

## **Town of Wrightstown Fire Access Area Ordinance**

Whereas the Town Plan Commission has conducted public hearings and has now made a written recommendation for the creation of a new Ordinance which contains various regulations to promote and protect the public interest in fire suppression, fire protection and the prevention of fire hazards in the Town of Wrightstown;

Now therefore, the Town of Wrightstown Town Board pursuant to Wisconsin Statutes Sections 60.22(1) & (3), 60.55, 60.555 hereby adopts the following Ordinance to be included in the Town of Wrightstown Code of Ordinances:

1. **TITLE**

This Ordinance shall be known, cited and referred to as: the “Town of Wrightstown Fire Access Area Ordinance”.

2. **ACCESS AREA STANDARDS AND PROCEDURES** To assure safe and timely fire department access to all properties located in the Town:

a. **Definitions.** The term “**Access Area**” means the portion of a property upon which fire protection equipment must be operated and deployed to provide fire suppression and protection services to the improvements upon the property. The Access Area may be a driveway, private road or other designated area, but shall at all times as to all properties be configured, constructed, and maintained to assure fire suppression equipment and personnel will have the property access necessary to promptly, efficiently and safely protect persons and property from death, further injury, damage or destruction in the event of fire.

b. **Property Inspections. Properties containing existing improvements:** the Fire Chief and/or the Chief’s appointees shall conduct inspections of all properties containing any improvements which may require fire suppression or protection services. Property owners shall be notified in a writing delivered by regular mail by the Town of Wrightstown to the current tax billing address in the Town’s tax rolls. The notice of inspection shall be mailed not less than seven (7) days before the scheduled inspection and shall both offer and encourage the owner or owner’s representative to participate in the inspection process. The inspection date and time shall be reasonably flexible and may be rescheduled to facilitate participation in the inspection process by the property owner or owner’s representative. Whenever possible the inspections shall include some contact and interaction between the inspector and the property owner, occupant or representative so that information known and alternatives proposed by the property owner may be considered by the Chief before the Chief’s written report is delivered to the Town Clerk. The Chief shall issue a written recommendation which states that: the property requires no Access Area because fire suppression and protection services can be provided from the roadway; or the existing fire protection Access Area is sufficient and in accord with the requirements of this Ordinance; or that the Access Area is substandard, obstructed, or

otherwise not sufficiently in accordance with the standards contained in this Ordinance. Once all Town properties have been initially inspected, no subsequent fire protection access inspections of the inspected properties shall be made by the Fire Chief except: those follow up inspections requested by the property owner; those follow up inspections determined by the Chief as necessary to establish compliance; or those inspections the Fire Chief determines are necessary to maintain and assure the Access Area's continuing compliance with the fire protection access standards required by Section 2(d) below. **Unimproved properties:** no building permit shall be issued until the Fire Chief or the Chief's designee has inspected the property, reviewed the plans for improvement and approved the planned fire protection Access Area.

c. **Establishing and Maintaining Access Area.** The standards contained in Section 2(d) below are minimum standards and property owners shall at all times maintain the fire protection Access Area prescribed pursuant to this Ordinance. Property owners shall neither make nor allow any change(s) to their property adversely affecting an approved fire protection Access Area without prior written notice describing the proposed change(s) being first delivered to and thereafter approved in a separate writing issued by the Fire Chief. All property owners of properties required to have an Access Area shall establish and maintain a fire protection Access Area on their improved property in accord with the requirements of this Ordinance. Failure to do so endangers fire fighters and threatens the health, safety and welfare of adjoining property owners and the entire community. Wherever possible, all property owners are encouraged to exceed the required minimum standards for their own benefit and the benefit of the entire community. However, unless otherwise agreed by the property owner, only the minimum standards mandated for the particular property pursuant to this Ordinance shall be implemented by the least intrusive means of establishing and preserving an essential Access Area on the property. Here "least intrusive" is defined as the alternative means of providing the required Access Area which is least expensive and/or least objectionable to the property owner. If the owner fails to declare the owner's least objectionable alternative means in writing, then the least intrusive means shall be deemed to be the least expensive means of providing the required Access Area on the property.

d. **Access Area Minimum Standards.** All private road, driveway and other surfaces in the Access Area shall be: sufficiently firm with vehicle undercarriage clearance necessary to provide all fire protection vehicles reasonable access to the property; and sized with sufficient clearance to allow for safe and expedient fire protection vehicle operation and deployment upon the property. If disputed, the surface firmness to be provided shall be determined by civil engineering measurements and standards. The truck undercarriage clearance shall be determined in accordance with the fire protection and suppression equipment's requirements and the surface conditions in the Access Area. The width and height clearance of the Access Area shall be not less than what is reasonably required to provide safe and effective fire suppression and protection services upon the property without imposing unreasonable risks of: damage to fire suppression equipment; injury to fire fighters; obstructed or delayed deployment of fire suppression equipment or firefighters. Certain properties containing buildings with significant material rear setback from the public road right of way may be required by the Chief to maintain a sufficient turn around radius as part of the Access Area. In addition to the foregoing standards, the Fire Chief shall establish written inspection and requirement

policies and practices. The Fire Chief may also publish written minimum specifications affecting Access Areas which enable the fire department to access, deploy and conduct fire suppression and protection services in accord with national, state, fire chief or firefighter association regulations, requirements and recommendations for protection, safety or fire suppression performance enhancement. All of the foregoing standards, specifications, policies and procedures to be presented by the Fire Chief and published by the Town Board, shall first be subject to Town Board approval before they are published by the Town Board and administered by the Town Board with flexibility recognizing that there is more than one way to provide sufficient Access Area, and that no single uniform way is the only or best way to provide sufficient Access Area for all properties. The final Access Area determination as to every property shall be made based upon factors such as:

- i. feasibility,
- ii. cost/benefit analysis,
- iii. natural characteristics of the property and surrounding adjoining properties,
- iv. the level of risk to adjoining properties,
- v. the nature of any improvements or activities regularly conducted upon the property or any adjoining property,
- vi. other and further characteristics of the property for which an Access Area is required,
- vii. other and further characteristics of the immediate area in which the property is located,
- viii. the array of fire department equipment available which affords alternative means of providing necessary fire suppression and protection to the property, and
- ix. such other and further Town Board approved considerations which have been published by the Fire Chief as minimum standards, specifications, policies or procedures.

If contested by the property owner, the final determination of the specifications for an Access Area shall be the least costly alternative which provides reasonable necessary fire suppression and protection capability upon the property and which does not present unnecessary undue risk of: injury to firefighters, occupants of the property, occupants of adjoining properties, or other members of the public; damage to fire department equipment; or damage to any persons, improvements, or personal property upon the property or upon any other property in the area of the property.

e. **Access Area Property Records.** All properties inspected shall be identified by both their tax parcel number and address. The Chief shall assemble a list identifying all properties which need an Access Area inspection because those properties cannot be fully serviced for fire suppression and protection from an adjacent public roadway. A copy of the list of the properties which need an Access Area inspection shall be filed with the Town Clerk. The Chief's written inspection report containing the Chief's initial determination of the specifications and configuration of the Access Area for every property requiring an Access Area inspection shall also be documented in a separate writing as to each property by the Chief. The Chief's inspection and Access Area report for each property shall describe the inspection made, describe the Access Area required, specify any Access Area work required to comply with this Ordinance, and note whether the Access Area determinations have been made with or without full agreement of the property owner. A copy of the Chief's written inspection and Access Area report as to

each property required to have an Access Area shall be delivered to the Town Clerk. The Town Clerk shall deliver a copy of every Chief's inspection and Access Area report determining a required Access Area by regular mail to the property owner of the affected property at the address shown in the Town's most recent tax records. If the Chief's determination has been made in the context of an unimproved property for which a building permit is being sought, then the Clerk shall also deliver a copy of the Chief's determination report to the Zoning Administrator.

f. **Administrative Appeal.** The Chief's inspection and Access Area report and determination shall be made in accord with the standards contained in and created pursuant to this Ordinance. Any property owner aggrieved by the determination of the Chief shall timely request a hearing before the Town Board. To appeal the Chief's determination, the aggrieved property owner or the owners appointed representative shall deliver a written request for a Town Board appeal hearing, either by personal delivery or by regular mail to the Town Clerk, not more than thirty (30) days after the Chief's written inspection and Access Area report and determination was delivered to the property owner. Here "delivery" if by regular mail is deemed to occur on the date of mailing as indicated by the post mark on the envelope or the day after its deposit into the US Postal Service, whichever is later. A property owner's failure to timely deliver the owner's request for an appeal hearing is deemed in all cases to constitute that property owner's agreement with the Fire Chief's determination, even in cases where the Fire Chief's report notes the property owner's disagreement with the determination. The owner's request for appeal hearing shall specifically: identify and provide the address and other contact information of the owner or owner's representative requesting the appeal hearing; identify each disputed element of the Chief's inspection and Access Area report and determination; and detail the owner's alternative plan for providing the required Access Area. The Town Board shall conduct a public hearing concerning any such appeal at a date, time and place determined by the Town Chairperson. But in all appeal cases, the Town Clerk shall deliver written notice of the date, time and place of the appeal hearing to the property owner by deposit of that notice with the U.S. Postal Service via regular mail addressed to the owner or the owner's representative identified in the appeal hearing request, not less than fifteen (15) days prior to the scheduled hearing date. The Town Board hearing shall be scheduled and may be continued to allow the Town Board sufficient time to: inspect the subject property; assure the availability of the Fire Chief or the Chief's appointee to participate in the hearing; and to allow a fair opportunity for the aggrieved property owner to present all available relevant evidence in support of the owner's appeal.

g. **Ordinance Enforcement.** All legal actions, whether by citation, injunctive proceeding or otherwise commenced by the Town, to cause implementation of any Access Area determination or to enforce subsequent orders requiring maintenance or restoration of any required Access Area shall be governed by the following:

i. In emergency circumstances necessitating immediate access to a property which has no established, implemented and maintained Access Area to suppress an existing fire, control an existing fire or otherwise prevent hazards caused by an existing fire; all reasonable and necessary actions may be taken to create an immediate Access Area required to suppress, control or otherwise prevent hazards caused by an existing fire. All property owners are encouraged and urged to immediately implement and continually maintain every agreed upon or otherwise pre-emergency determined

Access Area(s) upon their property. Negative impacts upon an owner's property caused by an emergency immediate Access Area may not be the same as and may differ dramatically from those impacts which would have been caused by an Access Area agreed upon or determined (but not yet implemented or not maintained by the property owner).

ii. Under non-emergency circumstances where no existing fire necessitates immediate access to inaccessible areas of a property the Town and/or the Town's authorized representatives:

- a. Shall before taking any other legal action to enforce this Ordinance, first deliver a final written notice to the property owner by regular mail to the current property tax billing address advising the owner that legal action by citation to the Brown County Municipal Court or other authorized legal action may be commenced anytime ten (10) days after the date stated on the notice unless within that ten days the owner: implements the Access Area determination; or authorizes the Town to implement the Access Area determination and bill all costs of such implementation to the owner as a special assessment pursuant to Wisconsin Statutes Section 66.0701.
- b. If the property owner elects to commence implementation of the Access Area determination and if by immediate and reasonably diligent pursuit of implementation complete implementation cannot reasonably occur within ten days of the notice date, then the ten day time to complete implementation shall be deemed extended for the reasonable time necessary to complete implementation under the "circumstances of the particular case" if the property owner within ten days of the notice date notifies the Town Clerk of the owner's intent and proposed time schedule for completion. Here the "circumstances of the particular case" include consideration of: the nature and extent of the property improvements required to establish or maintain the Access Area; and the demonstrated current financial capability of the owner.
- c. If the property owner elects to commence and complete implementation of the Access Area determination within the ten day notice period then the owner shall notify the Town Clerk who shall inform the Fire Chief to schedule a follow up inspection with the property owner.
- d. If the property owner fails to notify the Town Clerk pursuant to Subsections 2(g) (ii) (b) or (c) immediately above, then the owner shall be deemed to have elected to authorize the Town to implement the Access Area determination and bill all costs of such implementation to the owner as a special assessment pursuant to Wisconsin Statutes Section 66.0701. Provided however, the Town is not bound by this default authorization and in any case the Town may elect to proceed and pursue any

other legal or equitable remedy available to enforce this Ordinance including but not limited to the imposition of a forfeiture of not less than \$100 for a first violation, \$200 for a second violation, \$300 for a third and subsequent violation, provided that each day a violation occurs or continues constitutes a separate offense and the forfeiture shall be chargeable to the violator at the foregoing prescribed forfeiture rate based upon the number of previous violations and the Town shall recover for each such violation all statutory chargeable costs. As part of any enforcement action the Town may also seek restitution for any and all Town Attorneys fees incurred in the course of enforcement of this Ordinance.

Adopted by the Town of Wrightstown Town Board this 11th day of September, 2013, and effective upon the date following the date of publication of the Section 60.80(5) notice and summary of the foregoing Ordinance, as demonstrated and recorded by the Certificate of Publication contained in the Town of Wrightstown's records.

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William Verbeten, Chairman

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Ron Diny, Supervisor

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Jesse B. Juedes, Supervisor

Approved, Attested By:

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Donna Martzahl, Town Clerk