

# ORDINANCE NO. 3.01

## AN ORDINANCE OF THE TOWN OF BRIGHAM

### TO REGULATE THE BUILDING AND MAINTENANCE OF DRIVEWAYS AND ACCESSSES

#### SECTION A AUTHORITY PURPOSE

The Town Board of the Town of Brigham has the specific statutory authority, pursuant to Wis. Stat. §§ 86.07 (2) and 236.45, and by its adoption of village powers under Wis. Stat. § 60.22 (3), to provide regulations to promote the health and safety of the community and the transporting of public and emergency services personnel and equipment by regulating the placement, design, modification, and maintenance of driveways and roads accessing public highways in the Town of Brigham.

#### SECTION B JURISDICTION

This ordinance applies to all driveways and accesses installed, altered, changed, replaced, or extended after the effective date of this Ordinance.

#### SECTION C DEFINITIONS

1. For the purposes of this Ordinance, these definitions shall apply:
  - a. Single-user Driveway: A road or other traveled way giving access from a public right-of-way to one building site located, or to be constructed, on adjacent land.
  - b. Multi-user Driveway: A road or other traveled way giving access from a public right-of-way to two, three, or four building sites located, or to be constructed, on adjacent land.
  - c. Property Access: An access from a public right-of-way to farmland or other adjacent vacant land. A field road is one type of property access.
  - d. Temporary Access: An access from a public right-of-way for a limited period of time for activities such as logging, soil removal, or similar operation. Upon completion of the operation, the roadside shall be restored back to the original condition, unless an application for a property access or driveway is submitted and approved by the Town. Use of temporary accesses shall cease after 280 days.
  - e. Pull-off: A driveway widening on a single-user driveway to allow two vehicles to meet and pass. Widening can be on either side of the driveway and need not all be on the same side throughout the length of the driveway.
  - f. Back-a-round: A widening or branching of a driveway to allow a vehicle to back in, change direction, and travel in the opposite direction on the driveway. The dimensions will be determined by the Town. (See Appendix A, Diagram #1.)
  - g. Turn-a-round: A circular driveway, such as a cul-de-sac, allowing a vehicle to change direction on a driveway. The dimensions will be determined by the Town. (See Appendix A, Diagram #1.)

h. Principal Building:

- i. The first building constructed on a parcel that requires a building permit; or
- ii. Any residences on a parcel; or
- iii. Any building having at least three of the following characteristics:
  - 1. Living space totaling 500 square feet or more; use exterior dimensions, include each level and porches, decks, and un-insulated screen porches
  - 2. Indoor plumbing
  - 3. Central heating or cooling; include electric heat, furnace, wood stove, or other heater
  - 4. Full or partial basement; exclude crawl spaces and frost walls
  - 5. Electrical service by connection to the lines of a power company
  - 6. Attached or separate garage associated with the living space
  - 7. Local telephone service
  - 8. Building insulation
- i. Communication Tower: A structure upon which can be mounted a pole, mast, whip, antenna, or any combination thereof used for radio, television, cellular, or microwave telecommunications, broadcast transmission, or line-of-sight relay for commercial use.
- j. Driveway Use Change: A change which may consist of adding a building or building site, changing zoning, obtaining a Conditional Use Permit, or renovations having a cost greater than \$20,000 that require a building permit.

## SECTION D GENERAL PROVISIONS

- 1. Permit Required: No person shall construct a driveway or property access without first obtaining a permit from the Town Board, pursuant to this Ordinance. No person shall construct or make additions to any building in the Town without having their driveway reviewed as described in Section I. The location of the driveway or property access shall not deviate from the location determined by the Town without the Town's approval.
- 2. Permit Application Procedure
  - a. All applications for permits authorized by this Ordinance shall be in writing on an official form available from the Town Clerk. All permit applications shall be filed with the Town Clerk before an application will be considered. The amount of the permit fee is set forth in Town of Brigham Ordinance 1.01, as amended from time to time. Permit applications shall contain:
    - i. The name, address, and telephone number of the applicant.
    - ii. The name of the property owner.

- iii. Proof of applicant's ownership or right to possess the subject property.
- iv. Identification of materials proposed to be used.
- v. The subject property and the proposed location of the driveway or property access shall be sketched (identified) on a highlighted soils map obtained from Iowa County Land Records Mapping Office. The locations of any improvements and/or proposed improvements shall be indicated.

All necessary paperwork and application requirements must be completed before an applicant will be scheduled and considered by the Plan Commission or Town Board.

- b. The procedure for property access and driveway application review shall be as follows:
  - i. The Town Chairperson shall inspect property access locations. If the Town Chairperson is unable to perform the inspection, another member of the Town Board shall be designated to perform the inspection and approval. If the location is deemed to be in compliance with the provisions of this Ordinance, the request will go to the Town Board for approval. If the location is deemed not to be in compliance with the provisions of this Ordinance, the request will require a driveway permit application be submitted.
  - ii. For driveway permit applications, the Town Clerk shall forward completed applications to the Plan Commission Chairperson, or designee. The Town Clerk shall make arrangements with the applicant(s) for the Plan Commission to conduct a site visit at the proposed location of the driveway or property access to determine compliance with the provisions of this Ordinance. Following the site visit, the Plan Commission shall review the application, collect additional information, if necessary, and shall inform the Town Clerk of application compliance or noncompliance. The Town Clerk will then place the Plan Commission's recommendation on a Town Board agenda, in agreement by the applicant(s) and the Town Chairperson.
- c. If the Plan Commission of the Town Board does not approve the driveway or property access application, the applicant(s) may request a variance, which the Plan Commission will then consider. The Plan Commission shall then send a recommendation to the Town Board, which shall, according to Town of Brigham Ordinances, accept or reject the variance request. (See Section J.)
- d. The Town Clerk shall provide the applicant(s) with a copy of the approved permit or reason(s) for denial of same, and place a copy of the permit or denial in the Town of Brigham files, along with other pertinent information regarding the application.

## SECTION E APPLICATION STATEMENT

- 1. All permit applications shall contain the applicant's statement that:
  - a. The applicant represents all interested parties and that the proposed driveway or property access is for the bona fide purpose of securing access to the applicant's property

and is for the intended use proposed by the applicant. Applications will not be considered without the full extent of the driveway being sketched on a soils map.

- b. The Town, notwithstanding the construction of such driveway or property access, reserves the right to make any changes, additions, repairs, or relocations within the dedicated portion of the public right-of-way at any time, including relocation, reconstruction, widening, and maintaining the public right-of-way without compensating the owner of such private driveway or property access for the damage or destruction of such private driveway or road.
- c. The applicant and applicant's heirs, successors, or assigns agree to indemnify and hold harmless the Town, its officials, officers, agents, or employees against any claim or any cause of action for personal injury or property damage sustained because of granting such permit.
- d. Utility relocation costs shall be the responsibility of the property owner.
- e. The installation and continued maintenance of culverts, when necessary, within the right-of-way along Town, County, and State highways will be at the expense of the applicant.

## SECTION F SPECIFICATIONS

1. The minimum road surface width for single-user driveways approved to serve a single lot or tax parcel shall be 12 feet wide and include 6 inches of breaker run rock, covered with 4 inches of gravel. (See also pull-off requirement.)
2. The minimum road surface width for multi-user driveways approved to serve two, three, or four building sites, shall be 18 feet wide and include 6 inches of breaker run rock, covered with 4 inches of gravel.
3. All driveways, regardless of how many lots or tax parcels that are approved to serve, must provide a minimum width clearance of 24 feet. (See Appendix A, Diagram #2.)
4. All driveways and property accesses shall have a maximum width of 32 feet in the public right-of-way. Driveways shall not divide within 100 feet of the center of the right-of-way.
5. All driveways, regardless of how many building sites, lots, or tax parcels that are approved, must provide a minimum height clearance of 18 feet, including under tree limbs and electric power, cable television, and telephone wires.
6. The maximum grade slope of all driveways shall be 10%.
7. The minimum roadbed surface of single-user driveways, shoulder to shoulder, shall be 16 feet. The minimum roadbed surface of multi-user driveways, shoulder to shoulder, shall be 22 feet.
8. Pull-offs (required on single-user driveways longer than 300 feet) shall be a minimum of 40 feet long and 6 feet wide (providing for a total road surface width of 18 feet in the pull-off areas) and must be maintained at the same level and same material as the remainder of the finished road surface. Pull-offs must occur at least every 300 feet of driveway distance, or as needed as determined at the time of the site visit by the Plan Commission and approved by the Town Board.

9. All driveways, property accesses, and temporary accesses shall slope away from the public road within the area of the public right-of-way, at least beyond the public road ditch, at a minimum of 1% and a maximum of 5%, to prevent erosion of material and water onto the public road and to facilitate easy entrance of the traffic onto the public road from the driveway and property access.
10. An adequate road base of suitable material to support the projected traffic and any requirements for culverts shall be determined by the Town or its designee.
11. If culverts are required, they shall be:
  - a. Constructed of material acceptable to the Building Inspector or its designee.
  - b. A minimum diameter of 18 inches and minimum length of 30 feet.

In cases where very small areas are drained through the culvert or other physical limitations exist, smaller sizes can be approved by special permission of the Town Chairperson.
  - c. Placed in the ditch line at elevations set by the Town or its designee so as to adequately convey water and assure proper drainage and allow Town patrol workers to safely grade, mow, and plow snow along the public road.
12. A turn-a-round or back-a-round shall be provided at the end of all driveways. This turn-a-round or back-a-round shall allow plow trucks, ambulances, and fire trucks to expediently turn and return to the nearest public highway. (See Appendix A, Diagram #1.)
13. Driveways shall not be permitted on productive agricultural croplands, except where aligned along existing property lines or appropriate natural features as follows:
  - a. Driveways may be constructed along a property line that was in existence as of July 1, 2001. The driveway must be within 66 feet of the property line, but it may lie anywhere within that 66 feet.
  - b. Driveways may be constructed along edges or through natural forests, as shown on FSA (Farm Service Agency) maps. The driveway must be within 66 feet of the field edge, but it may lie anywhere within that 66 feet.
  - c. Driveways may be constructed in pastures as shown on FSA maps.
  - d. Driveways may be constructed as detailed on a Concept Plan as described in Ordinance 4.01.
  - e. Driveways may be constructed on productive agricultural soil provided they are located to maintain the maximum size agricultural fields in large contiguous tracts and meet the other requirements detailed in Appendix A of Ordinance 4.01.
  - f. Where strict adherence to this section will result in the unnecessary removal of farmland from production, and there is a reasonable alternative that removes less land from production and results in the same, or reduced, negative impact on the rural character of the area, an exception may be granted.

14. There shall be no more than four building sites on any multi-user driveway and no more than one building site on a single-user driveway.
15. There must be 200 feet of clear vision in both directions measured from the center of a driveway along the centerline of the highway, from a point where a driveway meets a public road, as viewed from 3 feet above the roadway surface. This clear vision shall apply to drivers' view turning into a driveway and exiting a driveway. Property accesses and temporary accesses shall meet these same requirements.
16. There must be at least 100 feet of clear vision in both directions where single-user driveways enter multi-user driveways.
17. Driveways and property accesses shall not enter a public road closer than 300 feet from an intersection on the same side of the road.
18. There must be at least 150 feet between driveways and property accesses that are located on the same side of a highway. These distances shall be measured from centerline to centerline of the driveways or property accesses.
19. This driveway spacing does not apply to driveways originating from a cul-de-sac; however, safety of the situation may place other restrictions on those driveways originating from a cul-de-sac or limit the number of driveways originating from a cul-de-sac. No more than four driveways shall be allowed to originate from any cul-de-sac.
20. If a temporary access is found to be out of compliance with any part of this ordinance, use of the access shall cease until the situation is mitigated to the satisfaction of the Town Chairperson.
21. Driveways constructed or improved must be maintained to meet the Town ordinance specifications including width and height clearance, slope, and slope away from a public highway.
22. Property accesses shall not automatically become driveways. All driveways, including those requested to be constructed where a property access did or does exist, must meet all criteria set forth in this Ordinance.
23. A Town road may be created (from multi-user driveways) at the discretion of the Town Board. Specifications must be met prior to a driveway being reviewed to become a Town road. Those driveways under review must meet the following specifications:
  - a. Have a 24-foot base, including 6 inches of breaker run and 6 inches of gravel.
  - b. Have a sealcoated surface width of 20 feet, applied during two consecutive years, or have a blacktop surface applied.
  - c. Have a gravel shoulder of 2 feet on both sides of the road, followed by shoulder slope not greater than 1-3 feet (1 foot of vertical drop in each 3 feet of horizontal distance).
  - d. Have a turn-a-round with a radius of at least 40 feet.
  - e. Normally new town roads will not be created.

24. A driveway entrance onto a county, state, or federal highway shall be approved by the applicable jurisdiction. The driveway, after it leaves the highway right-of-way, must comply with this Ordinance.
25. All new and altered driveways must meet the preliminary specifications of this ordinance (slope, width, breaker run rock, etc.) before building permits are granted by the Town. Driveway finishing, including gravel and other surfacing, and turn-a-round, may be installed after completion of construction but must be completed before an occupancy permit is granted. All new and altered driveways must be inspected at the preliminary stage and again prior to issuance of the occupancy permit.
26. All principal buildings shall be served by a driveway. The driveway shall terminate not more than 50 feet from the principal building.
27. The Town will not allow a property owner to construct a driveway or property access in such a way as to permanently block access to property of an adjacent landowner.

## SECTION G MULTI-USER DRIVEWAYS

1. Applicants may apply for a multi-user driveway permit, provided a proposed multi-user driveway agreement is submitted with an application. The multi-user driveway agreement shall expressly provide for the responsibility of maintenance and repair of the multi-user driveway, including snow removal, maintenance, and restrictions of use. Since a multi-user driveway is limited to four users, the multi-user driveway agreement shall state the number of user privileges each parcel may receive. All four user privileges shall be assigned in the agreement. These agreements shall be in writing and in recordable form presented to the Plan Commission before a driveway application is considered. Such agreements shall be approved by the Town Board prior to the issuance of a multi-user driveway permit. If approved, the multi-user driveway agreement shall be recorded by the register of deeds and is the responsibility of the applicant.
2. Applications for a driveway along a property line between two or more properties shall share the driveway entrance.

## SECTION H COMMUNICATION TOWERS

1. Communication towers shall not be considered an additional user with regards to a single-user versus a multi-user driveway classification.
2. Driveways serving only communication towers shall have a slope not greater than 15% and shall have a road surface width of 12 feet without the requirement for pull-offs.
3. Driveways serving communication towers that have a slope greater than 7% shall have hard pavement (3" of asphalt, 3 ½" of concrete, or double layer sealcoat) on the sections of the driveway greater than 7%.
4. All other specifications herein shall apply.

## SECTION I EXISTING DRIVEWAYS AND ROADS

1. When washouts, erosion, or other conditions created by existing driveways or roads become a potential hazard to a public highway, the Town Board shall provide written notice to the property owner of such conditions. If the property owner fails to correct such conditions within 30 days from the date of the written notice by the Town Board, the owner shall be found in violation of this Ordinance. In addition, the Town Board shall take reasonable steps to eliminate the hazard and charge the Town's cost to the property owner as a special charge, pursuant to Wis. Stat. § 66.0627.
2. When the driveway use changes or when there are additions or alterations to existing driveways, a driveway inspection shall be necessary. The Town Chairperson, Plan Commission Chairperson, or the approved designee shall review the existing driveway and proposed changes to confirm adherence to the specifications described in this Ordinance. If the existing driveway does not appear to meet specifications, the deficiencies shall be identified to the property owner, a driveway permit required, and all deficiencies addressed.

## SECTION J VARIANCES

Variances may be recommended for approval by the Plan Commission where literal compliance with the specifications and standards would be ineffective or unnecessary. Topographic constraints, existing vegetation, traffic safety, or compliance with fire or other public safety requirements may necessitate variances. The Applicant shall address the following criteria when requesting a variance:

1. The specific condition(s) that is unique to the Applicant's site that does not exist on other land.
2. The manner in which the strict application of the standards would deprive the Applicant of a reasonable use of the land in the manner equivalent to the use permitted other landowners.
3. Reasons that a variance to the standard would preserve – not harm – the public safety and welfare and not alter the essential aesthetics of the area.
4. All proposed variances will be reviewed by the Plan Commission and considered by the Town Board on a case-by-case basis.

## SECTION K EXPIRATION OF PERMITS

A driveway or property access permit shall lapse if construction of a driveway or property access is not completed, or not completed through the right-of-way within one (1) year from the date of issuance of the permit. All construction must be completed within this time with final approval inspection made by the Building Inspector or designee. The Town Board may extend the permit once for a maximum of an additional six (6) months. If the driveway permit expires, a new application must be filed.

## SECTION L FEES

1. Driveway and property access application fees shall be charged according to Town of Brigham Ordinance 1.01, as amended from time to time, and must be paid prior to a building permit being issued.



2. All fees for driveway and property access inspections and meetings relating to those inspections shall be charged per the fee schedule.
3. Driveway and property access inspection fees shall be charged according to Town of Brigham Ordinance 1.01, as amended from time to time.

## SECTION M VIOLATIONS

1. It shall be unlawful to construct or modify any driveway or property access in violation of this Ordinance.
2. If a person fails to make the corrections or alterations as ordered by the Town Board, the Town Board may make the corrections or alterations and charge the Town's cost to the property owner as a special charge, pursuant to Wis. Stat. § 66.0627.

## SECTION N DRIVEWAY COMPLETION

1. A final inspection of the driveway shall be done by the Building Inspector or designee prior to occupancy of the building which the driveway serves. Until and unless a final inspection is completed, and this Ordinance adhered to, no occupancy permit shall be granted. The amount of the final occupancy inspection fee is set forth in Town of Brigham Ordinance 1.01, as amended from time to time.

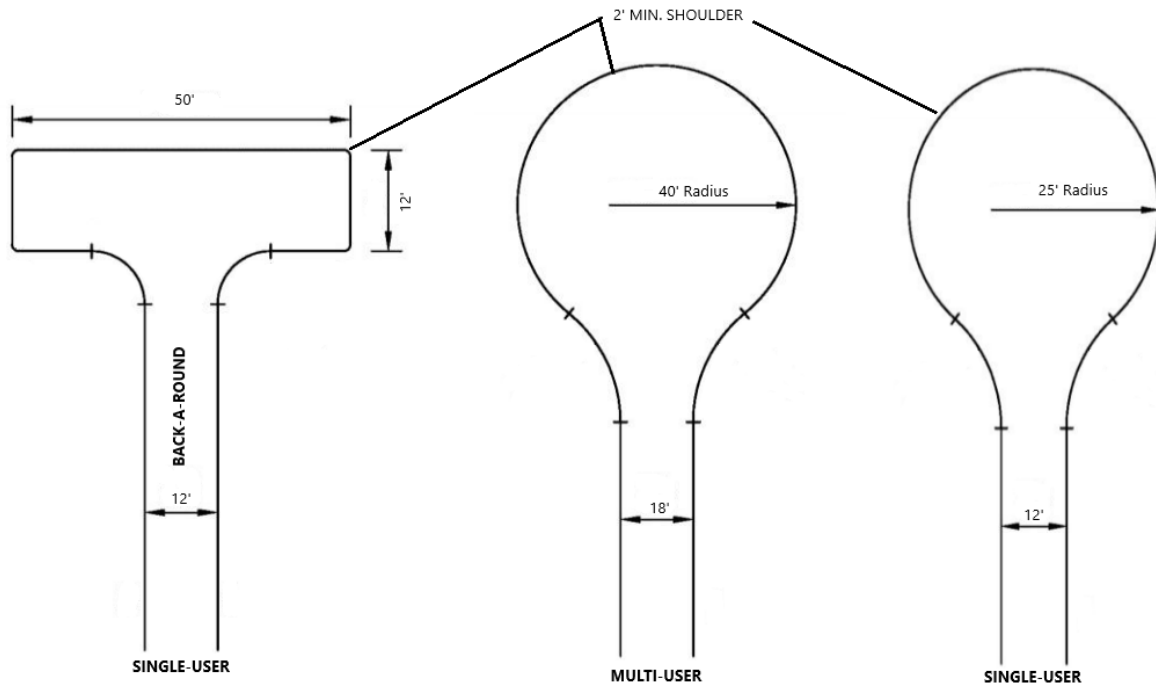
## SECTION O EFFECTIVE DATE

This ordinance shall take effect and be in force from and after the day after its passage and publication or posting as required by Wis. Stat. § 60.80.

## APPENDIX A

### Diagram #1

Minimum Driveway Back-a-round and Turn-a-round Options



### Diagram #2

Typical Cross Section of a Driveway

