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COUNTY RECORDER

DOUGLAS COUNTY, MINNESOTA

FEE:\$46.00

**MOE TOWNSHIP
DOUGLAS COUNTY, MINNESOTA**

ORDINANCE # 2020-1

ROAD ADMINISTRATION ORDINANCE

An Ordinance Regulating Township Roads

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The Board of Supervisors of Moe Township, Douglas County, Minnesota, ordains:

ARTICLE 1

PURPOSE AND AUTHORITY

Section 1.1. Purpose. The primary objectives of this Ordinance are to protect public safety, reduce interferences with public travel, protect the public's interest in the roads lying within the Township, and to provide for the efficient and uniform administration of the roads lying within the Township. The Board finds that the regulations, requirements, and restrictions, as set forth in this Ordinance, are in the best interests of the health, safety, and welfare of the Township's citizens.

Section 1.2. Authority. As a road authority, the Board has broad authority to regulate what occurs in relation to the roads lying within the Township. This authority is found in Minnesota Statutes Section 365.10, Subdivision 17, a variety of sections in Chapters 160, 164, 165, 169, 222, 237, and other chapters, as well as the rules associated with those chapters.

ARTICLE 2

DEFINITIONS

For the purposes of this Ordinance, the following terms shall have the meaning given them in this section:

- a. **Approach.** "Approach" means the area of the Right-of-Way between the traveled surface of the road and the adjacent property that is intended to provide access for vehicles or equipment from the road to the adjacent property.
- b. **Board.** "Board" means the Board of Supervisors of Moe Township, Douglas County, Minnesota.
- c. **Board Supervisor.** "Board Supervisor" means a member of the Board of Supervisors of Moe Township, Douglas County, Minnesota.
- d. **Headwall.** "Headwall" means rock, concrete, masonry, metal, timber or other similar materials places on the sides of an approach as support, to prevent erosion, or for decorative purposes.
- e. **Junk.** "Junk" means old or scrap hazard signs; copper; brass; rope; rags; batteries; paper (synthetic or organic); trash; garbage; waste materials; rubbish; rubber debris; appliances; waste; junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof; iron, steel, and other old or scrap ferrous or nonferrous material.
- f. **Person.** "Person" means an individual, corporation, business trust, partnership or association, or any other legal entity.
- g. **Right-of-Way.** "Right-of-way" means the area on, below, or above the public roadway in which the Township has an interest, including for travel purposes and utility, and drainage easement.
- h. **Township Road.** "Township Road" means any road or cartway which has been established, constructed, or improved under the authority of the Board, or a road established, constructed,

or improved by the county which was subsequently maintained by the Township for a period of at least one year prior to July 1, 1957. [Minn. Stat. 160.02, Subd. 28.] Also referred to herein as "road."

- i. **Township.** "Township" means the organized government of Moe Township, Douglas County, Minnesota.

ARTICLE 3

PAVING UNPAVED AND PREVIOUSLY PAVED TOWNSHIP ROADS

- A. A property owner abutting a Township Road, where the road has been accepted by resolution of the Board prior to _____, may petition for improvement of the road with pavement. At least 60% of owners of the parcels abutting the road must sign the petition before the Board will consider the petition. If the petition is accepted by the Board, a feasibility study will be ordered to determine the necessity and cost of the project and a report on the study will be issued.
- B. The property owners will pay 100% for paving a Township Road and future overlays of the road. The Township will not assess property owners for the cost of maintenance, including crack filling, seal coating, and patching.
- C. Upon completion of the feasibility study, a public hearing will be held at which time a reasonable estimate of the total amount to be assessed will be provided. A description of the methodology used to calculate individual assessments for affected parcels will be available. All interested persons will be allowed to comment on the project. After hearing comments, the Board will consider ordering the improvement, preparation of plans, and advertising the bidding for the project. If the improvement is approved, the township clerk and engineer will calculate the proper amount to be assessed against each property that will benefit from the improvement. The proposed assessment roll will be available for public inspection. After the assessments have been calculated, the property owners will be notified of a public hearing to review the assessments. The notice of a public hearing, sent to each affected property owner, will include the amount of their assessment and prepayment information.
- D. Assessments that are not prepaid may be financed through the Township. The period of financing will not exceed five (5) years.

ARTICLE 4

TOWNSHIP ROAD PROJECT ASSESSMENTS

Section 4.1. Standards for Proper Assessment.

- A. The property benefits from the improvement;
- B. The assessment does not exceed the increase in value of the property due to the improvement;
and
- C. The assessment is uniform.

Section 4.2. Determination of Benefit. Benefit to property from an improvement will be calculated based on the highest and best use of the land. Present use of the land is not the controlling factor in

determining whether the land receives a benefit from the improvement. Rather, the test is whether the land presently could be used for the purposes which would benefit from the improvement.

Section 4.3. Allocation of Assessment Between Landowners

A. One Full Assessment.

- i. Each buildable lot or parcel serviced by one road being paved, which does not already have abutting pavement at a point of access;
- ii. Preliminary plats and platted lots which are vacated prior to the assessment proceedings in anticipation of the improvement project are included;
- iii. Each buildable non-abutting parcel receiving significant benefit from the paving project accessing their property; and
- iv. Adjoining buildable lots or parcels with a significant building structure over the boundary line making the remaining property inseparable for marketing purposes.

B. One Half Assessment.

- i. Each buildable platted lot or parcel which has access to use of paved access, but is not receiving paving alongside the property; and
- ii. Each buildable non-conforming lot adjacent to a lot or parcel already receiving a full assessment.

Section 4.4. Special Assessment Considerations.

- A. Assessments will be determined on a case by case analysis for resort properties, business properties, and agricultural land on large parcels receiving proportionately more benefit from the paving project than individual residential lots.
- B. The Board may make exceptions to these assessment guidelines on a case by case basis upon making specific findings in the Board meeting minutes that each exception is necessary, equitable, and within the requirements for assessments.
- C. Other assessment options may be utilized for properties based on use of the road, no other outlet, or other road access issues.

ARTICLE 5

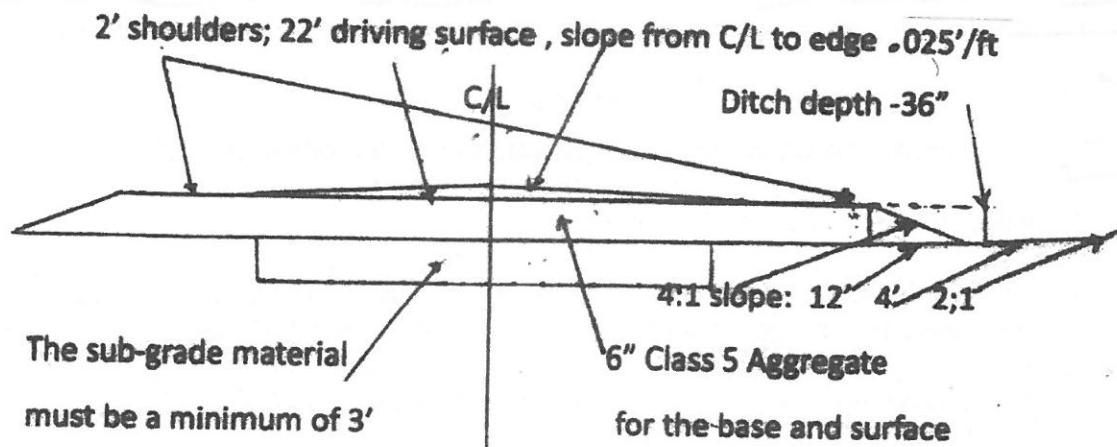
ROAD PROFILE FOR TOWNSHIP ROADS

Section 5.1. Road Specifications.

- A. All township roads will be Class 'A' roads designed for seven (7) tons;
- B. Sub-grade will be excavated in areas where sub-grade is less than three (3) feet;
- C. Roads will be built with a base of six (6) inch aggregate (class five);

- D. Surfacing aggregate will also be class five, unless property owners are willing to pay for a bituminous surface;
- E. The driving surface of the road will be 22 feet wide;
- F. The slope from the C/L to the edge of the driving surface will be .025 feet;
- G. Road shoulders will extend two (2) feet from the edge of the driving surface;
- H. The road will slope from the edge of the shoulder to the bottom of the RIGHT-OF-WAY ditch at a four (4) foot to one (1) foot slope.
- I. The RIGHT-OF-WAY ditch will be constructed to a depth of 36 inches, as measured from the edge of the shoulder of the road, and will include the fill material used to groom the RIGHT-OF-WAY for seeding;
- J. The bottom of the RIGHT-OF-WAY ditch will be four (4) feet wide; and
- K. The back slope of the RIGHT-OF-WAY ditch will be constructed to a one (1) foot to two (2) foot slope.

Section 5.2. Road Design.

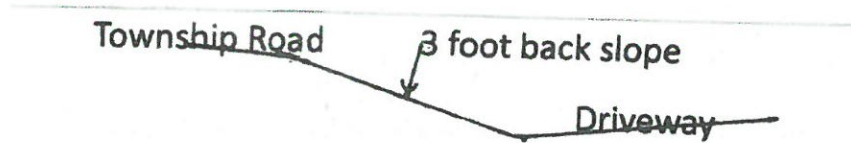


ARTICLE 6

DRIVEWAYS THAT SLOPE TOWARD A TOWNSHIP ROAD

Section 6.1. Driveway Specifications. A concrete driveway that is flush with the edge of the Township Road shall be constructed with a negative back slope from the point of abutment, extending no less than three (3) feet.

Section 6.2. Driveway Design.



ARTICLE 7

DRIVEWAYS, APPROACHES, AND CULVERTS ONTO TOWNSHIP ROADS

- A. All culverts shall be made of galvanized steel of not less than 15 inches in diameter, unless determined by a Board Supervisor that a smaller diameter will be sufficient or that a culvert is not required;
- B. All culverts on driveways and approaches shall be paid for by the owner of the abutting property;
- C. Driveways and approaches must have a top surface of not less than 20 feet and a slope of not steeper than four (4) feet to one (1) foot;
- D. All culverts must be installed so that the bottom of the culvert is at grade level or slightly lower;
- E. Filling or restricting the natural drainage way within RIGHT-OF-WAY is prohibited; and
- F. Prior to installation of culvert, a property owner shall contact a Board Supervisor for approval.

ARTICLE 8

PERMITS FOR DRIVEWAYS AND ENTRANCES ONTO TOWNSHIP ROADS

Section 8.1. Permit Procedures and Specifications.

- A. Any work within the RIGHT-OF-WAY requires a permit from the Board, including construction of a new driveway or a change in the use or alteration to an existing driveway;
- B. A property owner wishing to install a driveway or entrance shall apply to the Board;
- C. The applicant shall install a lath or stake at the location desired for the center of the proposed driveway;
- D. The Board will inspect the location of the proposed driveway;
- E. After the inspection, the Board will approve or discuss the location of the driveway with the applicant;
- F. Should the Board determine that the location of the driveway be changed, another location will be required;

- G. The Board will inspect the location of the driveway for safety, site distance, proximity to other driveways, and drainage requirements;
- H. If the driveway requires a drainage structure, the cost will be the responsibility of the applicant;
- I. The cost of constructing a driveway, including any fill or excavating that may be required, is the responsibility of the applicant;
- J. When construction of the driveway is complete, the applicant will notify the Township for final inspection;
- K. Prior to beginning any excavation work, as required by Minnesota Law, the applicant or their contractor shall contact "Gopher State One Call" for location of underground utilities;
- L. Whenever work on the traveled portion of the roadway or shoulder is necessary, proper traffic control devices shall be furnished by the applicant and shall be in accordance with the most current edition of the Minnesota Manual on Uniform Traffic Control Devices;
- M. All equipment which may damage surfaced roads is prohibited from use on the road;
- N. A driveway permit may be obtained from the Township Clerk or a Board Supervisor; and
- O. The fee for a permit shall be \$50.00.

Section 8.2. Permit. The Application for Driveway or Approach Permit form is attached hereto.

ARTICLE 9

SEDIMENT AND STORM WATER POND MAINTENANCE

- A. Moe Township will be responsible for maintaining sediment and storm water ponds constructed in the Township;
- B. The banks of sediment and storm water ponds will be seeded with native grass mixes in order to provide pollinator habitat;
- C. All property owners benefiting from the establishment of the sediment and storm water ponds will be assessed for the cost of maintaining the pond; and
- D. The cost of each property owner's share will be given to the county auditor to be added to the property taxes of each property owner.

ARTICLE 10

USE OF TOWNSHIP ROADS AND RIGHT-OF-WAY

Section 10.1. Cultivation and Landscaping.

- A. **Cultivation.** No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a Right-of-Way.
- B. **Landscaping.** No person may cultivate, plant, or maintain grasses, flowers, vegetables, or other vegetation in any manner that obstructs visibility of a road or otherwise interferes with, obstructs, or renders dangerous for passage a Right-of-Way. No person may place watering systems or sprinkler heads within a Right-of-Way.

Section 10.2. Obstructions and Junk.

- A. **Obstructions.** No person may place, maintain, or allow any obstruction in a Right-of-Way other than those specifically permitted by this Ordinance, by state law or rule, or by written approval of the Board. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the Right-of-Way. No person shall park a functioning vehicle in a Right-of-Way in such a way as to unreasonably interfere with the safe use of a road or the maintenance of the Right-of-Way.
- B. **Junk.** No person shall place or maintain Junk in a Right-of-Way.

Section 10.3. Alteration of Grade. No person may alter or change the depth or contour of any portion of any ditch or embankment in a Right-of-Way without written approval of the Board.

Section 10.4. Unauthorized Maintenance. No person may work, maintain, improve, or repair the traveled portion of a Right-of-Way without the written approval of the Board.

Section 10.5. Damage to Right-of-Way. No person shall cause damage to a Right-of-Way without the written approval of the Board. Any person doing damage within a Right-of-Way with approval of the Board shall return the Right-of-Way to at least the same condition it was in prior to the damage or be charged the Township's costs to repair the damage.

Section 10.6. Mailboxes, Signs, and Newspaper Boxes.

- A. **Mailboxes.** Mailboxes and newspaper boxes are permitted within a Right-of-Way if they do not interfere with, obstruct, or render dangerous for passage a road. Mailboxes placed within a Right-of-Way must comply with all of the standards in Minnesota Administrative Rules, Chapter 8818. Mailboxes and newspaper boxes shall be installed in accordance with the specifications contained in the attached Mailbox Support with Attached Shopper Bracket diagram and directives. The Board may remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statutes, Section 169.072.

- B. **Signs.** No sign of any nature may be placed or allowed to remain in any Right-of-Way except an official traffic sign placed by a governmental authority or other signage expressly permitted by state law, or by permission of the Township.

Section 10.7. Approaches and Headwalls.

- A. **Approaches.** No person may construct or reconstruct any approach to a road without first obtaining approval by the Board, in accordance with Articles 6, 7, and 8 herein. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval.
- B. **Culverts.** A person constructing or reconstruction an approach may be required to install a culvert meeting the specifications set out by the Board if the Board determines a culvert is necessary for suitable approach to the road and to promote adequate drainage of the Right-of-Way, in accordance with Articles 6, 7, and 8 herein.
- C. **Costs.** A person constructing or reconstructing an approach to an existing road shall be responsible for paying all of the costs related thereto, including the cost of seeking all necessary approvals and the cost of a culvert if one is required. Property owners are responsible for maintaining all approaches and associated culverts on their property at their own cost.
- D. **Headwalls.** No person may construct or reconstruct any headwall in a way that interferes with the safe use or maintenance of a Right-of-Way.

Section 10.8. Snow. No person shall remove snow from their properties and place it on a Township Road or in the Right-of-Way; and

Section 10.9. Specific Prohibitions. The following shall not be placed in the Right-of-Way: Yard clippings and debris; leaves and rakings; lake weeds; garbage and waste; hay, straw, or cornstalk bales; mud; animal waste; construction debris; oil and petroleum; trees (any size); branches and brush; shrubs and plantings; bushes and hedges; terraces and flower beds; building structures (stone, wood, concrete or other); driveway headwalls; fences or walls; irrigation systems; lawn-watering systems; furniture (including mattresses & box springs); and anything else placed in Right-of-Way. Any of these items placed in the Right-of-Way, whether prior to or after the effective date of this Ordinance may need to be moved in order to perform maintenance of a Township Road or a Right-of-Way and, in this event, the Township shall not be responsible for the cost of moving or relocating the item.

Section 10.10. Burning Prohibited. Burning of anything in the Right-of-Way is prohibited.

Section 10.11. Utility Work. Any utility company seeking to do work on utility lines in the Right-of-Way must notify the Township prior to doing such work. Prior to the start of work, the utility company must meet with the Board to discuss the work to be accomplished. Once the work is complete, the utility company will contact the Board to arrange for final inspection.

ARTICLE 11
PERMISSION

Any person receiving permission or a permit from the Board as provided in this Ordinance must comply with all applicable federal, state, and local laws and rules as well as all applicable Township ordinances, resolutions, specifications, regulations, and policies. Any person receiving permission or a permit must comply with all conditions, requirements, and limitations the Board expresses as part of the permission or permit. Failure to comply with any of the conditions, requirements, or limitations shall void the permission or permit and could place the person in violation of this Ordinance.

ARTICLE 12
APPLICATION TO TOWNSHIP AND CONTRACTORS

The prohibitions, requirements, and restrictions contained in this Ordinance do not apply to: The Township; Township officers, employees, or agents while operating within the course and scope of their duties for the Township; or contractors while performing services within the scope of a contract with the Township.

ARTICLE 13
ENFORCEMENT AND PENALTY

Section 13.1. Correction Order. Upon discovery of a violation of this Ordinance, the Board may issue a correction order to the violator ordering the person to correct the violation by a time certain. If the violator fails to comply with the correction order by the time indicated in the order, the Board may provide for the correction of the violation. Issuance of a correction order does not preclude imposition of the penalty set forth in this Ordinance.

Section 13.2. Immediate Correction. If the Board determines that the violation creates an immediate threat to public safety, the Board will make a good faith effort to notify the violator to immediately correct the situation. If the Board is not able to promptly reach the violator, or if the violator fails to immediately correct the situation upon notification, the Board will provide for the correction of the violation.

Section 13.3. Cost of Correction. The cost of correcting a violation shall be the responsibility of the violator. If the Board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees, shall be billed to the violator. If the bill is not paid by the due date, the Board may exercise any lawful options available to it to collect the amount due.

Section 13.4. Penalty. Any person who violates this Ordinance shall be guilty of a misdemeanor and subject to the penalties for such as provided in Minnesota Statutes and other state law. Each day of existence of such violation shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes, Section 366.01, Subdivision 10.

ARTICLE 14**NO WAIVER**

The failure of the Board to exercise, and any delay in exercising, any right under this Ordinance, including enforcement, shall not operate as a waiver thereof and shall not constitute a waiver of the Township's interest, however created, in any right-of-way, easement, or any other type of property interest.

ARTICLE 15**SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for an reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provisions and such holding shall not affect the validity of the remaining portions thereof.

ARTICLE 16**REPEAL**

This Ordinance repeals and replaces any other ordinance inconsistent herewith.

Adopted this 8th day of September, 2020, by the Board of Supervisors of Moe Township, Douglas County, Minnesota.

BY THE BOARD:

Lynn W. Bushard
Lynn W. Bushard, Township Chairman

Attest: Todd Egenes
Todd Egenes, Township Clerk

