

ORDINANCE 2009-02

AN ORDINANCE AMENDING ORDINANCE 2002-01 RELATING TO DRIVEWAY PERMITS.

WHEREAS, the Town Board finds that it is necessary and in the public interest to regulate the design, location and construction of private driveways and vehicular access points onto public highways in order to ensure that proposed and constructed improvements are consistent with the public safety and welfare and will not cause unnecessary damage to public facilities or undue expense to the Town in connection with future maintenance of the adjacent drainage facilities or highways; and

WHEREAS, the Town Board finds that it is reasonable, appropriate and in the public interest to require that property owners constructing new or replacement driveways reimburse the Town for all of the costs it incurs in reviewing plans, inspecting construction and in otherwise regulating the driveway construction; and

WHEREAS, the Town Board previously enacted Ordinance 2002-1 establishing standards for driveway design and construction and creating a permitting procedure for driveway construction; and

WHEREAS, the Town Board finds that the current ordinances do not adequately assure that all costs incurred by the Town in connection with private driveway construction are recovered and that it is in the best interest of the Town as a whole to require that applicants for driveway permits make an escrow deposit with the Town at the time of application as security for reimbursement of the Town's actual expenses related to the application; and

WHEREAS, the Town Board further finds that the current ordinances do not adequately assure that the design of driveways and drainage facilities will sufficiently protect the public interest;

NOW, THEREFORE, the Town Board of the Town of Verona, Wisconsin, does ordain that Ordinance 2002-01 enacted by the Town Board on September 2, 2003 is amended to read as follows:

SECTION 1. TITLE.

This ordinance shall be known as the "Town of Verona Driveway Ordinance."

SECTION 2. AUTHORITY AND PURPOSE.

This ordinance is adopted under the general authority granted pursuant to §§60.10 (2)(c), 60.22(3), 61.34(1) and 81.01 of the Wisconsin Statutes, to promote the public health, safety, and general welfare of the community and to further the safe and orderly layout of driveways that enter onto roads within the Town.

SECTION 3. DEFINITIONS.

In this ordinance, the following words and phrase have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- (a) **Driveway.** A private driveway, road, field road, or other avenue of vehicular travel that runs through any part of a private parcel of land and that connects or will connect to a public highway.
- (b) **Driveway Access.** That portion of a public highway located between the traveled portion of the roadway and the limits of the public right-of-way that provide access to a driveway.
- (c) **Field road.** An avenue of travel used exclusively for agricultural purposes or to access agricultural land. Field road entrances may not be used to access land for residential purposes.
- (d) **Agricultural Driveway.** A driveway that provides primary access to agricultural properties for business or private purposes.
- (e) **Residential Driveway.** A driveway providing access used for single or multifamily purposes only.
- (f) **Commercial or Industrial Driveway.** A driveway providing access for commercial or industrial use of property.

- (g) **Relocate.** To change the location of an access point of a driveway onto a Town highway, or to change the general design, length or drainage of driveway.
- (h) **Improvement.** Any upgrade to, or reconstruction of, an existing driveway or driveway access, including, but not limited to the addition of a permanent surface, changes in the location, dimensions, grade or drainage of an existing driveway, or the addition, removal, relocation or replacement of a culvert or other structure within the public right-of-way ; provided that the term does not include routine repairs or replacement of an existing permanent surface unless the driveway is more than 100' in length as measured from the paved portion of the public highway to which it provides access.

SECTION 4. APPLICATION REQUIREMENTS AND PROCEDURES.

- (a) **Permit Required.** No person or entity shall do any of the following without first obtaining a driveway construction permit from the Town Board:
 - 1. Establish or construct a new driveway;
 - 2. Construct any improvement to an existing driveway;
 - 3. Construct or modify any improvement to a driveway access.
 - 4. Change the use of a driveway such that the driveway meets a new definition in §§3(c)-(f).
- (b) **Application form.** Applications for driveway permits shall be made on a form approved by the Town Board and available from the Town Clerk/Treasurer. A completed "Driveway Permit Application" form shall be filed with the Clerk/Treasurer. An application shall be deemed complete only if it is accompanied by the application fee and escrow deposit required by this ordinance and the following additional information:
 - 1. A scale drawing of the property parcel, showing the following information:
 - a. The boundaries of the parcel;
 - b. The location of all existing and proposed buildings and structures on the parcel;
 - c. The location of any existing and the proposed driveway location.
 - d. The slope of the existing or proposed driveway;
 - e. The dimensions and composition of all existing and proposed drainage structures;
 - f. The direction of drainage flow on the parcel;
 - e. Distances from the existing property lines to the centerline of the driveway; and
 - f. The width of the driveway at the edge of roadway and at the Town right-of-way.
 - 2. A copy of an approved Dane County erosion control plan, which includes the drive or a copy of an approved erosion control plan for 1 & 2 family dwelling construction site plan.
- (c) **Application review.** The Town staff shall review the application and make a recommendation for approval, conditional approval or denial to the Town Board stating all reasons for recommending denial or any conditions on approval.
- (d) **Permit period.** A Driveway Construction Permit is effective for twelve (12) months from the date of approval by the Town Board. If the driveway has not been completed within that permit period, the permit is deemed expired and a new application must be submitted and approved. Within 60 days after the expiration of a permit without completion of construction, the applicant shall cause the property to be restored to the condition it was in immediately prior to the commencement of the work authorized by the expired permit, unless a new permit is obtained within said 60-day period.

- (e) **Preconstruction Meeting.** Prior to commencement of any work requiring a permit under this ordinance, a preconstruction meeting shall be held between the owner, his or her agent or contractor and the town staff to review the requirements of the permit and the applicable ordinances that may affect the construction process. The Town Administrator shall schedule a meeting upon request of the permittee.
- (f) **Driveway Inspection.** The applicant shall notify the Town Clerk/Treasurer within five (5) working days after the completion of the work authorized by the permit. The Town Engineer or other designated Town representative shall conduct an inspection of the driveway to ensure full compliance with all provisions of this ordinance and terms of the permit and shall require the applicant to make such modifications as are necessary for full compliance and shall specify a date by which the modifications shall be completed.
- (f) **Building Permits.** The Town Building Inspector shall determine whether the driveway construction or improvement must be completed prior to commencing construction of any building(s) on the parcel, and may condition any building permit on completion of the driveway, for any one or more of the following reasons:
1. Construction activities are reasonably likely to cause the tracking of soil, gravel, vegetation or other material onto the public roadway.
 2. Construction of the driveway is necessary to allow for the safe and efficient access of construction vehicles entering or leaving the construction site.
- (g) **Fees.** The fees required in connection with each driveway permit application shall be determined as follows:
1. Application Fee. The fee for each driveway permit application shall be established by the Town Board and may be amended from time to time by resolution.
 2. Additional Fees. Every applicant for a driveway permit shall pay, in addition to the applicable application fee, all of the following fees. Any such fees not paid to the Town as provided in par. (i) shall be paid within thirty (30) days of the date of an invoice from the Town.
 - a. *Engineering fees.* The applicant shall pay a fee equal to the actual cost to the Town for all engineering work incurred by the Town in connection with the application, including any required inspections. The applicant shall pay a fee equal to the actual cost to the Town of engineering services deemed necessary by the Town to ensure that the design and construction of the proposed improvements are in compliance with the plans, specifications and ordinances of the Town or any other governmental authority with jurisdiction over the improvements.
 - b. *Legal fees.* The applicant shall pay a fee equal to the cost to the Town of any legal work that may be determined necessary by the Town in connection with the application including any enforcement of this ordinance or any permit issued pursuant hereto.
 - c. *Town Staff Costs.* The applicant shall pay a fee equal to the cost of Town employees' time while engaged in construction and construction supervision or performance of maintenance to ditch lines, culverts or driveway accesses based on the hourly rate paid to the employee multiplied by a factor determined by the Town Administrator to represent the Town's cost for statutory expense benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0.
- (h) **Fee Escrow.**
1. Deposit Required. The applicant shall deposit with the Town, in escrow, the amount established from time to time by the Town Board by ordinance or resolution to reimburse the Town for the expenses described in par. (g)(2). No application shall be deemed complete until the required escrow deposit is made.
 2. Escrow replacement. In the event that amount deposited falls below twenty-five percent (25%) of the original amount required to be deposited, the Town Board shall have the option to require the applicant to restore the escrow balance to the original amount required hereunder and shall specify the time within which an additional deposit shall be made.

3. Escrow refunds. In the event that funds remain in escrow over and above the Town's expenses after completion of the project or upon withdrawal or denial of the application, the remaining escrow balance shall be refunded to the applicant.

4. Escrow Interest. The escrow account shall not bear interest for the benefit of the applicant.

5. Withdrawals from Escrow. The Clerk/Treasurer is authorized to draw upon the escrowed funds to reimburse the Town for the fees and staff costs it has incurred in connection with the application on a monthly basis.

6. Accounting. An accounting of all fees incurred by the Town and the status of the escrow shall also be provided to the applicant within thirty (30) days after each withdrawal. Any dispute with respect to the propriety or amount of any withdrawal shall be subject to appeal to the Town Board.

7. Default. In the event that the applicant defaults in restoring the escrow account, when required pursuant to subpar. 2, the permit to which the escrow account applies shall be automatically suspended until such time as the required deposit is made.

8. Exception. No escrow deposit shall be required if the fees required by par. (g)2 have been guaranteed by the applicant, with adequate security, pursuant to a separate development agreement with the Town. At the time of execution of such an agreement, the Clerk/Treasurer shall refund any remaining escrow balance to the applicant.

9. Escrow accounts. The Clerk/Treasurer is hereby authorized and directed to establish and maintain separate accounting of all deposits to and withdrawals charged against each escrow deposit made pursuant to this ordinance. The Clerk/Treasurer shall provide the accounting to each applicant as provided in subpar. (6) hereof and shall provide a copy thereof to the Town Board.

(i) **Town Authority Preserved.** The Town of Verona, notwithstanding the issuance of any permit under this ordinance or construction of any driveway pursuant to such permit, reserves all of its rights and authority to make or cause any changes, additions, repairs, reconstruction or relocation of any part of a driveway located within the dedicated right of way at any time, including but not limited to, modifications that may be necessary or convenient in connection with the relocation, reconstruction, widening and/or maintaining the road or right of way, without compensating the owner of such private driveway for damage to, or the destruction of, such private driveway.

SECTION 5. DRIVEWAY AND CULVERT LOCATION, DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) **General Requirements.** The location, design and construction of driveways shall be in accordance with the following standards:

1. General Design. No driveway shall provide direct ingress or egress to or from any street intersection, nor encroach upon or occupy areas of the street right-of-way required for effective traffic control or movements. A driveway shall be located a minimum of either 150' from the intersecting centerlines of roadways, or a maximum distance from the intersecting centerlines to the driveway that can be practicably achieved to provide access to an existing lot. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the road. Driveways shall, wherever possible, be located and constructed so as not to interfere with utilities in place.

2. Length. If the driveway length, from the paved portion of a Town road to any principal structure or any residential structure on the parcel is more than one hundred (100) feet the driveway permit application shall be reviewed by the Verona Fire Department for an assessment of proper and reasonable ingress and egress to the structure(s) prior to review by the Town Engineer. The Town Board may deny any application for a driveway, which the Fire Department determines, will not provide adequate access for fire and other emergency purposes. In addition to the foregoing, such driveway shall be provided with adequate open space outside of the public right-of-way to allow for the deposit of snow cleared from the driveway.

3. Number. Not more than one (1) driveway shall be permitted to serve an individual residential or commercial property. The Town Board may grant special permission for an additional driveway if the owner demonstrates a legitimate need and if the Board determines that the additional driveway will not create any significant impairment of efficient traffic movements or cause any danger to the public.

4. Drainage. The surface of the driveway connecting with the road cross sections shall be sloped to preclude ordinary surface water drainage from flowing onto the roadbed. No driveway apron shall extend into the street further than the pavement edge or face of the curb. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of the road, side ditches or roadside areas or with any existing structure in the right-of-way. All driveways and parking lot areas shall be graded and constructed in such a manner so that no storm water is discharged onto the roadway.

5. Slope. A driveway shall have a maximum grade at any given segment not exceeding 12 percent.

6. Relocation of Utilities. Any costs of relocating utility structures or facilities shall be the responsibility of the property owner. Approval by the Town Board shall be obtained before any utility structure or facility is relocated within the right-of-way.

7. Variations. The Town Board may vary any of the above requirements where the peculiar nature of the property or the design of the road may make the rigid adherence to the above standards impossible or impractical.

(b) Special Requirements for Field Roads, Agricultural, Commercial and Industrial Driveways.

1. Width of Drive. No part of a private commercial or industrial driveway located within the dedicated right-of-way shall, except as hereinafter provided, have a width greater than thirty-six (36) feet measured perpendicular to the centerline of said driveway. Each driveway shall include an apron extending to the paved portion of the adjacent roadway, which may be wider than the general driveway width provided that the maximum width shall not exceed thirty-six (36) feet at any point. In instances where the nature of the commercial or industrial activity or the physical characteristics of the land would require a driveway or apron of greater width than herein specified, the Town Board may grant special permission for additional width provided that the applicant establishes that the additional width will not create any significant impairment of efficient traffic movements or cause any danger to the public.

2. Angular Placement of Driveway. The angle between the centerline of any field road or agricultural, commercial or industrial driveway and edge of pavement of the roadway or curb line shall not be less than 70 degrees.

3. Pavement. Commercial and Industrial driveways shall be paved with asphalt or concrete. The minimum thickness of pavement shall be 3.5 inches of asphalt over 9 inches of crushed aggregate base course for asphalt driveways, and 6 inches of concrete over 4 inches of crushed aggregate base course for a concrete driveway.

(c) Special Requirements for Residential Driveways.

1. Width of Drive. A residential driveway shall be no greater than twenty-six (26) feet wide at the edge of pavement of the roadway or curb line. The Town Board may grant special permission for a driveway of additional width provided that the applicant establishes that the additional width will not create any significant impairment of efficient traffic movements or cause any danger to the public.

2. Angular Placement. The centerline of a residential driveway access shall be either parallel to the side lot line of the lot it serves or at right angles to the edge of pavement of the roadway or curb line.

(d) Culvert Construction Standards.

1. General. Culverts shall be installed prior to construction work being commenced on the property. All culverts shall be constructed of galvanized steel, concrete, or plastic or other material approved by the Town Engineer, and shall be of sufficient gauge to provide adequate bearing capacity for vehicles expected to use the driveway as determined by the Town Engineer.

2. Minimum Size. Culverts shall be sized to provide adequate conveyance of stormwater generated by a 25-year storm event, but in all cases shall be not less than a twenty-six (26) feet in length nor smaller than fifteen (15) inches in diameter, or equivalent. The Town Board may require a larger capacity culvert in any case where it is deemed necessary to minimize the risk of flooding of the Town right-of-way, to facilitate efficient maintenance, or otherwise to reduce the risk of harm to the public health, safety or welfare.

3. Placement. Culverts shall be placed in the ditch line at elevations approved by the Town staff so as to adequately convey water and assure proper drainage.
4. End walls. All culverts shall have flare end wall sections so that backfill and cover material will not erode into the bottom of the ditch and reduce the capacity of the ditch and culvert. End walls also serve a safety function in that vehicles that enter the ditch way inadvertently may not be stopped as abruptly by the flared end wall. End walls or abutments constructed of timber or rock or similar material are prohibited.
5. Backfill and Cover Material. Culverts shall be covered with granular material compacted in place, or other material approved by the Town Engineer. The minimum cover, measured from the top of the culvert to the top of the sub grade material shall be six (6) inches.
6. Construction/Reconstruction of Curbs. When construction of a driveway requires the removal of a curb and/or gutter, the same shall be replaced and restored with equivalent acceptable material per Town standards. Curb returns shall be provided or restored in a neat and workmanlike manner.

(e) Maintenance Responsibility.

The property owner is responsible for maintaining the driveway approaches, culvert and ditch in such manner necessary to permit free and unobstructed flow of water. The Town of Verona does not assume any responsibility for the removal or clearance of snow and or ice, or the opening of windrows of such material, upon any portion of the driveway within the right-of-way. The Town shall not be responsible for repair or replacement of concrete or decorative pavement or decorative end walls/headwalls located in the right-of-way.

(f) Existing Driveways.

When washing or other conditions created by an existing driveway that does not meet the specification established by this ordinance obstruct or become a potential hazard to a public road, the Town Board shall notify the property owner of the conditions. Any property owner failing to correct such conditions within thirty (30) days after notice by the Town Board shall be subject to the penalties provided herein.

SECTION 6. ENFORCEMENT.

The Town Administrator, Engineer or Building Inspector may post a stop work order if a driveway, culvert or other permitted construction, or any part thereof, is being installed contrary to the terms of this ordinance or without a permit. Every property owner shall comply with the terms of any stop work order so issued.

SECTION 7. PENALTIES.

Any person who constructs or modifies any driveway without a permit as required by this ordinance, or who violates any stop work order issued under Section 6 shall forfeit \$500.00 plus all applicable assessments, surcharges and court costs for each violation. Any person who shall construct or modify a driveway in violation of any other provisions of this ordinance shall, unless the violation is corrected within thirty (30) days of date of written notice from the Town Board or Building Inspector, forfeit \$500.00 plus all applicable assessments, surcharges and court costs for each violation. Each day that any violation continues shall constitute a separate offense. An unlawful driveway constitutes a public nuisance and may be subject to abatement by any applicable procedure.

SECTION 8. EFFECTIVE DATE

This ordinance shall take effect the day after its enactment and publication of this ordinance or an appropriate notice hereof as provided by law.

s/n
David K. Combs, Town Chair

I, Amy Volkmann, Clerk/Treasurer of the Town of Verona, do hereby certify that the foregoing ordinance was duly enacted by the Verona Town Board at its November 3, 2009 meeting.

s/n
Amy Volkmann Clerk/Treasurer

Published: November 12, 2009
Effective: November 13, 2009

