

**ORDINANCE NO. 9-2003**

**AN ORDINANCE CREATING SECTION .31 OF THE ZONING CODE  
ESTABLISHING THE REGULATION OF  
DRIVEWAYS IN THE TOWN OF LYNDON**

**WHEREAS**, there have been driveways constructed in the Town of Lyndon which have created safety hazards and road damage, and

**WHEREAS**, THE LOCAL Fire Departments are concerned about access to properties in emergency situations, and the safety of their equipment, and

**WHEREAS**, the Town Board is concerned about the safe and proper construction of driveways:

**NOW, THEREFORE**, the Town Board of Lyndon do ordain the enactment of an Ordinance to Provide for the Regulation of Driveways in the Town of Lyndon.

**ORDINANCE NO. 9 OF 2003**

**AN ORDINANCE TO PROVIDE FOR THE REGULATION OF DRIVEWAYS IN THE TOWN OF LYNDON**

Pursuant to sections 60.22(1), 60.22(3), 61.34(1) and 81.01 of the Wisconsin Statutes, the Town Board of the Town of Lyndon does hereby ordain as follows:

Section 1. Driveway Ordinance

**1.01 PURPOSE**

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, enlargement or the reconstruction (collectively “construction”) of driveways in the Town to assure that the location of the driveway and the method of construction will promote the public health, safety and general welfare of the community, preserve agricultural land and productivity, and enforce the goals and policies set forth in the Town of Lyndon Ordinances. For the safety of the general public, the Town shall determine the location, size, use, construction and number of access points to public highways within the Town. This ordinance does not apply to re-surfacing, or the repairs of up to 12 square yards of existing driveways.

**1.02 DEFINITIONS**

- (1) Driveway. A private driveway, road, or other avenue of travel that runs through a parcel of land or that connects or will connect with any public highway, but shall not include any field road lying outside of the right-of-way of a public highway.
- (2) Field Road. A road principally used for agricultural purposes or to access agricultural land.
- (3) Town Board. The Town Board of Lyndon.
- (4) Town Clerk. Clerk of the Town of Lyndon.
- (5) Agricultural land. Unimproved land on parcels zoned Agricultural or Conservancy in the Town of Lyndon.
- (6) Private Road. A road on private property which is accessed by one or more driveways and which provides access to a public highway.
- (7) Public Highway. All public ways and thoroughfares, including without limitation, town roads and county and state highways.
- (8) Zoning Administrator. Includes a Building Inspector or other designee of the Board.

**1.03 Driveway construction permit required**

- (1) Permit Requirement. No person or public or private entity shall construct a driveway, road or other access from a property line to a public highway or to a private

road without first filing an application for and obtaining a Driveway Construction Permit from the Town.

(2) Application. Application for a Driveway Construction Permit shall be made in writing to the Town Clerk. The application shall contain a sworn statement that the application is true and accurate. The application shall include the following information as may be needed.

- A. A map or diagram identifying the slopes on the property.
- B. A copy of any erosion control plan required by Sheboygan County.
- C. A Driveway Construction Plan consisting of a drawing or diagram showing the following information:
  - a. The length and width of proposed driveway, and turning radius of all curves of the driveway.
  - b. The relationship of the driveway to property lines, structures and existing private and public highways.
  - c. The location and size of any culverts.
  - d. Provisions for passing lanes, parking, and turnarounds.
  - e. All slopes of the driveway.
  - f. The location and structure of any retaining walls.
  - g. A cross section of the driveway.
- D. State and county permits where applicable.
- E. Any other information relevant to the application that is required by the Town.

(3) Application fee. The applicant shall pay a non-refundable fee as set in the fee schedule at the time of making the application for a Driveway Construction Permit.

(4) Review. Upon filing of the complete application and application fee with the Town Clerk, the application shall be reviewed in a reasonable amount of time as follows:

- A. The Zoning administrator may issue the Driveway Construction Permit or, if the Zoning Administrator in his/her discretion determines that the application presents issues that should be resolved by the Plan Commission and the Town Board, schedule a meeting on the application before the Town Plan Commission.
- B. If requested by the Zoning Administrator, the Town Plan Commission shall hold a meeting on the application.
- C. After the Plan Commission holds the meeting on the application, it shall recommend approval, conditional approval, denial or tabling of the application.
- D. Once the Plan Commission has made a recommendation on the application, the Town Board shall consider the application and at its sole discretion, approve, conditionally approve, or deny the application. If the Town Board approves the application, the Zoning Administrator shall issue a Driveway Construction Permit. If the Town Board conditionally approves the application, the Zoning Administrator shall issue a Driveway Construction Permit once the conditions of the approval have been fulfilled.

(5) Permit Period. The Driveway Construction Permit is effective for 18 months from the date of issuance. Driveways not completed by this time must have a new permit to continue construction.

(6) Driveway Inspection. The holder of the Driveway Construction Permit shall notify the Town Zoning Administrator within 30 days of completion of the construction.

Within 30 days of notification, the Town Zoning Administrator shall conduct an inspection of the driveway to ensure full compliance with all the provisions of this Ordinance.

(7) Building Permits. No Building Permits for new residential construction shall be issued until a Driveway Construction Permit has been approved.

#### **1.04 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS**

(1) Slope. No land with a slope of more than 25% measured over a minimum distance of 20 feet slope be disturbed for the construction of the driveway. The maximum final slope of the driveway or any portion of the driveway shall be no more than 13%

(2) Width. Driveways less than 300 feet long shall be constructed with a minimum of 12 feet in width, those 300 feet or greater shall have a minimum of 18 feet of road surface and none shall exceed 24 feet in width. In instances where the nature of a commercial or industrial activity or the physical characteristics of the land would require a driveway of greater width than herein specified, the Town Board in its discretion may permit a driveway of addition width.

(3) Culverts. Each driveway shall have a steel or concrete culvert at least 18 inches in diameter at the ditch line where the driveway meets the public or private road, unless modified by the Zoning Administrator. The culvert length and type will be determined by the Zoning Administrator.

(4) Juncture with Public Road. A length of driveway of a minimum of 24 feet shall have a maximum of 5% slope at the point where the driveway enters onto a highway or private road. A slight dip (6 inches lower than road surface) across the drive shall be placed just before the culvert at the entrance to a public highway or private road to prevent water and debris from washing onto the public highway or private road.

(5) Drainage. Ditches along the right-of-way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and the lands of other persons.

(6) The side banks shall be graded to a slope of no more than 1 foot of vertical rise in each 2 feet of horizontal distance. Excluded from this grading requirement are driveways for which retaining walls and / or other erosion control measures are installed as specified in the Driveway Plan approved by the Town Board. The side banks shall be constructed using earthen materials.

(7) Radius of curves. Curves in the driveway shall have an inside radius of no less than 48 feet.

(8) Erosion Control. Once the construction of the driveway has begun, all specified erosion controls, including retaining walls, ditching, culverts, crowning, mulching, matting, and bank seeding, shall begin immediately. For winter construction, erosion alternatives must be implemented immediately until specified controls are available.

(9) Substrata. The driveway must have at least 4 inches of 3 to 4-inch rock on the roadbed, covered with 2 inches of 3/4 -inch gravel. If it can be shown there is a suitable base, the provision requiring 4 inches of 3 to 4-inch rock may be modified or waived by the Zoning Administrator. A Field Road is exempted from this provision.

(10) Clearance for Emergency Vehicles. An area 12 feet from the center line of the driveway and a minimum of 14 feet in height shall be maintained free of obstructions to permit safe passage of emergency vehicles. In cases where such clearing would be environmentally damaging the Zoning Administrator may waive the restrictions only with written approval of the local fire department.

(11) All premises, public or private, which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads and fire lanes so that all buildings on the premises are accessible to fire or emergency vehicles.

(12) Adequate turnaround at residences for ambulance or fire equipment to be able to drive out instead of backing out. Dead-end roads: Any dead-end road more than 300 feet long shall provide a turn-around at the closed end of the roadway. Turnaround can be T-type or hammerhead, 100 foot diameter cul-de-sac or curved driveway.

(13) Costs. All costs of construction of said driveway, including the cost of culverts and Driveway Plan, if required, shall be paid by the owner requesting the permit.

(14) Joint Driveways. Joint driveways will not be permitted without prior review and specific approval by the Town Board of the legally recorded Joint Driveway Agreement establishing the proposed joint driveway and the manner of its construction, maintenance and use.

(15) General Design. A driveway shall be such width and so located that all such driveway is within the limits of the public highway or private road fronting on the property served. Driveways shall not provide direct ingress or egress to or from any street intersection area and shall not encroach upon or occupy areas of the public highway required for effective traffic control or for street signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the public highway or private road as determined by the Zoning Administrator. Driveway approaches shall be at least twenty (20) feet apart and there shall be at least ten (10) feet from the edge of the driveway to the property line except by special permission from the Town Board, and driveways shall in all cases be placed wherever possible as not to interfere with utilities in place.

(16) More than one driveway. There shall be no more than one driveway to serve individual residential or commercial property fronting on a street, except where deemed necessary and feasible in the sole discretion of the Town Board or designee for reasonable and adequate service to the property, considering the safety, convenience and utility of the street.

(17) Driveways intended to serve two or more lots for residences, commercial establishments or any other purposes shall meet the specifications set forth under REQUIRED ROAD RIGHT-OF-WAYS AND ROAD SURFACES of the Town of Lyndon Ordinance.

(18) Waiver of Specifications. Any specifications in this ordinance may be waived or modified by the Town Board if it determines the specification would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in the Ordinance must accompany the initial application and must state the reason for the request. The Board may require written approval from the local fire department.

(19) Town Approval. The Town's approval of a Driveway Construction Permit application does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for the public. No person may rely on the issuance of a permit to determine that a driveway is fit for any purpose.

## **1.05 EXISTING DRIVEWAYS**

(1) Hazardous Conditions. When washing or other conditions created by existing driveways or field roads obstruct or become a potential hazard to a public highway or private road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such condition within 30 days after notice by the Town Board shall be subject to the penalties described in the penalty section of this ordinance.

(2) Conform to Ordinance. In the event that a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of the Ordinance. If a structure is added or repaired in excess of \$50,000 in value any existing driveway shall be made to conform to the requirements of this Ordinance.

## **106. FIELD ROADS**

Field Roads shall access public highways only at locations approved by the Zoning Administrator or Town Board.

## **107. PENALTIES**

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 pay a forfeiture of up to \$100.00 per violation. Each day the violation continues to exist shall constitute a separate offense. A driveway that is constructed in violation of this Ordinance constitutes a public nuisance and may be enjoined.

## **1.08 AGRICULTURAL PRODUCTIVITY**

No driveway shall be approved in the Town of Lyndon if the Town Board finds that the driveway will adversely affect productive agricultural land, unless the Town Board finds that the driveway is necessary to enhance the agricultural productivity of an adjacent parcel. Under any circumstance, the Town Board shall approve a driveway with the least impact on agricultural land.

Section 2. Severability. If any provision of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of any other provisions of this Ordinance.

Section 3. Effective date. After enactment and signing by the Chairperson and Clerk, this Ordinance shall be effective the day following posting or publication as required by law.

Enacted this 17<sup>th</sup> day of September, 2003.