

**Town of Otter Creek Driveway Ordinance
Regulating Driveways and Access to Town Roads
Ordinance No. 03-12-24-01**

Under authority of Wisconsin Stat. § 86.07(2)(a) and Dunn County Comprehensive Zoning Ordinance Chapter 13.3.2.09 Driveway Standards and where applicable, Dunn County's land division ordinance under Chapter 43 (Streets, Public and Private Roads and Access Easements), Chapter 16.44 (Access) and Chapter 16.46 (Lots and Outlots), the Town of Otter Creek Town Board adopts the following driveway ordinance.

86.07(2)(a) Subject to par. (b) and s. 86.16 (1m) (a) 2. and (c) and (6), no person shall make any excavation or fill or install any culvert or make any other alteration in any highway or in any manner disturb any highway or bridge without a permit from the highway authority maintaining the highway. Such permit shall contain the statement and be subject to the condition that the work shall be constructed subject to such rules and regulations as may be prescribed by said authority and be performed and completed to its satisfaction, and in the case of temporary alterations that the highway or bridge shall be restored to its former condition, and that the permittee shall be liable to the town or county or state, as the case may be, for all damages which occur during the progress of said work or as a result thereof. Nothing herein shall abridge the right of the department, the county board or its highway committee, or any other local authority to make such additional rules, regulations and conditions not inconsistent herewith as may be deemed necessary and proper for the preservation of highways, or for the safety of the public, and to make the granting of any such permit conditional thereon. If any culvert is installed or any excavation or fill or any other alteration is made in violation of the provisions of this paragraph, the highway or bridge may be restored to its former condition by the highway authority in charge of the maintenance thereof at the expense of the violator; and any person who violates this paragraph shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment not exceeding 6 months, or both.

Section 1

The town board shall have the authority to regulate all driveways providing access to township roads, and to order changes and improvements to existing driveways that, in the judgment of the board, constitute a safety hazard, or may cause excessive damage to township roads, or that are not of adequate width and construction to support heavy equipment if it is likely that such equipment will be using the driveway. The cost of such changes shall be the responsibility of the landowner or persons using the driveway.

A driveway permit will be required, and the form is attached to this ordinance and may be found in a link on the Town of Otter Creek website. Specifications of this form shall apply to driveways where the driveways access town roads; however, the board may modify the specifications at its discretion when necessary to meet unique requirements present at a specific location.

Section 2

All new driveways require prior approval by the town board. The board shall have authority to deny requests for driveways that are a safety hazard, that may cause damage to township roads, that provide access to property which is out of compliance with zoning or other ordinances, or that does not conform to driveway standards.

An existing driveway that has been used for intermittent access for purposes such as access to farmland, logging access, occasional recreational use, or has been abandoned, will require a new driveway permit if the purposes it is used for change. If the Town of Otter Creek determines that the new use will require driveway alterations, such as additional crushed rock on the driveway or the road shoulder on the side of the driveway or on the opposite side of the road for large trucks that cannot make the turn out of the driveway without running onto the opposite shoulder, or a culvert is required under the driveway, the driveway permit will require the landowner to pay the driveway permit fee in order to be issued a driveway permit for the new purpose(s). If the driveway does not

require any alteration for the new purpose(s), the landowner must still obtain a driveway permit, but the driveway permit fee will be waived.

Changes requiring a new driveway include construction of a permanent structure on previously unimproved land, subdivision of the land served by the driveway, granting an easement if the easement makes use of an existing driveway, or any changes in land or driveway use that are likely to damage roads or pose a risk to safety.

Where the portion of the driveway is in the town right-of-way, the board shall have authority to require construction plans, specify the type of construction, including culverts, surface materials, base materials, and grades for all new driveways.

Easements granted after approval of this ordinance to provide access to town roads shall be a minimum of 66 feet wide, unless the entire board approves an exception based upon conditions unique to the situation found at the location.

The board shall have the authority to remove or close unapproved driveways at the expense of the landowner and shall have the authority to place these charges as an assessment on the parcel's property tax bill.

The town may construct a portion of new driveways located in the road right-of-way or 33 feet from the center of the road at the request of the driveway applicant. Materials, equipment, and labor cost will be billed to the landowner or person applying for the driveway permit.

If construction of a new driveway does not meet the construction requirements as specified in the driveway permit, the township may reconstruct the driveway to meet the conditions of the permit. Materials, equipment, and labor costs will be billed to the landowner or person applying for the driveway permit. The town board will set rates for this work.

Section 3

Access to town roads from all lands in the town shall only be on approved driveways unless other access is granted by the board. This provision includes, but is not limited to, access for commercial logging. Any damages caused by driving any equipment in ditches, shoulders, road surfaces or road right-of-way from any point other than an approved driveway shall be billed to the party causing damages and/or to the landowner. In cases where access to a town road without using an approved driveway has caused the road damages, the board shall have authority to bill an amount equal to triple the resulting damage, plus any fines, to the responsible parties.

Section 4

It is a violation of this ordinance to operate any type of equipment on a town road in a way that causes damages to the road, shoulders, or ditches. Any person causing such damages shall be responsible for paying the full cost of all repairs needed to restore the road. The board shall have authority to bill an amount equal to triple the resulting damages to the responsible parties when damage is caused by willful violation of posted weight limits, or other terms of this ordinance.

It is a violation of this ordinance to conduct logging operations within the right-of-way of any town road without permission of the board. It is permissible to cut and remove timber within road right-of-way, but it is specifically forbidden to skid logs on, over, to, or across road surfaces and shoulders, or through, on, over and across ditches located within road right-of-way. Logs may not be stockpiled on the road right-of-way or loaded to vehicles parked on road right-of-way without written permission of the town board. Permission of the board to stockpile or load logs does not relieve loggers or landowners of their obligation to pay for all damages caused to town roads by these operations.

Landowners or occupants of land who are engaged in gathering firewood or logs for their own use shall be exempt from this section, provided that their activities do not result in damage on the road right-of-way. Payment for any damages caused by these activities shall be the responsibility of the landowner. If the board believes that these activities are likely to cause damage, they have the authority to require that access be limited to approved driveways.

Section 5

The town will charge a fee for driveway permits (see Section 2). The board will set this fee annually.

The town board shall have the authority to levy the following penalties to enforce this ordinance: a fine of up to \$100 per day for driveways installed without permission after the date which this ordinance takes effect; a fine of up to \$500 per occurrence for gaining access to a town road without use of a driveway which results in damage to the road right-of-way or with any type of equipment with the gross weight over 20,000 pounds; a fine of up to \$1,000 per occurrence for conducting unauthorized logging operations within the road right-of-way. Each day that such an activity takes place will be considered an occurrence. The town board shall have the power to collect full payment for all damages to roads as specified in the above sections. The board shall also have the power to assess payment for all necessary legal fees, and other expenses entailed in the enforcement of this ordinance and interest costs at the rate of 1.5% per month for unpaid fines, damages or legal expenses. The board may collect these fees by placing a special assessment on the property tax bill for the land parcel where these violations occurred.

Section 6

The board may designate one of its members to issue permits and enforce this ordinance. The board will retain the authority to review permits and enforcement at its discretion, and will retain ultimate authority to administer the terms of this ordinance.

Section 7

Should any section of this ordinance be declared invalid, such decisions shall not affect the validity of the remaining sections.

Section 8

With the enactment of this ordinance, the Town of Otter Creek is repealing any previous ordinances, or resolutions, which may be in conflict with the terms of this ordinance. This ordinance repeals ordinance 07-11-23-02.

Section 9

This ordinance shall take effect after publication/posting as provided by law.

Adopted this day by the town board of the Town of Otter Creek, Dunn County, Wisconsin.

Date: March 12, 2024

Chair LeAnn Ralph LeAnn Ralph

Supervisor 1 Cecil Hayes Cecil Hayes

Supervisor 2 Bob Bernier Bob Bernier

Attested by Clerk Beverly Bernier Beverly Bernier

Adopted: March 12, 2024 Published/posted: March 13, 2024 Effective date: March 14, 2024