

TOWN OF CLAYTON

CHAPTER 9, SECTION 9.11

ACCESS CONTROL ORDINANCE

Authority:

These regulations are adopted under the authority granted by Section 60.10(2)(h), 61.34,236, of the Wisconsin Statutes.

Purpose and Intent:

The purpose of these regulations is to promote the safe and efficient ingress and egress to Town roads, to promote public safety, to enable convenience for the general public welfare; to protect the public investment in roads by preventing premature functional obsolescence; to reduce accidents caused by frequent and poorly designed points of access; to promote the balanced use of land for the mutual protection of landowners and motorists, and to enhance the appearance of the Town roads.

Definitions:

For the purposes of this Ordinance, the following definitions shall apply: words used in the singular shall include the plural, and words used in the plural shall include the singular; words used in the present tense shall include the past and future tense; the word 'shall' is mandatory and not discretionary; the word 'may' is permissive and discretionary. Words not defined herein shall be construed to have the meaning given by common and ordinary usage.

1. **Access:**

A recognized point of vehicular entry onto a highway where evidence of use has been clearly established.

2. **Agricultural Access:**

A point of access on a parcel of land that shall be used solely for agricultural ingress and egress purposes only.

3. **Controlled Access Highway:**

A highway on which the traffic is such that the Town Board has found, determined, and declared it to be necessary, in the interest of the Public Safety, convenience and the general welfare, to regulate entrance upon and departure from the highway or street except at places specifically designate and provided for such purposes, and to exercise special controls over traffic on such a highway or street.

4. **Effective Date:**

The date that, by Town Board action accepting the Town road and/or changing the status of an existing road, a Town road becomes subject to the provisions of this Ordinance.

5. **Evidence of Use:**

The maintenance of access or a witness, records, or documents that establish proof of periodic ingress/egress to the highway

6. Mile:
A mile shall be measured to include one-half mile in either direction from each particular point of access under construction.
7. Parcel:
Contiguous lands under the control of a developer(s), not separated by streets, highways, or railroad rights-of-way, established prior to the adoption date of this Ordinance or amendments hereto.
8. Private Access:
A private driveway used primarily for residential, commercial, or industrial purposes.
9. Public Access:
Access granted to a public right-of way for the purposes of developing a street or highway.
10. Trail Crossing:
A year-round trail crossing of a highway used by snowmobile, horse and/or foot traffic or by established trails

GENERAL PROVISIONS

Road Classification:

Roads in the Town of Clayton shall have the following categories of classification:

1. Class 1 Roads: All roads in the Town under the functional jurisdiction of the State of Wisconsin and the County of Winnebago.
2. Class 2 Roads: All roads in the Town of Clayton that fall on Section Lines or roads that are linear extensions of Section Line Roads.
3. Class 3 Roads: All other roads, both private and public, in the Town of Clayton.
4. Class 4 Roads: All roads in a recorded plat in the Town of Clayton.

Access Control Maps:

The locations of all points of access are hereby established as shown on the maps entitled "Access Control Maps" on file in the Office of the Town Clerk. The Town Clerk or their designee shall annually update the "Access Control Maps" to show any changes on the maps resulting from actions of the Town of Clayton Board. The "Access Control Maps" together with all information shown thereon and all amendments thereto, shall be part of these regulations.

Violations and Penalties:

Any person who enters or leaves a limited access highway, except at a lawful access, shall be subject to Section 61.34, Wisconsin Statutes.

Jurisdiction:

These regulations shall apply to all roads in the Town of Clayton.

Compliance with Ordinances, Regulations and Plans:

Any person, firm or corporation seeking access from lands abutting roads under the jurisdiction of the Town of Clayton shall comply with the requirements of the regulations and:

1. All applicable Town Ordinances
2. All applicable Town Policies
3. All Comprehensive Plans adopted by the Town of Clayton
4. All Master Plan Components adopted by the Town of Clayton
5. The Official Map of the Town of Clayton

Right of Access:

1. Each existing recorded parcel of land abutting a controlled access Town road at the time of enactment of this Ordinance (October 1st, 2014) shall be entitled to access when in compliance with all but the access point separation distance provisions of this Ordinance.
2. Farm access points shall not be used to provide secondary access to residential property with an Ordinance's compliant access.
3. After the roads are designated as "controlled access roads", no owners or occupants of the parcels of land created after enactment of the Ordinance will have the right of access or of easement by reason of the fact that their property abuts the controlled access Town road unless otherwise provided for herein.

Approval Necessary for Obtaining Access:

1. No entrance upon, or departure from, a Town road designated as a controlled access road in this Ordinance shall be permitted except at places specially designated and provided for such purpose.
2. No public street or highway shall be opened onto, or connected with, any controlled access Town road under this Ordinance or converted from a private access, an agricultural access, or a trail to a public access without review and recommendation by the Town of Clayton Planning Commission and the approval of the Town Board. Such approval shall be given only if the public interest shall be served thereby and shall specify the terms and conditions on which such approval is given.
3. No private access point, agricultural access, or trail access may be opened into or connected with a controlled access Town road under this Ordinance without review by the Town. Such approval shall be given only if the public interest is served and shall specify the terms and conditions under which such approval is granted. In the interest of public health, safety, and general welfare, the Town of Clayton may at any time revoke this approval or require modification in the access. The permit granted shall be for private access, trail access, or agricultural access only and the permit cannot be transferred between those different uses. A new permit must be approved if a use changes or if another use is added.

Vacation of Access Control:

A controlled access highway shall remain such until the access control is revoked by the order of the Town of Clayton Board. The Town may revoke access control on a Town road or any part thereof, provided that after a traffic engineering survey investigation, an access control study, and a Public Hearing the Town of Clayton Board finds that the revocation on such highway or any part thereof is in the Public Interest. The Town of Clayton Board shall record the formal notice of revocation of access by the Town road.

Addition of Access Control:

The Town of Clayton Board may invoke access control on additional Town roads or parts thereof, pursuant to Section 61.34 of the State Statutes. The Town of Clayton Board shall record the formal notice of access control on such Town roads.

Existing Points of Access:

All Existing points of access may be continued after the adoption of these regulations. However, if the Town Board believes that the use of an access has been discontinued for a period of one year, the Town Board must notify the owner by certified mail that it is considering vacating the access and the Board must allow the owner the opportunity to reply. If the Board decides that the access has been abandoned for one year the Town may, at its expense, remove the access facility and it shall become illegal to use this access point thereafter.

Change of Use:

Any point of access permitted under this Ordinance shall be subject to review by the Town of Clayton Board. After such review, the Town Board may determine that there has been a change in use that will affect safe and efficient ingress and egress to a controlled Town road. This determination shall be based primarily on significant changes in the volume of traffic or the type of vehicles using that point of access. Upon such determination, the Town Board may require modifications to the access to meet the "Standards and Specific Provisions" or it may revoke the access unless otherwise provided herein.

STANDARDS AND SPECIFIC PROVISIONS

Spacing and Frequency:

All access points on Controlled Access Roads in the Town of Clayton shall comply with the categorical limitations listed below.

- 1 One access may be permitted for each parcel of land as defined under a previous section but, whenever possible, access should be granted on the highest classified controlled access Town Road (the highest classification number) when there is a choice between the two abutting roads.
- 2 Access permits on Class 1 Roads shall be granted only by the political entity having jurisdiction over the road.

- 3 Access permits shall not be issued where the horizontal distance between access points on a Class 2 Controlled Access Town road will be less than 600 feet or as set forth in the following alternate:

“Average Driveway Separation on Class 2 Roads: The driveway separation as specified in the Town’s Access Ordinance may be decreased for residential purposes to the average of the existing driveway separation on the abutting properties (500 to 1000 feet on each side of the subject property) but in no case shall the driveway separation be less than 200-feet on a Class 2 Road in the Town of Clayton. For the purpose of this subsection, the following rules shall apply:”

- (1) On properties with multiple existing driveways only one driveway shall be used for the purposes of calculating the average driveway separation.
 - (2) The reductions in driveway separations granted by a variance shall not be included.
 - (3) If the existing driveway separation is greater than the required driveway separation, the 600-foot required driveway separation shall be used.
- 4 Access permits shall not be issued where the horizontal distance between access points on a Class 3 Town road will be less than the minimum lot frontage required by the applicable Zoning Code of Ordinances (200 feet) unless there is no other way to provide access to an existing parcel.
 - 5 Access permits on Class 4 Roads shall be limited to no more than two (2) access points per parcel.

Design:

Design of the driveway or street intersection shall have the appropriate sight distance, return radius, angle, profile, and width. Parking and internal circulation shall be based on minimum standards of the Town’s Minimum Road Standards Ordinance, the American Association of State Highway and Transportation Officials (AASHTO) Manual, and the State of Wisconsin Administrative Code and shall comply with the provisions of the access permit issued by the Town of Clayton. In locating access points along the Controlled Access Roads, consideration shall be given to the alignment of the proposed intersecting streets directly across from each other in order to facilitate safe and efficient flow of traffic across the road.

The design of all driveway access points shall comply with the standard design profile and specifications listed on the Driveway Culvert and Access Permit issued by the Town (see Attachment A of this Ordinance).

APPLICATION AND REVIEW PROCEDURES

Permits:

Permits shall be required prior to the installation of any access point on a Controlled Access Road in the Town of Clayton. Town staff shall review, approve, conditionally approve, or deny all Culvert and Access Permits before the Town's Building Inspector may issue a Building Permit for the site.

1. Under this Ordinance, in order for any new access point on a Town road designated as a Controlled Access Road to be approved, an application for a permit shall be made to the Town of Clayton. The authority to approve, conditionally approve, or reject any application for private, agricultural, trail or public street access to Controlled Access Town Roads shall rest with the Town of Clayton Board and/or its designated representative.
2. The Public Works staff, at the direction of the Town Administrator, shall conduct periodic inspections to determine compliance with the provisions of this Ordinance and shall maintain permanent records of data submitted by staff for its recommendations and permits issued.
3. An access permit shall expire one year from the date of issuance if evidence of use has not been established within that time.
4. Upon issuance of a permit, Town staff shall inspect the site and approve the installation during or after construction.
5. Town staff shall have the authority to require the correction of any deficiencies in the installation and/or construction of any permitted access point.
6. When violations occur the Town of Clayton Board shall have the authority to revoke the access permits.

Data Requirements:

The Town of Clayton Board, or its designee, shall require submission of a scale drawing showing the property lines, streams, lakes, marshes, and the location of the existing and proposed buildings and structures, together with any engineering data deemed necessary, for the design of an intersection.

ADMINISTRATION AND ENFORCEMENT

Any person who is affected by an order, requirement, or interpretation made by the Town may appeal such decision to the Town's Board of Appeals. Where the Board of Appeals finds that a practical difficulty and unnecessary hardship may result from strict compliance with these regulations, it may vary the regulations to correct such injustice provided that the public interest is secured and that such variations will not have the effect of nullifying the intent and purpose of these regulations.

Fees:

The applicant shall pay the Town a fee for each access permit application as determined by the type of access and the Town's Fee schedule.

Adopted and approved this 1st day of October, 2014.

Ayes 5 Nays 0

ATTESTED TO:

Mark E. Luebke, Town Chair

Richard Johnston, Town Administrator/Clerk