

ORDINANCE NO. 2003-1
ORDINANCE REGULATING ACCESS TO TOWN ROADS

The Town Board of Supervisors is acting pursuant to Sections 60.22 and 86.07 (2), Wi. Stat., in order to promote the public safety and convenience, does hereby ordain as follows:

SECTION I. APPLICABILITY. This ordinance shall be applicable to all existing accesses to town roads, including driveways whether or not a permit was issued prior to the date of enactment of this ordinance.

SECTION II. PURPOSE AND INTENT. The purpose of this ordinance is to promote the safe and efficient ingress and egress through town roads in the interest of public safety by assuring that driveways accessing town roads 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 roads; to promote the balanced use of land for the mutual protection of property owners, motorists and citizens of the Town of Brothertown; and to enhance the appearance of town roads 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 road within the Town of Brothertown 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 road where evidence of use has been clearly established.

B. Agricultural Driveway - A point of access to a town road 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 road for purposes of commerce, including dwellings designed for occupancy of more than two families.

D. Driveway - A point of access to a town road.

E. Intersection - A place where two town roads intersect, or a town road and a highway (state or county) intersect.

F. Residential Driveway - A point of access to a town road 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 road may be constructed, reconstructed or have a change in use without the property owner first obtaining a permit from the Town Board. This shall include the blacktopping of existing driveways.

B. Applications for permit shall be obtained from the Town Road Supervisor forms to be provided by the Town 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 according to the following schedule to cover the cost of administration, inspection and review:

Blacktopping of existing driveways	\$25.00
Culvert installation by Town	\$25.00
All others	\$25.00

I. No access permitted under this ordinance shall be converted to a public road unless approved by the Town Board.

SECTION VII. RIGHT OF ACCESS FOR PARCELS EXISTING PRIOR TO ENACTMENT. Existing parcels of land abutting upon a town road 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 or an easement for 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 road shall be in accordance with the following requirements:

A. Residential driveways shall have a maximum pipe length of 30 feet. Agricultural and commercial driveways shall have a maximum pipe length of 50 feet. The entire roadbed and its appurtenances shall be contained within this prescribed maximum frontage.

B. All driveways shall be constructed so as to provide ingress and egress to the town road at an angle of 90'.

C. No driveway shall provide direct ingress or egress to or from an intersection.

D. All driveways shall be located at least 10 feet from the side property line.

E. All driveways shall be constructed of solid, load-bearing material. The top surface of the driveway should consist of at least six inches of gravel for the traveled portion.

F. The surface of the driveway connecting with the town road section shall slope down and away from the town road shoulder a sufficient amount of distance [approx. 4feet] to preclude surface water from draining from the driveway onto the town road.

G. No concrete approaches or apron shall be permitted within the town road right of-way except in areas serviced by curb and gutter.

H. Driveways shall not obstruct or impair drainage and roadside ditches or roadside areas. All culverts must have a minimum diameter of 18 inches or larger if required by the Town. The permit shall prescribe the diameter and length of any required culvert for a driveway. Such culvert shall consist of a corrugated metal culvert pipe with apron end walls. The property owner shall be responsible for the cost of the culvert, gravel, and all other soil materials necessary. The property owner can provide for and install the culvert, but it must be done so under the inspection and supervision of the Town. Alternatively, the property owner can request the installation of the culvert by the Town for which the property owner shall then agree to pay the Town its customary time and material expense in installing the culvert. The location of the culvert shall be prescribed by the permit.

I. All driveways shall be constructed or reconstructed to have sloped sides unless the abutting town road 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 ratio of 2: 1. All slopes shall be seeded or sodded by the property owner. Any other material used such as stone or rip-rap shall only be installed by the Town.

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 road 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 road 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.

B. The design of the driveway shall fully comply with standards approved by 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. The Town Board shall then determine if the change in use will affect safe and efficient ingress and egress to the town road, 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 affect 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.

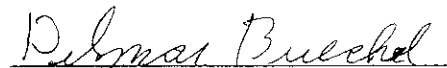
B. In addition to the penalty prescribed above, the Town shall also be entitled to injunctive relief.

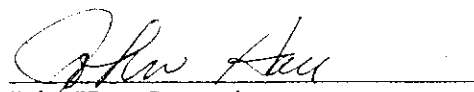
C. In addition, the Town may take corrective action to eliminate the violation, the reasonable cost thereof to be assessed against the abutting property or the access where the violation is occurring.

SECTION XIV. EFFECTIVE DATE. This ordinance shall be ~~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 Brothertown, Calumet County, Wisconsin, held on the 3 day of June, 2003.


Jeanold Puetz, Chairman


Delmar Buechel, Supervisor


John Hau, Supervisor

ATTEST:


Darlene Steffes, Clerk