

## SUBCHAPTER 2: DRIVEWAYS

**SUBCHAPTER 2: DRIVEWAYS****9.200 TITLE**

This Subchapter shall be known as the “Town of Lyndon Driveway Ordinance” or the “Driveway Ordinance,” except as referred to herein, where it shall be known as “this Subchapter.”

**9.201 AUTHORITY**

This Subchapter is enacted pursuant to the general authority granted by §60.22, Wis. Stats., and Chapter 82, Wis. Stats.

**9.202 PURPOSE**

For the safety of the general public, the Town shall determine the location, size, construction, and number of access points to Town roads, through the administration of this Subchapter and any other applicable ordinances. It is the Town's intent to provide safe access to properties abutting Town roads, so that property may be developed to its highest and best use and so that access is not deficient or dangerous to the general public.

**9.203 DRIVEWAY PERMITS**

- (1) **PERMIT REQUIRED TO CONSTRUCT, RECONSTRUCT, ALTER OR ENLARGE:** No person shall construct, reconstruct, alter, or enlarge any private driveway within the limits of the dedicated portion of any public road under the control and jurisdiction of the Town without first obtaining a permit as provided by this Subchapter. This permit procedure does not apply to State and County Highways.
- (2) **APPLICATION REQUIREMENTS:** All applications for a driveway permit shall be submitted to the Clerk, or designee, who shall determine if the application is complete. The applicant may include more than one driveway on one application and one permit. A complete application shall contain all of the following:
- (a) The name and address of the owner of the lot upon which the driveway will be located, if different from the applicant.
  - (b) The name and address of the architect(s), professional engineer(s) and contractor(s) being used on the project.
  - (c) A legible, scaled drawing of the subject lot showing
    1. the location and dimensions of each existing driveway, and the buildings each driveway services,
    2. the location and dimensions of each proposed new driveway, and the buildings each new driveway will service,
    3. the location of all rights-of-way, easements, parking areas and drainage facilities on the lot, and
    4. the location of the next closest driveway or intersection on each side of the existing and proposed driveways.
  - (e) A statement of the materials to be used in constructing the driveway.
  - (f) The subject property's Standard Zoning District designation (as per the Zoning Ordinance, Chapter 22).
  - (g) A statement explaining why each driveway is needed.
  - (h) A statement that the applicant owns the lot to be served by the proposed driveway, and that such proposed driveway is for the bona fide purpose of securing access to applicant's property and not for the purpose of parking or servicing vehicles, advertising, storage, or merchandising of goods within the dedicated portion of the Town road, or for any other purpose.
  - (i) A statement confirming that the applicant acknowledges the Town's right to make any changes, additions, repairs, or relocations of that portion of the driveway located within the dedicated portion of the Town's right-of-way at any time and for any purpose, including relocation, reconstruction, widening, and maintenance of the Town road, without compensating the applicant or any subsequent owner of

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- the property served by said driveway, for the damage to, destruction, closure, or relocation of that portion of the Driveway located within the Town's right-of-way, provided that all access of the property to a public road shall not be destroyed.
- (j) A statement that the applicant, his successors and assigns, agrees to indemnify and hold harmless the Town, its officials, officers, agents or employees, against any claim or any cause of action for personal injury or property damage sustained by reason of the granting or the exercise of such permit.
  - (k) A statement that the Town does not assume any responsibility for the removal or clearance of snow, ice or sleet from said driveway, nor any responsibility for the opening of any wind-rows of snow, ice, or sleet placed upon the driveway by the Town.
  - (l) Such additional statements as the Town shall deem necessary to ensure that the Town's ownership and control over all rights-of-way are completely vested in the Town and are not directly or indirectly transferred to a property owner by virtue of the granting of a driveway permit.
  - (m) Any other item of information that may be reasonably required by the Town for the purpose of application evaluation.
- (4) **REVIEW BY CLERK:** The Clerk, or designee, shall determine whether the application fulfills the requirements of section (2) above. If the Clerk determines that the application does not fulfill the requirements of section (2) above, or if she determines that additional information is needed to determine compliance with this Chapter, she shall return the application to the Applicant with a brief statement identifying how the application is inadequate. If the Clerk determines that the application does fulfill the requirements of section (2), she shall review the application to determine if the driveway complies with the requirements of §9.204 below and all other provisions of this Code, and shall render a decision on the application. If the Clerk deems it necessary, the Clerk may refer the application to the Board for input and/or decision.
- (5) **POSTING:** The applicant shall post such permit in a conspicuous place at the site while performing any work under the permit.
- (6) **REVOCAION OF PERMIT:**
- (a) **Noncompliance:** Upon notice to the applicant and after a hearing conducted by the Board, any permit may be revoked by the Board in the event that the applicant has failed to comply with the provisions of these regulations or any conditions that may have accompanied the permit at the time of granting.
  - (b) **Installation Delay:** Any driveway permit issued by the Town shall be null and void and automatically revoked in the event that installation of the driveway has not been commenced within 180 days from the date of issuance of the permit, and completed within 240 from the date of issuance of the permit. If work authorized by such permit is suspended or abandoned for a period of 90 days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.
  - (c) **Removal:** Upon revocation of a permit, the driveway shall be removed by the permittee within 45 days of such revocation.
  - (d) **Fee Refund:** Revocation shall not entitle the licensee to a total or partial reimbursement of any fees paid.
- (10) **EFFECT ON OTHER PERMITS:** Once a driveway permit is granted, no other permit (e.g. Erosion Control Permit, Zoning Permit, Building Permit, etc.) shall be issued for any development which is inconsistent with the granted driveway permit and this Ordinance.

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**(11) FEE:**

- (a)** All applicants shall pay a driveway permit fee which shall be established by resolution of the Town Board. Any fee paid hereunder for any one driveway may not be assigned or transferred to any other driveway.
- (b)** Driveway permit fees do not include, and are in addition to, building permit fees established by the Building Code, or the Zoning Code, and other fees which may be imposed under this Code.
- (c)** A double fee shall be charged by the Town if work is started on the Driveway before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this Chapter nor from prosecution for violation of this Chapter.
- (e)** The Town may delay any and all action and steps required above, including public hearings, until such time as all other fees, costs, charges, taxes, or forfeitures owed to the Town have been paid. An application is not considered complete and ready for consideration until all amounts owed to the Town have been paid.

**9.204 DRIVEWAY LOCATION, DESIGN, CONSTRUCTION, AND MAINTENANCE REQUIREMENTS**

The location, design, construction, and maintenance of driveways in the Town shall be in accordance with the following requirements, in addition to any other applicable ordinances:

- (1) NUMBER OF DRIVEWAYS:** Set by "Access Standards" of §22.505.
- (2) WIDTH OF DRIVEWAYS:**
  - (a) Residential Driveways:** For all residential properties, as determined by the principal use of the lot served by the driveway, within the highway right-of-way the driveway shall not be less than 16 feet nor more than 24 feet wide at the intersection with the property line, and not more than 30 feet wide at the intersection with the traveled portion of the highway. Between the edge of the highway right-of-way and all structures on the property, driveways shall be cleared at least 16 feet high and 16 feet wide of trees and brush to provide access for emergency vehicles.
  - (b) All other Driveways:** For all other properties (e.g. agricultural, commercial, and industrial), as determined by the principal use of the lot served by the driveway, within the highway right-of-way the driveway shall not be less than 16 feet nor more than 30 feet wide at the intersection with the property line, and not more than 36 feet wide at the intersection with the traveled portion of the highway. Between the edge of the highway right-of-way and all structures on the property, driveways shall be cleared at least 16 feet high and 16 feet wide of trees and brush to provide access for emergency vehicles.
- (3) ANGLE OF INTERSECTION:** The centerline of the first 30 feet of the driveway past the edge of the right-of-way, shall intersect the centerline of the highway at an angle of not less than 75 degrees, and shall intersect at an angle of 90 degrees wherever possible.
- (4) DISTANCE BETWEEN INTERSECTIONS:** No driveway shall be closer than 150 feet to the closest right-of-way of any public highway, private road, or driveway which intersects the highway to which the driveway connects. If the width of adjacent parcels can not accommodate this distance, the Zoning Administrator is authorized to establish driveway locations which maximize the area available and which promote safety.
- (5) DISTANCE FROM PROPERTY LINE:** Setbacks for driveways are established by the regulations for each zoning district. (See, Subchapter 2 of Chapter 22).
- (6) UTILITIES:** Driveways shall be placed wherever possible as not to interfere with utilities (if any) in place. All costs of relocating utilities shall be the responsibility of the property

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owner. Approval of the utility owner shall be obtained, in writing, before any utility may be relocated and the driveway installed.

- (7) **CULVERTS:** Driveways shall not obstruct or impair drainage in road ditches or roadside areas. Driveway culverts, where required, shall be adequate for surface water drainage along the road, shall have end walls, and shall not be less than the equivalent of an 18-inch diameter metal corrugated pipe. Intermediate manholes adequate for clean-out purposes may be required, in the sole discretion of the Town, where the total culvert length is excessive or where past experience has demonstrated that a particular culvert is susceptible to becoming plugged. The distance between culverts under successive driveways shall not be less than 100 feet.
- (8) **DRAINAGE:** Driveways shall be designed, constructed, and maintained (i) to not interfere with the drainage of the traveled portion of the highway, the ditches, or any structure in the right-of-way, and (ii) to prevent the flow of storm water from the driveway onto the highway.
- (9) **GRADE:** The grade of that portion of a driveway located within the right-of-way of a road shall be lower than the grade of the traveled portion of the connecting edge of the road to assure the drainage of water away from the road and to prevent drainage of water from the driveway onto the road. The grade shall also be established so not to cause an obstruction to the maintenance, plowing, grading, or clearing of the road.
- (10) **PAVING OF ACCESS:** All access approach areas located within the highway right-of-way shall be constructed of a material equal to or better than the surface of the adjacent highway, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the right-of-way. This requirement must be fulfilled before building occupancy, unless granted a time-specific extension in writing by the Zoning Administrator
- (11) **DITCHES:** The “ditch” area is located within the right-of-way of the highway, between the edge of the traveled portion of the highway and the private property line. The following regulations apply to ditches.

  - (a) No filling or grading of a ditch shall occur, except to specifications approved in writing by the Town.
  - (b) No planting shall occur within the ditch, except for grass not to exceed 12 inches in height.
  - (c) Culvert extensions within the ditch shall be of the same size and of equivalent acceptable material as the culvert under the driveway.
  - (d) The ditch shall not be used for advertising, parking, storage, access, or any other private purpose. The Town may require the landowner to construct a permanent barrier (e.g. curb, wall, rails, posts, etc.) to separate the ditch from the landowner=s lot to prevent use of the ditch for driveway or parking purposes as may be required by the Town.
- (12) **TRAFFIC CONTROL:** The traffic generated on any property shall be channeled and controlled in a manner which avoids (i) congestion on public highways and (ii) other safety hazards. All off-street parking, loading and traffic circulation areas shall be designed and constructed so that all traffic moving into and out of such areas shall be forward moving only, with no backing into highways.
- (13) **EXCEPTIONS:** Exceptions to the foregoing requirements may be granted, in writing, by the Town Board, upon a showing of good cause by the applicant. “Good cause” shall require the applicant to demonstrate either (1) that safety will be substantially enhanced by creating an exception to the rule, or (2) that substantial expense will be saved, that safety will not be detrimentally affected, and that road maintenance will not be detrimentally affected by creating an exception to the rule.