

CHAPTER 14: DRIVEWAYS, TOWN HIGHWAYS, AND PRIVATE ROADS

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CHAPTER 14: PRIVATE DRIVEWAYS, TOWN HIGHWAYS AND PRIVATE ROADS

14.0100 AUTHORITY

This Ordinance was adopted under the statutory authority granted pursuant to the Village Powers of the Town of Franklin, to ss. 60.10 (2) (c), 60.22 (3), 61.34 (1), 236.03, and 236.45, Wis. Stats.

14.0200 TITLE

This ordinance is entitled *Chapter 14: Driveways, Town Highways and Private Roads Ordinance* and is part of the Code of General Ordinances of the Town of Franklin, Kewaunee County, Wisconsin.

14.0300 REGULATION OF PRIVATE DRIVEWAYS

14.0301 Purpose

The Purpose of this section of the Ordinance is to regulate the location and construction of any private driveway in the Town of Franklin.

14.0302 Intent

The ordinance sets forth an orderly procedure for obtaining a Driveway Construction Permit, and will establish driveway permit fees and penalties for failure to obtain a required driveway permit.

14.0303 Jurisdiction

The jurisdiction of this Ordinance shall apply to all lands within the unincorporated limits of the Town of Franklin, Kewaunee County, Wisconsin.

14.0304 Compliance

- A. No person shall commence construction of any Private Driveway including a Field Access which is intended to provide access to private property from a public road without providing detailed plans of the proposed construction and obtaining a permit for such construction from the Town of Franklin's Zoning Administrator or person designated by the Town Board. All costs incurred by the Town of Franklin in the development and construction of said driveway shall be born by the private landowner or developer.
- B. If the proposed driveway will connect to a County or State Highway, the Wisconsin Department of Transportation, the Kewaunee County Highway Department and the Kewaunee County Zoning Administrator will establish the rules and regulations regarding conditions for the permit and compliance with the permit.

14.0305 Minimum Driveway Construction Standards

This Ordinance requires that a proposed driveway or field access road shall meet the minimum standards outlined below throughout its length to allow for possible ingress of emergency vehicles.

- A. Minimum driveway surface width shall be 12 feet

- B. Minimum roadbed width shall be 16 feet
- C. Minimum width clearance shall be 20 feet
- D. Minimum height clearance shall be 16 feet
- E. The maximum grade shall be 10% (10 Feet in 100 Feet)
- F. The minimum setback from lot lines shall be 10 feet
- G. Roadbed
The roadbed shall consist of 4 inches of coarse base material covered with 4 inches of compacted crushed $\frac{3}{4}$ inch gravel or limestone.
- H. Turnarounds
 - 1. At the end of any driveway, that is greater than 500' in length, a method shall be provided to allow turnaround of service and emergency vehicles.
- I. Any variance from the requirements of this ordinance must have prior approval from the Town Plan Commission.

14.0306 Culverts

The Town Board's designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s).

- A. The culvert(s) shall be of galvanized steel or material of equivalent strength and endurance and a size adequate to insure proper drainage, with a minimum drop of 2" across the highway.
- B. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert.
- C. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0307 Bridges

Bridges require engineer-certified or DNR specifications and load ratings.

14.0308 Limits of Construction and Maintenance

All portions of the driveway, including the approach, culvert and ditch, between the edge of the highway shoulder and the right of way line shall be constructed and maintained by and at the expense of the driveway owner except modifications made during town road improvement projects.

14.0309 Applicability

This ordinance shall apply to all driveways; construction of which is completed after the effective date of this ordinance.

14.0310 Driveway Construction Permit

The driveway construction permit does guarantee that if the permit specifications are met and construction complies with the standards outlined in this ordinance

and on the Permit, the applicant will not be liable for damages to the town road after construction is completed.

- A. **A landowner** who has purchased vacant property (for example, for hunting, camping, hiking, etc.) with no intention of farming or building any improvements must construct a driveway that at a minimum will allow parking off the town road right-of way. A permit must be obtained from the Town Board's designee and the driveway must meet all applicable standards for location, slope, drainage, size of culvert, and surface preparation outlined in Section 14.0501 above.
- B. **Existing Driveway:** If a landowner alleges that a driveway exists that is presently serving open land without improvements and that now an application is being filed for a building permit for a structure which will be served by that alleged driveway, the Town Board's designee will examine the existing driveway to determine if it is adequate to meet the specifications of this ordinance. The designee will either document in writing the existence of an approved driveway or will require changes to bring the driveway up to standard.
- C. **Field Access Road:** A Driveway Construction Permit is required for entry for agricultural purposes into a field or woods that border a town road. Any access to agricultural land from a county or state highway will be governed by the Wisconsin Department of Transportation and/or the Kewaunee County Highway Department and this ordinance has no authority over their conditions or requirements.
- D. **Cabins:** Any property that is developed with cabins or small non-dwellings must have approved driveways before the land can be split up and sold.

14.0311 Conformance to Ordinance

In the event that a residential dwelling located on property served by an existing driveway is reconstructed or razed and a new dwelling is constructed, the existing driveway shall be made to conform to the requirements of this ordinance.

14.0312 Placement of Fill

Filling of ditches and or culverts located within a public right-of-way is prohibited without written approval from the Town of Franklin.

14.0313 Procedure and Fees

- A. **Application for a Permit**

Application for a Driveway Construction Permit to connect a town road should be made to the Town Board's designee. The application will include the legal description of the property, a rough drawing of the proposed driveway site including grade, slope, width, length and erosion control procedures and payment of the required fee. The Driveway Construction Permit is effective for 12 months from the date of issuance. The permit shall expire after 12 months unless renewed. The permit may be renewed for one additional 12 month period. If the Driveway has not been

constructed by the end of this period, a new application must be submitted and approved.

B. On-Site Review

The Town Board's designee will make an appointment to meet with the applicant at the site to discuss the specifics of the driveway. Any specific requirement will be entered on the permit and written permission will be given to begin construction.

C. Variance

A variance to this ordinance can be granted by Town Board action.

D. Costs of Construction

All expenses of construction and materials will be the responsibility of the applicant. Under no circumstances will the Town of Franklin perform the actual work of constructing the driveway or setting the culvert, but the Town Board's designee may require that a town employee be present to oversee the construction.

E. Certification for Safety

The granting of a permit is not certification by the Town of Franklin that the driveway is safe or adequate for use by emergency equipment.

F. Remediation

If the requirements and procedures of this ordinance are not followed and a private driveway is constructed in such a way as to cause damage to the town road or create a hazard to public safety, the Town will require the driveway or field access road be changed to correct these flaws at the owner's expense.

G. Final Inspection

When the driveway is completed, the applicant will notify the Town Board's designee who will then make a final inspection of the driveway, and if the driveway is properly constructed, the Town Board's designee will approve the driveway in writing on the permit.

H. Construction of Driveway Prior to Commencing Building Construction

The Town Board's designee shall determine whether a driveway must be completed prior to commencing construction of any building(s) on the parcel, and may condition any building permit on completion of the driveway for the following reasons:

1. Construction activities are reasonably likely to cause the tracking of soil, gravel, vegetation of other material onto the public roadway.
2. Construction of the driveway is necessary to allow for the safe and efficient access of construction vehicles entering or leaving the construction site.

I. Permit Fee

The fee for a Driveway Construction Permit shall be as defined in the Town of Franklin Fee and Penalty Schedule. The Driveway Construction Permit includes initial on-site consultation, any interim inspections or consultations as necessary and final site inspection and approval.

14.0314 Penalties

- A. Any driveway constructed on land in the Town of Franklin in violation of any of the provisions of this Ordinance shall be deemed to be an unlawful driveway.
- B. Any person who constructs an unlawful driveway, which connects a town road in the Town of Franklin in violation of any provision of the Ordinance, shall incur a penalty as defined in the Town of Franklin Fee and Penalty Schedule. Each day a violation continues without action taken to remedy the situation constitutes a separate offense.
- C. Failure to procure a permit before establishing a driveway shall incur a penalty as defined in the Town of Franklin Fee and Penalty Schedule.
- D. Any person who constructs an unlawful driveway, which connects a state or county highway on land in the Town of Franklin, will be subject to any penalties, forfeitures of conditions established by the State of Wisconsin and/or Kewaunee County.
- E. Any physical changes required by the Board of the Town of Franklin to an unlawful driveway to bring the driveway into compliance with the terms of this Ordinance and the terms of the Driveway Construction Permit will be made at the private owner's expense.

14.0400 REGULATION OF TOWN HIGHWAYS

14.0401 Purpose

The purpose of this section of the Ordinance is to promote the safety and general welfare of the citizens of the Town of Franklin and others who travel the Town's highways by providing for the orderly layout and construction of Town highways.

14.0402 Definition

Per Chapter 82 of State Statutes, all town roads shall hereafter be termed town highways. A town highway is any highway that the Town of Franklin holds fee simple title to or has prescriptive rights in. Generally, the Town of Franklin considers a highway to be a town highway if it appears on the Town's gas tax map.

14.0403 Permit

To insure compliance with the standards created by this ordinance, no person shall commence construction of any highway which is intended to provide future public access to more than one (1) land owner without providing detailed plans of the proposed highway construction and obtaining a permit for such construction from the Town Board or its designees along with a copy of this ordinance and a

typical highway cross section. All costs incurred by the Town in the development and construction of said highway shall be born by the private landowners or developer.

14.0404 Highway Name

New highway names shall not duplicate the names of existing highways, but highways that are continuations of others already in existence and named, shall bear the names of the existing highways. Highway names shall be assigned as set for the in Chapter 82.03(7) of the Wisconsin Statutes and shall be subject to approval by the Town Board.

14.0405 Right of Way

All Town highways shall have a right of way width of 66 feet.

14.0406 Clear Zone

A minimum clear cut width of not less than 50 feet shall be acceptable. Said clear cut width to be determined by the Town Board or designee at the time of the permit application and site inspection.

14.0407 Length

Highway right of way shall not be less than 500 feet in length.

14.0408 Cul-de-sac

All dead-end highways regardless of length, shall have a solid turnaround with a radius of 50 feet on the center line of said highway or a “T” type turnaround. Said “T” shall be at right angles to the center line of the highway, have a 66 foot wide right of way and be not less than 50 feet long on either side of the highway center line. The Town Board or designee shall be consulted on which method to utilize at the time of the permit application and site inspection.

14.0409 Roadway Width

- A. Town highways with an estimated average daily traffic count of under 100 vehicles shall have minimum road width, driving surface and shoulders, of 24 feet.
- B. Town highways with an estimated average daily traffic count of 100 to 250 vehicles or more shall have a minimum road width, driving surface and shoulders, of 26 feet.
- C. Town highways with an estimated average daily traffic count of 251 to 400 vehicles or more shall have a minimum road width, driving surface and shoulders, of 32 feet.
- D. Town highways with an estimated average daily traffic count of 401 to 1,000 vehicles or more shall have a minimum road width, driving surface and shoulders, of 34 feet.
- E. Town highways with an estimated average daily traffic count of 1,001 to 2,400 vehicles or more shall have a minimum road width, driving surface and shoulders, of 44 feet.

- F. Town highways with an estimated average daily traffic count over 2,400 vehicles shall be constructed State trunk highway standards.

14.0410 Construction standards

- A. Sub-Base The entire width of all highways shall have a minimum sub-base of six (6) inches of breaker run covered with four (4) inches of crushed compacted ¾” gravel. More pit run or crushed gravel may be needed to create stability in problem areas.
- B. Surfacing Two options are available. The appropriate application will be determined by the Town Board or designee based on estimated traffic count. Option 1: shall be a minimum two (2) inch compacted Asphaltic Type AC Penetration 120-150 Single Aggregate Bituminous Pavement 18 feet wide. Option 2: shall be a minimum two (2) inches of cold mix compacted 18 feet wide.
- C. All surfacing shall be crowned a minimum of 1 ¾ inches higher at the center of the highway to allow water to run to the shoulders.
- D. Gravel shall be applied to the shoulder to be flush with the paved area.
- E. All top soil, muck and foreign material, stumps, old culverts, large rocks, etc., shall be removed and replaced with sand or pit run and brought up to grade before the sub-base shall be applied.

14.0411 Ditches

Town highways shall be a ditch on each side, the bottom of which shall be at least one foot below the bottom of the sub-base. Deeper ditches may be necessary to provide adequate drainage. The Town Board or designee shall determine if a ditch is needed.

14.0412 Back and Side Slopes

All highways shall have an 8 foot side slope with 4 to 1 pitch, except where geographic features or terrain would not allow for same as determined by Town Board or designee. Back slope shall be a maximum of 2 to 1 pitch. (See Section 18 for Typical Cross Section.)

14.0413 Culverts

The Town Board or designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s). The galvanized steel culvert(s) shall be of a size adequate to insure proper drainage, with a minimum drop of 2” across the highway. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0414 Curves and Inclines

All curves and inclines shall be constructed in accordance with the standards set forth in Section 86.26 of the Wisconsin Statutes which standards are incorporated herein by reference.

14.0415 Seeding

All disturbed areas (ditches, back slopes and fills) within the highway right of way not provided with surfacing and shouldering material shall be seeded for permanent cover, and protected by erosion control materials.

14.0416 Highway Survey

All applications for Town highways shall be accompanied by a survey of said highway with a corresponding legal description. Said survey shall be performed by a registered land surveyor. The cost for said survey to be the responsibility of the private land owner and/or developer.

14.0417 Required Inspections

Continual inspection of highways by the Town Board or designee during all phases of construction is necessary if the highway is to be considered for addition to the Town Highway System. A minimum of three inspections must take place at the following phases of construction:

- a. Sub-base grading
- b. Crushed aggregate base course; and
- c. Bituminous surface course

An inspection report and recommendation of approval will be given to the full Town Board at which time the Board will approve each phase of construction. The highway will be accepted as a Town highway only after final approval by the Town Board and the receipt of a warranty deed conveying title of the entire right of way to the Town of Franklin, or through plat dedication per Chapter 236 of Wisconsin Statutes.

14.0418 Typical Cross Section

Attached hereto and made a part of this ordinance.

14.0419 Applicability

This ordinance shall apply to all highways; construction of which is completed after the effective date of this ordinance and all existing highways which may in the future become dedicated for public use or submitted to the Town as a Town highway.

14.0420 Variance

A variance to this ordinance can be granted by Town Board action.

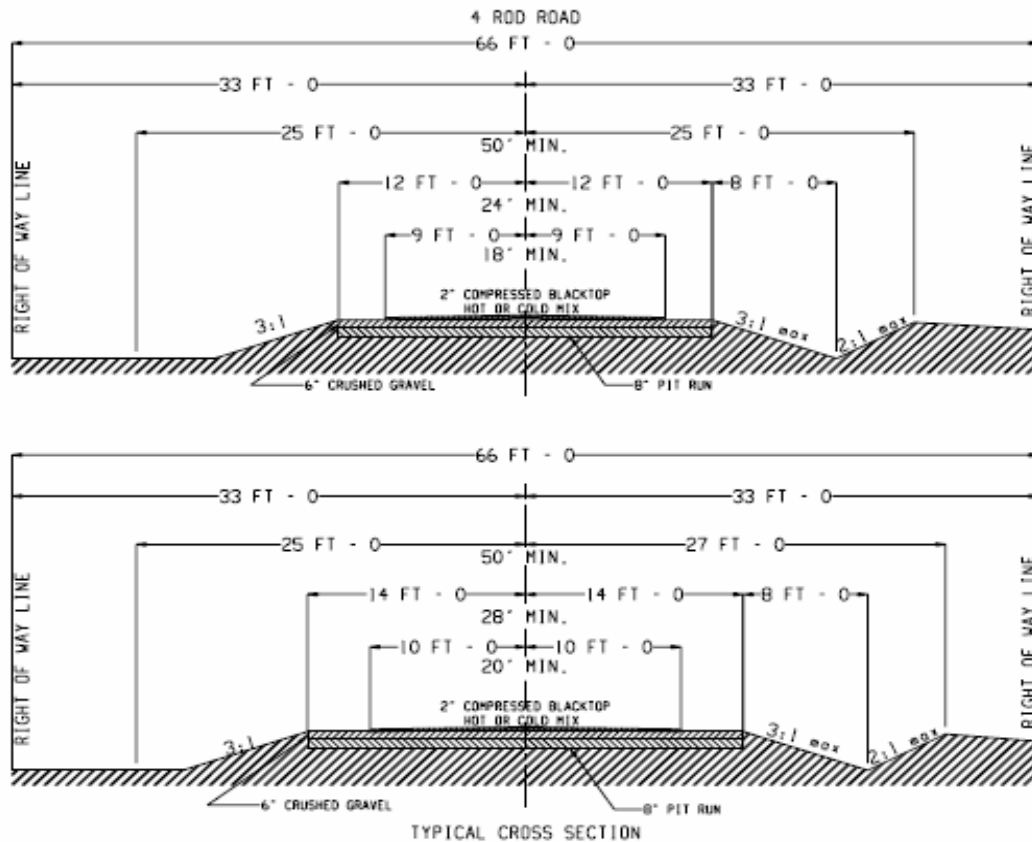
14.0421 Violation and Penalty

Any person or firm or corporation who violates this ordinance shall pay a forfeiture of not less than \$10.00 nor more than \$200.00, together with the costs of prosecution, or in default of payment thereof by imprisonment in the Kewaunee County Jail for a term of not more than 30 days. Until such time as this ordinance is complied with, each day of the violation shall constitute a separate offense.

14.0422 Signing

No signs are required; signing will be done by the Town.

Figure 1: Typical Road Cross Section



14.0500 REGULATION OF PRIVATE ROADS

14.0501 Purpose

To insure that all individuals purchasing or already owning property abutting a private road clearly understand the provisions regarding maintenance and/or improvement of said road.

14.0502 Definition

A private road is defined as a privately owned strip of land which serves as access to more than three (3) parcels of land and/or residences; title to said parcels of land are not held by the same individual(s). If said road serves more than three (3) parcels of land and/or residences it is considered a private road.

14.0503 Permit

To insure compliance with the standards created by this ordinance, no person shall commence construction of any private road which is intended to provide access to more than three (3) landowners without providing detailed plans of the

proposed private road construction and obtaining a permit for such construction from the Town Board or its designees, along with a copy of this ordinance. All costs incurred by the Town in the development and construction of said private road shall be born by the private landowner or developer.

14.0504 Road Name

New road names shall not duplicate the names of existing roads, but roads that are continuations of others already in existence and named shall bear the names of the existing roads. Road names shall be subject to approval of the Town Board.

14.0505 Right of Way

Private roads shall have a 66 foot wide easement right of way width.

14.0506 Cul-de-sac

All dead-end private roads regardless of length, shall have a solid turnaround with a radius of 50 feet on the center line of said private road or a “T” type turnaround. Said “T” shall be at right angles to the center line of private road, have a 66 foot wide right of way and be not less than 50 feet long on either side of the private road center line. The Town Board or designee shall be consulted on which method to utilize at the time of the permit application and site inspection.

14.0507 Private Road Width and Height

Private roads shall have a minimum clear cut width of 24 feet, with a minimum driving surface of 20 feet, and a minimum height clearance of 14 feet.

14.0508 Construction standards

- A. Sub-Base. The entire width of all private roads shall have a minimum sub-base of six (6) inches of breaker run covered with four (4) inches of crushed compacted $\frac{3}{4}$ ” gravel. More pit run or crushed gravel may be needed to create stability in problem areas.
- B. All top soil, muck and foreign material, stumps, old culverts, large rocks, etc., shall be removed and replaced with sand or pit run and brought up to grade before the sub-base shall be applied.

14.0509 Ditches

Private roads shall have a ditch on each side, the bottom of which shall be at least one foot below the bottom of the sub-base. Deeper ditches may be necessary to provide adequate drainage. The Town Board or designee shall determine if a ditch is needed.

14.0510 Back and Side Slopes

All private roads shall have an 8 foot side slope with 4 to 1 pitch, except where geographic features or terrain would not allow for same as determined by Town Board or designee. Back slope shall be a maximum of 2 to 1 pitch. (See Section 18 for Typical Cross Section.)

14.0511 Culverts

The Town Board or designee shall decide if one or more culverts are necessary, and the location and size of said culvert(s). The galvanized steel culvert(s) shall

be of a size adequate to insure proper drainage, with a minimum drop of 2” across the road desired. Multiple part culverts are to be banded with a band of the same size and gauge as the culvert. All costs associated with the purchase and installation of said culvert(s) shall be the responsibility of the landowner or developer.

14.0512 Curves and Inclines

All curves and inclines shall be constructed in accordance with the standards set forth in Section 86.26 of the Wisconsin Statutes which standards are incorporated herein by reference.

14.0513 Seeding

All disturbed areas (ditches, back slopes and fills) within the private road right of way not provided with surfacing and shouldering material shall be seeded for permanent cover, and protected by erosion control materials.

14.0514 Maintenance

All persons requesting approval of a private road, shall first have said private road surveyed by a registered land surveyor. The registered land surveyor shall provide the property owner with an Affidavit of Private Road which shall be executed in such written form as it entitled to recording in the office of the Register of Deeds in Kewaunee County, Wisconsin. Said affidavit shall show the private road as surveyed, the legal description for the private road, and the private road certificate which shall read as follows:

“The undersigned hereby requests the Town Board of the Town of Franklin to grant permission to the undersigned to name private road legally described hereon, and hereby state that it is understood and agreed that such road is a private road which will not be entitled to either maintenance or improvement by the Town of Franklin at any time now or in the future unless and until such road has been dedicated to and accepted by the Town of Franklin as an appropriate public highway pursuant to the then applicable ordinance governing acceptances of such highway.”

14.0515 Required Inspections

Continual inspection of private roads by the Town Board or designee during all phases of construction is necessary if the private road is to be considered a private road. A minimum of two inspections must take place at the following phases of construction:

- A. Sub-base grading
- B. Crushed aggregate base course

14.0516 Frontage

All lots fronting on a private road shall extend to the center of the private road.

14.0517 Affidavit of Private Road

All Affidavits of Private Roads shall have Town Board approval before recording in the office of the Kewaunee County Register of Deeds.

14.0518 Variance

A variance to this ordinance can be granted by Town Board action.

14.0519 Penalty

No building permit for construction of any kind will be issued until such time as the above criteria have been met.

14.0600 DEFINITIONS

For the purpose of this ordinance the following definitions shall be used:

Driveway is a private road, field access road, or other avenue of vehicular travel that runs through any part of a private parcel of land and that connects or will connect to a public highway or private road.

Field Access Road is a road used only for agricultural purposes or to access agricultural land.

Private Road is a privately owned strip of land serving as access from a public highway to more than three (3) parcels of land and or residences (driveways); title to said parcels of land are not held by the same individual(s). If said road serves more than three (3) parcels of land and or residences it is considered a private road.

Town Highway is any Public Highway that the Town of Franklin holds fee simple title to or has prescriptive rights in. Generally, Town of Franklin considers a highway to be a town highway if it appears on the Town's gas tax map.

Subdivision is a division of a lot, parcel or tract of land by the owner thereof of the owner's agent for the purpose of sale or of building development, where:

The act of division creates 5 or more parcels or building sites or

Five or more parcels or building sites are created by successive divisions within a period of 5 years.

Private Road Construction Permit is a permit to construct a private roadway from a town road, through the public road right of way to private property. Issued by the Town of Franklin.

Dwelling Per state definition of meeting five of eight characteristics pertaining to dwelling as referenced in MFL legislation and according to Wisconsin Administrative Code NR 46.15(9) or if structure is occupied on a full time basis.

Connection means the portion of the driveway that connects through the public right of way to a public roadway.

Parcel means contiguous land under the control of a land divider not separated by streets, highways, navigable rivers, or railroad right-of-way.

Owner/Landowner is the Party who has legal title to the land or the designated agent of same.

Town Right-of-Way is the strip of land over which a public road is built. Town of Franklin roads are presumed to be four (4) rods (66 feet) in width unless originally deeded to the town with a lesser width specified.

Driveway is a private road, field access road, or other avenue of vehicular travel that runs through any part of a private parcel of land and that connects or will connect to a public highway or private road.

Field Access Road is a road used only for agricultural purposes or to access agricultural land.

Private Road is a privately owned strip of land serving as access from a public highway to more than three (3) parcels of land and or residences (driveways); title to said parcels of land are not held by the same individual(s). If said road serves more than three (3) parcels of land and or residences it is considered a private road.

Town Highway is any Public Highway that the Town of Franklin holds fee simple title to or has prescriptive rights in. Generally, Town of Franklin considers a highway to be a town highway if it appears on the Town's gas tax map.

Subdivision is a division of a lot, parcel or tract of land by the owner thereof of the owner's agent for the purpose of sale or of building development, where:

The act of division creates 5 or more parcels or building sites or

Five or more parcels or building sites are created by successive divisions within a period of 5 years.

Driveway Construction Permit is a permit to construct a private driveway from a town road, through the public road right of way to private property, issued by the Town of Franklin.

Dwelling A building, structure, or portion there, excluding a mobile home, designed or used exclusively for residential occupancy, including manufactured home, modular homes, single family dwellings, two-family dwellings, and multiple-family dwellings.

Connection means the portion of the driveway that connects through the public right of way to a public roadway.

Parcel means contiguous land under the control of a land divider not separated by streets, highways, navigable rivers, or railroad right-of-way.

Owner/Landowner is the Party who has legal title to the land or the designated agent of same.

Town Right-of-Way is the strip of land over which a public road is built. Town of Franklin roads are presumed to be four (4) rods (66 feet) in width unless originally deeded to the town with a lesser width specified.

