

**Town of Linden
Iowa County, WI**

**DRIVEWAY
ORDINANCE**

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1.1 PURPOSE

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification or reworking of a driveway 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 set forth in the Town of Linden 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of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.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 on land within the Town of Linden. New driveways and those existing driveways that undergo repairs involving changes in the existing slope and/or rerouting of the existing driveway 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 where repair does not involve changes in the existing driveway slope and/or rerouting of the existing driveway.

1.08 AUTHORITY

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

1.09 DEFINITIONS

- (1) Agricultural Land. Any land within the Town of Linden 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) Easement. A legal use of property, commonly for ingress and egress. An easement is not synonymous to a driveway.
 - (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 Linden.
 - (6) Plan Commission. The individual(s) or agent(s) hired or appointed by the Town Board to act in this capacity.
 - (7) Shared Driveway. A driveway which serves more than one residence.
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- (8) A Shared Driveway Agreement. A legal document signed by all owners of residences served by a shared driveway. The document shall clearly set forth the duties and responsibilities of each of the property owners regarding the maintenance of the shared driveway.

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 without first obtaining a Driveway 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 Construction Permit Application with the appropriate fee and the following attachments, as required, to the Town Clerk. A conceptual layout may be submitted to the Town Board for preliminary review and comment prior to the formal permit application. The application will require the following information:
- (a) Sketch Map (pencil & paper drawing). Provide a detailed sketch of the driveway showing location and dimensions.
 - (b) Sketch Map (aerial). Provide a detailed sketch showing the location and dimensions of the driveway on an aerial photograph.
 - (c) Soil/Slope Analysis. The proposed driveway must be drawn on a topographic map in order to determine the approximate slope.
 - (d) Driveway Construction Plan. (if required - see Section 1.11 of this Ordinance)
 - (e) County Review. The driveway request must be reviewed by the Iowa County Office of Planning to ensure compliance with issues such as, but not limited to, delineated floodplain, shoreland, wetlands, etc.
 - (f) County/State Access Approval. Any driveway proposed to access a county trunk highway or state/federal highway must have its access to said public highway approved by the appropriate highway authority. A copy of access approval must be supplied with the Town application.
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- (g) Other Documents. The Town may require other documents to be attached to the Driveway Permit Application. Additional information may be requested by the Plan Commission.
 - (h) Shared Driveway Agreement. Applications for a shared driveway or for a building permit which would create a shared driveway must present to the Plan Commission and the Town Board a copy of the shared driveway agreement.
- (4) Application Review. The Plan Commission shall review each application and either approve, deny or request additional information within 30 business days from the receipt of the 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 permit, the Plan Commission shall recite in writing the particular facts upon which it bases its denial of the permit. The Plan Commission shall also afford the applicant an opportunity to review the Plan Commission's decision and present evidence refuting the determination, if so desired. Thereafter, the Town Board may affirm or modify the Plan Commission's decision. The Plan Commission shall recite in writing findings for any decision to modify or override its initial determination.
- (6) Re-application. If the Plan Commission denies two consecutive applications for a Driveway 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 Construction Permit is effective for 12 months from the date of issuance. 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 has not been constructed by the end of this period, a new application must be submitted and approved.
- (9) Driveway Inspection. The applicant shall notify the Plan Commission within 30 days of completion of the construction or modification. Within 30 days of notification, the Town will conduct an inspection of
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the driveway to ensure full compliance with all of the provisions of this Ordinance.

- (10) Building Permits. No Town Building Permit for new construction will be issued until the driveway 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.

1.11 WHEN A DRIVEWAY CONSTRUCTION PLAN OR LOCATION PLAN IS REQUIRED

- (1) Driveway Construction Plan. The Town Board may require a driveway construction plan prior to any proposed driveway construction or modification. A driveway 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 or segment of a driveway that requires the disturbance of land with a slope of more than 10%.
 - (b) For a driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the Town Board or Plan Commission.
 - (c) When a driveway crosses a waterway or has the potential to significantly alter existing drainage patterns and/or quantity of runoff.
 - (d) When construction or modification of a driveway necessitates construction or improvement of a bridge or culvert.
 - (e) When the Town Board requests a driveway construction plan.
- (2) Driveway Location Plan. A Location Plan is required for all segments of the proposed driveway not covered by a driveway construction plan. The Location Plan shall be drawn to scale and show the exact location of the driveway on an aerial photo.

1.12 COMPONENTS AND APPROVAL OF DRIVEWAY CONSTRUCTION PLANS

- (1) Components. If required, a Driveway Construction Plan will include a scale plan showing the following:
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- (a) Location. The precise location of the driveway or the segment of driveway that requires a Driveway Construction Plan.
 - (b) Slope. A profile of the driveway route before and after construction showing a maximum finished driveway slope of 10%. If slope exceeds 10%, then written approval from local emergency services (fire and rescue) must be provided by the applicant.
 - (c) Retaining Walls. The location and structure of any retaining walls.
 - (d) Bridges. The location, size, and design calculations of any bridges.
 - (e) Culverts. The location, size, and design calculations of any culverts.
 - (f) Cross-section. Typical cross sections of the driveway 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 may commence until:
 - (i) The Driveway Construction Plan, if required, is approved by the Town Board, and
 - (ii) Until a Driveway Construction Permit is issued by the Town, and
 - (iii) When applicable, any necessary approvals are obtained from Iowa County or the State of Wisconsin.

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

- (b) Inspection. After the driveway has been completed, the Plan Commission shall inspect the driveway to determine whether it was constructed according to the plan(s) and is consistent with the requirements of this Ordinance. If deemed necessary, the Town Board may employ a licensed engineer to evaluate the Driveway Construction Plan at the applicant's expense.
- (c) Emergency Access. As a condition of the driveway construction permit, the driveway shall be *constructed* and *maintained* by the owner or occupant to ensure access by emergency vehicles.
- (d) Disclaimer. The Town's approval of a driveway permit application does not constitute a determination that the driveway 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 is fit for any purpose. Approval of the driveway permit application does not establish future approval of the driveway as a public road.

1.13 SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS

- (1) Minimum Driveway Width. The minimum driveway width shall be 12 feet for a single residence and 18 feet for a shared driveway.
 - (2) Minimum Driveway Surface. The minimum driveway surface shall consist of 6" of crushed aggregate base course. Additional stone may be required based on actual soil conditions. Finished surface shall be a minimum of 6" of gravel aggregate or 2" of blacktop.
 - (3) Side Slopes. Driveway 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 grade shall be 10%.
 - (6) Clear Space. A clear space 18 feet high and 20 feet wide for a single residence and 18 feet high and 26 feet wide for a shared driveway shall be maintained at all times for emergency vehicle access.
 - (7) Turnaround. Each driveway shall have a turnaround within 75 feet of the house.
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- (8) Curves. Driveway curves shall have a minimum radius of 36 feet..
- (9) Pull-offs. For each 300 feet of driveway length, there shall be a minimum 8 foot wide by 15 foot long pull-off that allows traffic to pass.
- (10) Entrance Slope. Entrance Slope, where the driveway meets a public road, must not exceed a maximum slope of 5% for 20 feet. This requirement may not be waived by written permission of local emergency services.
- (11) Maximum Number of Residences per Driveway. A maximum of three residences can be served by one driveway.

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 Plan Commission 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 Plan Commission 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. A field road proposed to serve any structure may be required to meet the provisions of this Ordinance when deemed by the Town Board that the structure may require emergency services.

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 \$200, 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.
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- (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.

1.16 TOWN BOARD APPROVAL

The Town Board of the Town of Linden adopted the Driveway Ordinance at a meeting held on the _____ day of _____, 20__.

APPROVED BY:

(name), Chairperson

(name), Supervisor

(name), Supervisor

ATTESTED BY:

(name), Clerk

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 published in the **NEWSPAPER OF RECORD** on **DATE**, to inform residents that a final draft of this Driveway Ordinance was on file with the Town Clerk for a two-week period of **DATES** during which it was available for inspection.
- (b) Posting. This Notice of Adoption of Ordinances relating to this Ordinance was posted on **DATE**, at the **TOWN HALL**.
- (c) Publication. A Notice of Adoption of Ordinances relating to this Ordinance was published in the **NEWSPAPER OF RECORD**, the publication of record for the **TOWN** on **DATE**.

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Recommendations II

The Plan Commission also recommends that the Town Board adopt Siting Ordinance 3- A.

The Plan Commission further recommends that the Town Board amend the Driveway Ordinance to include

Under Section 1.09 Definitions:

(7) Shared Driveway. A driveway which serves more than one residence.

(8) A Shared Driveway Agreement. A legal document signed by all owners of residences served by a shared driveway. The document shall clearly set forth the duties and responsibilities of each of the property owners regarding the maintenance of the shared driveway

Under Section 1.10 (3)

(h) Applications for a shared driveway or for a building permit which would create a shared driveway must present to the Plan Commission and the Town Board a copy of the shared driveway agreement.

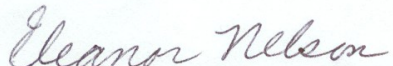
Under Section 1.13

(11) Maximum Number of Residences per Driveway. A maximum of three residences can be served by one driveway.



Town of Linden Plan Commission Chairman

2-8-06
Date



Town Of Linden Clerk

2-8-06
Date

