

**WATAB TOWNSHIP
BENTON COUNTY
STATE OF MINNESOTA**

Ordinance No. 4

An Ordinance Regulating Town Road Rights-of-Way

The Board of Supervisors of Watab Township ordains:

Section 1. Purpose 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, utilize utility trenches in road right-of-ways, 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. **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 Minnesota Statute Section 365.10, Subd. 17, a variety of Sections in Chapters 160, 164, 165, 169, 222, 237, 368, and other chapters, as well as the rules associated with those chapters.

Section 2. Definitions.

For the purposes of this ordinance, the following terms shall have the meaning given to 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 Watab Township, Benton County, Minnesota.
3. **Facilities.** "Facilities" means any tangible asset in a Right-of-Way required to provide utility service.
4. **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.
5. **Junk.** "Junk" means scrap metal; synthetic or organic trash, garbage, waste materials, or rubbish; rubber debris; appliances; junked, dismantled, or wrecked automobiles or farm or construction machinery.

6. **Person.** "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.
7. **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 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.
8. **Vehicle.** "Vehicle" means any device which may be used to transport any person or property upon a road.
9. **Town.** "Town" means the organized government of Watab Township, Benton County, Minnesota.
10. **Service or Utility Service.** "Service" or "Utility Service" means those services provided by a public utility; telecommunications, pipeline, community cable television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; and the services provided by a corporation organized for the purposes set forth in Minn. Stat 300.03.

Section 3. Cultivation and Landscaping.

1. **Cultivation.** No person shall cultivate, plant, harvest, or maintain agricultural crops, trees, bushes, or shrubs within a Right-of-Way.
2. **Landscaping.** No person shall 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.
3. **Damage.** The Town shall not be liable for any damage to plants, water systems and sprinkler heads, invisible fencing, or other property planted or installed within a Right-of-Way that results from use and maintenance of the Right-of-Way.

Section 4. Obstructions and Junk.

1. **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 the prior written approval of the Board. Items prohibited by this section include, but are not limited to, fences, retaining walls, posts, structures, rocks, piled materials, hay bales, vehicles, trailers, campers, equipment, or any other items that interfere with the safe use or maintenance of the Right-of-Way.
2. **Junk.** No person shall place or maintain Junk in a Right-of-Way.

Section 5. 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 the prior written approval of the Board.

Section 6. Unauthorized Maintenance.

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

Section 7. Doing Damage.

No person shall cause damage to a Right-of-Way without the prior 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 8. Mailboxes and Signs.

- 1. Mailboxes.** Mailboxes, including newspaper boxes, are permitted within a Right-of-Way if they do not interfere with, obstruct, or render a road dangerous for passage. All mailboxes placed within a Right-of-Way must comply with all of the standards in Minnesota Rules Chapter 8818, regardless of the speed limit of the road on which the mailbox is located. Any mailbox which does not comply with Minnesota Rules Chapter 8818 is presumed to be a hazard to the traveling public. The Board may remove and replace mailboxes that do not comply with the standards as provided in Minnesota Statute Section 169.072 or this ordinance, regardless of the date the mailbox was installed.
- 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 9. Parking of Vehicles Within a Right-of-Way.

- 1. 24 Hour Parking.** No person shall park a vehicle in a Right-of-Way for a period exceeding 24 hours. After 24 hours, the vehicle may be towed away and impounded at the owner's expense.
- 2. Safety.** Under no circumstances shall a person park a vehicle in a Right-of-Way in such a way as to create a hazard for the traveling public or interfere with maintenance of the Right-of-Way.
- 3. Parking Enforcement.** The Town Board Chair is designated the Town's parking enforcement officer. The parking enforcement officer may issue a parking citation and

sign a towing order. All parking citations shall include the license number of the vehicle if available, the date and hour at which the violation was found to exist, the nature of the violation, and any other necessary facts relating to the violation.

4. **Towing and Impounding.** The Board is a towing authority under Minnesota Statute Section 169.041 Subd 1. In accordance with Minnesota Statute Section 169.041, the Board may tow and impound any vehicle found parked in violation of this ordinance. The Board may authorize a private towing company to tow and impound vehicles on behalf of the Town. Any impounded vehicle may be redeemed by the owner or the person parking the vehicle in violation of this ordinance by paying, to the entity which towed and impounded the vehicle, the applicable towing charge and storage fees.

Section 10. Approaches and Headwalls.

1. **Approaches.** No person may construct or reconstruct any approach to a road without first obtaining written 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 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 11. Work Within Right of Way.

Any person or contractor performing work within a Right-of-Way, including but not limited to the installation of utilities, shall restore the Right-of-Way to its pre-construction condition. Such restoration includes, but is not limited to, grading, compaction of soils and gravel, replanting of vegetation, reinstalling mailboxes or signage, and repair to roadway and driveway surfaces. All restoration work performed by utility companies must comply with Minnesota Rules Chapter 7819.

Section 12. Utilities.

1. **Relocation of Facilities.** A utility company is required, at its own expense, to promptly and permanently remove and relocate its Facilities in the Right-of-Way when removal is necessary to prevent interference in connection with: the Town's present or future use of the Right-of-Way for a public project; the public health, safety, and welfare; or the safety and convenience of travel over the Right-of-Way.

2. Right-of-Way Vacation.

A. If the Board vacates all or a portion of a Right-of-Way containing Facilities, and the vacation does not require the relocation of those Facilities, the Board shall, except when it would not be in the public interest, reserve for itself and all those having Facilities in the vacated Right-of-Way, the right to install, maintain, and operate facilities in the vacated Right-of-Way and to enter upon the Right-of-Way at any time to reconstruct, inspect, maintain, or repair the Facilities.

B. When a Right-of-Way vacation does require the relocation of Facilities, the utility company shall pay the cost of relocating its Facilities upon the vacation of the Right-of-Way as provided for in Minnesota Rule 7819.3200, Subp. 2.

C. The Township Board may assign specific corridors within the Right-of-Way, or any particular segment thereof as may be necessary, for each type of Facilities that is or, pursuant to current technology, the Township Board expects will someday be located within the Right-of-Way. To protect health, safety, and welfare or when necessary to protect the Right-of-Way and its current use, the Town Board shall have the power to prohibit or limit the placement of new or additional Facilities within the Right-of-Way. In making such decision, the Town Board shall strive to the extent possible to accommodate all existing and potential users of the Right-of-Way, but shall be guided primarily by considerations of the public interest, the public's need for the particular Utility service, the condition of the Right-of-Way, the time of year with respect to essential utilities, the protection of existing Facilities in the Right-of-Way, and future Township plans for public improvements and development projects which have been determined to be in the public interest.

3. **Abandoned Facilities.** A utility company is required to remove any of its abandoned Facilities in conjunction with other Right-of-Way repair, Excavation, or construction unless expressly waived by the Board in a specific situation upon the request of the Person. "Abandoned Facility" has the meaning provided in Minnesota Rule 7819.0100, Subp. 2.

Section 13. 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 14. 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 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 15. Enforcement and Penalty.

- 1. Correction Order.** Upon discovery of violations of this ordinance, the Board may issue a correction order to the violator ordering the person to correct the violations 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 violations. Issuance of a correction order does not preclude imposition of the penalty set forth in this ordinance.
- 2. Immediate Correction.** If the Board determines that violations create 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 violations.
- 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 violations, 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.
- 4. Penalty.** 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 violations shall constitute a separate offense. If convicted, the person may be assessed costs of prosecution as allowed by Minnesota Statutes Section 366.01, Subd. 10.

Section 16. Savings Clause.

The failure of the Board to exercise, or any delay in exercising, any right under this Ordinance, including enforcement, shall not operate as a waiver 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 17. 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.

Adopted this 7th day of October, 2008 by the Board of Supervisors of Watab Township.

BY THE WATAB TOWN BOARD

Town Chairperson – Craig Gondeck

Attest:

Town Clerk - Patricia B. Spence

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