



**Town of Grafton Ordinance No. 2012-05**

**AN ORDINANCE AMENDING  
TITLE 4, CHAPTER 4 - DRIVEWAYS  
AND  
TITLE 9, CHAPTER 1 - ZONING, AND CHAPTER 2 - LAND DIVISION  
INTO THE CODE OF ORDINANCES, TOWN OF GRAFTON, WISCONSIN,  
ADDRESSING ACCESS REQUIREMENTS FOR  
NEW LOTS AND SHARED DRIVEWAYS**

**WHEREAS**, it is deemed to be in the best interest of the Town of Grafton that the Municipal Code of the Town of Grafton be further modified and amended in the manner hereinafter more particularly set forth; and

**WHEREAS**, a Notice of Public Hearing before the Town Board was duly published in the *Ozaukee Press* on November 22, 2012 and November 29, 2012, as required by Title 9, Chapter 1 of the Code of Ordinances, Town of Grafton, Wisconsin; and

**WHEREAS**, a Public Hearing was held before the Town Board on December 12, 2012 regarding the proposed Amendments to the Town's Code of Ordinances; and

**WHEREAS**, based on the above, it is deemed to be in the best interest of the Town of Grafton that the Municipal Code of the Town of Grafton be further modified and amended in the manner hereinafter more particularly set forth below.

**NOW, THEREFORE**, the Town Board of the Town of Grafton does hereby ordain as follows:

**Section 1:**

**Section 4.4.1.04** of the Town of Grafton Code of Ordinances is hereby amended as provided below by adding the underlined language and deleting the language struck out:

**4.4.1.04 Regulation for the Construction of a Driveway to Serve More Than One Parcel of Land**

- (A) Approval Required. No person, firm, company, or corporation shall construct or permit to be constructed within the Town any driveway arranged or planned to serve more than one (1) parcel of land used for residential purposes, unless approval shall first be obtained from the Town, following approval of the plans (location, width and general plans, etc.) for such driveway by the Town Board in accordance with 9.2.7.11. A shared driveway ~~shall~~ may serve ~~a maximum of two~~ up to seven parcels.
- (B) Maintenance Required. All private driveways shall be kept in an adequate state of repair to ensure they are passable and accessible by fire, police, and other emergency vehicles.

**Section 2:**

**Section 9.1.2.05** of the Town of Grafton Code of Ordinances is hereby amended as provided below by adding the underlined language and deleting the language struck out:

**9.1.2.05 Site Restrictions**

- (A) No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, inadequate bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town Plan Commission, in applying the provisions of this section, shall in writing recite the particular facts upon which they base their conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability.
- (B) Private Sewer and Water.  
In any district where public sewerage service is not available, the width and area of all lots shall be sufficient to permit the use of an on-site soil absorption sewerage disposal system or other appropriate disposal system designed in accordance with the Wisconsin Administrative Code and with approval of the Ozaukee County Planning, Resources, and Land Management Department.

- (C) Street Access Required.  
No lot shall hereafter be created or any building placed on a lot which does not abut on a public street or approved private drive right of way.
- (D) Private ~~Street or Way~~ Drives.  
Subject to the approval of the Plan Commission, a ~~building residence~~ residence may be permitted on a tract of land which does not abut on a public or approved way provided such tract of land is in a residential district, has access by permanent easement ~~66 foot reservation~~ to a public street ~~or approved way~~, and does not conflict with plans for the future development of streets in the area. Not more than seven (7) ~~two (2)~~ homes may be served by such an easement reservation in accordance with 9.2.7.11.
- (E) All Structures shall be located on a lot; and in residential districts, only one structure of more than 150 square feet shall be located, erected, or moved onto a lot. The Plan Commission may permit more than one (1) structure of more than 150 square feet per lot where more than one (1) such structure is needed for the orderly development of the lot. If the Plan Commission permits additional structures on a lot, it may impose additional yard requirements, landscaping requirements, parking requirements or require a minimum separation distance between structures.
- (F) No Zoning Permit shall be issued for a lot which abuts a street dedicated or reserved to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- (G) Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 60 feet from the district boundary line so as to equal the average of the street yards required in both districts.

### **Section 3:**

**Section 9.2.7.06** of the Town of Grafton Code of Ordinances is hereby amended as provided below by adding the underlined language and deleting the language struck out:

#### **9.2.7.06 Lots**

The size, shape, and orientation of lots shall be appropriate for the location of the subdivision and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site and a proper architectural setting for the building contemplated. In addition:

- (A) Side Lot Lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.
- (B) Double Frontage or 'Through' Lots shall be prohibited except where necessary to provide separation of residential development

- from arterial traffic or to overcome specific disadvantages of topography and orientation.
- (C) Access. Every lot shall front or abut for a distance of at least 66 feet on a public street or approved right-of-way or shall be provided access to a public Town road by an easement in accordance with section 9.2.7.11, approved by the Town Board and recorded with the Register of Deeds.
  - (D) Area and Dimensions of all lots shall conform to the requirements of the Town of Grafton or Ozaukee County Zoning Ordinance for the subdivisions within the Town. Those building sites not served by a public sanitary sewerage system or other approved system shall be sufficient to permit the use of an onsite soil absorption sewage disposal system or holding tank designed in accordance with Section COMM 83 of the Wisconsin Administrative Code.
  - (E) Excessive Depth of Lots in relation to width shall be avoided and a proportion of two to one (2:1) shall be considered a desirable depth to width ratio under normal conditions. Depth of lots or parcels designated for commercial or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated.
  - (F) The Width of Lots within the interior of a block shall conform to the requirements of the Town or County Zoning Ordinance, or other applicable ordinance, and in no case shall a lot have a minimum average width of less than 125 feet.
  - (G) Corner Lots shall have an additional width of ten (10) feet to permit adequate building setbacks from side streets.
  - (H) Lands Lying Between the Meander Line and the water's edge and any otherwise unplattable lands which lie between a proposed subdivision and the water's edge shall be dedicated to the public in any plat abutting a lake or stream.

**Section 4:**

**Section 9.2.7.11** of the Town of Grafton Code of Ordinances is hereby amended as provided below by adding the following new section as underlined below:

**9.2.7.11 Private Drive Design Standards and Procedures**

- (A) No person, firm, company, or corporation shall construct or permit to be constructed within the Town any private drive arranged or planned to serve more than one parcel of land used for residential purposes unless approval shall first be obtained from the Town Plan Commission and Town Board of Supervisors, following approval of the plans (location, width, maintenance, utilities and general plans) for such private drive by the Town Plan Commission and Town Board of Supervisors.
- (B) Parcels with adequate public road frontage may have access to the private drive.

(C) Such a private drive shall be approved by the Town Plan Commission and Town Board of Supervisors, recorded at the Ozaukee County Register of Deeds and planned, platted and constructed to the following standards:

Dimensional Requirements:

<u>Number of Residences Served</u>	<u>2-3</u>	<u>4-7</u>
<u>Required Minimum Surface Width</u>	<u>12'</u>	<u>18'</u>
<u>Turnouts &amp; Vertical Clearance</u>	<u>250' minimum spacing</u>	<u>as approved by fire dept.</u>
<u>Easement Width</u>	<u>25' minimum width</u>	<u>50' minimum width</u>
<u>Setbacks to Easement</u>	<u>not required</u>	<u>required</u>
<u>Minimum Lot Frontage</u>	<u>25'</u>	<u>66'</u>

(D) The following additional General Requirements shall be addressed in the design of the private drive:

- (1) Fire Department review will be led by the Fire Chief of Servicing Department.
- (2) Vegetation and other Clearance: Trees, shrubs and other objects shall be cleared across entire actual width of drive plus one foot on each side to a minimum height of 14 feet.
- (3) Hard Surface Optional – 6” Traffic Bond Aggregate recommended minimum.
- (4) A recorded Easement Agreement, Homeowners Association, Driveway Maintenance Agreement (including consent and waiver for Town access, review, maintenance and special assessment of costs) approved by the Town Attorney will be required.
- (5) Subdivision Plat or CSM must contain a note on each page stating that each lot is subject to the terms and conditions of various easements and agreements with associated recording data.
- (6) A Stormwater Management Plan is required according to Town Ordinances.

(E) The Town may consider deviations from the standards listed in Section (C) to allow for flexibility of overall development design, while at the same time maintaining the intentions of the overall requirements. Both the developer and the Town are intended to benefit from such design deviations.

- (1) Deviations from the listed standards are limited to dimensional requirements only. In no case shall the number of lots served by the private drive be increased nor shall the approval process or easement or agreement process be relaxed.
- (2) Deviations from the listed standards must be specifically addressed by the petitioner and shall be specifically listed by the Plan Commission in its motion and recommendation to the Town Board.

**Section 5:**

**Section 9.2.11.02** of the Town of Grafton Code of Ordinances is hereby amended as provided below by adding the underlined language and deleting the language struck out:

**9.2.11.02 Specific Words And Phrases**

- (A) Alley. A special public way affording only secondary access to abutting properties.
- (B) Arterial Street. A street used, or intended to be used primarily for fast or heavy inter-neighborhood or inter-community, through traffic. Arterial street shall include freeways and expressways as well as standard arterial streets, highways and parkways.
- (C) Buildable Area. All lots shall contain not less than 40,000 square feet of land which is at an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood, or where such date is not available, five (5) feet above the maximum flood of record, except as provided in PUD and RDCO districts.
- (D) Building Line. Lines generally parallel to a lot line and at a distance from the lot line as specified in the Town or County Zoning Ordinance and which delineates the buildable area of the lot or parcel.
- (E) Collector Street. An urban street used, or intended to be used, to carry traffic from minor streets to arterial street systems including the principal entrance streets to urban residential subdivision.
- (F) Community. A Town, incorporated municipality, or a group of adjacent Towns and/or incorporated municipalities having common social, economic or physical interests or characteristics.
- (G) Comprehensive Plan. An extensively-developed plan, also called a master plan, adopted by the Town Plan Commission and certified to the department concerning transportation, urban redevelopment, utilities and public transportation, facilities. Devices for the implementation of these plans, such as zoning, official map, land division, and building line ordinances and capital improvement programs may also be considered a part of the comprehensive plan.
- (H) County Land Use Department. The agency of County government in Ozaukee County having subdivision plat review and approval coordination authority.
- (I) Cul-de-Sac Street. A minor street closed at one end with a turn-around provided for vehicles.
- (J) Development (Urban). Residential, commercial, industrial, governmental and institutional development in sufficient concentrations or densities to require a variety and high level of traditional urban services and facilities including, but not limited to: Full or part-time municipal police and fire protection, and community administration; additional public streets and highways; neighborhood parks and playgrounds; neighborhood schools; local libraries; public sanitary sewer facilities, public water supply facilities, and public solid waste removal; storm sewers; mass

- transit facilities; continual street maintenance; curbs, gutters, and sidewalks; street lighting; and neighborhood convenience shopping. Such development may be expected to alter or require the altering of land and land cover and have detrimental impact on the ground and surface waters. Historically, in southeastern Wisconsin, urban development occurs when residential development is concentrated in densities in excess of 0.2 dwelling units per gross acre (or one dwelling unit per five acres).
- (K) Development (Rural). Agricultural, residential, recreational and other open space development at such concentrations and densities not requiring traditional urban services and facilities. Historically, in southeastern Wisconsin, when residential development densities are less than 0.2 dwelling units per gross acre (or one dwelling unit per five acres) such traditional urban services are not required. Such rural development may be expected to result in minimum disturbance of the land and land cover, and therefore, less impact on the natural environment.
- (L) Extraterritorial Plat Approval Jurisdiction. The unincorporated area within one-and-one-half (1-1/2) miles of a fourth class City or a Village (Village of Saukville, Grafton or Mequon) and within three (3) miles of all Cities (City of Cedarburg or Port Washington) which have established a subdivision control ordinance pursuant to Section 62.23, Wis. Stats.
- (M) Face of Curb. The vertical portion of the curb facing the pavement on a nonmountable curb. On mountable curbs, the curb face is computed to be at a point seven (7) inches from the outside edge of the curb.
- (N) Floodlands. Those lands, including the floodplains, floodways, and channels, subject to inundation by the 100-year recurrence interval flood or, where such data is not available, the maximum flood of record.
- (O) Frontage Street. A minor street auxiliary to and located adjacent to an arterial street and used to control access to the arterial street and to provide access and service to the abutting properties.
- (P) High Water Elevation. The average annual high water level of a pond, stream, lake, flowage, or wetland referred to an established datum plane or, where such elevation is not available, the elevation of the line up to which the presence of the water is so frequent as to leave a distinctive mark by erosion, change in, or destruction of, vegetation or other easily recognized topographic, geologic, or vegetative characteristic.
- (Q) High Ground Water Elevation. The highest elevation to which subsurface water rises. This may be evidenced by the actual presence of water during wet periods of the year, or by soil mottling during drier periods. "Mottling" is a variation of soil colors. In soils with restricted internal drainage, gray, yellow, red and brown colors are intermingled giving a multi-colored effect.

- (R) Letter of Credit. An irrevocable letter of credit constituting an engagement by a commercial bank made at the request of the subdivider whereby the issuer will honor drafts or other demands for payment upon compliance with the conditions specified in the credit.
- (S) Lot. A parcel of land, whether acquired by one or more conveyances, having frontage on a public or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of the Town or County Zoning Ordinance or this and other Town Codes and Ordinances.
- (T) Lot, Corner. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.
- (U) Lot, Double Frontage. A lot which has a pair of opposite lot lines along two substantially parallel streets, and which is not a corner lot. Both street lines on a double-frontage lot shall be deemed front lot lines but in the case of two or more contiguous double-frontage lots, there shall be a common front lot line.
- (V) Minor Street. A street used, or intended to be used, primarily for access to abutting properties.
- (W) Land Division. Any division of land, or any addition of adjacent lands, whether acquired by one or more conveyances, not defined as a “subdivision.” A “land division” can be either a major or a minor land division, and shall be made as required by this Chapter by either a Town Plat or Certified Survey Map.
  - (1) Major land divisions include all land divisions or additions of adjacent lands except minor land divisions.
  - (2) Minor land divisions include the division of land by the owner or subdivider resulting in the creation of not more than four (4) parcels or building sites, any one of which is forty (40) acres or less in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than four (4) parcels or building sites without changing the exterior boundaries of said block, lot or outlot; or any addition of adjacent lands which involves any combination of unplatted lands, platted land and/or land which is part of a certified survey map, and which results in the creation of not more than four (4) parcels or building sites. Such minor land divisions shall be made by a Certified Survey Map.
- (X) Municipality. An incorporated Village or City.
- (Y) National Map Accuracy Standards. Standards governing the horizontal and vertical accuracy of topographic maps and specifying the means for testing and determining such accuracy, endorsed by all federal agencies having surveying and mapping functions and responsibilities. These standards having been fully



reproduced in Appendix D of SEWRPC Technical Report No. 7, Horizontal and Vertical Survey Control in Southeastern Wisconsin.

- (Z) Navigable Stream. Any stream capable of floating any boat, skiff, or canoe, of the shallowest draft used for recreational purposes at any one time of the year.
- (AA) Outlot. A parcel of land, other than a lot or block, so designated on the plat, but generally not of standard lot size, which can be either redivided into lots or combined with one or more other adjacent outlots or lots in adjacent subdivisions or minor subdivisions in the future for the purpose of creating buildable lots.
- (BB) Preliminary Plan. A map showing the salient features of a proposed subdivision or major or minor land division submitted to an approving authority for purposes of preliminary consideration.
- (CC) Private Drive: Any path or way approved by the Town and used primarily for ingress and egress to and from residential lots by motor vehicles, for which ingress and egress right is established by private easement and/or private ownership.
- (DD) Public Street: Any street, highway, road or other way owned by or dedicated to the Town of Grafton or other governmental entity and used primarily for public travel in motor vehicles.
- (~~EEE~~) Public Way. Any public road, street, highway, walkway, drainageway, or part thereof.
- (~~DDFF~~) Replat. The changing of the boundaries of a recorded subdivision or Town Plat or part thereof.
- (~~EEGG~~) Shorelands. Those lands, in the unincorporated areas of Ozaukee County, lying within the following distances: 11,000 feet from the high water elevation of navigable lakes, ponds, and flowages or 300 feet from the high water elevation of navigable streams or to the landward side of the floodplain, whichever is greater.
- (~~FFHH~~) Soil Map. Soil type, slope, and erosion factor boundaries as shown on the operational soil survey maps prepared by the U.S. Soil Conservation Service.
- (~~GGII~~) Subdivider. Any person, firm or corporation, or any agent thereof, dividing or proposing to divide land resulting in a subdivision, major or minor land division or replat.
- (~~HHJJ~~) Subdivision. A division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, where:
- (1) The act of division creates 5 or more parcels or building sites of 1½ acres each or less in area; or
  - (2) Five or more parcels or building sites of 1½ acres each or less in area are created by successive divisions within a period of 5 years.
- (~~HKK~~) Surety Bond. A bond guaranteeing performance of a contract or obligation through forfeiture of the bond if said contract or obligation is unfulfilled by the subdivider.

- (~~JLL~~) Net Acre. For all lots one acre or less, lot size restrictions shall apply to net acre remaining after excluding any land subject to an easement for a public or private roadway; and excluding any land within the highwater mark of a pond, lake, waterway or wetland. For all lots of more than (1) acre, such lots shall contain not less than 40,000 square feet of land which is at an elevation at least two (2) feet above the elevation of the 100-year recurrence interval flood, or where such data is not available, five (5) feet above the maximum flood of record.
- (~~KKMM~~) Wetlands. Those lands which are partially or wholly covered by marshland flora and generally covered with shallow standing water or lands which are wet and spongy due to a high water table.
- (~~LLNN~~) Wisconsin Administrative Code. The rules of administrative agencies having rulemaking authority in Wisconsin, published in a loose-leaf, continual revision system as directed by Sec. 35.93 and Ch. 227, Wis. Stat., including subsequent amendments to those rules.

**Section 6:**

Except as hereinabove specifically modified and amended, the Code of Ordinances, Town of Grafton, Wisconsin, shall remain in full force and effect exactly as originally adopted and previously amended. All ordinances or parts of ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

**Section 7:**

This Ordinance shall take effect and be in full force from and after its passage and publication or posting. Adopted by the Town Board of the Town of Grafton, Ozaukee County, Wisconsin, at its regularly scheduled meeting on this \_\_\_\_\_ day of \_\_\_\_\_, 2012

\_\_\_\_\_  
Lester A. Bartel, Jr., Town Chairman

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Amanda L. Schaefer, Town Clerk

Publication/Posting Date: \_\_\_\_\_, 2012