



Town of Troy

Walworth County, Wisconsin

N8870 Briggs Street, East Troy, Wisconsin 53120

Office (262) 642-5292 Fax (262) 642-5227

E-mail: clerktreas@townoftroy.com

ORDINANCE NO. 2017-1

CHAPTER 13

AN ORDINANCE

TO CREATE STANDARDS FOR PRIVATE ROADS AND PRIVATE DRIVES IN THE TOWN OF TROY

WHEREAS, the Town of Troy Town Board has received a recommendation from the Town Engineer that the Town Board consider creating minimum standards for private roads and long private drives located within the Town of Troy; and

WHEREAS, the Town Board currently cannot assure property owners located on inadequately maintained private roads and long private drives that they will receive timely emergency services, because the condition of the private roads could make it impossible to respond quickly or at all, which can significantly adversely affect the health, safety and property of residents on such private roads and drives; and

WHEREAS, the Town Board is also concerned about protecting emergency services personnel, who could be exposed to unnecessary risk when travelling on inadequately maintained private roads and drives, if the vehicles would slip off the roadway or be subject to unsafe travel in other ways, due to the condition of the inadequately maintained private road or drive; and

WHEREAS, the Town Board is also concerned about protecting public property, including emergency services vehicles, that can be damaged when travelling on inadequately maintained private roads and drives; and

WHEREAS, in light of these concerns and in the interest of protecting the health, safety and welfare of the Town and its residents, the Town Board finds that the recommendation of the Town Engineer should be adopted, and that private road and drive standards described herein should be adopted.

NOW THEREFORE, the Town Board of the Town of Troy, Walworth County, Wisconsin, does hereby ordain as follows:

SECTION 1: EXISTING PRIVATE ROADS.

- (a) Intent. The intent of this Section is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment.

- (b) New construction on vacant land. New construction on vacant land served by a private road is prohibited, subject to the following. Upon approval of the Town Plan Commission, building may be permitted on an existing vacant tract of land which does not abut or have direct frontage on a public road, provided that the property has access by a permanent easement at least 33' in width to a public road, the private road satisfies the private road standards of Section 2, and the property owner places a deed restriction on the property in a form as approved by the Town Attorney giving notice that access is by way of a private road that is privately maintained by the property owner. The property owner shall prepare the deed restriction and submit it to the Town Clerk, and the Town Clerk shall distribute it to the Town Attorney and other Town Officials as necessary, provided that no construction may begin unless and until the deed restriction receives approval from the Town Attorney and is recorded in the office of the Walworth County Register of Deeds. The deed restrictions shall give the Town the right, but not the obligation to enter the property, repair the private road to Town private road standards, and impose a special charge on the properties served by the private road on a pro rata basis for all costs incurred per §66.0627, Wis. Stats.
- (c) New construction on developed land. New construction is permitted on land that is currently developed with existing structures at the time of adoption of this Ordinance and is served by a private road, subject to the following. Prior to the building permit being issued, the property owner shall bring the private road into compliance with the private road requirements of Section (2), below.
- (d) Waiver. The obligation to bring the Private road into compliance with Subsection (2) below before a building permit is issued on developed land, per Subsection (c) above, may be waived by the Board as follows. The property owner may file a petition with the Town Clerk seeking such a waiver, upon payment of such fees or may be established from time to time by the Town Board by separate resolution. The Town Clerk shall refer the petition to the Town Plan Commission which shall make a recommendation to the Town Board. The Town Board may waive the requirements upon finding the risks presented by the substandard private road are minimal and only affects the property owner, with no adverse effect on surrounding property, and the property owner understands and accepts all risks. If the waiver is granted, the property owner shall sign a written acknowledgement in a form approved by the Town Attorney, that is filed with the Town Clerk and recorded against the property, saying that the property owner recognizes that the private road that serves their property does not satisfy the Town private road standards and that the property owner accepts all risks in that regard. Such written acknowledgement shall be a deed restriction and shall give the Town the right, but not the obligation to enter the property, repair the private road to Town private road standards, and impose a special charge on the properties served by the private road on a pro rata basis for all costs incurred per §66.0627, Wis. Stats. The property owner shall prepare the deed restriction and submit it to the Town Clerk, and the Town Clerk shall distribute it to the Town Attorney and other Town Officials as necessary, provided that no construction may begin unless and until the written acknowledgement deed restriction receives approval from the Town Attorney and is recorded in the office of the Walworth County Register of Deeds.
- (e) Land Division. No land that is served by a private road shall be divided to create one or more additional lots served by the private road unless and until the private road is constructed to the standards of Section 2 of this Ordinance.

- (f) Use of property served by a private road. Nothing herein shall be interpreted to prohibit or inhibit use of lots that are served by a private road, except as to the changes to the existing uses and lots that are specifically regulated as described above.

SECTION 2: CONSTRUCTION STANDARDS FOR PRIVATE ROADS AND PRIVATE DRIVES.

(a) Definitions.

1. As used herein, the term "private road" shall include all private routes of ingress and egress from any public right-of-way which provides access to 2 or more residential dwellings/units, commercial buildings, or properties.

2. As used herein, the term "private drive" shall include all private routes of ingress and egress that are more than 200 feet in length from any public right-of-way, which provides access to one residential dwelling/unit, commercial building, or property. Notwithstanding anything contained herein to the contrary, this ordinance shall not apply to private drives that are 200 feet in length or less, as measured from the edge of the public right-of-way along the centerline of the proposed driveway to the nearest exterior point of the principal building located in that property.

3. As used herein, the term "pro rata basis" means the cost is divided equally between all lots. The formula is as follows:

$$\text{Cost for each lot} = \text{total cost} / \text{total number of lots served}$$

(b) Construction Standards for Private Roads.

1. At the end of the private road, a minimum paved cul-de-sac shall be provided.
2. The cul-de-sac and full length of the private road shall be constructed to in accordance with the Section VIII of Town Ordinance No. 96-2, including such amendments and renumbering as may be made from time to time.
3. The construction must comply with Section 11.10 of the Walworth County Code entitled "Private roads, private roads, and private ways," including such amendments and renumbering as may be made thereto from time to time. In the event of a conflict between the requirements of such County Code provisions and this Ordinance, the more restrictive provisions shall apply.
4. The road ditch construction along the private road shall be required per the Town's standard road specification and road section. The property owner shall obtain all drainage easements necessary to construct these ditches.
5. All costs necessary for the maintenance of the private road to conform to these requirements for the safe passage of emergency vehicles shall be at the property owner's expense.

6. A Private Road Maintenance Agreement shall be entered between the owners of all lots served by the private road, in a form approved by the Town Attorney, and recorded as a deed restriction against all benefited and burdened property in the office of the Walworth County Register of Deeds, prior to any Town approval of a new private road taking effect. The property owner shall prepare the Private Road Maintenance Agreement and submit it to the Town Clerk, and the Town Clerk shall distribute it to the Town Attorney and other Town Officials as necessary, provided that no construction may begin unless and until the Private Road Maintenance Agreement receives approval from the Town Attorney and is recorded in the office of the Walworth County Register of Deeds. The maintenance agreement shall give the Town the right, but not the obligation to enter the property, repair the private road to Town standards, and impose a special charge on the properties served by the private road on a pro rata basis for all costs incurred per §66.0627, Wis. Stats.

(c) Construction standards for Private Drives in Excess of 200 Feet in Length.

1. All private drives shall be constructed utilizing a compacted subgrade consisting of quality material suitable for standard highway loading.
2. Drainage structures or culverts, at least 20 feet long with end sections, shall be installed under the surface at the low points in grades, sloped to drain to the existing storm drainage outlet. These structures or culverts shall be sized to drain their entire storm drainage contributing areas based on the 10-year frequency storm design.
3. A minimum of road ditch construction along these private drives shall be required in those areas where storm runoff would otherwise be forced onto the traveled surface due to the topography. The property owner shall obtain all drainage easements necessary to construct these ditches.
4. The minimum depth of the stone base shall be 5 inches of 1 ½ inch aggregate base course material compacted in place, over which 5 inches of ¾ inch aggregate base course material shall be compacted in place.
5. All private drives shall have a gravel surface not less than 14 feet in width, together with turn-around areas as provided in sub-paragraph 8., and together with emergency vehicle pull off areas as noted below with final approval by the Town Plan Commission. The emergency pull off areas shall be:
 - a. Every 500 linear feet of driveway.
 - b. 50 feet long – 10 feet wider than driveway.
 - c. Same construction standards as indicated in subparagraph 4.
 - d. All branches and shrubbery shall be cut back to a distance of 5 feet beyond the edge of the pull off areas as provided in subparagraph 6.

6. All vegetation, trees and shrubbery must be cut back so that a 10-foot clearance height is provided. All branches and shrubbery shall also be cut back to a distance of 15 feet on either side of the centerline of the traveled surface portion of the private drive.
7. All curves and bends in the surface shall be constructed to safely transport a fire truck with cab and trailer so that this vehicle is confined to the 14-foot surface width. The minimum centerline radius of all curves and bends shall be 100'.
8. At the end of the private drive, a cul-de-sac or turn around area shall be provided for emergency vehicle use. This private drive turn around area is not necessarily required to comply with the Town road standards of Section VIII of Town Ordinance 96-2, but it must be sufficient to allow emergency vehicles to turn around safely and without risk of property damage as determined by the Town Engineer on a case by case basis in light of all existing and anticipated conditions on the property.
9. Any bridge structure shall be designed to Wisconsin Administrative Code Section Trans 214-Town road Bridge Standards with a minimum bridge design load of H-15.

(d) Plan Submittal and Review.

1. The applicant shall submit construction, site, and drainage plans to the Town Clerk's office indicating dimensions, locations, and construction materials as needed/requested by the Town. The plans shall be drawn to scale and not exceed 1 inch = 50 feet for private roads and 1 inch = 200 feet for private drives. The applicant shall submit copies of the plans as determined by the Town Plan Commission.
2. The Town Engineer shall review the plans for compliance with this ordinance and forward recommendations to the Town Plan Commission for review. Town Plan Commission approval is required prior to building permit issuance.
3. The private driveway or road shall be completed prior to an occupancy permit being issued.
4. The Town Building Inspector or designee may inspect the private driveway and roads at the following stages:
 - a. After subgrade is shaped and graded.
 - b. After stone/gravel is installed.
 - c. During asphalt installation (for private roads).
10. The cost of reviewing the plans by the Town Engineer or other Town officials, as well as any inspection services required to insure installation of the private drive and/or private road in accordance with this ordinance, shall be borne by the property owner. The property owner shall reimburse any such expense within 30 days after invoicing, and if not reimbursed, shall constitute a special assessment upon the property in accordance with the provisions of §66.0627 Wis. Stats.

SECTION 3: MAINTENANCE.

Every private road and private drive that is required to be constructed to the standards of Section 2 shall be maintained by the owner(s) serviced by the private road/drive to the standards of Section 2 at all times. In addition, all private roads and private drives, whether or not initially subject to the standards of Section 2, must be maintained sufficiently to allow reasonable access, without risk of injury or property damage, for police, fire and other emergency vehicles.

SECTION 4: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity or any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 5: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 19TH day of June, 2017.

TOWN OF TROY

John Kendall
John Kendall, Town Chairman

ATTEST:

Tracey S. Raymond
Tracey Raymond, Town Clerk/Treasurer

Published and posted this 19th day of June, 2017.

