

ORDINANCE # 1114

AN ORDINANCE TO REGULATE PRIVATE ACCESS ROADS TO TOWN ROADS IN THE TOWN OF SALEM, PIERCE COUNTY, WISCONSIN

SECTION I - PURPOSE

Whereas, it is deemed expedient and necessary that the Town of Salem, by its Town Board, regulate Private Access Roads to Town Roads in the Town of Salem, Pierce County, Wisconsin. This ordinance supersedes or is an update to any previous ordinance's that may have existed.

SECTION II – AUTHORITY

Whereas, the town board has the specific authority under ss. 86.07 Wis. stats., to adopt a town road access ordinance, including town road permit requirements; zoning powers under ss. 60.61, 60.62, Wis. Stats, and has the general authority under its village powers under ss. 60.10; 60.22; 66.0425, 81.01, Wis. stats., and under Town Highway authority granted by Wis. Statute, chapter 82, to adopt this ordinance.

SECTION III – ADOPTION OF ORDINANCE

whereas, this ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by permit of certain driveways and township road access locations in the town.

SECTION IV – DEFINITIONS

In this ordinance:

- A. "Driveway" means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land, or land sub-division, that connects or will connect with any public highway, including town roads, and will provide vehicular access from the highway to a residence, vehicular access for agricultural uses, vehicle access for landlords and tenants, business, recreational site, or other similarly appropriate use.
- B. "Material" means unwanted items disposed of; illegal dumping or distribution of hazardous waste, solid waste in any form, including manure, trash, chemicals, unsightly obstacles, and any other unnatural obstacle.
- C. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the town.
- D. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- E. "Prime or productive agricultural or forestry land" means any land within the town that is currently being farmed or kept in forestry, including cropland and pastureland, or land that is included in a government sponsored agricultural or forestry program.
- F. "Road Right-of-Way" means that area which is thirty-three (33) feet from the center line of the town road. Sec. 86.02, Wis. Stats., is hereby adopted by reference. As used herein the term "highway or road way" right-of-way, as well as any traveled portion of the highway and its shoulder.
- G. "Road Driveway Standards" means standards outlined in the Private Driveway Permit application or other legal documentation be it local, county or state .
- H. "Weight and Road Restrictions". Town residents and non-residents acknowledge by decree or ordinance that road restrictions apply as designated by the Town Board.
- I. "Any Person" means person, persons, resident, residents, tenant, tenants, partnership, corporation, or other legal entities or appointed agents.
- J. "Town" means the Town of Salem, Pierce County, Wisconsin.
- K. "Town board" means the board of supervisors for the Town of Salem, Pierce County, Wisconsin, and

includes any designee of the board authorized to act on behalf of the board.

L. "Town chairperson/or designee" means the chairperson, or chairman of the Town of Salem or his/her designee, Pierce County, Wisconsin.

M. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V– COVERAGE

A. No person may establish or construct a driveway or reconstruct, reroute, or alter the existing slope of any existing driveway or any town or other highway or highway right-of-way in the town in relation to the connection of the highway or highway right-of-way to a driveway, whether new or previously existing, without first obtaining a Town Driveway & Highway Access Permit to be issued by the town board.

B. No person may establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Driveway & Highway Access Permit to be issued by the town board.

C. No person may do the following on town roads, highways, ditches or right-of-way: Leave materials in highway, Sec. 86.01 Wis. stats; cause injury to highway, Sec. 86.02 Wis. stats; use highways for cultivation or cause injury by farm machinery usage, Sec. 86.021 Wis. stats; obstruct highway with embankment or ditch, Sec. 86.022 Wis. stats; camp on highway; 86.025 Wis. stats; alter trees on and adjacent to highway, Sec. 86.03 Wis. stats; highway encroachment, Sec. 86.04 Wis. stats.

D. No person shall use any motorized, mechanical or animal drawn machinery, equipment or vehicle (except snow-mobiles or ATVs where specifically allowed) over Town Road right-of-way for any purpose whatsoever, including for purpose of access to property adjoining such right-of-way, unless such machinery, equipment or vehicle is operated on a legal driveway.

E. Any person prior to and at the time of seeking a Town Driveway & Highway Access Permit must own or have a legal interest in and current legal access to the land to which the permit(s) will apply.

F. Any person failing to comply with or violating this Ordinance shall be subject to a forfeiture of cash amounts plus costs as outlined in the "Citation Ordinance". Each violation shall be considered a separate violation. Each separate incident of use of a highway made illegal under the terms of this Ordinance shall constitute a separate offense. By way of example, a piece of farm machinery traveling through highway right-of-way to gain ingress to adjoining property shall constitute one offense; and the same piece of machinery then using highway right-of-way, even in the same location that was used for ingress, for egress purposes shall constitute a separate violation. The forfeiture imposed hereby shall be in addition to treble damages which may separately be recovered by the Town for any violation of Sec. 86.02. Wis. Stats, which is incorporated herein by reference.

SECTION VI – SPECIFICATIONS

Commencing 6 months after the effective date of this ordinance for existing driveways; prior approved applications for driveways and commencing on the effective date of this ordinance for new driveways being constructed, all driveways in the town for which a Town Driveway & Highway Access Permit is required shall meet all of the minimum requirements. No permit shall be issued unless the materials/documentation, submitted as required under Section VII demonstrate compliance with the requirements of this section:

SECTION VII – APPLICATION AND PERMIT PROVISIONS

A. The town board shall approve/or previously approved, a form for application for both the Town Driveway & Highway Access Permit, which shall be available from the town chairman.

B. The applicant for a Town Driveway & Highway Access Permit shall submit to the town chairperson a completed application for each with the appropriate fee and with the following attachments:

1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions of the project. The sketch map may be submitted to the town chairperson or designee prior to the preparation or submission of the other supporting documents in order for the town chairperson or designee to provide initial comments and review of the proposal. However, formal approval for a Town Driveway & Highway Access Permit will not be granted without the submission of complete supporting documents.

C. The town chairperson or designee shall approve or deny every Town Driveway & Highway Access Permit Application and may, as a condition of issuance, place specific restrictions or conditions on the permit, which shall require compliance by the permittee. Reasons for denying a Town Driveway & Highway Access Permit Application may include, but are not limited to:

1. The inconsistency or nonconformance of the proposed driveway, road, or highway access with any of the following:

- a. This ordinance.
- b. Any existing town comprehensive plan, master plan, or land use plan.
- c. Town ordinances, rules, regulations, or plans.
- d. Any applicable county, state, or federal laws, ordinances, rules, regulations, or plans.

2. The driveway, bridge, culvert, or highway access, or any combination, when constructed, rerouted, reconstructed, or altered as proposed would be dangerous or unsafe for use by persons in the town.

3. The application as filed and submitted is incomplete or contains false material as determined by the town chairman or designee.

4. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons to ingress or egress on the driveway and access point by motor vehicle or for persons traveling on the adjacent highway by motor vehicle.

5. Alternative driveway locations or alternative highway access locations will preserve or better protect more prime or productive agricultural or forestry land in the town.

6. Alternative driveway locations or alternative access highway locations will have less negative land use impact on historically, archaeologically, community, public, or culturally significant or environmentally sensitive parcels of land or facilities in the town, including land adjacent to or near the proposed driveway.

7. The driveway will not provide timely and adequate ingress and egress for emergency vehicles.

8. A Cash/Insurance bond may be required when dealing with certain businesses, business activities, or sub-divisions.

SECTION VIII – PENALTY PROVISION

Any person, persons, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, pay a forfeiture of not less than \$300.00 nor more than \$1,000.00 plus the applicable surcharges, assessments, and costs for each violation. A registered letter will be sent/given to violator. If after 15 days and the issue has not been resolved, each day the violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations. Town board shall determine forfeiture, based on severity of non-compliance.

SECTION IX - CITATION ORDINANCE

any person, persons, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance can be issued a citation under its provisions.

SECTION X- NON-LIABILITY OF TOWN

This ordinance shall not be construed as creating or assuming any liability on the part of the Town or any official, designee, or employee, therefore, for damages to anyone injured or for property damage, beyond their control, and holds town harmless from any legal action.

SECTION XI – SEVERABILITY CLAUSE

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION X II– EFFECTIVE DATE

This ordinance is effective on, adoption by the board, publication or posting and after a “60 day Moratorium“has expired. This time period will give the Town Board time to call a “Special Meeting” to explain the ordinance that could affect area residents, and remedies that could be taken to prevent any violations in the future.

Passed and adopted November 11, 2014.

TOWN OF SALEM

Paul Shingledecker, Chairman

Attest: _____
Lynette Traynor, Clerk

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