

CHAPTER 26 - PEPIN COUNTY DRIVEWAY ACCESS CODE (Ord. No. 179, Am. #49, 1-21-04)

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26.01 - STATUTORY AUTHORITY .

Pursuant to §§59.69 and 81.01, Wis. Stats., the County Board of Pepin and adopting Towns of Pepin County, Wisconsin, do hereby ordain as follows.

26.02 - FINDING OF FACT .

The County Board, as well as the Town Boards which hereby adopt this code pursuant to the authority in §1.01, hereby recognizes that the uncontrolled/undocumentable private and public access to the roads of the state, county and towns will adversely affect the health and safety of citizens of the county. This uncontrolled/undocumentable access to the road system of the county will impair emergency services, degrade natural resources and disrupt the transportation system.

26.03 - PURPOSE .

The purpose of this Code is to regulate the establishment, construction, improvement, modification, enlargement or the reconstruction (collectively "construction") of private driveways, private roads and field roads in the County to assure that the location of the access point to public roads and method of construction will promote the public health, safety, and general welfare of the County, preserve natural resources, and comply with the goals and policies set forth by the County and Towns. For the safety of the general public, the County Board and Towns Boards within the county shall determine the location, size, use, construction and number of access points to public highways within the County. This ordinance does not apply to re-surfacing existing driveways.

26.04 - TITLE .

This chapter shall be known as the "Pepin County Driveway Access Code".

26.05 - GEOGRAPHICAL JURISDICTION .

This code shall apply to all county highways throughout the county and to town roads in towns which have adopted this code pursuant to §59.69, Wis. Stats. NOTE: Roads within platted subdivisions as defined by Ch. 236, Wis. Stats., shall be exempted from the provisions of this code.

26.06 - DEFINITIONS .

- (1) PRIVATE DRIVEWAY. A private driveway, road, or other avenue of travel which serves one lot and 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 regularly used only for agricultural purposes or to access agricultural land. For the purposes of this code, temporary roads used less than 6 months for timber harvesting, construction projects and other short term projects shall be considered under this definition.
- (3) REGULATING AUTHORITY. For the purposes of this code regulating authority is defined as the County Highway Commissioner for access to state and county roads and the Town Board for access to town roads.
- (4) PRIVATE ROAD. A road on private property which is accessed by 2 or more private driveways and which provides access to a public highway.
- (5) PUBLIC HIGHWAY. All public ways and thoroughfares, including without limitation, town roads and county and state highways.
- (6) COUNTY refers to Pepin County.

(7) TOWN refers to the legal town government.

26.07 - PRIVATE DRIVEWAY/PRIVATE ROADS/FIELD ROADS CONSTRUCTION PERMIT . (Referred to as "permit").

- (1) PERMIT REQUIREMENT. No person or public or private entity shall construct a private driveway, private road, field road or other access from a property line to a public highway without first filing an application for and obtaining a permit from the County or Town.
- (2) APPLICATION. Application for a Permit shall be made in writing to the County Highway Commissioner for access onto a state, county trunk or to Town Clerk for access onto a town road. The application shall be provided by the regulating authority and shall contain the following:
 - (a) Map or diagram identifying the slopes on the property.
 - (b) Address information as assigned by the Pepin County Land Management Office.
 - (c) A copy of any erosion control plan if required by Pepin County Land Conservation Department or other authority.
 - (d) A construction plan consisting of a drawing or diagram showing the following information:
 1. The length and width of the driveway.
 2. The relationship of the driveway to property lines, structures and existing private roads and public highways.
 3. The location and size of any culverts.
 4. The slope of the driveway.
 5. The location and structure of any retaining walls.
 6. A cross section of the driveway.
 7. Minimum height clearance which will be provided.
 8. Radius of all curves on the driveway.
 - (e) Any other information relevant to the application that is required by the County or Town.
 - (f) A sworn statement that the application is true and accurate.
- (3) APPLICATION FEE. The applicant shall pay a nonrefundable fee of \$20 at the time of making the application for a Permit.
- (4) REVIEW. Upon the filing of the complete application and application fee with the County or Town, the application shall be reviewed within 30 days:
 - (a) The Highway Commissioner or designee or the Town Board and/or representative may issue the Permit. If the authorized person determines that the application does not meet highway, town or other land use standards, the application should be referred to the County Highway Committee and/or County Land Management Committee or the Town Board and/or Town Planning Commission for guidance/approval.
 - (b) If requested by the regulating authority, the agency shall hold a meeting of the County Highway Committee (Land Management Committee) or Town Board (Plan Commission) on the application.
 - (c) After the meeting on the application, the regulating committee shall recommend approval, conditional approval, denial or tabling of the application.
- (5) PERMIT PERIOD. The permit is effective for 12 months from the date of issuance. The permit shall expire after 12 months unless renewed.

- (6) RENEWAL. The permit may be renewed for one additional 12-month period by the regulating authority. If the driveway has not been constructed by the end of this period, a new application must be submitted and approved.
- (7) DRIVEWAY INSPECTION. The holder of the permit shall notify the County or Town designee within 60 days of completion of the construction. Within 60 days of notification, the regulating authority shall conduct an inspection of the driveway to ensure full compliance with all of the provisions of this Code.
- (8) LAND USE PERMITS. Where required, no land use permit for new construction shall be issued until a private driveway/road construction permit has been approved.

26.08 - GENERAL SPECIFICATIONS FOR THE CONSTRUCTION OF PRIVATE DRIVEWAYS AND PRIVATE ROADS .

- (1) SLOPE. No land with a mapped soil unit of a slope over 30 percent will be disturbed for the construction of the driveway/road. The maximum final slope of the driveway/road or any portion of the driveway/road shall be no more than 12 percent.
- (2) CULVERTS. Each driveway/road based upon slope and drainage pattern shall be evaluated for the need to have a culvert by the approving authority. In cases where a culvert is found to be necessary it shall be at least 15 inches in diameter at the ditch line where the driveway/road meets the public highway or private road, unless a larger culvert is required by the approving authority. The approving authority shall approve the type and length of the culvert.
- (3) JUNCTURE WITH PUBLIC ROAD. A length of driveway /road of a minimum of 50 feet shall have a maximum of 4 percent slope at the point where the driveway/road enters onto a highway or private road. A slight dip sloping back from the public road across the drive shall be placed just before the culvert at the entrance to a public highway or private road to prevent debris from washing onto the public highway or private road.
- (4) DRAINAGE. Ditches along the right-of-way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway/road 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.
- (5) EROSION CONTROL. All State and County erosion control statutes and codes shall be complied with during all aspects of the driveway construction. Once the construction of the driveway/road has begun, all specified erosion controls, including retaining walls, ditching, culverts, crowning, mulching, matting, and bank seeding, shall be begun immediately. For winter construction, erosion alternatives must be implemented immediately until specified controls are available.
- (6) CLEARANCE FOR EMERGENCY VEHICLES. An area equal to the required width of the driveway/road surface and 14 feet in height shall be cleared and maintained along the entire driveway/road in order to permit the safe passage of emergency vehicles to the structures served by the access.
- (7) GENERAL DESIGN. A driveway/road shall be of such width and so located that all of such driveway/road is within the limits of the public highway or private road fronting on the property served. Driveways/roads 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/road 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 regulating authority pursuant to the State of Wisconsin Department of Transportation Facilities Development Manual. Driveway/road approaches shall be at least 10 feet from the edge of the driveway/road to the property line except by special permission from the County Highway Committee or Town Board, and driveways/roads shall in all cases be placed wherever possible as not to interfere with utilities in place.

- (8) SETBACK FROM PUBLIC ROAD INTERSECTION. All access regulated under the authority of this code shall be setback 250 feet from the centerline of the intersection of any 2 public roads.
- (9) DRAINAGE. The surface of the driveway/road connecting with public highway cross sections shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing onto the public highway roadbed. No driveway/road apron shall extend out into the public highway farther than the road edge or face of the curb. All driveway/road entrances and approaches shall be so constructed that they shall not interfere with the drainage of public highways, side ditches, or roadside areas or with any existing structure on the right-of-way.
- (10) RELOCATION OF UTILITIES. Any costs of relocating utilities shall be the responsibility of the property owner with approval of the regulating authority and before any utility may be relocated and the driveway/road installed.
- (11) VARIANCES. Any of the above requirements may be varied by the regulating authority in such instances where the peculiar nature of the property or the design of the public highway may make the rigid adherence to the above requirements impossible or impractical.

26.09 - SPECIFICATIONS FOR THE CONSTRUCTION OF PRIVATE DRIVEWAYS (ACCESS TO SINGLE LOT) .

- (1) WIDTH, RISE, AND DITCH DISTANCE. The private driveway shall be constructed with a minimum of a finished surface of 14 feet in width. Where there are ditches on both sides of a driveway, there shall be maintained a 3:1 slope on those ditches.
- (2) RADIUS OF CURVES. Curves in the private driveway shall have an inside radius of no less than 36 feet.
- (3) TURNAROUND. The private driveway must have a perpendicular turnaround or at least a 50 foot turning radius when determined necessary by the regulating authority.
- (4) NUMBER.
 - (a) The number of private driveways allowed to serve an individual residential or commercial property shall be a maximum of 2, subject to sub. (b), below, provided that when 2 private driveways are utilized, there is also at least 180 feet of total frontage on the public highway or private road from which the private driveways serve the parcel.
 - (b) There shall be allowed one private driveway for the first acre of the served parcel, and one additional private driveway for each additional acre or part thereof, up to a maximum of 2. For corner parcels, or parcels abutting more than one public highway or private road, access shall be allowed from only one of the public highways or private roads abutting the parcel.
 - (c) Where 2 private driveways serve a parcel, such private driveways shall be located no closer than 75 feet from centerline to centerline off town roads and 200 feet from centerline to centerline off county roads, and at least 10 feet from the edge of the private driveway to the property line.

26.10 - SPECIFICATIONS FOR THE CONSTRUCTION OF PRIVATE ROADS (ACCESS FOR TWO OR MORE LOTS) .

- (1) WIDTH, RISE DISTANCE, AND BASE. The private road shall be constructed with a minimum of a 66 foot right-of-way, 20-foot minimum finished width, shoulders slopes of 3:1, back slopes of 2:1 or flatter desirable. Other standards for this type of road shall be those specified under T1 Standard for Town Road design for in the State of Wisconsin Facilities Development Manual, if required by regulating authority.
- (2) RADIUS OF CURVES. Curves in the private road shall have an inside radius of no less than 100 feet.
- (3) TURNAROUND. The private road must have a perpendicular turnaround or at least an 80 foot turning radius when determined necessary by the regulating authority.

26.11 - PROHIBITED DRIVEWAYS/ROADS AND/OR FILLING .

- (1) No person shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public highway, except as permitted by this Code. As used herein the word "structure" includes private driveways, a portion of which extends into any public highway, and which is in non-conformance with this Code.
- (2) The grade of that portion of any driveway/road located within the limits of any public road, highway shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public highway.
- (3) Drainage from driveways/roads shall run into adjacent ditches and not onto the public highway pavement.
- (4) Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the regulating authority.

26.12 - COSTS .

All costs of driveway construction and maintenance shall be paid by the holder of the private driveway/road construction permit.

26.13 - WAIVER OF SPECIFICATIONS .

Any specification in this Code may be waived or modified by the regulating authority if it determines the specification would impose an unnecessary hardship. Any request by an applicant for a waiver or modification of any provision in this Code must accompany the initial application and must state the reason for the request.

26.14 - REGULATING AUTHORITIES APPROVAL .

The regulating authority's approval of a private driveway/road 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.

26.15 - 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 driveway/private road, the regulating authority shall notify the property owner of the conditions. Any property owner failing to correct such condition within 30 days after notice by the authority shall be subject to the penalties described in the penalty section of this Code.
- (2) CONFORM TO ORDINANCE. In the event that a residential dwelling located on property served by an existing driveway/road is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of the code.

26.16 - FIELD ROADS .

No field road may be used for nonagricultural purposes unless the field road has been approved as a driveway/road under the purposes of this Code. Field Roads shall access public highways only at locations approved by the regulating authority.

26.17 - PENALTIES AND FORFEITURES .

Should a driveway/road be constructed or modified in violation of the provisions of this Code, 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 \$100 per violation. Each day that the violation continues to exist

shall constitute a separate offense. A driveway that is constructed in violation of this Code constitutes a public nuisance and may be enjoined.

26.18 - SEVERABILITY ,

If any provision of this Code 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 Code.

26.19 - EFFECTIVE DATE .

This Code shall take effect the day after passage and publication as required by law.