NEW MARKET TOWNSHIP TOWNSHIP
SCOTT COUNTY
STATE OF MINNESOTA

ORDINANCE NO. 2016-001

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

NEW MARKET TOWNSHIP TOWNSHIP, SCOTT 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 All parts of ordinances in so far as they are inconsistent with the provisions of this Ordinance are hereby repealed.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 enactment of this ordinance, must comply with the terms of this ordinance.

Section 1. Authority.

This ordinance is adopted pursuant to Minn. Stat. Chapter 462 and the Township's police powers.

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 New Market Township Township. This ordinance applies to the construction or modification of driveways, culverts and public accesses located within New Market Township.

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 public 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/culvert permit from the Town Board prior to

commencing construction. Only one driveway access or field approach to the property shall be allowed without the permission of the Town Board.

B. Every application for an access driveway/culvert permit 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.

A. No work under this Provision is to be started until the Town Board or its designee approves the access driveway or entrance permit application and all applicable fees and the Township has received escrow deposits.

B. All work performed by the applicant covered by this ordinance shall comply with all specifications contained on attached Exhibit A and any additional requirements of the Township.

C. No driveway shall cross a wetland unless the wetland permit has first been obtained.

D. No obstructions shall be constructed or planted in the township right-of-way. Obstructions include, but are not limited to; retaining structures, rip rap, posts, trees, shrubs and other such items. Mailboxes and support posts may be located within the Township right-of-way; however, the Township is not responsible for damage to mailboxes or posts during maintenance or snowplowing of the right-of-way. All mailbox supports must comply with Federal Highway Administration and Postal Service guidelines. Stone, masonry or other non-breakaway mailbox supports are not allowed within the Township right-of-way.

E. The applicant shall allow such persons, as the Town Board shall designate to enter onto their property to inspect prior to the issuance of the permit, during the progress of the work and the finished work.

F. Unless a written extension of time has been granted by the Town Board or its designate, if work is not completed within 1 year of the date of issuance of the permit, any driveway or entrance permit, which has been granted under this ordinance, is void and the permit fee and escrow deposit are forfeited and applicant must reapply for a permit should they wish to continue with work covered under this ordinance.

G. If required by the Town Board or its designate, the applicant shall provide and install the necessary pipe and aprons for the driveway or entrance pursuant to the Township's specifications.

H. A driveway must contain at least 4 to 6 inches of 3" clear rock for at least 50 feet from the Township road before any footings are poured for construction on the site.

I. The applicant shall furnish and place all soils needed in the construction or reconstruction of the driveway and/or entrance embankment.

J. Unless otherwise agreed to by the Town Board or its designate, the applicant will surface with gravel that portion of the driveway or entrance within the road right-of-way.

K. The applicant may surface that portion of the driveway within the road right-of-way using materials other than gravel provided the applicant has obtained the approval of the Town Board or its designee prior to the start of the work.

L. Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant to the Minnesota Manual of Uniform Traffic Control Devices.

M. Dirt or debris from driveway/access construction activities are not allowed on Township roads and shall be removed within 24 hours of placement or within 3 hours notice to do so by the Town Board or its designee, whichever is earlier. If an applicant fails to comply with this section, the Town Board may remove the dirt or debris itself and charge the cost of clean up against the deposited escrow money. Costs incurred by the Township to clean up the street in excess of the deposited escrow money may be assessed to the offending property owner pursuant to Minnesota Statutes §429.101 or other relevant statutes.

N. The roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.

O. 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.

P. Applicant shall construct only one driveway per parcel of land without the express written permission of the Town Board.

Q. Applicant and/or property owner shall be responsible for cleaning and maintenance of any culvert installed under this ordinance or located within the road right-of-way in a good and working order as determined by the Town Board in consultation with the Township Engineer.

R. If any excavation is to take place "Gopher State One Call" is to be notified at (800) 252-1166 prior to start of construction.

S. After construction is completed, the driveway shall remain clean and free of debris at all times. Any debris deposited on the driveway or roadway shall be removed immediately.

Section 6. Inspection of the work, escrow amount and fees.

A. Prior to construction of the driveway and installation of the culvert, the applicant shall meet with the Township Supervisor and/or Engineer or their designate 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 establish with the Township an escrow fund for any costs 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 an unacceptable driveway. The escrow amount shall be collected even if there is an existing driveway on the property. The amount of the initial escrow shall be established by a resolution of the Town Board. If additional escrow is required or bills incurred beyond the escrow amount, applicant shall be billed directly for such costs and applicant agrees to furnish additional monies as requested by the Township. Any amounts not utilized from this escrow fund shall be returned to the applicant, without interest, when all improvements have been completed, all financial obligations to the Township have been satisfied, and the Town Board has approved the final inspection.

C. Applicant shall provide to the Township a nonrefundable permit application fee (in addition to the escrow deposit) to cover the Township's inspection costs. The Town Board shall establish the amount of the permit application fee. However, an additional fee as determined by the Town Board shall be required, if the applicant installs the driveway prior to scheduling an inspection by the Township. This additional nonrefundable permit application fee is to cover the Township's additional inspection and administrative costs.

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, any remaining escrow deposit shall be refunded, without interest, at the next Township Board meeting.

G. Unless the Township has granted a written extension of time, if the Town Clerk is not notified within one year of the permit being issued that the work has been completed and is ready for inspection, the permit will be deemed null and void and any escrow deposit will be forfeited to the Township.

Section 7. Indemnification.

A. The applicant, his successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to release New Market Township 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 New Market Township 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 or entrance work, and the finished driveway or entrance, 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 or entrance 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 costs not covered by the escrow deposit 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 or other relevant statutes. All unused escrow funds will be returned to the applicant upon completion of processing of the application in question.

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. Abatement and/or Removal of Violations.

A. Any violation of this Ordinance which the Township in its sole discretion determines to be an immediate safety hazard, may, without notice or liability for damages, be abated and/or removed by the Township.

B. A violation of this Ordinance which the Township does not determine to be an immediate safety hazard may be abated or removed by the Township without liability for damages after: (i) written notice of violation is served on the person responsible for the obstruction notifying that person of the obstruction, the corrective action required, and that the Township may abate or remove the obstruction at the person's expense if the person does not do so within the time specified in the notice; and (ii) the person responsible for the obstruction fails to abate or remove the obstruction within the time specified in the notice.

C. Upon abatement or removal of a man-made obstruction by the Township, the Township may bill the Township's actual cost of abatement or removal, plus cost of administration, to the person responsible for the obstruction. The billed amount, if not paid within thirty (30) days, shall be added to the property tax roll and shall constitute a lien against the responsible person's property which shall be collected and enforced in the same manner as general property taxes pursuant to Minnesota Statute § 366.012 or any other relevant statute. This cost recovery shall be in addition to any penalty or legal or equitable remedy the Township may seek or receive for the violation of this Ordinance.

Section 10. 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 of 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 said judgment.

Section 11. Effective date.

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

Adopted by the Town Board of New Market Township Township, this 5th day of April 2016.

Mike Huntington, Chair

LeRoy Clausen, Clerk