

ORDINANCE NO. 272

An ordinance to repeal and recreate Sections 8.09 and 8.11 of the Municipal Code of the Town of Delavan, Walworth County, Wisconsin, relating to construction permits and driveways.

The Town Board of the Town of Delavan, Walworth County, Wisconsin, does hereby ordain as follows:

Section One: Chapter 8, Sections 8.09 and 8.11, of the Municipal Code of the Town of Delavan, Walworth County, Wisconsin is hereby repealed and re-created to read as follows:

8.09 CONSTRUCTION PERMIT REQUIRED. Any construction, maintenance, or repair of facilities located within a highway, roadway, or Town owned right-of-way thereto located in the Town of Delavan shall not be commenced without the issuance of a construction permit from the Town.

1. PERMIT REQUIREMENTS. Construction permits shall be issued only upon satisfaction of the following:
 - a) Completion of an application for a construction permit along with the submission of the applicable fee of \$100.00 unless construction includes boring, in which case the fees shall be \$300.00; and
 - b) Posting with the Town Treasurer, a bond or other surety in an amount of at least \$1000.00, but not to exceed one and one-half times the amount of the cost of the actual construction, maintenance, or repair, as that construction, maintenance or repair relates to highways, roadways, and driveways; and
 - c) Approval of the construction permit application shall be by the Public Works Department Foreman. No permit shall be issued sooner than one working day from the receipt of the application. Upon request of the Public Works Department Foreman, the Town Board may, in its discretion, fully review projects prior to approving an application.
2. EXCEPTIONS TO PERMIT REQUIREMENTS. No open cutting, trenching or boring of any highway, roadway or driveway in the Town of Delavan shall be allowed unless a construction permit has been approved, except that emergency repairs of utilities and the like may be made as needed. However, a permit must be obtained within five working days from the commencement of said emergency repairs.

3. RETURN OF BOND UPON COMPLETION OF PROJECT. Upon completion of any project requiring a construction permit, the bond posted with the Town Treasurer shall be returned forthwith upon the following:
 - a) Notice to the Town Treasurer from the permittee that the project has been completed; and
 - b) Inspection by an official designated by the Town Board, generally by the Public Works Foreman; and
 - c) Approval of the town Board.

4. DAMAGES AND LOSS OF BOND. Any damage which results from any repair, maintenance, or construction on highways, roadways, private roads and driveways in the Town of Delavan shall be the responsibility of the party causing said damage. That party shall pay the costs of repairing the same. In the event the Town elects to repair or pay others to repair the damage, cost of such repairs shall be forfeited from the bond posted by permittee with the Town Treasurer.
 - a) All repairs, maintenance or construction shall conform to Federal, State and County regulations, as well as specifications as adopted by the town Board of the Town of Delavan.
 - b) Any damage to highways, roadways, private roads or driveways or any repair, maintenance, or construction not in conformity with the foregoing shall be repaired by the Town of Delavan with the costs for the same exacted from the bond posted by the permittee. Should the cost to the Town to repair damages exceed the bond posted, the Town shall retain the right to recover the balance of the cost from the permittee, property owner, or party causing the damage.

5. PROCEDURE FOR FORFEITURE OF BOND. In the event the Town Board elects under Sub. (4) of this Section to repair damages or hire others to effect such repairs, and proceed against the bond of the permittee, the Town may do so only upon the following:
 - a) Notice in writing to the permittee from the Town Treasurer, which shall contain substantially the following:
 - i. The nature of the damage or non-conformity which has led to the Town's claim.
 - ii. The amount claimed by the Town.

- iii. The permittee has the right to request in writing, a hearing before the Town Board to show cause, if any, why the Town should not forfeit any or all of the amount of the bond, which, if requested, said hearing shall be within thirty (30) days from the date of receipt of the written request.
 - b) The Town shall not forfeit any part of a bond until and unless no hearing has been requested within thirty (30) days or after a hearing, the Town Board finds that the permittee has failed to properly show cause why his or her bond should not be forfeited.
- 6. OTHER REMEDIES. Nothing in this Section shall be deemed to preclude other inspections or remedies provided for in the Municipal Code of the Town of Delavan, or as otherwise permitted by law.
- 7. PENALTIES. Any persons commencing construction, repairs or maintenance as defined herein, without obtaining a construction permit, shall be ordered by the Town of Delavan to terminate its project forthwith and make proper application for a construction permit as defined herein, except that the party shall be required to remit an amount equal to two times the established application fee or may be subject to penalties as provided in Sec. 25.04 of the Municipal Code of the Town of Delavan.

8.11 DRIVEWAYS.

- 1. DRIVEWAYS REGULATED. Any new driveways, paving of existing driveways with concrete or asphalt, repaving of existing concrete or asphalt driveways or any alterations to existing concrete or asphalt driveways, in which such driveways shall connect from private property to a public right-of-way, shall require the issuance of a permit by the Town of Delavan Public Works Department Foreman prior to the beginning of such construction or alteration. The applicant, who may be the owner, agent, or contractor, shall submit a location construction plan showing specifications including grade, slope, width, and length of the driveway and erosion control procedures. The plan shall be submitted to the Public Works Department on a form approved by the Town Board. The Public Works Department Foreman shall not issue a permit to an applicant unless the applicants plan complies with the following specifications:
 - a) Minimum road surface width: 12 feet
 - b) Minimum width clearance: 24 feet

- c) Minimum height clearance of trees, wires, etc: 18 feet
 - d) Maximum grade: 10 percent
 - e) For driveways exceeding 300 feet in length, but not more than 600 feet in length, at least one 25 feet in length and 18 feet in width segment of road surface shall be provided at approximately the midpoint of the driveway for the safe passage of meeting vehicles. For driveways in excess of 600 feet in length, one safe passage area of at least 25 feet by 18 feet shall be provided for each 300 feet of driveway length, with the passage area located approximately in the middle of the 33 foot segment.
 - f) To the extent practicable, the driveway within the area of the public right-of-way shall slope away from the public road at a minimum of 1 percent and a maximum of 5 percent to prevent erosion onto the public road.
 - g) As to any new driveway or alteration to existing driveway, the driveway height shall not exceed the height of the roadway where the driveway and roadway meet. If the driveway height is above the height of the roadway the Town may, through the Public Works Department Foreman, direct the owner to lower the driveway height to that of the roadway. Damage to any Town equipment caused by the driveway protruding above the roadway shall be the responsibility of the property owner. The Town shall bill the owner for the cost of all repairs to Town equipment damaged by such protrusions, and require the protrusions to be removed at the owner's expense. Said removal may be enforced by a Court order or by the Town effecting same and changing said cost to the owner on their tax bill, at the Town's option.
 - h) An adequate road bed base of suitable material to support the projected traffic and any requirements for culverts shall be determined by the Public Works Foreman in considering an application for driveway approval. If culverts are required, the recommended minimum diameter shall be 12 inches and minimum length shall be 20 feet. Illegal culverts will be removed at the landowner's expense.
2. DRIVEWAY PLAN. A driveway plan shall be approved by the Public Works Department Foreman before any construction permits can be issued.
 3. Fees. The fee for a driveway permit to construct a new driveway of any composition entering the public way shall be \$200.00. The fee for a permit to pave an existing gravel driveway with concrete or asphalt driveway shall be \$100.00. The fee to replace an existing concrete or asphalt driveway shall be

\$100.00. There shall be no fee or permit required to repair an existing gravel driveway with additional gravel or grading.

Section Two: Pursuant to Sec. 66.0103 and 60.80 (1) and (3), Wis. Stats., this Ordinance shall be effective the day after its publication subsequent to its adoption.

Adopted this 21st day of March, 2006.