

Chapter 3. PRIVATE DRIVEWAYS

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- 47 (3) **Certified survey map (CSM).** A map of land division, not a subdivision, prepared in accordance
- 48 with Sec. 236.34. Wis. Stats. and in full compliance with the applicable provisions of both
- 49 Chapter 75, Dane County Code of Ordinances and Town of Springdale Land Division and
- 50 Subdivision Code.
- 51
- 52 (4) **Driveway.** A private driveway, lane, field road, temporary driveway, or other avenue of travel
- 53 that runs through any part of a private parcel of land or that connects with or will connect with
- 54 any street, road, highway right-of-way, or shared driveway.
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- 56 (5) **Driveway Layout Plan.** A drawing to scale showing the layout of the entire driveway on a map
- 57 of the property that contains sufficient details to demonstrate that the driveway can be
- 58 constructed to meet the technical specifications of this chapter, the Town of Springdale
- 59 Driveway Construction Requirements and goals of the Town of Springdale Land Use Plan.
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- 61 (6) **Driveway Permit Part 1.** A valid authorization granted by the governing body controlling the
- 62 street, road, or highway right-of-way allowing access to the street, road or highway.
- 63
- 64 (a) For streets, roads, or highways under the control of the Town, a Driveway Permit Part 1 is a
- 65 permit granted by the Town Board allowing access to the street, road, or highway and the
- 66 placement and construction of that portion of a proposed driveway which may extend to a
- 67 maximum of fifty (50) feet from the centerline of the roadway surface.
- 68
- 69 (b) For streets, roads, or highways under the control of the county or state, the required access
- 70 permit granted by that governing body controlling the right-of-way shall be obtained by the
- 71 applicant and a copy provided to the Town before placement and construction of that portion
- 72 of a proposed driveway which may extend to a maximum of fifty (50) feet from the
- 73 centerline of the roadway surface.
- 74
- 75 (c) For private driveways branching from shared driveways, the Permit Part 1 shall be the
- 76 properly permitted access for the shared driveway granted by either the Town, county or
- 77 state.
- 78
- 79 (7) **Driveway Permit Part 2.** An authorization granted by the Town Board allowing the placement
- 80 and construction of a driveway from the access point, as permitted under Driveway Permit Part
- 81 1, to the building site.
- 82
- 83 (8) **Shared Driveway.** A driveway that provides access to any street, road or highway for more
- 84 than one parcel of land or lot.
- 85
- 86 (9) **Shared Driveway Agreement.** An agreement between the parties sharing any portion of a
- 87 driveway that shall, at a minimum, meet the requirements in County Ordinance 75.19(8)f, and
- 88 in addition contains language addressing how any disputes or conflicts between the parties, or
- 89 their heirs, successors or assigns will be resolved and furthermore shall contain language that
- 90 does not require the Town to become involved in any dispute or conflict unless the Town Board,
- 91 the Town Engineer, or the local fire department and EMS service determines the dispute or

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conflict relates to the safety and/or adequate access for emergency vehicles, school buses, and other emergency or Town equipment.

(10) **Engineered Plan.** A driveway plan that is laid out according to an engineered plan prepared by a licensed professional engineer.

(11) **Farm to Market Road.** A town road, built most often with the intent to serve one or more farmsteads for the purpose of facilitating farm-to-market activity, which may or may not meet current town road standards. The Farm to Market Roads include, but are not limited to, those roads inventoried on the Town of Springdale Unimproved Farm to Market Roads List. A current list of Unimproved Farm to Market Roads is available from the Town Clerk.

(12) **Field Road.** A road used exclusively for agricultural uses, and not any other commercial or residential use. A field road without a direct access point to a street, road or highway does not require a Driveway Permit Part 1 and Part 2. A new field road with direct access to a street, road or highway does require a Driveway Permit Part 1 for the protection of safe and efficient travel between private lands and a street, road or highway.

(13) **Plat.** A map of a subdivision.

(14) **Town Road.** Any town street, road, highway or thoroughfare that is dedicated to and accepted by the Town or is established under Chapters 66, 80, or 81, or 82, Wis. Stats. Town streets, roads, and highways shall be governed by the provisions of the Town Road Ordinance, Town of Springdale, Dane County, Wisconsin.

(15) **Subdivision.** A division of a parcel of land where the act of division creates either:

- (a) Five or more lots, parcels or building sites of 35 acres each or less on an area; or
- (b) Five or more lots, parcels or building sites of 35 acres each or less in an area by successive divisions within a period of five years, whether by the original or a subsequent owner.
- (c) All area calculations are to be exclusive of any dedications, right-of-way, easements or reservations.

(16) **Topography.** The surface features of an area of land.

3.8 GENERAL PROVISIONS

(1) **Driveway Permit Application Fee.** A non-refundable fee of an amount to be determined by the Town Board shall be paid with the submission of each Driveway Permit Application. The current amount of the fee may be obtained from the Town Clerk.

(2) **Other Fees and Costs.** All costs of driveway design, including an engineered plan if required, construction, modification and maintenance, including the costs of culverts, erosion control and storm water management measures, and relocation of any existing utilities shall be paid by the property owners. The property owner shall be responsible for costs of required review(s) of engineered plans and/or additional inspection(s) beyond the one performed by the Town as part

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of the footings and foundation inspection.

- (3) **Driveway Inspection.** The Town or its designee shall inspect a driveway following the rough grade and application of the substrate to determine whether or not the driveway conforms to the requirements of this chapter, the requirements of the Driveway Permit, and the requirements of the Driveway Construction Requirements. A driveway inspection shall be completed at the time of the footings and foundation inspection. If /when a driveway is being constructed and is not associated with a new building, a preliminary inspection shall occur immediately following the rough grade and application of the substrate, but no later than 45 days from the start of rough grading.
- (4) **Driveway Permit Application.** Applications for Driveway Permits are available from the Town Clerk. All applications shall contain the name, address and phone number of the applicant and physical location data. All applications shall be filed with the Town Clerk together with the permit fee at least two (2) weeks prior to the next regularly scheduled Town Board meeting at which it is to be considered.
- (5) **Building Permits.** No Building Permit for new construction shall be issued without proof of a valid Town of Springdale Driveway Permit. No new construction beyond the footings and foundation may be initiated until the driveway is inspected by the Town and is found to be constructed in accordance with the technical specifications of this chapter, the Town of Springdale Driveway Construction Requirements, and the goals of the Town of Springdale Land Use Plan. The only exception to the required completion of the driveway will be the final application of gravel, seal coating or paving, which may be delayed until heavy equipment needed for building activities will no longer be using the driveway. A final inspection shall be required before an occupancy permit is granted.
- (6) **Driveway Access.** One driveway access point to a street, road or highway may be permitted for each parcel of land or lot, except where a shared access is available and would better promote public safety, better serve the public interest, and would better conform to the goals and policies set forth in the Town of Springdale Land Use Plan, and the purpose and intent of this ordinance. More than one driveway access point for a parcel of land may be considered when the additional access point meets the purpose and intent of this chapter and special circumstances so warrant.
- (7) **Driveway and Access Locations.** Access to rights-of-way and driveways shall be located to: promote the safe and efficient access and travel between a right-of-way and parcels of land and lots; ensure that the location, method of construction, and conservation practices related to the driveway will promote public health safety and welfare; minimize the impact on adjacent property owners, agricultural activities, and environmentally sensitive areas; and ensure safe and adequate access of public safety vehicles and equipment to structures served by the driveway. To the extent that the location of a driveway is not detrimental to public safety or the environment or will not impede access for public safety vehicles and equipment to structures served by the driveway, it shall be located in such a manner as to minimize the impact on agricultural land use.

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(8) **Period of Approval.** Driveway Permit Part 1 and Driveway Permit Part 2 are valid for a period of one year after the date of approval by the Town Board. If construction is not completed at the end of the one-year period, the Driveway Permit Part 1 and Part 2 will automatically expire and, a new application shall be submitted along with the required fee. The period of approval of a permit granted by another governing body controlling the right-of-way, the state or the county – not the Town – shall be determined by that governing body.

(9) **Permits Required.** An approved Driveway Permit Part 1 is required prior to the approval of the Driveway Permit Part 2. When a driveway accesses a state or county highway, the required access permit granted by that governing body controlling the right- of-way shall be obtained by the applicant and a copy provided to the Town before issuance of the Driveway Permit Part 1. An approved Driveway Permit Part 2 is required for the construction of a new driveway from the access point to the building site and shall be obtained from the Town Board prior to construction, pursuant to this chapter. Driveway Permit Part 1 and Part 2 may be issued simultaneously.

To the extent that the Town Board would vacate a town road, no Town Driveway Permit Part 1 and Part 2 application shall be required for the vacated town road. The vacated town road shall continue as the private driveway and the Town shall approve and issue a Town Driveway Permit Part 1 and Part 2 for the vacated town road address. When a discontinued town road accesses a state or county highway, the required access permit granted by that governing body controlling the right-of-way shall be facilitated by the Town.

In the event that the property served by the vacated town road contains lots for development under the Town of Springdale Land Use Plan, the Town Board will consider the adoption of a new town road per the town policy for new town roads.

(10) **Shared Access.**

- (a) Access for more than one parcel of land or lot to a street, road or highway via a shared private driveway may be approved when the Town Board determines that a shared private driveway is desirable for public safety, to minimize agricultural or environmental impact, conforms to the goals and policies set forth in the Town of Springdale Land Use Plan, and conforms to the purpose and intent of this chapter.
- (b) Each property served by a shared driveway must have road access guaranteed by a shared driveway agreement recorded with Dane County Register of Deeds. A shared driveway agreement legally binding on the property owners who will have shared access shall be executed by the property owners and recorded with the Dane County Register of Deeds as part of a Driveway Permit Part 1 and Part 2 approval process. The shared driveway agreement shall be in a form and contain terms reasonably acceptable to the Town Board.
- (c) Up to three (3) single family detached dwelling units may share one (1) driveway, or one (1) single family detached dwelling unit and one (1) duplex dwelling unit may share one (1) driveway.
- (d) Exception: If an otherwise allowed dwelling unit would better meet the goals and policies of the Town of Springdale Land Use Plan with an exception to the shared driveway limit, the Town Board may consider an additional dwelling unit to a shared

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driveway, i.e., four (4) dwelling units on a shared drive. This exception is not to allow development that could not occur if required access and frontage were not available elsewhere.

- (e) The Town Board may approve, upon recommendation of the Town Plan Commission, exceptions to the 66-foot frontage requirements of County Ordinance section 75.19(6)(b), where the Board and Plan Commission find that the exception preserves agricultural land, is consistent with the goals of the land use plan, and protects the public's health, safety, and welfare, provided the approved exceptions meet the requirements of Dane Co. Ordinance 75.19(8).

- (11) **Spacing.** The Town shall not approve Driveway Permit Part 1 for a new driveway when the horizontal distance from the centerline of the access point is less than 250 feet from the centerline of an intersecting street, road or highway.

3.9 APPLICATION REQUIREMENTS AND PROCEDURES.

- (1) No person shall establish or construct a driveway or field road that accesses, connects to, or intersects a street, road, or highway right-of-way within the Town of Springdale without approval from the Town Board in the form of the issuance of a Driveway Permit Part 1.
- (2) The owner of any existing parcel of land or lot shall file for a Driveway Permit Part 1 and Part 2 on an application form obtained from the Town Clerk. When a driveway accesses a state or county highway any state or county access permit shall be obtained by the applicant and a copy provided to the Town with the Driveway Permit Application.
- (3) The Driveway Permit Application will be reviewed by the Town Board, who shall arrange to conduct a site visit of the proposed driveway to determine compliance with the provisions of this chapter and the Town of Springdale Land Use Plan.
- (4) In determining whether to approve, conditionally approve, or deny the Driveway Permit Application, the Town Board, at a regularly scheduled meeting, will consider the following: whether or not the proposed driveway conforms to all of the requirements of this chapter (including the purpose and intent of the chapter) and any applicable state or county regulations; whether or not the proposed driveway conforms to the requirements of the Town's land use plan; public comment regarding the potential impact of the proposed driveway on adjacent property owners; and the impact of the proposed driveway on public safety, agricultural activities and the environment. As a condition of permit approval, the Town Board may require modification of the location or design specifications of the proposed driveway. The submission of an engineered plan does not guarantee approval of a Driveway Permit by the Town Board.
- (5) An applicant may request a variance from the strict application of specific provisions of this chapter. Variance requests may be added to the agenda of the next regularly scheduled Town Board meeting, at which time public comment will be considered regarding the advisability

of any variance requested by the applicant. The decision to grant or deny a variance shall be based on criteria set forth in this chapter.

3.10 PLAN REQUIREMENTS.

(1) **Driveway Layout Plan.** A driveway layout plan is required for all segments of any proposed driveway construction.

(2) **Engineered Plan.**

(a) An engineered plan prepared by a licensed professional engineer shall be required for construction of a new driveway under the following circumstances:

(a.1) For any driveway or segment of a driveway found by the Town Board or its designee to contain significantly unusual circumstances such as: site topography including slopes greater than 10%, soil type, a historically or archeologically sensitive area, one that requires a retaining wall, bridges, dams, or other special

erosion control measures, or proximity to natural, recreational, or watershed areas; or

(a.2) For any driveway or segment of a driveway for which the Town Board requests an engineered plan.

(b) An engineered plan shall consist of a scale plan including:

(b.1) Location. The precise location on the property of the proposed driveway or segment of the driveway that requires an engineered plan.

(b.2) Slope. The slope of the proposed driveway showing no segment exceeding 10% slope.

(b.3) Culverts. The location and dimensions of any culverts and how the size was determined.

(b.4) Cross-section. A cross-section diagram of the proposed driveway.

(b.5) Erosion Control and Storm Water Management Measures. Any required grading, seeding, mulching, ditching, retaining walls or other erosion control and storm water management measures.

(b.6) Certification. The engineered plan shall include the engineer's name, address, license number, and signature; and shall include a statement from the engineer that the plan fully complies with all the provisions of this chapter.

(3) **Erosion Control and Storm Water Management Plan.** The driveway layout plan or engineered plan shall be accompanied by evidence of compliance with applicable county and state erosion control and storm water management regulations.

(4) **Waterways and Wetlands.** The driveway layout plan or engineered plan shall be accompanied by evidence of compliance with applicable county, state and federal regulations when located in or near wetlands, streams, lakes, ponds, or other perennial surface water resources.

3.11 DRIVEWAY SPECIFICATIONS. A complete listing of driveway specifications is published in the Town of Springdale Driveway Construction Requirements, which is available from the Town Clerk. The construction of a driveway shall comply with the Town of Springdale Driveway Construction Requirements.

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3.12 VARIANCE. Where the Town Board finds that an undue hardship may result from strict compliance with the provisions of this chapter, it may consider granting a variance to one or more provisions so that substantial justice may be done and the public interest secured, provided that any such variance shall not have the effect of nullifying the purpose and intent of this chapter and provided that the Town Board shall making findings based upon information presented to it in each specific request that all the following are applicable:

- (1) **Safety.** The granting of the variance will not be detrimental to the public safety, health or welfare;
- (2) **Uniqueness.** The conditions upon which the variance request is based are unique to the property for which the variance is sought and are not generally applicable to other properties;
- (3) **Hardship.** Because of the particular physical surroundings or topographical conditions of the specific property involved, an undue hardship to the property owner would result, as distinguished from a mere inconvenience or financial considerations, if the strict letter of the regulations were enforced.
- (4) **Measures of Protection Provided.** The variance shall include measures to provide an equivalent level of health, safety, and environmental protection as the chapter provision being varied and shall under no circumstances prevent access of public safety vehicles and equipment to structures served by the driveway.

3.13 EXISTING DRIVEWAYS.

- (1) **Hazardous Conditions.** When or if the Town Board determines an existing driveway poses a potential hazard to the public the Town Board shall notify the property owner of the potentially hazardous conditions and require the owner to take remedial action to correct the problem. (Examples of potential hazard to the public versus hazard to the individual property owner include but are not limited to the following: blockage of culverts, washouts, tree limbs which hinder visibility, construction which deposits substantial debris or ice on the public road, or conditions which prevent the access of public safety vehicles and equipment such as fire engines and ambulances.) Remedial action to correct the problem shall be limited to only that which is required to eliminate the public hazard and shall not require the driveway to be upgraded to the standards for new driveway construction. (An example of remedial action is unplugging the culvert.) The notice to the property owner shall state the deadline for correcting the problem that is not less than 30 days and is sensitive to severity of the hazard and seasonal conditions that may impact the corrective action. Any property owner failing to correct such conditions within the time frame (at least thirty days except in cases posing an immediate hazard and for which a quicker response is practical) as stated in the notice by the Town Board may be subject to the following: a. as provided by Wis. Stats. Section 66.60(16), the landowner shall be liable for any costs incurred by the town to remedy the hazardous conditions. b. If the condition is one which prevents full-response of public safety vehicles and equipment the town may provide written notice that the town may not be able to insure full-response in the case of an emergency. c. The landowner may be subject to the

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penalties described in section 3.15 of this chapter.

- (2) **Field Road.** A field road shall not be used for non-agricultural purposes until the owner of the property on which the field road is located has obtained a Driveway Permit Part 1 and Part 2 under the provisions of this chapter.

3.14 PENALTIES

- (1) **Forfeitures.** Should a driveway be constructed in violation of the provisions of this chapter, or create a hazard that is not corrected within 30 days of notification of the property owner of said hazard, the owner of the land through which the driveway passes shall, upon conviction, pay a forfeiture of \$100.00 plus applicable surcharges and court costs per violation. Each day that the violation continues to exist shall constitute a separate offense. An unlawful driveway constitutes a public nuisance and may be enjoined.

- (2) **Corrections.** A landowner shall make the corrections to violations of the provisions of this chapter and the Driveway Construction Requirements ordered by the Town Board within 30 days or within a period of time determined by the Town Board.

3.15 DISCLAIMER. Approval by the Town Board of a Driveway Permit Part 1 and Part 2 does not constitute a determination that the driveway is in fact safe, suitable for use, or otherwise passable for the public. No person shall rely on the issuance of a Driveway Permit by the Town Board to determine that a driveway is fit for any purpose. Moreover, the permit applicant, his heirs, successors or assigns, agrees that as a condition of the issuance of a Driveway Permit Part 1 and Part 2 to indemnify and hold harmless the Town of Springdale, its officials, officers, agents, or employees, against any claim or cause of action for personal injury (including death) or property damage in anyway related to or arising from the construction or use of a driveway that was constructed pursuant to a Driveway Permit Part 1 and Part 2.sustained by reason of the exercise of an approved Driveway Permit Application.

3.16 EFFECTIVE DATE. This chapter shall take effect and be in force from and after the day of passage and publication as required by law.