

**NEW HARTFORD TOWNSHIP
WINONA COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 5

**ORDINANCE REGULATING THE CONSTRUCTION
AND MAINTENANCE OF ACCESS DRIVEWAYS / APPROACHES /
CULVERTS
WITHIN THE TOWNSHIP**

NEW HARTFORD TOWNSHIP, WINONA COUNTY, MINNESOTA HEREBY ORDAINS:

1. All parts of ordinances in so far as they are inconsistent with the provisions of this Ordinance are hereby repealed.
2. All construction of access driveways, approaches, culverts, and other activities in public Township rights-of-way undertaken after the date of this enactment of this ordinance must comply with the terms of this ordinance.

Section 1. Authority

As a road authority, the Town Board has broad authority to regulate what occurs with the Town's Road rights-of-way. This chapter shall be interpreted consistently with Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the town and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050-7819.9950 and Minn. R., ch. 7560 where possible. This chapter shall not be interpreted to limit the regulatory and police powers of the township to adopt and enforce general ordinance necessary to protect the health, safety, and welfare of the public.

Section 2. Purpose

The purpose of this ordinance is to promote the public safety, the general welfare of the community and to enforce the goals and policies of New Hartford Township. This ordinance applies to the construction or modifications of access driveways, approaches and culverts located within New Hartford Township on New Hartford Township roadways.

Section 3. Definitions

Driveway is defined as a road or path giving access from a township road, private road or cartway to one or more dwelling units or commercial buildings located or to be constructed on adjacent lands.

Field Approach is defined as a path or access route from a township road to an adjacent field or pasture.

Section 4. Permit Required

- A. No person or company shall commence construction on any lot or parcel of land in the Town of New Hartford without first receiving an Access Driveway Permit from the Town Board of the Town of New Hartford.
- B. All persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway must apply for and obtain an access driveway permit from the Town Board or its representative as designated by the Tow Board prior to commencing construction. (See Appendix A)
- C. Every application for an access driveway permit shall provide such information as the Town Board may require. (See Appendix A)
- D. No access driveway permits shall be issued to persons not in compliance with the terms of this Ordinance.

Section 5. Conditions of Permit--New Construction

- A. No work under this provision is to be started until the Town Board or its designee approves the access driveway permit application and all applicable provisions for fees. Cost of construction and related hardware (aprons) is the responsibility of the homeowner.
- B. A driveway must contain a depth of 6 inches of clean rock for at least 50 feet from the Township Road before any footings are poured for construction on the site.
- C. Dirt or debris from access driveway/approach/culvert construction activities are NOT ALLOWED on Township roads and shall be removed immediately.

Section 5.1. Additional Conditions of Permit

- A. All work performed by the applicant covered in this Ordinance shall comply with all the specifications contained on attached Appendix B and any additional requirements of the Town Board or their designee.
- B. No driveway/approach/culvert shall cross a wetland unless the wetland permit has first been obtained.
- C. The applicant shall allow such persons as the Town Board or designee shall designate to enter onto the property to inspect prior to the issuance of the permit during the progress of the work and the finished work.
- D. Unless a written extension of time has been granted by the Town Board or its designee, if work is not completed within 1 year of the date of issuance of the permit, any driveway/approach/culvert permit which has been granted under this ordinance is void. Applicant must reapply for a permit should they wish to continue with work covered under this Ordinance.

- E. If required by the Town Board or its designee, the applicant shall provide and install the necessary culvert and aprons for the driveway or entrance pursuant to the Township's specifications.
- F. The applicant shall furnish and place all soils needed in the construction or reconstruction of the driveway and/or entrance embankment.
- G. Unless otherwise agreed to by the Town Board or its designee, the applicant will surface with gravel that portion of the driveway or entrance within the road right-of-way. Any concrete driveway shall end a minimum of 3 feet from the roadway surface. The gap shall be either asphalt or gravel.
- H. Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant.
- I. The roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.
- J. The applicant must place stakes in exact location of the proposed driveway prior to review by Town Board or its designee, and again prior to culvert delivery.
- K. If any excavation is to take place, "Gopher State One Call" is to be notified at 811 or 651-454-0002 or 800-252-1166 prior to start of construction.
- L. During construction of driveway/approach, erosion control measures must be taken.
- M. After construction is completed, the driveway and culvert, if applicable, shall remain clean and free of debris at all times. Site restoration shall be deemed acceptable once final seeding has occurred and said work has been approved by the Town Board or designee.
- N. Any person constructing a driveway connecting to a Township Road will construct the drive so that the first 15 feet from the edge of the Township Road will have a downslope away from the road of 8 degrees to prevent road damage.
- O. Before work can begin in the right-of-way, a completed Access Driveway Permit Application must be submitted to the Town Board or its Designated Representative.
- P. An application for an Access Driveway Permit shall be accompanied by a site plan and any supporting documentation showing the location of existing streets, property lines, utilities, easements, revocable licenses or permits, driveways and structures on the parcel, the type and intensity of existing and proposed land uses, and the proposed location of driveways and parking areas.
- Q. Refer to the "ACCESS MANAGEMENT and RIGHT-OF-WAY ORDINANCE" Sections 3 and 4 for additional driveway criteria.

Section 5.2. Reconstruction, Relocation or Alterations of Driveways or Change of Use

- A. Applies to any construction, relocation or alteration of an access connection within the right-of-way of any Township Road or where a change of use is proposed for a property with existing access connection to a Township Road right-of-way. Alterations include the widening of an existing access or changes to an existing culvert including lengthening or replacement. A change of use is defined to include:
1. A change in the primary use of the land (e.g., agricultural to residential, residential to commercial, etc.). An access permit is granted for a specific use, and a new permit is required when a use changes since the location of an access connection may be suited for one use but not another. This includes changing the use of an existing field access.
 2. A substantial enlargement or expansion in the intensity of land use served by a private street or driveway is proposed, defined as.
 - a. an increase in the gross floor area of a structure serving a primary use by 25% of 750 square feet, whichever is greater: or
 - b. an increase in the number of parking stalls by 50% (fifty percent) or 10 stalls, whichever is greater.
 3. Changing the boundaries of a parcel or group of parcels where the change will result in increasing the number of lots with frontage on a Township Road or a reduction in lot frontage below the minimum access connection spacing requirements of this ordinance.
- B. When access connection(s) already exist on a parcel for which an access permit is requested, or on adjacent parcels under common ownership, all existing access(es) which are non-conforming with approval of the access permit will be reviewed and may be subject to modification as part of the access permit to insure the greatest level of consistency with the requirements of the Ordinance.
- C. The Town Board or its designee shall be notified where reconstruction of existing conforming access connection is proposed, but such action shall not require payment of a permit fee if the proposed action involves only the replacement and not alteration of the in-place access.

Section 5.3. Discontinuance of Existing Driveway

When a change of use requiring a new Driveway Access Permit results in relocation of an access connection, existing driveways not approved for continuance shall be removed and the land graded and landscaped to conform with adjacent land and any curb cut, if curb is present, shall be filled in with curb and gutter per the standards of New Hartford Township.

Section 6. Inspection of the Work and Fees

- A. Prior to the construction of the driveway and installation of the culvert, the applicant shall meet with the Town Board or its designee at the site to inspect the site, to determine the location of the driveway or field approach, and to determine the scope of the work to be performed. Every new driveway or field approach shall also be required to have an inspection after the work is completed.
- B. Applicant shall be responsible for any cost incurred by the Township relating to the construction of the driveway or installation of the culvert including, but not limited to, repairing damage to any roadways as a result of the construction of the driveway and the installation of the culvert, turf establishment and removing unacceptable existing driveway on the property. The applicant shall be billed directly and agrees to pay such costs prior to the project receiving final approval.
- C. After construction is completed, the applicant shall notify the Township that the work has been completed and is ready for final inspection and approval by the Town Board or its designee.
- D. No changes or alterations in the approved construction may be made at any time without the written consent of the Town Board or its designee.
- E. If at the time of final inspection, the driveway and related grading and turf establishment is found to be acceptable, the project will receive final approval by the designee of the Town Board or at the next Township Board meeting.

Section 7. Indemnification

- A. The applicant, his successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to release New Hartford Township, its officers and agents, from any and all liability and claims concerning the herein above-described permit request, construction of the subject work, and the finished driveway or entrance.
- B. The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to hold harmless, indemnify, and defend New Hartford Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, the construction of the subject driveway/approach/culvert, and the finished driveway/approach/culvert and further shall be deemed to have consented to the assessment of clean-up costs as set forth in this Ordinance.
- C. The Township shall have no responsibility to repair a driveway that encroaches upon a public right-of-way that is damaged during the course of Township maintenance of the roadway.

Section 8. Violation

- A. A violation of this Ordinance shall be grounds for the immediate revocation of the access driveway permit.

- B. In the event of a violation of this Ordinance, the Town Board may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the Township determine to correct or abate such violations, the applicant or property owner shall be invoiced for the Township's cost which shall be paid within 30 days of the date of the invoice. Should the applicant or property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat§ 366.012.
- C. Further, each day of violation of this Ordinance shall be deemed a misdemeanor for which the Township may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

Section 9. Separability

It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following: If any court or competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in such judgement.

Section 10. Effective Date

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the Town Board of New Hartford Township this 13th day of October 2022.

Joseph Baumgardner
 By: Richard Johnson
 Its: Larry Moldenhauer

Andrea Erdmann - clerk
 By: _____
 Its: _____

APPENDIX A
TOWNSHIP ACCESS DRIVEWAY PERMIT APPLICATION
 Print or type application.

Township: _____ Permit#: _____ Township Road: _____

Name of Applicant	Address	Phone
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Property Owner	Address	Phone
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Driveway Installer	Address	Phone
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Legal Description of Property: _____

The undersigned hereby applies for permission to construct the Access Driveway at the above location, said Driveway to be constructed to conform to the regulations of the said Township as adopted by the Township to include any special provisions included in the permit. It is agreed that all work will be done to the satisfaction of the Town Board. Any culvert required shall be provided to Applicant by the Township with Applicant paying the Township's actual cost; provided, that Applicant may use own culvert subject to prior approval of culvert by Town Board before installation. It is further agreed that no work in connection with this application will be commenced until the application is approved and the permit issued. This permit is conditioned upon the replacement or restoration of the roadway to its original or to a satisfactory condition as determined by the Town Board; provided further that the driveway as installed shall be blended with the Township Road and be no higher than the roadway elevation where the driveway meets the road. Any Violation of said Ordinance is a misdemeanor and punishable by a fine not exceeding the maximum limit established by Minnesota Statutes for the punishment for misdemeanors. Each day's violation shall be a separate offense.

Date

Signature of Applicant