

ORDINANCE NO. 2022- 01

ORDINANCE REGULATING ACCESS TO TOWN ROADS

The Town Board of the Town of New Holstein, Calumet County, Wisconsin, does hereby ordain as follows:

SECTION I. APPLICABILITY. This ordinance shall be applicable to all existing accesses and future permissions to access town highways, including driveways whether or not a permit was issued prior to the date of enactment of his ordinance.

SECTION II. PURPOSE AND INTENT. The purpose of this ordinance is to promote the safe and efficient ingress and egress through town highways in the interest of public safety by assuring that driveways accessing town highways meet certain engineering safety requirements; to reduce highway accidents caused by the inadequate location and design of driveways due to reduced soil erosion adjacent to town highways; to promote the balanced use of land for the mutual protection of property owners, motorists and citizens of the Town of New Holstein; and to enhance the appearance of town highways so as to make highway travel more pleasant.

SECTION III. SEVERABILITY. If any section, provision or portion of this ordinance is determined invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

SECTION IV. COMPLIANCE WITH ORDINANCE. Any property owner seeking to construct, reconstruct or change the use of a driveway with access upon a town highway within the Town of New Holstein shall comply with the requirements of this ordinance.

SECTION V. DEFINITIONS. For the purpose of this ordinance, certain words or phrases used herein are defined as follows:

- A) Access – A recognized point of vehicular entry onto a town highway where evidence of use has been clearly established.
- B) Agricultural Driveway – A point of access to a town highway for purposes of utilization of natural resources for the purpose of raising and selling basic food stuffs, but not including the extensive processing of raw goods. This shall also include any real estate used for grazing.
- C) Commercial Driveway – A point of access to a town highway for purposes of commerce, including dwellings designed for occupancy of more than two families.
- D) Driveway – A point of access to a town highway.
- E) Intersection – A place where two town highways intersect, or a town highway and a state or county highway intersect.
- F) Residential Driveway – A point of access to a town highway for the purpose of serving a building designed for and occupied exclusively for one to two families.

SECTION VI. PERMIT REQUIRED TO CONSTRUCT OR RECONSTRUCT DRIVEWAY.

- A) No access to a town highway may be constructed, reconstructed or have a change in use without the property owner first obtaining a permit from the Town of New Holstein Town Board.
- B) Applications for permit shall be obtained from the Road Supervisor.
- C) The Town Board shall approve or deny the permit in accordance with the standards contained in this ordinance within 60 days of receipt of the application and fee.
- D) An access permit shall expire 90 days from the date of issuance if evidence of use has not been established within that time.
- E) An access permit granted under this ordinance may be revoked by the Town Board if the property owner violates this ordinance.
- F) In addition to the permit application, an applicant may be required to submit additional information, including such items as scale drawings, engineering data, traffic generation, property lines, topography, locations of bodies of water, marshes and lowlands, and the location of existing and proposed buildings and other structures as a condition for approval.
- G) Permits shall be issued only in the name of the owner of the property on which the access is to be constructed, reconstructed, or where a change of use occurs.
- H) The applicant shall submit with the application a non-refundable fee of \$75.00 to cover the cost of administration, inspection and review.
- I) No access permitted under this ordinance shall be converted to a public highway unless approved and accepted by the Town Board.

SECTION VII. RIGHT OF ACCESS FOR PARCELS EXISTING PRIOR TO ENACTMENT.

Existing parcels of land abutting upon a town highway at the time of enactment of this ordinance shall be entitled to one access in compliance with the provisions of this ordinance. The access point shall be consistent with the use in existence when the ordinance was enacted.

SECTION VIII. RIGHT OF ACCESS FOR PARCELS CREATED AFTER ENACTMENT. All newly created lots shall have an access shown on the recorded certified survey map or on the plat as set forth in applicable subdivision ordinances. Approval of such certified survey map or plat does not constitute a permit granted under this section. The property owner still must apply for an access permit under this ordinance.

SECTION IX. LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS. The location, design and construction of a driveway for access to and from a town highway shall be in accordance with the following requirements:

- A) Residential driveways shall have a minimum pipe length of 30 feet and a diameter of 18 inches. Total length and diameter to be determined by the Town of New Holstein Town Board.
- B) All driveways shall be constructed so as to provide ingress and egress to the town highway at an angle of 90°.
- C) No driveways shall provide direct ingress or egress to or from an intersection.
- D) All driveways shall be located at least 5 feet from the side property line.

- E) All driveways shall be constructed of solid, load-bearing material no larger than breaker run . The top surface of the driveway should consist of a least six inches of gravel for the traveled portion.
- F) The surface of the driveway connecting with the town highway section shall slope down and away from the town highway shoulder a sufficient amount of distance (approximately 4 feet) to preclude surface water from draining from the driveway onto the town highway. Driveways shall not obstruct or impair drainage and roadside ditches or roadside areas. Approaches shall be kept low enough to avoid winter snow removal problems. The low points should be over the culvert or in line with center of ditch.
- G) The permit shall describe the diameter and length of any required culvert for a driveway. Such culvert shall consist of a corrugated metal culvert pipe or substitute material in the sole discretion of the Town Board. The property owner can provide for and install the culvert, but it must be done under the inspection and supervision of the Town. The location of the culvert shall be prescribed by the permit.
- H) All driveways shall be constructed or reconstructed to have sloped sides unless the abutting town highway has curb and gutter. Such construction shall be accomplished using only soil materials. The sides of the driveway shall be sloped at no more than a length to height grade ration of 2/1. All slopes shall be seeded or sodded by the property owner. Any other material used such as asphalt, concrete, stone or rip-rap must be approved in the sole discretion of the Town Board.
- I) Removal of an illegally placed driveway shall be actual cost to owner of property.
- J) The Town Board may impose any other requirements deemed necessary with regard to the construction of any driveway so as to promote the safe and efficient ingress and egress to the abutting town highway and to fulfill the purposes of this ordinance.

SECTION X. SPACING AND FREQUENCY. No property owner of parcels of land created after enactment of this ordinance shall have the absolute right of access by reason of the fact that the property abuts a town highway unless the following criteria are met:

- A) Horizontal distances between accesses shall not be less than 100 feet. An intersection shall be considered an access for purposes of this requirement.
- B) No more than 6 residential driveway permits per mile.
- C) The design of the driveway shall fully comply with standards approved in the sole discretion of the Town Board prescribing appropriate site distances, return radius, angle profile width, parking and internal circulation.

SECTION XI. CHANGE OF USE. In the event the property owner changes the use of the driveway from residential to agricultural or commercial, the property owner shall apply for a permit for such change of use as required in this ordinance. No agricultural or commercial driveway may be converted to residential without a permit as required in this ordinance. The Town Board shall then determine if the change in use will affect safe and efficient ingress and egress to the town highway, which determination shall be based primarily on a significant change in the volume of traffic or the type of vehicles using the access. Upon such determination the Town Board may require modifications to the access to comply with this ordinance or may revoke or disallow the change of use of the access.

SECTION XII. VARIANCES. A property owner may request a variance from the Town Board if practical difficulty or unnecessary hardship can be shown resulting from the strict compliance with this ordinance. Such variance, however, shall be granted only if the public interest is secured and that such variance shall not have the effect of nullifying the intent and purpose of this ordinance.

SECTION XIII. VIOLATIONS AND PENALTIES.

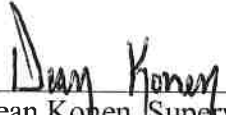
- A) Any property owner violating any provision of this ordinance shall be subject to a penalty of not less than \$15.00 nor more than \$100.00 for each violation. Each day shall constitute a separate violation.
- B) In addition to the penalty prescribed above, the Town shall also be entitled to pursue injunctive relief.
- C) In addition, the Town may take corrective action to eliminate the violation, the reasonable cost thereof to be assessed against the abutting property or the access where the violation is occurring.

SECTION XIV. EFFECTIVE DATE. This ordinance shall become effective upon its passage and publication in accordance with law.

This ordinance was passed by unanimous vote of the Town Board of Supervisors at the meeting of said Town Board of the Town of New Holstein, Calumet County, Wisconsin, held on the 14 day of September, 2022.



Ben Henke, Chairman



Dean Koenig, Supervisor



Len Heimerman

ATTEST:



Cheryl Heller, Clerk