

**TOWN OF PLYMOUTH**  
**ORDINANCE NO. 2014-01**

**AN ORDINANCE REGULATING DRIVEWAYS IN THE TOWN OF PLYMOUTH.**

The Town Board of Plymouth, Rock County, Wisconsin, ordains as follows:

**SECTION 1. PURPOSE**

The purpose of this Ordinance is to control the location, size, construction and number of access points, herein referred to as "Driveways" so as to not be deficient or dangerous to the general public.

It is the intent of the Town Board by this Ordinance to require property owners to maintain private driveways to a standard which will not inhibit or impair the town's ability to provide police, fire, and emergency services to all Town residents, visitors and pedestrians.

This Ordinance in no way is to be interpreted as or in conflict with the Town of Plymouth Zoning Ordinance regulating properties identified, defined and referred to as having a "Pole" not a "driveway" as "vehicular" access to "Flag Properties". Once improvements as assessed for property tax purposes are made to a Flag Lot, this Ordinance shall be enforced.

**SECTION 2. DEFINITIONS**

The following words and phrases, as used in this Ordinance, shall have the meaning provided:

- A. Driveway: A point of access from property abutting a road onto that road. For purposes of this Ordinance all of the following are considered driveways:
1. Commercial Driveway: An access that will be used primarily for a commercial, business or industrial site.
  2. Field Entrance: An access that will be used on a seasonal basis for entrance to an undeveloped piece of land. The access will not be used as access for a private residence or a commercial, business or industrial site.
  3. Intersecting Public Road: An access that will be constructed and dedicated to the Town as part of the local road network and maintained by the Town.
  4. Park Entrance or Entrance to Public Lands: An access to a park or to public lands owned or controlled by a local, state or federal government.
  5. Private Driveway: An access that will be used as the primary access for a private residence.
  6. Shared Driveway: An access for a private residence, commercial, business or industrial site that is shared with the adjoining property owner for the purpose of sight distance or reducing accesses along the public road.

- B. Point of Access: The physical location where entrance to and exit from abutting land is possible from and to a road.
- C. Road: Any surface maintained by the Town for use by vehicle traffic.
  - a. Connecting Road: The road which a driveway touches and joins to allow for entrance to and exit from property abutting the same road.
  - b. Cross Road: Any road which touches, joins or intersects a connecting road.

### SECTION 3. PERMIT REQUIRED

No person shall construct, reconstruct or enlarge any driveway accessing any public road under the control and jurisdiction of the Town without first obtaining a permit as provided by this Ordinance in accordance with Wis. Stat. Sec 66.045(1). Approved permits run with the property unless revoked by the Town Board pursuant to the provisions of this Ordinance. Building permits shall not be issued by the Town until a driveway permit has first been issued. Permits for access on county trunk highways in Rock County and state highways within the Town are available from the Rock County Highway Department.

### SECTION 4. PERMIT APPLICATIONS

- A. Applications for all permits shall be made to the Zoning Officer.
- B. Applications shall be in writing and in a form created, approved and as directed by the Town Board. A drawing accurately depicting the construction, reconstruction or enlargement of the driveway and its dimensions shall be attached to the application. The application shall include:
  - 1. A statement that the applicant represents all parties in interest and the proposed driveway is for the singular purpose of securing access to the applicant's property and not for the purpose of parking or servicing vehicles, advertising, storage or merchandising of goods within the road, or for any other purpose.
  - 2. An acknowledgment by the applicant that, notwithstanding the issuance of a permit and or the construction of the driveway, the Town reserves the right to make any changes, additions, repairs or relocations within the road at any time, including relocation, reconstruction, widening and maintaining the road without compensating the owner of the driveway for the damage or destruction of the driveway.
- C. Upon receipt of the application, the Zoning Officer shall examine and approve such application if the proposed driveway complies with this and any other applicable ordinance.
- D. Any application failing to meet the requirements of this or any other applicable ordinance shall be rejected by the Zoning Officer. In such event, the applicant

may file a request to the Town Board for a special exception from the terms of this Ordinance under Section 8 below.

- E. A driveway permit shall expire one (1) year from the date of issuance if the driveway is not installed or not used for access to a road within that time. Permit holders shall be notified of the discontinuance of the permit and the need to reapply for another permit prior to any future work on a driveway.
- F. Following issuance of a permit, the point of access shall be inspected by the Zoning Officer during and after construction for compliance with this Ordinance.
- G. When documented inspection violations occur, and are presented to the Town Board, the Board may revoke the driveway permit. The Board will have the authority to demand that work done in violation be removed. In lieu of revoking the permit, at the written request by the permit holder, the Board may authorize violations be corrected in a specified time set by the Board to meet requirements at the expense of the owner including re-inspection fees per the fee schedule.
- H. The Zoning Officer may reject any application that is substantially identical to a previously denied application or application for special exception that was denied by the Town Board.

#### SECTION 4. TEMPORARY PERMITS

Temporary permits may be issued for temporary points of access that do not meet the requirements of this Ordinance for extenuating circumstances at the discretion of the Town Board. The duration of a temporary permit shall be fixed when issued and shall in no case exceed two months' time. The Town Board may upon written request by a property owner extend the duration at thirty (30) day intervals on a case by case basis.

#### SECTION 5. EXISTING DRIVEWAYS

- A. Any driveway existing on and prior to the date of adoption of this Ordinance shall not require a permit except as set forth in this section:
  - 1. If the use of any such driveway is discontinued for a period of one (1) year, the Town Board shall require issuance of a permit and compliance with this Ordinance prior to any further use of the driveway.
  - 2. Any reconstruction, enlargement or modification to a prior existing driveway shall require a permit under and be subject to the terms of this Ordinance.
  - 3. Any driveway used as a farm field entrance where a change of that property use requires a zoning permit, property improvement requiring issuance of a fire number shall require a permit.

#### SECTION 6. DRIVEWAY DIMENSIONS

- A. A driveway shall have a minimum hard surface width of fourteen feet (14') where it connects to a road.

- B. The maximum width of a driveway where it connects to a road shall be thirty-six feet (36').
- C. If a culvert is deemed necessary by the Zoning Officer to promote drainage in the ditch line, the size (diameter and length) of the culvert pipe may be specified by the Zoning Officer. The minimum culvert size shall be eighteen inches (18"). If a culvert is deemed necessary, the Zoning Officer may also determine the necessity and nature of end sections and/or caps for said culvert.
- D. Shared driveways shall have a minimum width of fourteen feet (14') and shall be constructed so that at least 40% of the driveway is constructed on each of the adjoining landowners' property and shall remain shared for no less than twenty feet (20') before any separation to serve the separate landowners.
- E. The number of driveways to serve an individual parcel or adjoining parcels under the same ownership abutting a road shall be the minimum deemed necessary by the Zoning Officer for reasonable and adequate service to the property, considering the safety, convenience, dimensions and utility of the driveway and the road.

#### SECTION 7. DRIVEWAY LOCATION

- A. All driveways shall have a minimum of six hundred fifty feet (650') of clear sight distance in both directions from the point of access.
- B. All driveways shall be constructed no closer to another driveway, a cross road or a curve in the connecting road than as set forth below. The Zoning Officer may require such additional separation as may be deemed necessary for the conditions of traffic, safety or the physical features of the road, either existing or proposed.
  - 1. The centerline of a private driveway, shared driveway, field entrance or park entrance (p.1 section 2 A) shall be located a minimum of one hundred fifty feet (150') from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road).
  - 2. The centerline of a commercial driveway (p.1 section 2A) shall be located a minimum of three hundred feet (300') from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road).
  - 3. The centerline of an intersecting public road (p.1 section 2A) shall be located a minimum distance from the centerline of the nearest cross road or from any point at which the connecting road makes a turn or curve of thirty degrees (30°) or more (measured along the centerline of the road) determined by the Town Board on a case-by-case basis, but in no case shall such distance be less than one hundred fifty feet (150').

4. The centerline of a driveway (p.1 section 2A) shall be at least two hundred fifty feet (250') from the intersection of a connecting road and a controlled access highway (as defined by Wis. Stat. § 83.027(2) (2011-2012).
  5. Driveways shall be placed a minimum of four hundred fifty feet (450') apart, measured from where the centerline of each driveway joins the connecting road, provided that this restriction shall not prevent any lawfully created lot from having a driveway.
- C. The edge of a driveway and the end of any culvert pipe shall be located at least ten feet (10') from any property line. In the case of a shared driveway, the culvert pipe shall be at least five feet (5') from any property line upon which the driveway is located, and at least ten feet (10') from any other property line.
  - D. The driveway shall have a hard surface minimum of six inches (6") depth of three inch (3") rock on the road bed covered with a minimum of three inches (3") of gravel. Any culvert pipe shall have a minimum cover of six inches (6") of gravel or rock.
  - E. Any end wall located on a driveway shall be constructed in such a manner as not to be a safety hazard. Standard apron end sections made of concrete or metal are permissible.
  - F. The driveway shall be constructed gently sloping back to the rear ditch line such that the driveway surface at the back of the ditch line is at minimum six inches (6") lower than the roadway to keep drainage off the roadway. All water draining from a driveway must drain into the ditch before it reaches the roadway.
  - G. No concrete surfacing shall be placed in the road right-of-way without the approval of the Town Board.
  - H. Maintenance of any driveway shall be the sole responsibility of the property owner. The Town does not assume any responsibility for maintenance of any driveway along any road.
  - I. No driveway shall have a point of access on a connecting road if it is reasonably possible under the terms of this Ordinance to locate the driveway on a different connecting road with a lower daily traffic count.
  - J. Field entrances are limited to one entrance per farm field, with additional field entrances allowable where natural obstacles within the field prevent reasonable access across the field or where the distance across the field exceeds one-half (1/2) mile.
  - K. No driveway shall be located directly across from a private residence in such a manner that lights from a vehicle exiting the driveway would cause an unnecessary disturbance to the residence.
  - L. All driveway curves shall have inside radius of not less than thirty-six feet (36').

- M. All driveways shall have trees and vegetation cleared to a minimum distance of six feet (6') on each side of the hard surface and a minimum of sixteen feet (16') of height clearance along the entire driveway. Clearance shall be maintained perpetually for emergency vehicle access.
- N. Fire number shall be prominently and perpetually posted at the driveway entrance.
- O. Relocation of utilities in the right of way shall be the responsibility of the property owner with the approval of the Town Board necessary before any utility may be relocated and the driveway installed.
- P. All driveway types shall maintain the vegetation clearance and hard cover requirements as set forth in this Ordinance for the entire distance of that type.
- Q. Any driveway over the length of five hundred feet (500') and for every additional five hundred feet (500') in length shall have an Emergency Vehicle Passing Lane Section somewhat centralized on that driveway which has a hard surface of thirty feet (30') wide and one hundred feet (100') in length. The hard surface is define as having a minimum of six inches (6'') depth of three inch (3'') rock on the road bed covered with a minimum of three inches (3'') of gravel.
- R. Any requirements may be varied by the Town Board in such instances where the peculiar nature of the property or design of the roadway may make the rigid adherence to the requirements impossible or impractical.

SECTION 8. SPECIAL EXCEPTION PERMIT

- A. In the event that the Zoning Officer rejects an application for a driveway permit, the applicant may apply to the Town Board for a special exception from the provisions of this Ordinance.
  - 1. The application for a special exception shall be a written statement that at a minimum addresses the following:
    - (a) Reason the original application for a permit was rejected by the Zoning Officer.
    - (b) Reason a special exception is necessary for a driveway that does not satisfy the provisions of this Ordinance.
    - (c) Any alternative points of access to the property and the reason those alternative points of access are not suitable or less desirable than the point of access requested.
    - (d) Statement of any unnecessary hardship the owner would face absent approval of a special exception.

2. The application for a special exception shall be submitted to the Town Clerk within 30 days of the date the original application was rejected by the Zoning Officer. The original driveway application made to the Zoning Officer shall be attached to the request for a special exception.

B. The procedure for obtaining a special exception is as follows:

1. The Town Clerk shall submit a copy of the completed special exception application to the Zoning Officer.
2. The Town Clerk shall notify all property owners located on the same road or an intersecting road and within one thousand feet (1000') of the parcel for which a special exception is requested and publish a Class 1 Legal Notice listing the time and place of the public hearing, the special exception requested, and the location of the proposed special exception driveway. Such notice shall be given and published at least ten (10) days before the date of the hearing.
3. A public hearing shall be held by the Town Board. This hearing may be held during a regularly scheduled Town Board meeting. The hearing shall be in compliance with requirements of the Wisconsin Statutes for an administrative appeal under Wis. Stat. section 68.11 (2011-2012) or any successor statute.
4. The application and information obtained at the public hearing shall be reviewed by the Town Board at a public meeting (which may occur immediately following the public hearing).
5. Upon consideration of the provisions of this Ordinance and standards in this section, the Board may approve, approve with conditions or modifications, or deny the application for a special exception.
6. A special exception driveway permit (with or without conditions or modifications) shall run with the land and is assigned to the driveway, not the person who owns the land.
7. If a special exception application is approved with conditions or modifications, the Board shall provide its decision in a written form, listing the conditions or modifications that must occur and be maintained for the permit to remain valid. The decision will specify the obligations of the owner and the Town regarding each condition or modification.
8. If a special exception application is denied, the Board shall provide its decision in a written form, listing the reasons for denial.
9. The Town Board may, without a public hearing or public notice, deny an application for a special exception which is substantially identical to a special exception permit which it has previously denied.

C. In considering a special exception request, the Town Board shall consider each of the following as they may apply to the request:

1. Alternative access points the owner could use that more closely or fully conform to this Ordinance.
2. Location of the proposed point of access with respect to existing or planned roads.
3. Potential problems that may affect the community, adjoining parcels of land, traffic conditions on the connecting road, safety, and or the physical features of the road and the surrounding environment.
4. Modifications that would reduce potential problems (for example, changes to the proposed driveway or surrounding property, posting warning signs, changing speed limits, etc...).
5. The degree of unnecessary hardship created for the applicant by enforcement of the strict terms of this Ordinance

In addition to the standards above, if six hundred fifty feet (650') of clear sight distance in both directions is not possible at the point of access for the proposed driveway, the Town Board's determination of whether a driveway can provide safe access to and exit from the property shall be guided whenever possible by the minimum standards developed in a 1990 study done for the State of New Jersey based on the American Association of State Highway and Transportation Officials' (AAHTO) stopping sight distances for given posted speeds, as follows:

#### STOPPING SIGHT DISTANCES

<u>Posted Speed (mph)</u>	<u>Minimum Stopping Sight Distance (feet)</u>
25	150
30	200
35	250
40	325
45	400
50	475
55	550

If a driveway is to be located in an area where a speed zone transitions from a faster speed limit to a lower speed limit, the higher speed limit will be used for purposes of the posted speed up in the above chart up to the spot where the slower speed limit is posted on a sign.



- D. Revoking a special exception driveway permit may occur for reasons and in a process as set forth by this Ordinance as adopted by the Town Board:
1. The Town Board may revoke, by majority vote, a special exception permit if it is not actively used for a period of one (1) year, the conditions or modifications required are not met or construction, reconstruction, enlargement or use are expanded beyond what the Board approved.
  2. Prior to revocation, the owner of the driveway shall be given notice by first class mail that the subject of revocation will be taken up by the Board at a time and place identified in the notice. Such notice shall be mailed at least ten (10) days before the date of the meeting.

#### SECTION 9. PROHIBITED DRIVEWAYS AND/OR FILLING

- A. No person, firm or corporation shall place, construct, locate in, or cause to be placed, constructed or located in, any obstruction or structure within the limits of any public road, highway or street in the Town of Plymouth except as permitted by this Ordinance. As used herein the word "structure" includes retaining walls above the grade of the driveway, fence, decorative or ornamental structures and private driveways, a portion of which extends into any public road, highway or street, and which is in nonconformance with this Ordinance.
- B. No driveway shall be closer than thirty feet (30') to the extended street line at an intersection. At street intersections a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Town for effective traffic control or for highway signs or signals.
- C. The grade of that portion of any private driveway located within the limits of any public road, highway or street shall be such as shall meet the grade of the existing public roadway at its edge and not cause an obstruction to the maintenance or clearing of such public roadway.
- D. Drainage from driveways shall run into adjacent ditches and not onto the road pavement.
- E. Filling of ditches and/or culverts located within a public right-of-way is prohibited without written approval from the Town.
- F. The placement of lawn or farm field irrigating pipes for the purpose of watering, fertilizing or dispensing of liquid manure in any form is prohibited without written approval from the Town.

SECTION 10. PERMIT FEES AND VIOLATION

- A. The applicant shall pay to the Town of Plymouth a fee at the time of application. No application will be processed without payment of the applicable fee. The fee for each driveway type is structured for the cost of permit administration and field inspections:


<u>Driveway Type</u>	<u>Fees are set by Resolution</u>
Commercial Driveway	
Field Entrance	
Intersecting Public Road	
Entrance to Park or Public Lands	
Private Driveway	
Shared Driveway	Per property owner
Re-inspection Fee	

- B. The fees are set and may be amended by resolution of the Town Board. The fee in effect at any time shall be as set forth on the current fee schedule on file in the office of the Town Clerk.
- C. 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 not less than \$100, nor more than \$250, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues shall be considered a separate offence under this Ordinance.

SECTION 11: EFFECTIVE DATE

This Ordinance No. 2014-01 shall take effect upon passage and posting as required by law.

Adopted this 11<sup>th</sup> day of February 2014.

  
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Larry Harding, Chairperson

ATTEST:

  
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Susan Douglas, Clerk