

**ORDINANCE 2009-\_\_\_\_\_**

**AN ORDINANCE TO REPEAL, AMEND, AND RE-CREATE CHAPTER 7.05 OF THE CODE OF ORDINANCES, TOWN OF LAVALLE, WISCONSIN.**

The Town Board of the Town of LaValle, Sauk County, Wisconsin does ordain as follows:

**Section 1.** Chapter 7.05 of the Code of Ordinances, Town of LaValle, Sauk County, Wisconsin entitled “Driveway Permits” shall be repealed and recreated to read as follows:

**CHAPTER 7.05 DRIVEWAY PERMITS**

Sec. 7.05.01	Purpose
Sec. 7.05.02	Town Authority Preserved
Sec. 7.05.03	Liability for Damage of Injury
Sec. 7.05.04	Definitions
Sec. 7.05.05	Application Requirements and Procedures
Sec. 7.05.06	Driveway and Culvert Location, Design, and Construction Requirements
Sec. 7.05.07	Notification of Violation
Sec. 7.05.08	Maintenance
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Sec. 7.05.10	Special Assessments
Sec. 7.05.11	Penalties

**Sec. 7.05.01 Purpose**

The purpose of this Ordinance is to regulate the establishment, construction, improvement, modification, enlargement, or the reconstruction (collectively “construction”) of driveways in the Town to assure that the location and the construction of the driveways will promote the public health, safety, and general welfare of the Town of La Valle (Town), preserve agricultural land and productivity, and comply with the goals and policies set forth in the Town of La Valle Comprehensive Plan. For the safety of the general public, the Town shall determine the location, size, use, construction, and number of access points to public roadways within the Town.

**Sec. 7.05.02 Town Authority Preserved.**

The Town of La Valle, notwithstanding the issuance of any permit under this ordinance or the construction of any driveway pursuant to such permit, reserves all of its rights and authority to make or cause any changes, additions, repairs, reconstruction or relocation of any part of a driveway located within the public highway or road right-of-way at any time, including but not limited to, modifications that may be necessary or convenient in connection with the relocation, reconstruction, widening and/or maintaining the road, without compensating the owner of such driveway for damage to, or the destruction of, such driveway.

**Sec. 7.05.03 Liability for Damage or Injury**

The property owner shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the construction or repair of driveways, driveway approaches or entrances and culverts. When the driveway, driveway approach, or culvert is constructed, it shall connect with the public roadway in an acceptable manner and shall further be constructed in accordance with this Ordinance and any conditions of approval of the Driveway Permit.

#### **Section 7.05.04      Definitions**

In this ordinance, the following words and phrase have the designated meaning unless a different meaning is expressly provided or the context clearly indicates a different meaning:

- A) Driveway. A private driveway, private road, or other traveled way giving access from a public roadway to private property. As per Wis. Stat. § 340.01(46): "Private road or driveway" is every way or place in private ownership and used for vehicular travel only by the owner and those having express or implied permission from the owner.
- B) Emergency vehicles. Any fire, police, ambulance, or first responder vehicles used in emergency response.
- C) Highway or Road. As per Wis. Stat. § 340.01(22): all public ways and thoroughfares and bridges on the same. It includes the entire width between the boundary lines of every way open to the use of the public as a matter of right for the purposes of vehicular travel.
- D) Property Owner. The owner of real estate that is provided vehicular access to a public roadway by a driveway.
- E) Reconstruct, Relocate or Modify. To change the location of an access point of a driveway onto a roadway, or to change the general design, grade, width, or drainage of driveway. Reconstruct, relocate, or modify does not include re-surfacing driveways.
- F) Right-of-way – The strip of land acquired for or devoted for use as a public road or highway established under the authority of Wis. Stat. §82. The right-of-way for town roads is typically 66 feet wide.
- G) Road Committee. Committee appointed by the Town Board to review applications for driveways, inspect driveways, and oversee the construction and maintenance of public roads.
- H) Roadway – As per Wis. Stat. § 340.01(54): that portion of a highway between the regularly established curb lines or that portion which is improved, designed or ordinarily used for vehicular travel, excluding the shoulder.

#### **7.05.05      Application Requirements and Procedures**

- A) Permit Required. No person or entity shall establish, construct, improve, reconstruct, modify, or relocate a driveway or culvert within the road right-of-way without first obtaining a Driveway Permit from the Town. A Driveway Permit is not required for re-surfacing driveways provide such resurfacing does not include changing the grade or location of the driveway or culvert.
- B) Application. Application for a Driveway Permit shall be made in writing and submitted to the Town Clerk. The application shall include the fees required by this Ordinance and the following information:
  - 1) A topographical map of the property identifying the slopes on the property, which can be downloaded from the Sauk County website.
  - 2) A plan of the proposed driveway(s) showing:
    - a) the boundaries of the property,

- b) existing and proposed buildings and structures, including retaining walls, on the property,
  - c) the location of existing and proposed driveways,
  - d) the distances from the property lines to the centerline of the driveway,
  - e) the width of the proposed driveway,
  - f) the slope of the proposed driveway, and
  - g) the location and size of existing and proposed culverts.
- 3) A copy of any erosion control plan required by Sauk County.
- 4) A copy of driveway access permit, if required, from Sauk County Highway Department for access to a county trunk highway or the State of Wisconsin Department of Transportation for access to a state trunk highway.
- 5) Application Review. The Town Clerk shall forward the completed application to the Road Committee for review for compliance with this Ordinance. The Road Committee shall review the application and perform a site review. Within 30 days of the date the completed application was received by Town Clerk, the Road Committee shall either approve, deny, conditionally approve the permit, or refer the permit application to the Plan Commission and Town Board:
- a) Approve the application and issue the Driveway Permit; or
  - b) Deny the application; or
  - c) Conditionally approve the application and issue the Driveway Permit subject to additional reasonable requirements, based upon the Committee's review of the area, including, but are not limited to, the minimum or maximum grade of the driveway, construction requirements in order to adequately control the flow of water and not impede its travel, the type of surface, or other requirements necessary to meet the Purpose of this Ordinance; or
  - d) Refer the application to the Plan Commission and Town Board for resolution. The Plan Commission shall hold a public meeting on the application. After the Plan Commission meeting on the application, the Plan Commission shall recommend approval, conditional approval, or denial. If no recommendation is made within 30 days of the Road Committee's referral, the Plan Commission's recommendation shall be deemed a denial. Once the Plan Commission has made a recommendation on the application, the Town Board shall consider the application and, at its sole discretion, approve, conditionally approve, or deny the application. If the Town Board approves the application, the Road Committee shall issue a Driveway Permit. If the Town Board conditionally approves the application, the Road Committee shall issue a Driveway Permit once the conditions of the approval have been fulfilled. If the Town Board denies the application for a Driveway Permit, it will not consider a substantially similar application from the applicant for a period of three months from the date of the denial. If the Town Board fails to take action within 30 days of the Plan Commission's recommendation, the application shall be deemed denied.
- C) Permit Period. The Driveway Permit is effective for 12 months from the date of approval by Road Committee. The permit shall expire after 12 months unless renewed. The Road Committee may, at its discretion, renew the Driveway Permit for up to one additional 12-month period. If the driveway has not been constructed by the end of the renewal period, a new application must be submitted for consideration for approval.
- D) Driveway Inspection. The holder of the Driveway Permit shall notify the Town Clerk within 10 days of completion of the construction of the driveway. Within 30 days of notification, the Road Committee shall conduct an inspection of the driveway to ensure full compliance with all the provisions of this Ordinance and any Conditions of Approval on the Driveway

Permit. The Road Committee may require the applicant to make such modifications as are necessary to for such compliance and specify a date by which the modifications must be completed.

- E) Building Permits. No Building Permit for new building construction shall be issued until a Driveway Permit has been approved and no building construction shall commence until the culverts, if required, and the crushed aggregate subbase for the driveway has been constructed. The final application of gravel or other approved surface improvements, may be delayed until after heavy equipment needed for building activities will no longer be using the driveway. The Road Committee may waive the requirement that the construction of the culvert and /or crushed aggregate subbase be completed prior to commencing construction of any building(s) if:
- 1) Construction activities are reasonably unlikely to cause the tracking of soil, gravel, vegetation or other material onto the public roadway and
  - 2) Construction of the driveway is not necessary to allow for the safe and efficient access of construction vehicles entering or leaving the construction site.
- F) Application and Inspection Fees. The application fee for new construction of a driveway shall be a non—refundable fee of One Hundred Dollars (\$100.00). The application fee for modifications to an existing driveway shall be a non-refundable fee of Fifty dollars (\$50.00). All application fees shall be paid in full when an application is submitted.

#### **Sec. 7.05.06 Driveway and Culvert Location, Design, and Construction Requirements**

- A) General Design. Driveways shall be of such width and so located that all of such driveway is within the public road right-of-way fronting on the property served. Driveways shall not provide direct ingress or egress to or from any public road intersection area and shall not encroach upon or occupy areas of the road right-of-way required for traffic control, street signs, or signals. A driveway shall be so located and constructed that vehicles approaching or using it shall have adequate sight distance along the roadway. For snow storage, driveway approaches on adjoining properties shall be at least ten (10) feet apart and there shall be at least five (5) feet from the edge of the driveway to the side property line.
- B) Slope. No land with a slope of more than 20%, measured over a minimum distance of 20 feet, shall be disturbed for the construction of a driveway. The maximum final slope of any portion of the driveway shall be no more than 12%.
- C) Width.
- 1) The maximum surface width of a driveway providing access to a Commercial or Industrial Property shall be 30 feet. In instances where the nature of the commercial activity or the physical characteristics of the land would require a driveway of greater width, the Road Committee may grant special permission for a driveway of additional width provided that the applicant establishes that the additional width will not create any significant impairment of efficient traffic movements or cause any danger to the public.
  - 2) The surface improvements on all other driveways shall be a minimum of 12 feet wide.
- D) Juncture with Public Road. The slope of the driveway shall not exceed 5% from where the driveway enters the roadway to a minimum distance of 20 feet along the centerline of the driveway.
- E) Angular Placement. The centerline of a residential driveway shall be either parallel to the side property line of the lot it serves or at right angles to the edge of the pavement on the roadway. The angle between the centerline of commercial driveway and edge of the pavement on the roadway or curb line shall not be less than 70 degrees.

- F) Side Slopes. The side slopes adjacent to the driveway shall be graded to a slope of no more than 1 foot of vertical rise in each 4 feet of horizontal distance (1:4 or 25% slope). The side banks shall be constructed using earthen materials. Excluded from this grading requirement are driveways for which retaining walls and /or other erosion control measures are installed as approved by the Town.
- G) Clearance for Emergency Vehicles. An area 20 feet in width and 14 feet in height shall be cleared along the entire driveway in order to permit the safe passage of emergency vehicles to the structures served by the driveway.
- H) Structures in Town Road. No structures of any kind, including but not limited to concrete, stone, brick, wood or other types of retaining walls, pillars, walls, planters, etc, shall be constructed on any town road right of way unless approved by Road Committee.
- I) Culverts.
- 1) General. Culverts shall be installed prior to construction work being commenced on the property. All culverts shall be constructed of galvanized steel, concrete, or plastic or other material approved by the Road Committee, and shall be of sufficient gauge to provide adequate bearing capacity for vehicles expected to use the driveway.
  - 2) Minimum Size. Culverts shall not be smaller than fifteen (15) inches in diameter.
  - 3) Placement. Culverts shall be placed in the ditch line at elevations approved by the Road Committee so as to adequately convey water and assure proper drainage.
  - 4) End walls. All culverts shall have flare end wall sections so that backfill and cover material will not erode into the bottom of the ditch and reduce the capacity of the ditch and culvert. End walls also serve a safety function in that vehicles that inadvertently enter the ditch way may not be stopped as abruptly by the flared end wall. End walls or abutments constructed of timber or rock or similar materials are prohibited.
  - 5) Backfill and Cover Material. Culverts shall be covered with granular material compacted in place, or other material approved by the Road Committee. The minimum cover, measured from the top of the culvert to the top of the sub grade material, shall be six (6) inches.
- J) Drainage. Ditches along the road and culverts, if required for acceptable drainage, shall be provided by the property owner. The driveway shall be planned, constructed, and maintained in a manner that prevents surface water from the driveway discharging onto the pavement of the roadway or onto the lands of other persons. The surface of the driveway connecting with roadway cross sections shall slope downward and away from the roadway a sufficient distance to prevent debris and ordinary surface water drainage flowing onto the roadway. No driveway apron shall extend into the pavement of the roadway. All driveway entrances and approaches shall be so constructed that they shall not interfere with the drainage of road, ditches, or roadside areas or with any existing structure on the road.
- K) Surface Improvements
- 1) Driveways providing access to Commercial and Industrial Property shall be paved with asphalt or concrete. The minimum thickness of pavement shall be 2 inches of asphalt over 6 inches of crushed aggregate base course or 4 inches of concrete over 4 inches of crushed aggregate base course.
  - 2) All other driveways shall be constructed of gravel, asphalt, or concrete.
- L) Relocation of Utilities. Driveways should be planned as to not interfere with existing utilities. Approval by the owner of the respective utility is require before a Driveway Permit is issued that requires relocation of a utility. Cost of relocating utilities shall be the responsibility of the property owner.
- M) Variances. The Road Committee may grant a variance to any of the above requirements where the peculiar nature of the property or the design of the roadway may make the rigid

adherence to the above standards impossible or impractical. Variances, including justification for granting variances, shall be documented on the Driveway Permit

**Sec. 7.05.07**                      **Notification of Violation**

The Road Committee shall notify the property owner of any violations of this Ordinance or of any items that need to be completed pursuant to the terms of this Ordinance. Such notice shall be given to the property owner with a term of not less than fifteen days and not more than thirty days to correct or remedy the situation. However, if in the event the situation is one of an emergency, the time limits may be reduced. If in the event the violation, or completion of items, is not remedied within the required time period, the property owner will be subject to the sections relating to special assessments and penalties as provided in this Ordinance.

**Sec. 7.05.08**                      **Maintenance**

- A) Maintenance Responsibility. The property owner is responsible for maintaining the driveway approaches, culvert and ditch in such manner necessary to permit free and unobstructed flow of water. The Town does not assume any responsibility for the removal or clearance of snow and or ice, or the opening of windrows of such material, upon any portion of the driveway within the road right-of-way.
  
- B) Existing Driveways. When an existing driveway that does not meet the specifications established by this Chapter creates washing or other conditions that obstruct or become a potential hazard to a road, the Town shall notify the property owner of the conditions. If the property owner fails to correct such conditions within thirty (30) days after such notice, the property owner will be subject to the sections relating to special charges and penalties as provided in this Chapter.
  
- C) Public Road Improvements. When improvements to a roadway or drainage ditches are undertaken by the Town and require the removal of the that part of the driveway and/or culvert in the public road, the cost of reconstruction of the driveway and replacement of the culvert will be borne by the Town. The Town shall not be responsible for repair or replacement of concrete, stone, decorative pavement, brick, wood, end-walls, head walls, retaining walls, pillars, etc, constructed on the road right-of-way even if such were approved by the Town.

**Sec. 7.05.09**                      **Enforcement**

The Road Committee or Building Inspector may issue a stop-work order if a driveway, culvert, or other permitted construction, or any part thereof, is being installed contrary to the terms of this ordinance, the terms of the permit, or without a permit. Stop work orders shall be complied with immediately.

**Sec. 7.05.10**                      **Special Charges**

If any property owner violates this ordinance, the Town Board is authorized to implement any and all necessary actions in order to enforce the rules and regulations of this Ordinance. The costs incurred by the Town for the enforcement of this Ordinance, including any costs incurred to bring a driveway into compliance with this Ordinance or the terms of the owner's permit, shall be billed directly to the property owner as a special charge pursuant to Wis. Stat. § 66.0627. If the property owner has not paid within the time specified by the Town, the amount billed shall be delinquent and become a lien on the property as allowed by statute.

**Sec. 7.05.11 Penalties**

- A) Construction Without Permit. Any person who constructs or modifies any driveway without a permit as required by this ordinance, or who violates any stop work order issued by the Road Committee or Building Inspector shall forfeit not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) plus all applicable assessments, surcharges and court costs for each violation.
- B) Violations. Any person violates the provisions of this Ordinance shall, unless the violation is corrected within thirty (30) days of date of written notice from the Road Committee or Building Inspector, forfeit not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) per day plus all applicable assessments, surcharges and court costs for each violation. Each day that any violation continues shall constitute a separate offense.

**Section 2.** This ordinance shall take effect upon passage and publication as required by law.

ATTESTED:

APPROVED:

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Chairman

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

**CERTIFICATION**

I hereby certify that the above ordinance was duly adopted by the Town of LaValle, Sauk County, Wisconsin, by a least a majority vote of the members-elect of the Town Board on the \_\_\_\_ day of \_\_\_\_\_, 2009, and approved by the Town Chairman on the \_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Town Clerk