

**STATE OF WISCONSIN**  
**Town of Casey**  
**Washburn County**

**Ordinance Number:** 2002 - 02

**SECTION I – TITLE/PURPOSE**

The title of this ordinance is the Town of Casey Driveway and Highway Access Permit Ordinance. The purpose is to regulate and assure, for public health and safety reasons, the establishment, repair, construction, improvement, modification, and reconstruction of private driveways, to assure that the methods of repair, construction, improvement, modification, and reconstruction practices used in any driveway will protect properly the public health, safety, and general welfare of persons in the Town of Casey, and to limit and regulate highway access by motor vehicles to any Town highway in the town. This is not a Town Zoning Ordinance.

**SECTION II – AUTHORITY**

The Town Board has the specific authority under ss. 66.0425 and 86.07, Wis. stats., to adopt a Town Driveway and Highway Access Permit Ordinance, and has the general authority under its Village powers under s. 60.22, Wis.-stats., to adopt this ordinance.

**SECTION III – ADOPTION OF ORDINANCE**

The Town Board, by this ordinance, adopted on proper notice with a quorum and roll call vote by a majority of the Town Board present and voting, provides the authority for the Town to regulate and permit certain driveways and highway access locations in the Town.

**SECTION IV – DEFINITIONS**

In this ordinance:

- A. “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.
- B. “Highway” means any Town, County, or State public road.
- C. “Driveway” means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects with any shared private road or with any public highway, and will provide service to a residence, business, recreational site, or other similarly appropriate use. The length of the driveway is from the outer shoulder of the public highway to the terminus of the driveway or the driveway’s junction with the driveway’s turnaround.
- D. “Highway Access” means any private way, private road, or other avenue of private travel that runs through any part of a private parcel of land that connects or will connect with any public highway.

- E. "Emergency vehicle" means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the Town.
- F. "Impacted landowner" means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe
- G. "Town" means the Town of Casey, Washburn, County, Wisconsin.
- H. "Town Board" means the board of supervisors for the Town of Casey, Washburn County, Wisconsin and includes any designee of the board authorized to act for the board.
- I. "Town clerk" means the clerk of the Town of Casey, Washburn County, Wisconsin.
- J. "Town Driveway Inspector" means the individual(s) appointed by the board of supervisors of the Town of Casey.
- K. "Zoning Office" means the Zoning Division of the Washburn County Planning, Land @ Resource Management Department.
- L. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

#### **SECTION V – COVERAGE**

- A. No person shall 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 without first obtaining a Town Driveway and Highway Access Permit to be issued by the Town Board.
- B. No person shall establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a Town highway without first obtaining a Town Driveway and Highway Access Permit to be issued by the Town Board.
- C. Any person prior to and at the time of seeking a Town Driveway and 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.
- D. Existing Driveways: The Town may, but is under no obligation to inspect existing driveways. In the event existing driveways do not meet specifications in Section VI, the Town may proceed in the following manner:
  - 1. Commencing six months after the effective date of this Ordinance and upon receipt of written Notice from the Town, no landowner may maintain or use, or allow the maintenance, or use of, any existing driveway on the landowner's land for general public or emergency vehicle access to and from a residential dwelling in the Town if the driveway, for any structural, location, or design reasons, has been determined by the Town Board , or its agents, in writing to substantially limit or negate safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway.

2. The Town Board shall serve upon any potentially impacted landowner a copy of its written determination under paragraph 1 that a driveway substantially limits or negates safe and timely vehicle access and travel and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway. The determination of the Town Board shall not be final until a public hearing before the Town Board has been held. The Town Board shall publish a class 2 notice, under s. 985.07, Wis. stats., of the public hearing.
3. A copy of the Town Board's written determination and notice of the public hearing on the Town Board's determination shall be served by registered or certified mail on any potentially impacted landowner within twenty days of the making of the written determination and at least ten days prior to the hearing date. The notice shall include the names of all potentially impacted landowners and the location of the subject driveway in the Town. The notice may specifically contain a warning that due to the existing condition of the driveway emergency vehicle access to the dwellings served by the subject driveway may not be possible.
4. Any potentially impacted landowner may provide at the public hearing evidence regarding access provided by and the condition of the driveway. Any potentially impacted landowner may be represented by legal counsel at the public hearing and may present witnesses and cross-examine witnesses presented by the Town Board . All witnesses testifying before the Town Board shall be under oath. No person testifying before the hearing shall vote as a member of the Town Board in making a final determination regarding the subject driveway.
5. The Town Board , at or after the hearing, may order any of the following:
  - a. That the Town attorney seek a court order providing that the driveway be closed for general vehicle traffic use, but not closed to emergency vehicle use, until the driveway is structurally designed and reconstructed to allow for safe and timely general public and emergency vehicle access: to and from the residential dwellings served by the driveway.
  - b. That the Town attorney seek a court order providing that the driveway be reconstructed or repaired to allow for safe and timely vehicle access and travel of general public or emergency vehicles to and from the residential dwellings served by the driveway in a proper manner and in a reasonable time specified by the Court and that if the driveway is not so reconstructed or repaired by the date specified, the Town Board may have the driveway reconstructed or repaired and the cost assessed as a special assessment under its police power under ss. 66.0701 and 66.0703, Wis. stats., against the land.
  - c. Other reasonable and necessary action that will serve to protect the public health and safety of persons within the Town, including the owner, occupants, or guests of the owner of the land.

## SECTION VI – SPECIFICATIONS

Commencing 6 months after the effective date of this Ordinance for existing 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 and Highway Access Permit is required under Section V shall meet all of the following minimum requirements. No permit shall be issued unless the materials submitted as required under Sections VII and VIII demonstrate compliance with the requirements of this section:

1. **Minimum Driveway Width.** The minimum driveway width shall be twelve feet.
2. **Side Slopes.** Driveway side slopes shall be no steeper than one-foot vertical in four-foot horizontal (twenty-five percent).
3. **Ditch Back Slopes.** Ditch back slopes shall be no steeper than one-foot vertical in two-foot horizontal (fifty percent).
4. **Clearance.** A clear space of thirteen feet high and twenty feet wide shall be maintained at all times for emergency vehicle access.
5. **Turnaround.** Each driveway that is greater than one hundred fifty feet in length shall have a turnaround within one hundred feet of the principal structure. The turnaround must comply with one or more of the alternatives presented in Attachment One.
6. **Curves.** Driveway curves shall have a minimum radius of thirty-five feet. The curves must comply with one or more of the alternatives presented in Attachment One.
7. **Access driveways and road spacing.** Access driveways to highways from abutting properties shall comply with the following requirements:
  - A minimum of 300 feet spacing between access driveways; adjoining driveways permitted. Discretion is granted to the Town Board to permit driveways at a lesser setback for safety reasons.
  - Where there are two or more lots in less than 300 feet of frontage, a service road of not less than 66 feet of right-of-way shall be provided as a means of shared driveway with access to each lot. Driveways should be at or near property line unless otherwise approved by the Town Board.
8. **Emergency Service Access Signs.** Appropriate signs shall be placed at the entrance to a driveway servicing a residence in order to provide accurate and expedient driveway location by emergency service personnel. The sign shall conform to current Washburn County regulations, example: fire numbers.

## SECTION VII – APPLICATION/PERMIT PROVISIONS

A. The Town Board shall approve a form for application for the Town Driveway and Highway Access Permit, which shall be available from the Town Clerk.

B. The applicant for a Town Driveway and Highway Access Permit shall submit to the Town Board a completed application with the following attachments:

1. **Plat Map.** A plat map indicating the location and dimensions of the desired driveway and highway access locations, if any, as well as the parcels immediately adjacent to the applicant's property. Attached to the backside of the permit.
2. **Driveway Construction Plan** (if required).
3. **Highway Access Location Plan** (if required). See section VIII

C. Procedures for the evaluation of the Town Driveway and Highway Access Permit Application by the Town Board, including any required site inspection of the proposed driveway, public hearing, and Town Board meetings, are as follows:

1. Inspection of proposed project by Town Driveway Inspector within fourteen days of receiving application and attachments from the Town Clerk.
2. The approved or denied application is to be returned to the Town Clerk by the Town Driveway Inspector within fourteen days of receiving application and attachments from the Town Clerk.
3. Upon reception of an executed application, the Town Clerk will mail copies of the application to the applicant and to the Town of Casey.

D. The Town Driveway Inspector shall approve or deny any Town Driveway and 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 applicant/permittee. Reasons for denying a Town Driveway and Highway Access Permit Application may include, but are not limited to:

1. The inconsistency or nonconformance of the proposed driveway or highway access with this ordinance, with any existing Town comprehensive plan, master plan, or land use plan, with Town ordinances, rules, regulations, or plans, or 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 Board

4. Alternative driveway locations, bridges, culverts, and highway access locations will be safer for persons by motor vehicle ingressing or egressing on the driveway and access point.
  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 or near the proposed driveway.
  7. The driveway will not provide timely and adequate ingress and egress for emergency vehicles.
- E. In the event of a denial of a Town Driveway and Highway Access Permit Application, the Town Board shall recite in writing the particular facts upon which it bases its denial of the permit. The Town Board shall also afford the applicant an opportunity to review the Town Board's decision and present evidence at a public hearing after a Class 1 Notice under s. 985.07, Wis. stats., of the hearing to the Town Board refuting the determination. Thereafter, the Town Board may affirm, reverse or modify its decision. The Town Board shall recite in writing findings for any decision to modify or reverse its initial determination.
- F. If the Town Board denies two consecutive applications for a Town Driveway and Highway Access Permit on the same parcel, no subsequent re-application for a permit of the same type that was denied for that parcel will be considered within two months of the second denial of either.
- G. The Town Driveway and Highway Access Permit will be effective for twelve months from the date of issuance. The permit shall expire after twelve months unless renewed.
- H. The permit may be renewed for an additional period of 6 months. If the driveway or highway access has not been constructed by the end of one 6-month renewal period, a new application must be submitted and approved.
- I. The applicant shall notify Town Driveway Inspector within 14 days after completion of the construction, reconstruction, rerouting, or alteration of the driveway or highway access. Within 14 days of notification, the Town Driveway Inspector will conduct an inspection of the driveway or highway access to ensure full compliance with all of permit conditions and provisions of this ordinance.
- J. No building permit for any construction of buildings or structures will be issued by the County until the driveway or highway access is constructed, reconstructed, rerouted, or altered according to the specifications of the permit as issued and this ordinance.

K. A non-refundable application fee in the amount determined by a resolution of the Town Board will be charged and must accompany each permit application. The fee will be one hundred dollars with twenty-five dollars of this amount to be retained by the Town Board and the remaining seventy-five dollars paid to the Town Driveway Inspector.

L. The Town Board, or its designees, shall have the right of inspection onto land pursuant to a warrant issued under s. 66.0119, Wis. stats., for the purpose of inspecting existing or proposed driveways to determine if the driveways will allow for the safe and timely travel by emergency vehicles or vehicles of the general public.

## **SECTION VIII – CONSTRUCTION PLAN OR HIGHWAY ACCESS PLAN**

A. The Town Board may in writing require a driveway construction plan or highway access plan prior to any proposed driveway or highway access construction, reconstruction, rerouting, or alteration. A driveway construction plan is required for any of the following unless the requirement is waived by the Town Board in writing:

1. Construction of a driveway or segment of a driveway that requires the disturbance of land with a slope of more than twelve percent.
2. A driveway or segment of a driveway that requires a retaining wall or other special erosion control measure as determined by the Town Board Town building inspector or other designated officer and prior to any permit issuance.
3. A driveway that crosses a waterway or wetland and/or has the potential to significantly alter existing drainage patterns or quantity of runoff.
4. When construction or modification of the driveway necessitates construction or improvement of a bridge or culvert.
5. When the Town Board in writing requests a driveway construction plan or Town highway access plan.

B. If required by the Town Board or its designee, a driveway construction plan or highway access plan will include a scale plan showing all of the following:

1. Location. The precise location of the driveway or the segment of the driveway for which the driveway construction plan is required, including the width and length of the driveway.
2. Slope. A profile of the driveway route, before and after construction, showing a maximum finished driveway slope of thirteen percent.
3. Retaining Walls. The location and structure of any retaining walls.
4. Bridges. The location, size, and design calculations of any bridges.
5. Culverts. The location, size, and design calculations of any culverts.
6. Cross-section. Typical cross section of the driveway.

7. Erosion Control. Required mulching, matting, or other erosion control.

8. Storm Water Management. Drainage methods engineered for the particular surface type, including location and dimensions of ditches, proper grading technique, projected water handling capability, and water loads at the point of access to the public highway.

9. Other Access Points. The location of any other access points onto the Town highway within one mile of proposed access point.

C. No construction, reconstruction, rerouting, or alteration of a driveway nor construction of a highway access onto a Town highway may commence until all of the following conditions are met:

1. The driveway construction plan or highway access plan, if required, is approved by the Town Board.

2. A Town Driveway and Highway Access Permit is issued by the Town Board.

3. When applicable, any other necessary approvals are obtained from Washburn County, the State of Wisconsin, and Federal Agencies.

4. The Town Board shall, when applicable, seek review and comment from the local fire chief, or his or her deputies, regarding the proposed driveway and whether the proposed driveway will allow for adequate and timely emergency vehicle access and other equipment access to buildings and structures within the premise.

D. The preparation of a driveway construction plan or a highway access plan does not guarantee the approval of a Town Driveway and Highway Access Permit by the Town Board .

E. As a condition of any Town Driveway and Highway Access Permit, the driveway and highway access shall be constructed and maintained by the owner or occupant to ensure safe, timely, and proper access and travel by emergency vehicles.

F. The approval of a Town Driveway and Highway Access Permit application by the Town Board does not constitute a determination that the driveway is safe, suitable for use or otherwise passable for vehicles of the general public or emergency vehicles, that public access and travel is authorized, or that the applicant or permittee is in compliance with this Ordinance. No person may rely on the issuance of the permit to determine that a driveway, bridge, culvert, or highway access location is fit or safe for any purpose or that they are in compliance with the ordinance or any State or County laws or ordinance.

G. The approval of the Town Driveway and Highway Access Permit application does not establish or commit the Town to future approval of any driveway as a public road or highway in the Town.



**SECTION IX – PENALTY PROVISION**

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of \$200.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offense under this Ordinance. In addition, the Town Board may seek injunctive relief from a Court of record to enjoin further violations. The violator must remove the highway access portion of the driveway that is on Town right-of-way and restore the site disturbance back to its original condition prior to the violation. The Town will not issue or approve any other permits or requests for this property until it is in compliance.

**SECTION X – SEVERABILITY CLAUSE**

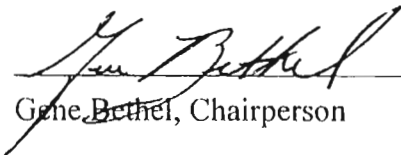
If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end, the provision of this ordinance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


**SECTION XI – EFFECTIVE DATE**

This Ordinance is effective on publication.

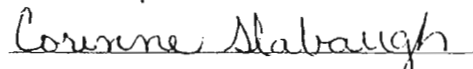
The Town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 14<sup>th</sup> day of February 2007

  
Gene Bethel, Chairperson

  
Michael Wallace, Supervisor

absent due to illness Attested to:  
Dan Swearingen, Supervisor

  
Corinne Slabaugh, Clerk