

SALEM TOWNSHIP
OLMSTED COUNTY
STATE OF MINNESOTA

ORDINANCE NO. -- 2020-01

ORDINANCE REGULATING THE CONSTRUCTION
AND MAINTENANCE OF DRIVEWAYS/ APPROACHES/ CULVERTS
WITHIN THE TOWNSHIP

SALEM TOWNSHIP, OLMSTED COUNTY, MINNESOTA HEREBY
ORDAINS:

1. All parts of ordinances in so far as they are inconsistent with the provisions of this Ordinance are hereby repealed.
2. All construction of driveways, approaches, culverts, and other activities in public Township rights-of-way undertaken after the date of this enactment of this ordinance must comply with the terms of this ordinance.

Section 1. Authority

As a road authority, the Board has broad authority to regulate what occurs with the town's road right-of-ways. This chapter shall be interpreted consistently with Minnesota Statutes, sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act) and the other laws governing applicable rights of the town and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050-7819.9950 and Minn R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the town to adopt and enforce general ordinance necessary to protect the health, safety, and welfare of the public.

Section 2 Purpose

The purpose of this ordinance is to promote the public safety, the general welfare of the community and to enforce the goals and policies of Salem Township. This ordinance applies to the construction or modifications of driveways, approaches and culverts located within Salem Township on Salem Township roadways.

Section 3 Definitions

Driveway is defined as a road or path giving access from a township road, private road or cartway to one or more dwelling units or commercial buildings located or to be constructed on adjacent lands

Field Approach is defined as a path or access route from a township road to an adjacent field or pasture.

Section 4 Permit Required

- A. That all persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway must apply for and obtain a driveway/approaches/culvert permit from the Town Board prior to commencing construction.
- B. Every application for an access driveway/approaches/culvert shall provide such information as the Town Board may require.
- C. No driveway/culvert permits shall be issued to persons not in compliance with the terms of this Ordinance.

Section 5 Conditions of Permit--New Construction

- A. No work under this provision is to be started until the Town Board or its designee approves the driveway/ approaches permit application and all applicable fees and costs for culverts and hardware (aprons) is required have been received by the Township. Cost of construction and related hardware (aprons) is the responsibility of the homeowner. All culverts must be purchased thru the township.
- B. A driveway must contain a depth of 6 inches of clean rock for at least 50 feet from the Township road before any footings are poured for construction on the site.
- C. Dirt or debris from driveway/ approach construction activities are NOT ALLOWED on township roads and shall be removed immediately.

- D. The applicant will contact the Town Clerk for a fire number and hardware. These items have to be installed as per town board recommendations. The cost for this will be paid to the town clerk upon delivery of the sign and hardware.

Section 5.1 Additional Conditions of Permit

- A. All work performed by the applicant covered in this ordinance shall comply with all the specifications contained on attached Exhibit B and any additional requirements of the Town board or their designee.
- B. No driveway/ approach shall cross a wetland unless the wetland permit has first been obtained.
- C. The applicant shall allow such persons, as the Town Board or designee shall designate to enter onto the property to inspect prior to the issuance of the permit during the progress of the work and the finished work.
- D. Unless a written extension of time has been granted by the Town Board or its designee, if work is not completed within 1 year of the date of issuance of the permit, any driveway/ approach permit, which has been granted under this ordinance, is void and the permit fee and costs deposit are forfeited and applicant must reapply for a permit should they wish to continue with work covered under this ordinance.
- E. If required by the Town Board or its designee, the applicant shall provide and install the necessary pipe and aprons for the driveway or entrance pursuant to the Township's specifications.
- F. The applicant shall furnish and place all soils needed in the construction or reconstruction of the driveway and/or entrance embankment.
- G. Unless otherwise agreed to by the Town Board or its designee, the applicant will surface with gravel that portion of the driveway or entrance within the road right-of-way.
- H. Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant to Minnesota Manual of Uniform Traffic Control Devices.
- I. The roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.

- J. The applicant must place stakes in exact location of the proposed driveway prior to review by Town Board or its designee, and again prior to culvert delivery.
- K. If any excavation is to take place “Gopher State One Call” is to be notified at (800) 252-1166 prior to start of construction.
- L. During construction of driveway/approach, erosion control measures must be taken.
- M. After construction is completed, the driveway and culvert, if applicable shall remain clean and free of debris at all times. Site restoration shall be deemed acceptable once final seeding has occurred and said work has been approved by the town board or designee.
- N. In the event that a culvert should fail, replacement costs for the pipe and hardware will be covered by the township. If aprons are absent or the property owner wishes to have a larger culvert installed, the upgrades will be billed to the property owner.
- O. Any person constructing a driveway connecting to a Township road will construct the drive so that the first 15 feet from the edge of the township road will have a downslope away from the road of *” in the first 15 feet to prevent road damage. For proper design dimensions and approaches refer to Appendix B.
- P. Refer to the Right-of way ordinance for additional driveway criteria.

Section 5.2 Reconstruction, Relocation or Alterations of Driveways or Change of Use

- A. Any construction, relocation or alteration of an access connection within the right-of-way of any Township road or where a change of use is proposed for a property with existing access connection to a Township road Right-of-Way. Alterations include the widening of an existing access or changes to an existing culvert including lengthening or replacement. A change of use is defined to include:
 - a) A change in the primary use of the land (e.g. agricultural to residential, residential to commercial, etc.). An access permit is granted for a specific use, and a new permit is required when a use changes since the location of an access connection may be

suitable for one use but not another. This includes changing the use of an existing field access.

- b) A substantial enlargement or expansion in the intensity of land use served by a private street or driveway is proposed, defined as 1) an increase in the gross floor area of a structure serving a primary use by 25% of 750 square feet, whichever is greater, or 2) an increase in the number of parking stalls by 50% or 10 stalls, whichever is greater.
- c) Changing the boundaries of a parcel or group of parcels where the change will result in increasing the number of lots with frontage on a Township road or a reduction in lot frontage below the minimum access connection spacing requirements of this ordinance.

When access connection(s) already exist on a parcel for which an access permit is requested, or on adjacent parcels under common ownership, all existing access(es) which are non-conforming with approval of the access permit will be reviewed and may be subject to modification as part of the access permit to insure the greatest level of consistency with the requirements of the Ordinance.

The appointed Township Engineer shall be notified where reconstruction of existing conforming access connection is proposed but such action shall not require payment of a permit fee if the proposed action involves only the replacement and not alteration of the in-place access.

Section 6 Inspection of the work, fees.

- A. Prior to the construction of the driveway and installation of the culvert the applicant shall meet with the Town Board or its designee at the site to inspect the site, to determine the location of the driveway or field approach, and to determine the scope of the work to be performed. Every new driveway or field approach shall also be required to have an inspection after the work is completed.
- B. Applicant shall be responsible for any cost incurred by the Township relating to the construction of the driveway or installation of the culvert including, but not limited to repairing damage to any roadways as a result of the construction of the driveway and the installation of

- the culvert, turf establishment and removing unacceptable existing driveway on the property. The applicant shall be billed directly and agrees to pay such costs prior to the project receiving final approval.
- C. Applicant shall provide to the Township a nonrefundable permit application fee.
 - D. After construction is completed the applicant shall notify the Township that the work has been completed and is ready for final inspection and approval by the Town Board or its designee.
 - E. No changes or alterations in the approved construction may be made at anytime without the written consent of the Town Board or its designee.
 - F. If at the time of final inspection, the driveway and related grading and turf establishment is found to be acceptable, the project will receive final approval at the next Township Board meeting.

Section 7 Indemnification.

- A. The applicant, his successors and assigns as a condition precedent to obtaining permit approval, hereby agree to release Salem Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, construction of the subject work, and the finished driveway or entrance.
- B. The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to hold harmless, indemnify, and defend Salem Township, its officers and agents, from any and all liability and claims concerning the herein above described permit request, the construction of the subject driveway/ approach. and the finished driveway/ approach and further shall be deemed to have consented to the assessment of clean-up costs as set forth in this ordinance.
- C. The Township shall have no responsibility to repair a driveway that encroaches upon a public right-of-way that is damaged during the course of Township maintenance of the roadway.

Section 8 Violation

- A. A violation of this ordinance shall be grounds for the immediate revocation of the access driveway/ approach permit.
- B. In the event of a violation of this ordinance, the Town Board may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations. Should the Township determine to correct or abate such violations, the applicant or property owner shall be invoiced for the Township's cost which shall be paid within 30 days of the date of the invoice. Should the applicant or property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes pursuant to Minn. Stat§ 366.012.
- C. Further, each day of violation of this ordinance shall be deemed a misdemeanor for which the Township may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

Section 9 Separability

It is hereby declared to be the intention that the several provisions of this ordinance are separable in accordance with the following: If any court or competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in such judgement.

Section 10 Effective Date

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the Town Board of Salem Township this Fifth day of February, 2020

Rick Lutzi, Chairman

Sharon Petersen, Clerk

APPROVED

APPENDIX A

Fee Schedule

Driveway Permit \$100.00

APPROVED

APPENDIX B

TYPICAL APPROACH AND DRIVEWAY DIMENSIONS

