection. The applicant shall notify the Town Clerk within 30 days of completion of the construction or modification. Within 30 days of notification, the Town will conduct an inspection of the driveway or private road to ensure full compliance with all of the provisions of this Ordinance.

(10) Building Permits. No Building Permit for new construction will be issued until the driveway or private road is permitted according to the specifications of this Ordinance.

(11) Application Fee. An application fee of an amount determined by a resolution of the Town Board will be charged. This fee is specified in the "Application Fee Schedule" in the Applications Guide.

1.11 WHEN A DRIVEWAY CONSTRUCTION PLAN OR LOCATION PLAN IS REQUIRED.

(1) Driveway/Private Road Construction Plan. The Town Board may require a driveway/private road construction plan prior to any proposed driveway/private road construction or modification. A driveway/private road construction plan is required for any of the following, unless the requirement is waived by the town board, in writing:

(a) For construction of a driveway/private road or segment of a driveway/private road that requires the disturbance of land with a slope of more than 12%.

(b) For a driveway/private road or segment of a driveway/private road that requires a retaining wall or other special erosion control measure as determined by the Town Board.

(c) When a driveway crosses a waterway or has the potential to significantly alter existing drainage patterns or alter quantity of runoff.

(d) When construction or modification of a driveway or private road necessitates construction or improvement of a bridge or culvert.

(e) When the Town Board requests a driveway/private road construction plan.

(2) Driveway/Private Road Location Plan A Location Plan is required for all segments of the proposed driveway or private road not covered by a driveway/private road construction plan. The Location Plan shall be drawn to scale and show the exact location of the driveway or private road on the lot.

1.12 COMPONENTS AND APPROVAL OF DRIVEWAY/PRIVATE ROAD CONSTRUCTION PLANS

(1) Components If required, a Driveway/Private Road Construction Plan will include a scale plan showing the following:

(a) Location. The precise location of the driveway/private road or the segment of driveway/private road that requires a Driveway/Private Road Construction Plan.

(b) Slope. A profile of the driveway/private road route before and after construction showing a maximum finished driveway/private road slope of 13%.

(c) Retaining Walls. End walls or retaining walls are not permitted within the Town Road Right of Way on driveways

(d) Bridges. The location, size, and design calculations of any bridges.

(e) Culverts. The location, size, and design calculations of any culverts.

(t) Cross-section. Typical cross sections of the driveway/private road in cut and in fill.

(g) Erosion Control. The required mulching, matting, or other erosion control.

(h) 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.

(2) Approval.

(a) Conditions. No construction of a driveway/private road may commence until:

(i) The Driveway/Private Road Construction Plan, if required, is approved by the Town Board, and

(ii) Until a Driveway/Private Road Construction Permit is issued by the Town, and

(iii) When applicable, any necessary approvals are obtained from Douglas County or the State of Wisconsin.

The preparation of a Driveway/Private Road Construction Plan does not guarantee the Town's approval of the Driveway/Private Road Construction Permit Application.

(b) Inspection. After the driveway or private road has been completed, the Town Chairman or his appointed representative shall inspect the driveway or private road to determine whether it was constructed according to the plan(s) and is consistent with the requirements of this Ordinance.

(c) Emergency Access. As a condition of the driveway/private road construction permit, the driveway or private road shall be constructed and maintained by the owner or occupant to ensure access by emergency vehicles. Snow plow requirements are as follows: ***All driveways must be 24 feet unobstructed turn off, 20 feet width with adequate turn-around, and 14 feet overhead clearance (wires, limbs, etc.).***

(d) Disclaimer. The Town's approval of a driveway/private road permit application does not constitute a determination that the driveway or private road is safe, suitable for use or otherwise passable for the public, or that public access is authorized. No person may rely on the issuance of a permit to determine that a driveway or private road is fit for any purpose. Approval of the driveway/private road permit application does not establish future approval of the driveway or private road as a public road.

1.13 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS / PRIVATE ROADS

- (1) Minimum Driveway/Private Road Width. The minimum driveway/private road width shall be 20 feet.
- (2) Minimum Driveway/Private Road Surface. The minimum driveway or private road surface shall consist of 6" of crushed aggregate base course. Additional stone may be required based on actual soil conditions.
- (3) Side Slopes. Driveway or private road side slopes shall be no steeper than 1' vertical in 4' horizontal (25%).
- (4) Ditch Back Slopes. Ditch back slopes shall be no steeper than 1' vertical in 2' horizontal (50%).
- (5) Maximum Finished Grade. The maximum finished driveway or private road grade shall be 13%.
- (6) Clear Slope. A clear space 14 feet high and 20 feet wide shall be maintained at all times for emergency vehicle access.
- (7) Turnaround. Each driveway shall have a turnaround within 75 feet of the house, as shown in the Town of Bennett Applications Guide for Driveway/Private Road Construction Permits. A private road will require an adequate turn around (as shown in the Town of Bennett Applications Guide for Private Road or Driveway/Private Road Construction Permits) at the end of the road if no other provision is available for turning around in close vicinity of the end of the road.
- (8) Curves. Driveway/Private Road curves shall have a minimum radius of 36 feet.
- (9) Emergency Service Access Signage. Appropriate signage shall be placed at the entrance to a driveway servicing a residence in order to provide accurate and expedient driveway location by emergency service personnel. Private roads serving four (4) or more residences, businesses, recreational sites, or other similarly appropriate uses will require naming of that private road and emergency service access signage will be placed at the beginning of such road to mark the addresses served by that road as well as signage placed at each individual driveway on that private road.

The sign shall conform to current Douglas County regulations.
- (10) Naming Of Private Roads Names for private roads will be approved by the Town Board and will conform to guidelines set forth in the Town of Bennett Applications Guide for Driveway/Private Road Construction Permits.

1.14 EXISTING DRIVEWAYS

- (1) Hazardous Conditions. When washing, blockage of water flow, or other conditions created by any existing driveway that does not meet the specifications in this Ordinance obstruct or become a potential hazard to a public highway, or unreasonably hinder access to the property by emergency service personnel, the Town Board shall notify the property owner of the condition(s). Any property owner failing to correct such condition(s) within 30 days after notice by the Town Board shall be subject to the penalties described in the penalties section of this Ordinance.
- (2) Field Roads. No field road may be used as a driveway to acquire access to a residential or commercial property unless the field road has been approved as a driveway according to the provisions of this Ordinance.

1.15. PENALTIES

- (1) Forfeitures. Should a driveway be constructed or modified in violation of the provisions of this Ordinance, or create a hazard that is not corrected within 30 days of notification, the owner(s) of the land through which the driveway passes shall, upon conviction, pay a forfeiture of not less than \$25 nor more than \$50, plus applicable surcharges and court costs, for each violation. Each successive 30-day period in which the correction is not made will be considered a new violation and subject to another penalty. An unlawful driveway constitutes a public nuisance and may be enjoined.

(2) Corrections. In addition, the landowner shall make the corrections ordered by the Town Board within 30 days or a period of time determined by the Town Board.

(3) Citation Ordinance. Town of Bennett Ordinance TB-2013-10-O is the authority for issuance of citations under this ordinance for violations of this ordinance.

1.16 TOWN BOARD APPROVAL

The Town Board of the Town of Bennett adopted the Driveway & Private Road Ordinance at a meeting held on the 8th day of May, 2017.

APPROVED BY:

Barry Carlson

Barry Carlson, Chairperson

Wesley Koehler

Wesley Koehler, Supervisor

Tim Haskins

Tim Haskins, Supervisor

ATTESTED BY:

Tamara Johnson

Tamara Johnson, Clerk

{SEAL}

1.17 EFFECTIVE DATE

This Ordinance shall take effect and be in force from and after the day after passage and publication as required by law.

Public Notice

(a) Public Review A notice was posted on May 1, 2017 and prior on April 3, 2017, to inform residents.

(b) Posting This Notice of Adoption of Ordinances relating to this Ordinance was posted on May 15, 2017, at the BENNETT TOWN HALL.

(c) Publication A Notice of Adoption of Ordinances relating to this Ordinance was published in The Superior Telegram, the publication of record for the TOWN OF BENNETT on May 19, 2017.