

CHAPTER 12

LAND SPREADING, STORAGE AND SOIL INCORPORATION OF WASTE

SECTION 1 – PURPOSE

This Chapter is intended to protect property values, to prevent blight and deterioration of areas within the Town, and to enhance the quality of life within the Town by the regulation of the storage, ground surface application, and soil incorporation of waste produced outside of the Town.

SECTION 2 – DEFINITIONS

The following definitions apply to this Chapter:

A. “Waste”: Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant or air pollution control facility and other discarded or salvageable materials, including solid, liquid, semi-solid, or contained gaseous materials resulting from industrial, commercial, mining and agricultural operations, and from community activities, but does not include animal manure, or animal manure mixed with organic bedding material.

B. “Organic Waste”: Waste that is derived from living organisms.

C. “Inorganic Waste”: Waste that is not derived from living organisms.

D. “Commission” or “Plan Commission”: The Town of Auburn Comprehensive Plan Commission.

E. “Person”: Any individual, partnership, limited liability corporation, limited liability partnership, firm or corporation.

F. “Store”: To keep or maintain an item or material in any quantity and whether in a container or vehicle or building and whether on or underneath the surface of the ground.

SECTION 3 – STORAGE, APPLICATION, INCORPORATION OF WASTE.

A. It shall be unlawful for any Person to Store at any location within the Town of Auburn or apply to the surface of the ground or incorporate into the soil of any lands within the Town of Auburn, Inorganic Waste produced outside the Town of Auburn.

B. It shall be unlawful for any Person to Store at any location within the Town of Auburn or apply to the surface of the ground or incorporate into the soil of any lands within the Town of Auburn, Organic Waste produced outside the Town of Auburn without first having obtained a conditional use permit therefore from the Plan Commission.

SECTION 4 – APPLICATION, HEARING, NOTICE AND CONDITIONAL USE PERMIT.

A. Application for a conditional use permit shall be made in writing upon a blank form to be furnished by the Plan Commission. The application fee of \$100.00 shall accompany the application when it is filed with the Town. Such application shall state the name and address of the applicant, the name and address of the owner of the premises on which the Waste is proposed to be placed, and the legal description of the premises on which the Waste is proposed to be placed. Such application shall also specifically identify the type of Waste, how and when the applicant proposes to use the Waste and such other information as the Plan Commission may require.

B. The Plan Commission shall, not later than twenty-one (21) days after the receipt of the application, hold a hearing at which the applicant, members of the public, and other persons interested may be heard on the application. Notice of the hearing shall be published as a Class One Notice under Chapter 985, Wisconsin Statutes.

C. At the conclusion of the hearing on the application or any adjournment thereof, but in any event, not less than twenty-eight (28) days after receipt of the application, the Plan Commission shall decide whether to grant or deny the permit and determine what restrictions and limitations, if any, shall be placed on the permit.

D. Restrictions and limitations that may included in the permit by the Plan Commission shall include the use to which Waste may be put; quantities of Waste that may be used; how the Waste must be stored; if used as a fertilizer, whether the Waste may be applied to the surface of the soil or incorporated into the soil; the number of times or the period of time, including the number of hours and time of day of the application in which Waste may be used; and other restrictions and limitations that further the stated purpose and intent of this subsection.

SECTION 5 – 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 not less than \$100.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. However, the maximum forfeiture portion of charges shall not exceed \$2,500.00. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

SECTION 6 – SPECIAL ASSESSMENT

Should any Waste be stored, spread, or incorporated into soils in violation hereof and the owner of the parcel refuses or neglects to correct the same within ten (10) days of notice being sent to the record owner, then, in that event, the Town may enter on the premises without further notice and correct any violations found. The costs of said corrections shall be chargeable against the owner and may be assessed against and collected from the affected real estate as a special assessment or special tax. This remedy is in addition to all other available under this ordinance or otherwise provided for by law.

CHAPTER 13

LITTERING

SECTION 1 - LITTERING PROHIBITED

No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the Town or upon any private property not owned by him or upon the surface of any body of water within the Town.

CHAPTER 14

PROHIBITION OF DISORDERLY CONDUCT

SECTION 1 – DISORDERLY CONDUCT PROHIBITED

No person shall within the Town:

1. In any public or private place engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct which tends to cause or provoke an immediate disturbance of public order or tends to disturb or annoy any other person or persons.
2. Intentionally cause, provoke or engage in any fight, brawl, riot or noisy altercation other than a bona fide athletic contest.

CHAPTER 15

ALL TERRAIN VEHICLES/MOTORCYCLES

SECTION 1 – APPLICABILITY

The provisions of this section shall apply to all roads and trails located on lands owned, leased or administered by Chippewa County under the management supervision and control of the Land, Forest, Parks and Conservation Committee. It shall include all designated trails within the County developed by Chippewa County and/or the Wisconsin Department of Natural Resources.

SECTION 2 - DEFINITIONS

In this ordinance:

- A. All Terrain Vehicle means an engine driven device which has a net weight of 950 pounds or less, which has a width of 48 inches or less, which is equipped with a seat designed to be straddled by the operator and which is designed to travel on 3 or more low pressure tire. A low pressure tire is tire which has a minimum width of 6 inches, which is designed to be mounted on a rim with a maximum diameter of 12 inches and which is designed to be inflated with an operating pressure not to exceed 6 pounds per square inch as recommended by the manufacturer.
- B. All Terrain Vehicle Route means a highway or sidewalk designated for use by all terrain vehicle operators by the governmental agency having jurisdiction over said route.
- C. All Terrain Vehicle Trail means a marked corridor on public property or on private lands subject to public easement or lease, designated for use by all terrain vehicle operators by the governmental agency having jurisdiction over said trail.
- D. Motorcycle means a motor vehicle, excluding a tractor or all terrain vehicle, which is capable of speeds in excess of 30 miles per hour with a 150 pound rider on a dry, level, hard surface with no wind with a power source as an integral part of the vehicle and having either two wheels in tandem or three wheels.
- E. County Lands means all lands owned, leased or administered by the County, including lands contained in County Forests or County Parks.

Also including land interests acquired by granting of easements to the County.

- F. County Forest Road means a public highway with a minimum roadway width of 20 feet and a surface width of 16 feet that receives transportation aids from the State Department of Transportation, in accordance with State Statute Section 86.315.

SECTION 3 - ADOPTION OF STATE STATUTE AND CODE

Wisconsin Statute Section 23.33, Section 895 and Wisconsin Administrative Code NR 64 and any future amendments to the same are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.

SECTION 4 - RESTRICTED USE OF MOTORCYCLES

No person shall operate a motorcycle on County lands, subject to the following:

- A. Licensed motorcycles may be operated on County Forest Roads within County lands for which the County has received State aids.

SECTION 5 - RESTRICTED USE OF ALL TERRAIN VEHICLES

No person shall operate an all terrain vehicle on County lands, subject to the following:

- A. No person shall operate an all terrain vehicle on County lands except on designated all terrain vehicle trail(s).
- B. No person shall operate an all terrain vehicle at a speed in excess of tens miles per hour on any portion of a designated all terrain vehicle trail(s) that is posted with caution signs consisting of black symbols or letters on yellow backing.
- C. Operators of all terrain vehicles must abide by all regulatory trail signs.
- D. No person shall operate an all terrain vehicle on any designated all terrain vehicle trail(s) at such times that said trail(s) are closed. Said designated trail(s) shall generally be open from May 1 of each year to November 15 of the same year. The county Forest and Parks Administrator may, in his sole discretion, close such designated all terrain vehicle trail(s) at such other times in furtherance of his/her duties.

SECTION 6 - RESTRICTED USE OF ALL TERRAIN VEHICLES DURING DEER GUN SEASON

No person shall operate an all terrain vehicle on County lands during Deer Gun Season, except as follows:

- A. No person shall operate all terrain vehicles during the hunting hours of gun deer season each year as such season and hours are established by the Wisconsin Department of Natural Resources.
- B. During the gun deer season, operation of an all terrain vehicle is permitted on designated all terrain vehicle trail(s) after hunting hours and up to midnight of each day and for the sole purpose of retrieving a deer carcass.

SECTION 7 - OBSTRUCTIONS

No person shall place or part any obstruction, including any motor driven vehicle, on the maintained portion of any designated all terrain vehicle trails(s).

SECTION 8 - ABANDONED VEHICLES

No person shall leave any motor driven vehicle unattended in any County Forest or other County lands for more than 48 hours under such circumstances as to cause the vehicle to reasonably appear to be abandoned. Such abandoned vehicle shall constitute a public nuisance.

SECTION 9 - TRAIL GATES AND SIGNS

No person shall damage, destroy or remove any gate or sign on County lands which are placed by the County.

SECTION 10 - EXCEPTIONS.

- A. Nothing in this chapter shall prohibit or hinder the County Forestry, Law Enforcement or Medical Emergency personnel from performing their official duties on County Lands.
- B. The County Forest and Parks Administrator shall have the authority to issue special use permits for all terrain vehicles on County lands. Such permits may be issued in the following instances: physically disabled persons (as defined in the Wisconsin Statutes and Wisconsin Administrative Code), and for activities beneficial to County Forests and Parks Department, to include: trapping nuisance animals, cleanup activities including firewood gathering by permit, trail maintenance

activities, logging activities authorized under timber sales contracts with the County and investigating established timber sales for timber procurement. Issuance of such special use permits shall be subject to the review of the County Land, Forests and Parks Committee. The County Forests and Parks Administrator may revoke such special use permits in the event any of the provisions of the same are violated by the permittee.

SECTION 11 - PENALTIES

Any person violating the provisions of this Ordinance shall pay a forfeiture as follows:

For the first offense - \$100.00.

For the second offense - \$250.00.

For the third offense - \$500.00.

Costs of the action shall also be paid and in default of payment of any of the above fines imprisonment in the County Jail until said forfeiture and costs are paid, but not to exceed 30 days.

CHAPTER 16

RECYCLING

SECTION 1 - PURPOSE

This municipality has heretofore, pursuant to 159.09, Wis. Stats., designated Chippewa County as the responsible unit of government. The Chippewa County Board of Supervisors adopted Chapter 13 of the general Code of Ordinances titled "Chippewa County Responsible Unit Recycling Ordinance" to establish rules for the implementation of recycling in the Chippewa County responsible unit areas. Section 13.09 of the Chippewa County ordinance requires that local municipalities, singularly or joint, establish a system of regularly scheduled collection of recyclables and/or establish a drop off center for the receipt of the recyclables and adopt a companion ordinance consistent with Chapter 13 which shall include rules and procedures for the preparation and collection of separated materials. The purpose of this ordinance is to set forth the rules and procedures for this municipality.

SECTION 2 - DEFINITIONS

In this ordinance:

- A. The definitions of Chippewa County Ordinance 13.04 are hereby adopted by reference and made a part hereof.
- B. Recyclable materials means the following:
 - 1. Lead acid batteries
 - 2. Major appliances
 - 3. Waste oil
 - 4. Yard waste
 - 5. Aluminum containers
 - 6. Bi-metal containers
 - 7. Corrugated paper or other container board
 - 8. Glass containers

9. Magazines and other materials printed on similar paper
10. Newspaper and other materials printed on newsprint
11. Office paper
12. Rigid plastic containers, made of PETE (#1) & HDPE(#2)
13. Steel containers
14. Waste tires

C. Municipality means the Town of Tilden, Chippewa County, Wisconsin.

SECTION 3 - MANDATORY SEPARATION OF RECYCLABLES.

1. **Mandatory Separation:** All persons generating or possessing recyclable materials, including occupants of single family and two-four unit residence, multi-family dwellings, and non-residential facilities and properties, shall separate recyclable materials from garbage and refuse.
2. **Disposal of Recyclable Material:**
All recyclable materials under this ordinance shall be delivered to a recycling center designed to receive and collect same, either by the person generating or possessing recyclables, designated agents, or licensed haulers.
3. **Recyclable materials, except yard waste, shall be transported by the owner or the owner's designee or hauler to a recycling center designated to receive and collect same. Yard waste as described in 13.04(33) of the County Ordinance may be delivered to a recycling center and managed on site in accordance with this municipality's guidelines or land spread at an approved location in accordance with NR518 Wisconsin Administrative Code.**

SECTION 4 - RULES AND PROCEDURES FOR RECYCLING CENTER USE.

This municipality has established a drop-off center for the receipt of recyclables located at the Tilden Town Hall.

1. **Hours:** The recycling center shall be open and available for business on the following days: Saturday during the following hours: 8 a. m. to 1 p.m.
2. **Deposit.** The recycling center shall provide individual containers for each type of recyclable materials. Deposits shall be made to the appropriate container. No

deposits of garbage or refuse shall be made in the recycling bins. Garbage or refuse shall be placed in its own appropriate container.

3. Condition of recyclables. Depositors to the recycling center shall deposit recyclable materials in condition prescribed by the center manager, including:
 - A. All recyclable materials shall be rinsed and reasonably clean and free of food and refuse.

SECTION 5 - RULES AND PROCEDURES FOR CURBSIDE PICK-UP

This municipality authorizes haulers to implement a recyclable schedule of curbside pick-up for recyclable material as subject to the following:

1. Collection Schedule. Each hauler shall establish a regular schedule for collection for solid waste and recyclable materials. The schedule shall be delivered to each of the hauler's customers and the municipal clerk.
2. Containers. Each hauler shall prescribe specifications for containers and placement of the containers. The hauler may provide containers or require the owner to secure same according to hauler designation.
3. Hauler's Charges. Each hauler shall, at the time of license application, file with the municipal clerk, a schedule of solid waste and recyclable collection charges to be in effect for the license year.

SECTION 6 - SCAVENGING

1. No person may enter the recycling facility and take possession of any recycling materials without the express consent of the center manager.
2. No person shall enter the property of another and take possession of any recyclable materials without the expressed consent of the property owner.

SECTION 7 - SPECIAL MULTI-FAMILY AND NON-RESIDENTIAL PROVISIONS

Section 13.06 of the Chippewa County General Code of Ordinances is hereby adopted by reference and made a part hereof.

SECTION 8 - LARGE OUTDOOR EVENTS

Section 13.07 of the Chippewa County General Code of Ordinances is hereby adopted by reference and made a part hereof.

SECTION 9 - PARKS, WAYSIDES, BALLFIELDS AND RECREATIONAL AREAS

Section 13.08 of the Chippewa County General Code of Ordinances is hereby adopted by reference and made a part hereof.

SECTION 10 - DUMPING

It shall be unlawful for any person to dispose of or dump garbage, refuse or recyclable materials in any roadway, street, alley, or other public place within this municipality or in any receptacle or on private property of another without the owner's expressed consent.

SECTION 11 - HAULER PROVISIONS

1. Hauler restrictions. Haulers may not dispose in a landfill or burn in a solid waste facility any recyclable materials generated in this municipality that have been separated for recycling. Haulers have a right to reject and leave uncollected any recyclable materials that are not separated in accordance with the specifications of this ordinance or by the Chippewa County Ordinance Chapter 13.
2. Reporting. Recycling haulers are required to maintain records and report in writing to the municipal clerk and County Solid Waste Coordinator at such times as designated by the County Solid Waste Coordinator, but not less than quarterly. The report shall include the amount of solid waste and recyclables collected and transported from the municipality, the amount of solid waste and recyclables processed and/or marketed by item type, and the final disposal location of solid waste and recyclable materials. Failure to make such records shall be a cause for the municipality to revoke the license or sever any contract with the hauler.
3. Volume Based Rates. Each hauler shall provide volume based rate schedule for garbage service to be assessed on a per container basis with the base level of service not to exceed one 45 gallon container per week. The schedule and any revisions thereof shall be filed with the municipal clerk and County Solid Waste Coordinator prior to implementation or revision of said schedule.

SECTION 12 - LICENSE

1. DNR License. No person shall engage in the business of hauling recyclables within this municipality without being licensed by the Department of Natural Resources under Section NR502.06 of the Wisconsin Administrative Code.

2. License. No person shall engage in the business of hauling recyclables or solid waste within this municipality without a municipal license.
3. Each Hauler shall pay an annual municipal license fee of \$10.00. The fee is for a calendar year and is not refundable. Application for license shall be made on or before December first prior to the license year, except that for 1994, the license application shall be made within 30 days after passage of this ordinance. License or permit fees paid pursuant to other ordinances or resolution shall not be a credit to the fee required by this ordinance.

SECTION 13 - MISCELLANEOUS PROVISIONS

1. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate, annul, impair or interfere with any existing rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this ordinance imposes greater restrictions, the provisions of this ordinance shall apply.
2. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this ordinance may be inconsistent or conflicting, the more restrictive requirements or interpretation shall apply. Where a provision of this ordinance is required by Wisconsin Statutes, or by a standard in Chapter NR544, Wisconsin Administrative Code, and where the ordinance provision is unclear, the provision shall be interpreted in light of the Wisconsin Statutes and the Chapter NR544 standards in effect on the date of the adoption of this ordinance, or in effect on the date of the most recent text amendment to this ordinance.

CHAPTER 30

FIRE SUPPRESSION

SECTION 1 - SERVICE CHARGES FOR FIRE SUPPRESSION AND SPILL/LEAK CLEANUP COSTS

- A. Person responsible for personal property and the owners of real property with respect to which Fire Calls and Spill/Leak cleanup are made by the Fire Department within the township limits of the Town of Auburn shall be responsible for assessments for the following services rendered and equipment used by the Fire Department:
1. Engines per hour
 2. Brush truck per hour
 3. Tanker per hour
 4. A flat fee for the equipment vans
 5. Each man-hour of deployment of fire department members
 6. Each one thousand (1,000) gallons of water used
 7. Responses to motor vehicle accidents and/or fuel spill/leak cleanup
 8. Right of way fires caused by motorists
- B. Charges assessed under 1., above, shall not exceed \$500.00 per Fire Call.
- C. For purpose of this ordinance, "Fire Call" shall mean each time that the Fire Department is required to make a service call pertaining to a given parcel of real estate or item of personal property on fire on a public right of way caused by an identified person.
- D. Charges under subsection (a), above, shall be billed to the responsible person, with respect to Fire Calls made pertaining to personal property and to the owner of the real property to which a Fire Call is made. With respect to charges for services rendered with respect to real property, if said charges remain unpaid on the first day of November next following the billing of the same, the amount shall be added to the property tax bill attributable to said real property, all in accord with 66.0627, Wis. Stats.

- E. the specific amount of each fire or cleanup to be assessed for services rendered and equipment used under (a), above, shall be established and may thereafter be amended, from time to time, by resolution of the town board.

SECTION 2 - FALSE ALARM COSTS TO BE ASSESSED

In the event that the Fire Department responds to what is determined to be a false alarm, the first such response to a parcel of real estate within a twelve (12) month period of time shall not be charged to the real estate. However, the costs of the second such call and each subsequent call within twelve (12) months of the first such call shall be charged to the parcel of real estate in question. Charges shall be assessed in accord with the schedule under Section 1(a), subject to the limitation under Section 1(b).

Service Charges for Fire Suppression Township of Auburn

Date/Time of Incident

Date of Bill

Responsible Person:

Address:

Billing Details:

Fire Calls

Engines at \$200.00/hour:

Brush Truck at \$100.00/hour:

Tankers at \$50.00/hour:

Equipment Van at \$100.00/hour:

Water per 1,000 gallons:

Labor for Firefighters

Officers - \$16.00/hour

General firefighters - \$13.00/hour

Motor vehicle accidents

Engine/Tanker \$100.00/hour

Jaws of Life tools \$200.00

Labor – Officers - \$16.00/hour

TOTAL CHARGES =

Please make payment to "Township of Auburn" and submit payment to:

Brian Bleskacek
Bloomer Fire Department
315 17th Avenue
Bloomer, WI 54724

CHAPTER 40

ROAD CONSTRUCTION

SECTION 1 – PURPOSE

This is an Ordinance to establish rules and regulations to enable development in the Town of Auburn to occur in an orderly manner.

SECTION 2 – SPECIFICATIONS AND REQUIREMENTS

Before the Town Board will accept any road or right-of-way for maintenance purposes, the following requirements and specifications must be met:

1. Three (3) copies of a scale drawing of the proposed road indicating location and showing relief of the area with two (2) foot contour elevations shall be submitted to the Town Board. Included in the drawing shall be the area that will be served by the road and the manner in which drainage from the area served is to be treated. If the road is not included in a subdivision, then a certified survey of said road shall be provided and a deed, or deeds, of all road rights-of-way shall be tendered showing transfer to the Town of Auburn.
2. The following specifications shall be the minimum standard for all road construction:
 - A. Road Right-of-Way ----- 66 feet (4 rods)
 - B. Surveyed, Staked & Dedicated Roadbed ----- 28 feet
 - C. Roadway Width (Base Course) ----- 28 feet
 - D. Traffic Lanes (Surfaced Area) -----20 feet
 - E. Maximum Grade ----- 10 per cent
The establishment of grade will be provided by the Town of Auburn.
 - F. No road shall dead-end without a permanent or temporary cul-de-sac with a radius of at least 60 feet.
 - G. Road, ditch profile – ten to one (10-1) or 10% minimum of 6 feet from edge of base course to the edge of ditch.

All ditches shall be seeded, sodded or provided with sodded check dams at the discretion of the Town Board.

All portions of the right-of-way beyond the edge of the base course that are disturbed at the time of construction shall be adequately seeded or sodded to the Town Board's approval to prevent erosion.

H. There shall be sand fill to within six (6) inches of grade. There shall be no trees or stumps allowed in said fill.

I. Bridges and Culverts:

Culverts and culvert size shall be approved by the Town Board and be adequate to handle maximum vehicle load expected; size and diameter shall be adequate to drain the area without subsequent ponding during heavy runoff.

The Town Board may require drainage calculations for any culvert placement, the cost of which shall be borne by the developer or owner.

If at any time it is decided by the Town Board that the construction of a culvert or bridge would be of a size and cost that would create a hardship to the owner or owners of land required to build said culvert or bridge, then the Town Board may proceed to accept the road, complete as required by the above-rules and regulations, except those parts extending 100 feet on each side of said culvert or bridge will hereafter be known as the approach. Said approach shall be accepted incompleated, with the reservation that the Township will bill back to the owner or owners a portion of the costs of construction of said culvert or bridge and approach with the help of bridge aid, if available; the balance of the cost of construction not covered by said aid will be charged to the owner or owners of land abutting the road.

J. Road Construction Material:

Base Course shall be a compacted four (4) inch minimum of crushed gravel, crushed lime rock or other such materials as approved by the Town Board. Base course shall be allowed to season for one winter before application of bituminous paving.

Bituminous paving shall be applied no sooner than six (6) months and no later than thirty-six (36) months after application of base course.

Bituminous paving shall conform to W.S.H.O. specification gradation #2 and shall be applied to a depth of two (2) inches compacted. The Town of Auburn shall have the privilege of sampling material at the plant and also

on the roadway for a period of fifteen (15) days after application to determine acceptability.

SECTION 3 – PERFORMANCE BOND

In lieu of waiting until construction is complete to accept a road, the Town Board may accept a Performance Bond from a developer. This Bond would be so contracted as to guarantee upon signing of both parties, that the road bonded would be completed to the specifications before mentioned or the Town Board could exercise said Bond to complete the intended improvements.

SECTION 4 - INSPECTION AND ACCEPTANCE

The Town Board, or its designated road superintendent, shall visually inspect any road before approval and acceptance, and, if the improvement passes inspection, the Town Clerk will issue a letter to that effect. The developer shall within ten (10) days thereof submit a deed conveying said improvement to the Town Board.

Note: Subdivisions automatically dedicate and transfer road rights-of-way when properly recorded. It shall be the responsibility of the developer to obtain acceptance of the improvement by the Town Board by correcting any problem leading to non-acceptance thereof upon first inspection. The developer shall be allowed one year to correct or rectify any said problem prior to the Town of Auburn proceeding to correct or rectify the problem and assessing developer the respective costs thereof.

CHAPTER 41

DRIVEWAY AND HIGHWAY ACCESS PERMIT

SECTION 1 – TITLE AND PURPOSE

The purpose of this ordinance is to regulate, 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 Auburn, 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 2 – AUTHORITY

The Town Board has the specific authority under ss. 66.0425 and 86.07, Wis. Stats., to adopt a town highway access permit ordinance, and has the general authority under its village powers under s. 60.22, Wis. Stats., to adopt this ordinance.

SECTION 3 – DEFINITIONS

In this ordinance:

- A. “Prime or productive agricultural or forestry land” means any land with 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. “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 or will connect with any public highway, and will provide vehicular access from the highway to a residence, business, recreational site, or other similarly appropriate use.
- C. “Emergency vehicle” means any fire, police, ambulance, or first responder vehicle used in emergency or hazard activities in the town.
- D. “Impacted landowner” means an owner of real estate that is provided vehicular access to a public highway by a driveway determined to be unsafe.
- E. “Town” means the C Wisconsin.

- F. "Town Board" means the board of supervisors for the Town of Auburn, Chippewa County, Wisconsin and includes any designee of the board authorized to act for the board.
- G. "Town Clerk" means the clerk of the Town of Auburn, Chippewa County, Wisconsin.
- H. "Wis. Stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION 4 – COVERAGE

- A. No person may 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 in relation to the connection of the highway or highway right-of-way to a driveway, whether new or previously existing, without first obtaining a Town Driveway Permit to be issued by the Town Board.
- B. No person may establish or construct a driveway or reconstruct, reroute, or alter any highway access onto a town highway without first obtaining a Town Highway Access Permit to be issued by the Town Board.
- C. Any person prior to and at the time of seeking a Town Driveway Permit or a Town 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.
 - 1. 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 if the driveway, for any structural, location, deterioration, 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 property 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 of general public or emergency vehicles. 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. 85.07, 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 20 days of the making of the written determination and at least 10 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 property.
 - 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 property 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 against the land under its police power under ss. 66.0701 and 66.0703, Wis. Stats.
 - 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 5 – SPECIFICATIONS

All driveways in the Town for which a Town Driveway and Highway Access Permit is required under Section VI shall meet all of the following minimum requirements. Unless specifically excepted by the Town Board, no permit shall be issued unless the materials submitted as required under Sections VIII and IX demonstrate compliance with the requirements of this section:

- A. Culverts are required to be installed as directed by the Town;
- B. Culverts must be a minimum of 40 feet in length;
- C. Culverts must have at least a 15 inch diameter;
- D. Culverts must have double-walled construction;
- E. The Driveway shall slope away from the municipal road for at least twenty-three (23) feet;
- F. Driveways shall have at least two (2) inches of base course covering for at least twenty-three (23) feet extending back from the municipal roadway; and
- G. Construction shall materially comply with the approved driveway plan.
- H. The Driveway, if used for commercial or industrial purposes, may not be located less than three hundred (300) feet from a neighboring Property Line. This provision does not relate to residential or agricultural purpose driveways unless said use is accompanied by or includes a retail business that results in more than occasional vehicular traffic. "Property Line" does not include public road right of way lines.

SECTION 6 – APPLICATION AND 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 Town Highway Access Permit shall submit to the Town Clerk a completed application for each access together with the appropriate fee(s) and with the following attachments:
 - 1. Sketch Map. A rough sketch showing the conceptual idea of the project and approximate location and dimensions of the project. Neighboring access points shall be depicted. The sketch map may be submitted to the town board

prior to the preparation or submission of the other supporting documents in order for the Town Board to provide initial comments and review of the proposal. However, formal approval for a Town Driveway Permit or Town Highway Access Permit may not be granted without the submission of complete supporting documents.

2. Soil/Slope Analysis
3. Other Documents. The Town Board may require other documents to be presented prior to final action on the application.

C. Review. Upon the filing of the complete application and application fee with the Town Clerk, the application shall be reviewed in a reasonable amount of time as follows:

- A. The Inspector and any two Town Board Members may approve the application or, if the Inspector, in his discretion, determines that the application presents issues that should be resolved by the Plan Commission and Town Board, schedule a meeting on the application before the Town Plan Commission.
- B. If requested by the Inspector, the Town Plan Commission shall hold a meeting on the application.
- C. After the Plan Commission holds the meeting on the application, it shall recommend approval, conditional approval, denial or tabling of the application.
- D. 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. The Town Board's determination on required slope, curves, and other safety related factors shall be a legislative determination and be final. If the Town Board approves the application, the Inspector shall then approve the application. If the Town Board conditionally approves the application, the Inspector shall approve the application only when the conditions of the approval have been fulfilled. If the Town Board denies the application, it will not consider a substantially similar application from the applicant for a period of three months from the date of the denial.
- E. In the event of a denial of an 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

Class 1 Notice under 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 on the same parcel, no subsequent reapplication for a permit of the same type that was denied for that parcel will be considered within twelve (12) months of the second denial.
- G. The Town Driveway and Highway Access Permit are effective for construction of the approved driveway for three (3) months from the date of issuance. Each permit shall expire after three (3) months unless renewed.
- H. Each permit may be renewed for an additional period of 3 months. If the driveway or highway access has not been constructed by the end of one 3-month renewal period, a new application and fee must be submitted and approved.
- I. The applicant shall notify the Town Inspector within 30 days after completion of the construction, reconstruction, rerouting, or alternation of the driveway or highway access. Within 30 days of notification, the Town shall cause an inspection of the driveway or highway access to be conducted to ensure full compliance with all of permit conditions and provisions of this ordinance. Upon a determination of completeness and compliance, the Town Board shall issue a Town Driveway Occupancy Permit.
- J. No occupancy permit for any buildings or structures will be issued by the Town 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. The application fee is non-refundable and is set at \$100.00.
- 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.
- M. The approval of a Town Driveway and Town 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 either permit to determine that driveway, bridge, culvert, or highway access location is fit or safe for any purpose or that any person is in compliance with this ordinance or any State or County laws or ordinance.

- N. The approval of any Town Driveway and Town 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 7 – 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 not less than \$100.00, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. However, the maximum forfeiture portion of charges shall not exceed \$2,500.00. In addition, the Town Board may seek injunctive relief from a court of record to enjoin further violations.

SECTION 8 – SPECIAL ASSESSMENT

Should any driveway or highway access be constructed in violation hereof and the owner of the parcel refuses or neglects to correct the same within thirty (30) days of notice being sent to the record owner, then, in that event, the Town may enter on the premises without further notice and correct any violations found. The costs of said corrections shall be chargeable against the owner and may be assessed against and collected from the affected real estate as a special assessment or special tax. This remedy is in addition to all other available under this ordinance or otherwise provided for by law.