

ACCESS ORDINANCE

THE TOWN BOARD OF THE TOWN OF CLEVELAND, CHIPPEWA COUNTY, DOES HEREBY ORDAIN AS FOLLOWS:

The following Ordinance, Title 3, Chapter 2, is hereby adopted by the Town Board of the Town of Cleveland to be codified in the Town Code of Ordinances:

CHAPTER 2 ACCESS ORDINANCE

3-2-1 Title

This ordinance shall officially be known, cited and referenced as the 'The Town of Cleveland Access Ordinance', hereinafter referred to as 'this ordinance.'

3-2-2 Purpose

This ordinance is adopted for the following purposes:

- (1) To protect and provide for the health, safety, and general welfare of the townspeople;
- (2) To ensure that an approved access is constructed prior to development or improvement of land(s) to be served by the access;
- (3) To provide for safe travel on public roads by minimizing the number of access points and avoiding dangerous access locations;
- (4) To prevent physical damage caused to public roads, graded ditches, and roadsides caused by the improper location or construction of accesses;
- (5) To expedite safe and ready travel to and from private lands for police, fire and ambulance vehicles and other service vehicles such as: school buses, septage haulers, and electric service trucks;
- (6) To minimize the risks of harm to which neighboring lands are directly or indirectly exposed by improperly located and constructed accesses.

3-2-3 Application

It is the policy of the Town of Cleveland to require an access permit for the following:

- (1) The construction of an access to a Town Road.
- (2) The construction of a new access or the modification of the existing access for a private road if a private road permit is required, regardless of the jurisdiction of the public road to which access is being provided. If the private road permit is required and the access is located on a County or State Highway, the Town will accept a copy of a permit granted by the County or Wisconsin DOT in lieu of requiring a permit of its own.
- (3) The modification of an existing access to a Town road, including the conversion of a field access to vacant or improved land for residential or commercial use.

3-2-4 Authority

The Town of Cleveland adopts this ordinance under the powers granted to it in Section 60.23 and 60.50 Wis. Stats. and Chapter 82 Wis. Stats. and/or by its adoption of village powers under Section 60.10 to enact an ordinance governing the location, design and construction of access within its jurisdiction.

3-2-5 Definitions

- (1) A 'Town Road': A road owned and maintained by the Town of Cleveland.
- (2) An 'Access': A physical area used for vehicular travel starting at the edge of the surface of a public (or private) road and extending across the entire width of the right-of-way to the edge of private land. Alternately, the term 'Access' refers to that portion of a private road or driveway that occupies the right-of-way associated with the roadway to which the private road or driveway connects.
- (3) A 'Private Road': A physical area on private land used for vehicular traffic on that land that is owned and maintained by the owner or owners of that private land and either:
 - a. Serves three (3) or more parcels of land;
 - b. Serves three (3) or more residential units within a condominium plat;
 - c. Serves a multiplex containing three (3) or more rental units; or
 - d. Serves a commercial activity that generates an expected 10 or more vehicles per day; or a commercial activity whose business involves truck traffic.
- (4) 'Driveway': A physical area on private land, not including access, which serves no more than two (2) parcels or residential units.
- (5) 'Vacant Land': Land not occupied by a well, a usable electrical outlet, or a structure of any kind.

3-2-6 Enactment

This ordinance applies only to accesses to roads under the jurisdiction of the Town of Cleveland and are located, constructed or reconstructed following the adoption of this ordinance.

3-2-7 Separability

Should any section, clause, provision or portion of this ordinance be adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

3-2-8 Procedures

- (1) The applicant shall obtain and Application for Access Permit (Application) from the Town of Cleveland by either:

- a. Downloading the Application from the Town of Cleveland website (www.clevelandtownship.com) [preferred]; or
 - b. Contacting the Town Clerk.
- (2) The applicant shall complete the General Information (Part A) and Application Materials & Additional (Part C) of the Application. The Application shall include a sketch plan of the access and the access shall mark the proposed location with high visibility flagging stakes.
 - (3) The applicant will submit the Application to the Town Clerk via e-mail (clevelandclerk@gmail.com) or by regular mail (Cleveland Clerk, 20165 County Highway Z, Cornell WI 54732)
 - (4) Within 15 working days of the Town's receipt of the Application, the applicant will be contacted to schedule a preliminary review meeting with Town designee(s) to view proposed access.
 - (5) **The access application fee will be collected at the preliminary review. The access application is required to proceed with the access approval process.** The fee may be paid by check or money order made payable to Treasurer, Town of Cleveland.
 - (6) The applicant shall create the access per the specifications and standards delineated in Part B of the Application and in conformity to the Town of Cleveland's Access Ordinance.
 - (7) Within 15 working days of completion of access construction, the applicant shall notify the Town Chair that the access is completed and ready for inspection.
 - (8) The Town designee(s) will review the access within 15 working days to determine if the access meets the standards set forth in the Application. The applicant shall be notified either orally or in writing if the access fails to meet one or more the standards set forth in the Application. The applicant will be informed of the defect(s) and be given 10 working days to make necessary correction(s). If the defect is not corrected within that time, corrective action will be taken by the Town Board. [See 3-2-11 (3) a for enforcement details.]

3-2-9 Specifications and Standards

The specifications and standards for the location and construction of the access shall be those necessary to protect traffic on public or private roads; to afford satisfactory access and traffic for police, fire and medical emergency vehicles; snow removal; the transport of school children; sanitation, electrical, construction, and road maintenance equipment; and to provide for proper drainage to and along public or private roads.

- (1) **Width, Rise and Distance:** The access shall be constructed with a minimum of a finished surface of 24 feet in width for residential property and 30 feet for agricultural, industrial, or commercial property. The access shall provide adequate drainage from the surface of the driveway. The Town may increase these minimum widths.

- (2) **Culverts:** An access shall have a culvert of at least 18 inches in diameter placed in the ditch along a public highway, unless a larger culvert is required by the Part B of the Application or it is determined no culvert is necessary. A culvert of a diameter stated in Part B of the Application may also be required for an access to a private road where a ditch along the private road is required for proper drainage. Additionally, culverts may be required in the course of constructing a private road where such installation is deemed necessary for proper drainage within the property and from the property to the public road. The type and length of all culverts shall be as determined by the Town of Cleveland and stated in Part B of the Application.
- (3) **Juncture with Public Road:** A slight dip across the access shall be placed just before the culvert on the parcel side to prevent washing debris from the driveway or private road onto the surface of the public or private road to which the access connects.
- (4) **Side-Slope and Erosion Control:** The access shall be constructed with a maximum side-slope of 3:1 (3 feet horizontal to 1 foot vertical) unless otherwise specified in Part B of the Application.

Retaining walls constructed of cement or rocks on the side of the access are hazardous to public safety and are prohibited. Structures shall not be located in the right-of-way.

Sodding or seeding with mulch is required on the side-slope and all other disturbed soils on or around the newly constructed access to minimize erosion. Erosion control measures shall be taken within 10 working days of completion of the access.

Drainage: The access shall be planned, constructed, and maintained in a manner that prevents the diversion of surface water onto a public road. The surface of the access road shall slope downward and away from the highway shoulder a sufficient distance to preclude ordinary surface water drainage flowing on to the public roadway. No access apron shall extend out into the public roadway farther than the edge of the road surface. If necessary, the Town may require erosion control measures in addition to those outlined in this ordinance.

- (5) **Substrata:** The access shall have at least 4 inches of 3-4 inch rock or pit-run gravel on the roadbed, covered with 2 inches of ¾ inch gravel. If it can be shown there is a suitable base, this provision may be modified or waived by the Town.
- (6) **General Design and Location:** The access shall be of such width and so located that all of the access is within the limits of the right-of-way on the public or private road fronting the property served.

Accesses shall not provide direct ingress or egress to or from any road or street intersection and shall not encroach upon or occupy areas of the public road required for effective traffic control or for street signs or signals.

A minimum distance between and accesses and road intersections shall be maintained as follows:

- a. Minimum distance to a Town road intersection= 100 feet from the edge of the access unless otherwise specified.

- b. Minimum distance to a county road intersection= 400 feet from the edge of the access unless otherwise specified.
- c. Minimum distance to a state or federal highway intersection as per the requirements of the Wisconsin DOT.
- d. Minimum distance between driveways on different parcels of the same side of the road= 100 feet unless otherwise specified.

The ingress/egress angle (the angle between the tangent to the centerline of the public road and the other center line of the access extending through the entire access) shall be 90 degrees unless a variance is granted. (Note: Variances will be extremely rare.)

(7) Number of Accesses:

- a. The number of accesses allowed to serve an individual residence or commercial property shall be a maximum of two (2) provided the minimum distance to intersections and line of sight distance requirements can be met.
- b. Only one (1) access for the first acre of the served parcel and one (1) additional access for an additional acre or part thereof, up to a maximum of two (2) will be allowed. For a corner parcel or parcels abutting on more than one public or private road, access shall be allowed from only one (1) of the public or private roads.
- c. Where two (2) accesses serve a parcel, they shall be located no closer than 75 feet from the centerline to centerline and at least 110 feet from the edge of the access to the property line.

(8) Relocation of Utilities: Any costs of relocating utilities shall be the responsibility of the property owner. Approval of the Town will be necessary before any utility may be relocated.

(9) Filling: Filling of ditches and/or culverts located within a public or private right-of-way is prohibited.

(10) Snow Removal Setback: Fences, entrance markers, gates, etc. shall be set back a sufficient distance to permit snow removal without damage to private property or to public snow removal equipment. There shall be no expectation that the Town will maintain driveways or private roads or provide snow removal service to driveways or private roads.

(11) Mailboxes and/or Newspaper Boxes:

- a. All mailbox/newspaper box posts or supports shall be at least two (2) feet from the edge of the road toward the ditch.
- b. Cul-de-sacs shall have multiple mailbox/newspaper boxes located together in one location at the discretion of the Town.

3-2-10 Easements for Landlocked Parcels

If the parcel of land for which and access is sought has no frontage on a public or private road, an easement shall be provided for an access and a driveway or a private road

extending from the property line of the parcel to a private or public road. The width of an easement for an access and driveway shall be no less than 33 feet or two (2) rods. The width of an easement for an access and a private road shall be no less than 66 feet or four (4) rods.

3-2-11 Enforcement

- (1) Notification by Owner:** Within 15 working days after completion of the construction a compliant access, the owner shall notify the Town Chair or designee of completion. An inspection will be conducted within 15 working days to verify the meets the standards set by this ordinance. The landowner will be notified of the results of the inspection.
- (2) Final Inspection by the Town:** The Town of Cleveland has no continuing obligation to inspect the condition of the access. Maintenance of the access so that it conforms to the standards of this ordinance is solely the responsibility of the owner or owners of the parcel on which the access lies.
- (3) Access Violations and Remedy:**
 - a. If an access is located or constructed contrary to the specifications outline in Part B of the Application, the Town shall notify the owner of the violation and identify the modifications necessary to bring the access into compliance. The owner shall have a maximum of 10 working days to make the required modifications, unless the period of time for remediation is extended in writing by the Town. If the defect is not remedied within the specified period of time, the Town may remedy the defects with the costs of remediation payable by the parcel owner within 60 calendar days following the date of notification by the Town. In addition, if the Town determines that the unremedied defect(s) constitute a danger to public health and safety, the Town may institute an injunction or take other appropriate action or proceeding to enjoin the use of the access as provided in §§ 86.02, 82.022, and 86.07 Wis. Stats.
 - b. Constructing an access without following the procedures set forth by the Town of Cleveland is a violation of this ordinance and automatically subject to forfeiture in an amount stated in the Town's Schedule of Forfeitures. And after-the-fact Application may be granted. The owner of the access shall pay the original Application fee plus an additional amount for the after-the-fact Application as specified in the Town's Schedule of Fees. Modifications to the location or construction of the access shall be required if necessary to bring the access into compliance with the standards set forth in this ordinance. All procedures regarding the construction, inspection, and final approval of an access shall apply following the granting of an after-the-fact Application, including procedure described in 3-2-11 (3)a.
- (4) Penalties:** In the event the Town determines there has been a violation of this ordinance, a citation shall be issued under the Town of Cleveland Citation Ordinance

as provided by Chapter 66, Wis. Stats. The forfeiture shall be in an amount as stated for violations of this ordinance in the Town of Cleveland Schedule of Forfeitures.

- (5) **Civil Enforcement:** Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of this ordinance; to prevent unlawful construction; to recover damages; or to restrain, correct, or abate a violation. These remedies shall be in addition to the penalties described above with costs of the remedies assigned to the violator.

3-2-12 Waivers and Variances

- (1) All specifications, standards, and provisions of this ordinance are to be interpreted as the minimum standards necessary to ensure public health and safety. Specifications, standards, and provisions of this ordinance shall be liberally construed in favor of the Town of Cleveland.
- (2) The Town may waive or vary one of more of these specifications and standards where a strict adherence to the minimum is: impossible in the circumstances; imposes extreme hardship; or when the Town deems the waiver or variance is not contrary to the purposes of this ordinance. The Town may also impose a greater than minimum standard if such is deemed necessary to protect public health and safety and meet the purposes of this ordinance.

Signed this 15th day of October, 2021

Michael B. Berg

Town Chairman

Annika Furd

Clerk