

(SPACE ABOVE THIS LINE RESERVED FOR COUNTY RECORDER)

**FIFTH AMENDED PRIVATE DRIVEWAY
AND CULVERT ORDINANCE No. 021420-1
TOWN OF SUNRISE, CHISAGO COUNTY, MINNESOTA**

The Board of Supervisors of the Town of Sunrise ordains:

SECTION 1. GENERAL PROVISIONS

1.01 Title

This Ordinance shall be known as the Sunrise Township Fifth Amended Private Driveway and Culvert Ordinance. Within this document only, it shall be referred to as “this Ordinance.”

1.02 History and Repealer

This Ordinance is an amended restatement of the Fourth Amended Private Driveway and Culvert Ordinance dated April 15, 2004. Although this Ordinance contains some provisions that are identical to the prior ordinance, this Ordinance supersedes, repeals, and replaces in its entirety all prior ordinances, motions, and resolutions of the Township relative to driveways, culverts, and all other matters associated with approaches to private properties from township roads.

1.03 Purpose

The purpose of this Ordinance is to:

- a. Protect the health, welfare, and safety of the residents of Sunrise Township;
- b. Provide for safe construction and placement of mailboxes within public rights-of-way;
- c. Ensure that costs associated with approaches to private properties are borne by the benefitted properties and not by the Township at large;
- d. Protect the Township from liability due to right-of-way approach issues.

1.04 Authority

This Ordinance is adopted pursuant to the authority granted by Minnesota Statutes, including but not limited to Minn. Stat. §160.18.

1.05 Scope

This Ordinance applies to:

- a. All new construction of approaches to Sunrise Township dedicated public roads, streets, alleys, and cartways, regardless of whether the new approach replaces an existing one or not;
- b. Reconstruction or replacement of existing approaches and/or culverts, regardless of whether or not they are relocated from their original position.

This Ordinance does not apply to:

- c. Grading, graveling, resurfacing, and minor repairs of existing approaches that remain in their exact location;
- d. Approaches to county or state highways, as those rights-of-way are regulated by the county or state as the case may be.

All references to township roads in this Ordinance shall be construed as Sunrise Township dedicated public roads, streets, cartways, and alleys as defined in this Section 1.05, paragraph a above, regardless of whether or not they are accepted township roads at the time of adoption of this Ordinance. This Ordinance shall apply to all roads that may be duly accepted by the Town Board as township roads at any time in the future.

No driveway or culvert may be installed, replaced, altered, or reconstructed adjacent to any Sunrise Township road in a manner inconsistent with this Ordinance.

1.06 Driveway Permits Required

All property owners desiring to construct, reconstruct, relocate, alter, or replace any private driveway or culvert within the right-of-way of any Sunrise Township road shall obtain a written permit from the Township Clerk.

SECTION 2. APPLICATION AND PERMIT PROCESS

2.01 Application Procedure

All driveway permit applications shall be made by the record owner of the parcel, to the Township Clerk, on written forms approved and supplied by the Clerk.

The application shall be accompanied by certified funds (money order or cashier’s check) payable to Sunrise Township in the amount of \$1,000.00, as follows:

- a. A nonrefundable administration and inspection fee in the amount of \$100.00; and

- b. A refundable deposit in the amount of \$900.00.

At the time of application, the applicant may request that the Township supply a culvert, in which case the reasonable costs of purchasing and delivering the culvert will be deducted from the deposit.

The driveway permit will be issued in two stages:

Provisional permit: the permit will show that the application has been accepted, the deposit has been placed, any recommendations and requirements by the Township have been made, and the applicant has a green light to proceed with construction.

Final approval: the permit will show that all conditions have been met, the driveway has been constructed to the satisfaction of the Township, all costs have been paid, and the parcel is in compliance with this Ordinance.

2.02 Permit Requirements

- 2.02.1 Sunrise Township will grant one driveway permit per parcel. For parcels of 20 acres or more, additional driveway permits will require a variance from the requirements of this Ordinance to be granted by the Town Board.
- 2.02.2 Private driveways or culverts constructed within the right-of-way of any Sunrise Township road shall in all respects comply with applicable requirements and specifications, if any, of Sunrise Township and the Minnesota Department of Transportation. A copy of all Township requirements and specifications shall be provided to the applicant by the Town Clerk at the time of application.
- 2.02.3 Any mailbox placed within a Sunrise Township right-of-way must have a swinging-arm mailbox support of the type approved by the Minnesota Department of Transportation, as shown on the attached diagram, which will not protrude into the traveled surface of the right-of-way and will comply with all U.S. Postal Service mailbox regulations. These are available for purchase from the Township.
- 2.02.4 All permit applications shall be reviewed by the Sunrise Township Board of Supervisors and its designated representatives. In all instances this review will include an initial inspection to determine requirements and a final inspection to determine compliance, to be made by a Township supervisor or maintenance employee. The cost of these inspections is paid for by, and is the purpose of, the \$100.00 administration fee.
- 2.02.5 In addition to the above, the Board may, in its reasonable discretion, require a review and written approval of any particular application by the Township's engineer, attorney, a licensed land surveyor, other expert(s) as designated by the Township, or any or all of them, at the expense of the applicant.

2.02.6 The Town Board will issue a written provisional driveway permit when the application has been accepted, the application fee has been paid, the deposit has been placed, and any recommendations and requirements by the Township have been given to the applicant. At this point the applicant may proceed to construct the driveway.

2.02.7 The Town Board will issue a final approval of the permit at such time as all requirements and conditions have been met to the satisfaction of the Board and all associated costs thereof have been paid.

2.03 Costs and Disbursements

In cases where no engineer, attorney, surveyor, or other billable professional services and no more than two inspections are required, the entire \$900.00 deposit shall be refunded to the applicant upon completion of the driveway and culvert installation to the satisfaction of the Township Board.

In cases where costs are incurred:

- a. When more than two inspections are required, inspection fees may apply and may be retained by the Township from the deposit;
- b. When professional services are required, costs may be deducted from the application deposit. These may include, but are not limited to, engineer, attorney, or surveyor fees.
- c. In the event that an applicant commences construction but fails to properly complete placement and installation of any driveway and/or culvert, the Township may undertake to complete such construction to its satisfaction to protect the public safety, and any and all costs associated therewith which the Town reasonably incurs may be deducted from the application deposit.
- d. Any costs over and above the deposit amount shall be paid in full by the applicant prior to issuance of a final approved permit. In the event of failure on the part of any landowner to pay incurred costs, the Township may exercise its right to assess said costs to the parcel's property taxes.
- e. Any funds remaining in the deposit account after satisfactory completion of the driveway construction shall be refunded to the applicant.

2.04 Variances

The Township recognizes that this Ordinance cannot anticipate every circumstance that may apply to every parcel or every applicant. In cases where a provision of this Ordinance may create a substantial hardship, the landowner may apply to the Town Board for a variance to this Ordinance by making written request to the Township Clerk. Such request shall include a legal description of the parcel, a statement of the hardship, and a detailed map or sketch of the property showing the location of the requested driveways and all public roads adjacent to the parcel.

The request for variance will be forwarded to the Sunrise Township Planning Commission for review. The Planning Commission shall review the request with the landowner at a regularly scheduled public meeting and shall make recommendations to the landowner and the Town Board based on the criteria cited as a through f below.

After the Planning Commission meeting, a public hearing before the Town Board will be held in conjunction with the next regular Town Board meeting. Following the public hearing, the Town Board may, in its discretion, grant a variance, provided that the following criteria are met:

- a. Exceptional conditions or circumstances apply to the property that do not apply generally to other properties in the Township, and result from characteristics of the parcel over which the owners have had no control;
- b. The exceptional conditions or circumstances did not result from the actions of the landowner or previous owners;
- c. A literal or strict interpretation of the provisions of this Ordinance would deprive the landowner of rights commonly enjoyed by other properties in the Township under the terms of this Ordinance;
- d. The variance requested is the minimum variance that would alleviate the hardship;
- e. The variance would not be materially detrimental to other properties in the Township, the public safety of residents, or to the purpose of this Ordinance;
- f. No public monies will be used for administration or completion of the project.

The Board shall make a resolution granting or denying the requested variance. This resolution shall constitute the final action of the Township with regard to such variance request.

SECTION 3. ENFORCEMENT

3.01 Denial of Permits

Failure on the part of a person, corporation, or other entity to comply with any provision of this Ordinance shall result in denial of a provisional driveway permit or a final approved driveway permit. In cases of new construction sites, this may result in denial of a building permit by Chisago County.

3.02 Closure of Illegal Approaches and Removal of Obstructions

If any person, corporation, or other entity fails to comply with the provisions of this Ordinance by constructing, modifying, using, or maintaining a driveway without a proper permit, the Township shall take action to obstruct such driveway, if necessary by means of a physical barrier, and to assess the costs thereof to the affected parcel's property taxes. Likewise, if any person, corporation, or other entity obstructs a township right-of-way in any way, the Township will undertake to

remove such obstruction at the landowner's expense and to assess the costs thereof to the affected parcel's property taxes.

3.03 Fines and Imprisonment

A person, corporation, or other entity that violates any provision of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine and/or imprisonment as provided by law.

This ordinance shall become effective immediately upon publication.

Passed by the Sunrise Township Board on **[date]**, 2014.

Joel Peterson, Chair

Gerald Bjork, Supervisor

Carl Peter "Pete" Johnson, Supervisor

Stephen Merten, Supervisor

Jeske Noordergraaf, Supervisor

Wendy Kowalke, Clerk