

**CLEAR LAKE TOWNSHIP
SHERBURNE COUNTY, MINNESOTA**

Ordinance No. ORD-2011-005

**An Ordinance Regulating
Town Road Rights-of-Way**

The Town Board of the Township of Clear Lake, County of Sherburne, State of Minnesota, ordains as follows:

Section 1.00. Purpose, Findings and Authority.

1. **Purpose.** The primary objectives of this ordinance are to protect public safety, reduce interferences with public travel, protect the public's interest in its Rights-of-Way, and to provide for the efficient and uniform administration of the Town's road Rights-of-Way. 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 Town's citizens.
2. **Findings.** The Board has determined that some property owners along road Rights-of-Way have placed large rocks, soil and other obstructions within the road Right-of-Way. The Board finds that these obstructions create safety hazards to the traveling public, restrict adequate stormwater conveyance and create problems for the maintenance of the roadway and public utilities. The Board finds it in the best interest of the Township not to allow such obstructions within Town Rights-of-Way and to hold property owners responsible for removal of such obstructions.
3. **Authority.** As a road authority, the Board has broad authority to regulate what occurs within the town's road Rights-of-Way. This authority is found in Minn. Stat. § 365.10, subd. 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. Further, Minn. Statute §160.2715, states any obstruction of public right of way is a misdemeanor offense punishable by law. Minn. Statute §160.27, states that it is within the Township's authority to remove unauthorized obstructions. Minn. Statute §366.012 states that the cost of correction and any associated costs may be assessed against the property and turned over to the County Auditor for collection.

Section 1.01. Definitions.

Any term used in this Ordinance and defined in Minnesota Statutes, Sections 169.011 and 160.02 shall have the meaning given to it by those sections. For the purposes of this ordinance, the following terms shall have the meaning given them in this section.

1. **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.
2. **Board.** "Board" means the town board of supervisors of Clear Lake Township, Sherburne County, Minnesota.
3. **Headwall.** "Headwall" means rock, concrete, masonry, metal, timber or other similar materials placed on the sides of an approach as support, to prevent erosion, or for decorative purposes.
4. **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, or junked, dismantled, or wrecked automobiles or farm or construction machinery or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.
5. **Person.** "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.
6. **Right-of-Way.** "Right-of-Way" means the entire width between boundary lines of any way or place under the jurisdiction of the Town when any part thereof is open to the use of the public, as a matter of right, for the purposes of vehicular traffic and is maintained by the Town.
7. **Town.** "Town" means the organized government of Clear Lake Township, Sherburne County, Minnesota.

Section 1.02. Cultivation and Landscaping.

1. **Cultivation.** No person may cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a Right-of-Way.
2. **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. It shall be unlawful for any person to plant trees, shrubbery, crops or other vegetation within the Right-of-Way which may obstruct vehicle operator sight distance or lead to soil erosion. No person may place watering systems or sprinkler heads within a Right-of-Way.

Section 1.03. Right-of-Way Use.

1. **Incorporation of State Statutes.** The Stopping and Parking provisions of Minnesota Statutes, Sections 169.32 - 169.36 and the Right-of-Way use provisions of Minnesota Statutes Sections 160.27 and 160.2715 are incorporated in this Ordinance by this reference the same as if set forth here in full.
2. **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. It shall be unlawful for any person to place within any Township Right-of-Way any obstructions, including, but not limited to construction improvements, buildings, structures, rocks or boulders greater than six inches in diameter (Mn/DOT 3601 Class I Riprap is acceptable), soils, landscaping items or other obstructions which may interfere with proper sight distance, vehicular safety, stormwater conveyance, winter maintenance operations, weed control or in any manner impedes the public use and proper maintenance of the Right-of-Way. Items prohibited by this section include, but are not limited to, fences, posts, structures, piled materials, hay bales, motor vehicles, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or the maintenance of the Right-of-Way.
3. **Permitted Obstructions.** This ordinance does not prohibit standard mailbox installations, permitted roadways, properly constructed driveways or field entrance approaches to the public road, roadway appurtenances such as signs or delineators or approved culverts providing drainage for permitted approaches.
4. **Parking.**

No Interference. 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.

Nighttime Parking Ban. It shall be unlawful for any person to stand, park or leave any vehicle or trailer (whether attached or unattached to a truck or tractor), implement of husbandry or other mobile device of any description, within a Right-of-Way during nighttime hours (defined by Minn. Stat. § 169.011Subd. 48, as “the time from one-half hour after sunset to one-half hour before sunrise.”).

Winter Parking Ban. It shall be unlawful for any person to stand, park or leave any vehicle or trailer (whether attached or unattached to a truck or tractor), implement of husbandry or other mobile device of any description, within a Right-of-Way during the period beginning November 15 of each year through April 15 of the following year.

5. **Junk.** No person shall place or maintain Junk in a Right-of-Way.

Section 1.04. Alteration of Grade.

It shall be unlawful for any person to disrupt, dam, impede or slow the drainage of any ditch within a Right-of-Way or other public waterways providing stormwater conveyance for the roadway system. This includes activities which may cause violation of NPDES and/or MS4 Permit Rules and Regulations.

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 1.05. 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 1.06. Doing Damage.

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.

Section 1.07. Mailboxes, Signs and Newspaper Boxes.

1. **Mailboxes.** Mailboxes and newspaper boxes are permitted within a Right-of-Way if they do not interfere with, obstruct, or render dangerous passage for a road. Mailboxes placed within a Right-of-Way must comply with all of the standards in Minnesota Rules chapter 8818. The Board may remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statute section 169.072.
2. **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.

Section 1.08. Approaches and Headwalls.

1. **Approaches.** Side slopes along permitted roadway, driveway or field entrance approach embankments shall be constructed to a slope ratio no steeper than 3:1, (horizontal to

vertical). No person may construct or reconstruct any approach to a road without first obtaining approval by the Board. A person may be required to submit a map or drawing of the existing or proposed approach when seeking approval.

2. **Culverts.** A person constructing or reconstructing 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.
3. **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.
4. **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 1.09. Town and Contractors.

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

Section 1.10. Permission.

1. **Permit Required.** A Right-Of-Way/Utility Permit shall be required for any person intending to (i) dig into, trench, or in any way remove, physically disturb or penetrate a part of the Right-of-Way, or (ii) build or install any Facility within the Right-of-Way. An Obstruction Permit shall be required for any person intending to place a tangible object in the Right-of-Way so as to hinder or interfere with the free and open passage of any portion of the Right-of-Way for more than two hours.
2. **Limitations.** 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 Town 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.

Section 1.11. Enforcement and Penalty.

1. **Correction Order.** Upon discovery of a violation of this ordinance, the Board may issue a correction order to the person responsible for the violation, if known, and to the owner of the property on which the violation occurred, ordering the correction of the violation by a certain time.
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 and property owner to immediately correct the situation. If the Board is not able to promptly reach the person, or if the person fails to immediately correct the situation upon notification, the Board will provide for the correction of the violation at a cost to the property owner.
3. **Appeal.** If the recipient of such correction order or the recipient's representative or estate disputes the reasonableness of the correction order, the aggrieved party may appeal the reasonableness of the charge to the Board; provided notice of appeal in writing is made to the Board within 15 days after the Township Clerk has sent the correction order to the property owner. The Board shall then hear the matter at its next regularly scheduled or special town board meeting.
4. **Failure to Comply With Correction Order.** If the violator and/or owner fails to comply with the correction order by the time indicated in the order or decision of the Board after a hearing on an appeal, 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.
5. **Cost of Correction.** The cost of correcting a violation shall be the responsibility of the violator and property owner. If the Board provides for the correction of the violation, all expenses incurred, including reasonable attorney's fees, shall be billed to the violator and property owner.
6. **Appeal.** If the recipient of such billing or the recipient's representative or estate disputes the reasonableness of the charges, the aggrieved party may appeal the reasonableness of the charge to the Board; provided notice of appeal in writing is made to the Board within 15 days after the Clerk has sent a notice of delinquency to the property owner. The Board shall then hear the matter at its next regularly scheduled or special town board meeting.
7. **Failure to Pay Service Charges.** If the Town has billed a violator or if the Town has determined the reasonableness of the service charge in response to an appeal as provided above, and if the bill is not paid by the due date, the Board may exercise any lawful options available to collect the amount due and in addition to any other efforts

for collection of the unpaid service charge the Town elects to use, the Town may elect to use the authority of M.S. § 366.012 to collect unpaid service charges of this kind.

8. **Collection of Amounts Due With Property Taxes.** Upon a determination by the Board to use the authority of M.S. § 366.012 to collect the unpaid charges, the Town Clerk shall, on or before September 15 in the applicable year, give written notice to the property owner of the Township's intention to certify the charge to the auditor. On or before October 15 of each year the Board will certify to the Sherburne County Auditor any unpaid charges which shall then be collected together with property taxes levied against the property. The service charges shall be subject to the same penalties, interest and other conditions provided for the collection of property taxes, all as provided in M.S. § 366.012.
9. **Misdemeanor.** Any person who violates this ordinance shall be guilty of a misdemeanor and subject to the penalties for such as provided in 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.

Section 1.12. Record Owner.

For purposes of this Ordinance, the property owner, as stated in the Office of the County Recorder, Registrar of Titles, or the Office of the County Auditor, is responsible for all conditions of their property, subject to any Town Right-of-Way and for actions of all persons who reside or temporarily visit the property owner's property and violate this Ordinance.

Section 1.13. Savings Clause.

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 Town's interest, however created, in any Right-of-Way, easement, or any other type of property interest.

Section 1.14. Severability.

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

This Ordinance is passed and approved by the Town Board of Clear Lake Township this 15th
day of November, 2011.

By: Jack Gallagher
Chairman of the Board
Jack Gallagher

Attest: Mary Mathison
Clear Lake Township Clerk
Mary Mathison

Passed by the Clear Lake Township Board this 15th day of November, 2011.

Published in the Sherburne County Citizen the 26th day of November, 2011.

HISTORY: According to Ordinance No. ORD-2013-007 adopted September 17, 2013:
Ordinance No. 2011-008 REGULATING TOWN ROAD RIGHTS-OF-WAY adopted November 15,
2011 shall be designated Ordinance No. ORD-2011-005.

This renumbered ordinance has been reviewed and approved by the Town Board of Clear Lake
Township this 17th day of September, 2013.

By: Gary Gray Chairman of the Board
Attest: Mary Mathison Clear Lake Township Clerk
Mary Mathison



Passed by the Clear Lake Township Board this 17th day of September, 2013.

Published in the Sherburne County Citizen the 28th day of September, 2013.

Affidavit of Publication

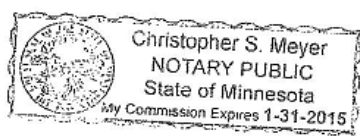
SHERBURNE COUNTY CITIZEN
Becker Minnesota 55308
State of Minnesota
County of Sherburne

Gary Meyer, being duly sworn on oath says: that he is now and during all the time herein stated has been Gary Meyer, the publisher and printer of the newspaper known as the *Sherburne County Citizen*, and has full knowledge of the facts herein stated. That for more than one year prior to the publication therein of CLEAR LAKE TOWNSHIP NOTICE OF ADOPTED ORDINANCE NO. ORD-2013-007 printed here-to attached, said newspaper was printed and published in the English language from its known office of publication within the County of Sherburne, State of Minnesota, on Saturday of each week in the column and sheet form equivalent in space of 450 running inches of single column 2 inches wide; has been issued from a known office established in said place of publication equipped with skilled workers and the necessary material for preparing and printing the same: The *Sherburne County Citizen* has had in its makeup not less than twenty-five (25) percent of its news column devoted to local news of interest to said communities and purports to serve, the press work of which has been done in its known place of publication, has contained general news, comments and miscellany; has not duplicated any other publication; has not been entirely made up of patents, plate matter and advertisements; has been circulated at and near its said place of publication to the extent of 500 copies regularly distributed without charge to local residents; that herein has been on file with the office of the Minnesota Secretary of State the affidavit of a person having firsthand knowledge of the facts constituting its qualification as a newspaper for publication of legal notices; and that its publishers have complied with all demands of said office for proofs of its said qualification. A copy of each issue has been filed with the State Historical Society, St. Paul, Minnesota. That the printed CLEAR LAKE TOWNSHIP NOTICE OF ADOPTED ORDINANCE NO. ORD-2013-007 hereto attached as a part hereof was cut from the columns of said newspaper, was published therein in the English language once a week for ONE successive weeks; that it was first published on the 28 day of SEPTEMBER 2013 and thereafter on Saturday of each week to and including the 28 day of SEPTEMBER 2013 and that the following is a copy of the lower case alphabet which is acknowledged to have been the size and kind of type used in the publication of said CLEAR LAKE TOWNSHIP NOTICE OF ADOPTED ORDINANCE NO. ORD-2013-007.

Gary Meyer
Gary Meyer, Publisher

Subscribed and sworn to me this 30 day
of September, 2013

Christopher S. Meyer



**CLEAR LAKE TOWNSHIP
ORDINANCE NO. ORD-2013-007
COMBINE, RENUMBER AND/OR
REPEAL PREVIOUS ORDINANCES**
On September 17th, 2013, the Clear Lake Town Board adopted Ordinance No. ORD-2013-007 which is an ordinance to combine, renumber, and/or repeal previous ordinances. Copies of this ordinance are available on the website: <http://www.clearlaketownship.org/ordinances.html> or during any regular Town Board meeting held on the third Tuesday of every month at 7:00 pm.
Mary Mathison
Clear Lake Township Clerk
(Published in the *Sherburne County Citizen*: 09/28/13.)