

**TOWN OF DAHLGREN
CARVER COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 03-2024

**ORDINANCE REGULATING THE PLACEMENT OF OBSTRUCTIONS
WITHIN THE TOWNSHIP’S RIGHT-OF-WAY**

The Town Board for the Township of Dahlgren, Carver County, Minnesota hereby ordains:

Section 1. Authority.

As the road authority, the Town Board has broad authority to regulate what occurs within the Township’s road rights-of-way. This authority is found in Minnesota Statutes § 365.10, Subd. 17, a variety of sections in Chapters 160, 164, 165, 169, 222, 237, 368, and other chapters as well as the Township’s police powers.

Section 2. Purpose.

The Town Board finds that placement and installation of rocks and other man-made obstructions in the public road rights-of-way by the owners and occupants of abutting property creates potential safety hazards for motorists, bicyclists and pedestrians; impedes, hinders or interferes with the free and safe passage and parking of vehicles; and renders snow removal and roadway maintenance more difficult. The Town Board determines it in the best interests of the Township and its residents to prohibit these obstructions and hold property owners responsible for removal of the obstructions.

The Town board also has responsibility for any work performed in the road right of way, including utilities work. Any work performed in the town right of way needs a current work permit which shall be obtained from the township before any work begins.

The purpose of this ordinance is also to promote the public safety, the general welfare of the community and to enforce the goals and policies of Dahlgren Township. This ordinance applies to the placement of any obstructions within the Township’s road right-of-way including, but not limited to, violations of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.

Section 3. Definitions.

For purposes of this Ordinance, the following definitions shall apply:

- (a) “Man-Made Obstruction” means an object, structure, rock, planting, post, barrier, wall, fence, excavation, obstacle or other impediment that has been installed, erected, constructed, located or placed in the public right-of-way that creates a potential safety hazard for motorists, bicyclists or pedestrians using the road; or that impedes, hinders or interferes with the free and safe passage or parking of vehicles using the road; or that interferes with or impedes storm water drainage or causes soil erosion; or that renders snow removal and roadway maintenance more

difficult and is not an original feature of the land. “Man-Made Obstruction” does not include utility structures and installations located pursuant to permit or approval, nor does it include signs, traffic control devices, structures, or other installations located in the public road right-of-way by public authorities or their agents and contractors. For purposes of this Ordinance a “Man-Made Obstruction” shall include any violation of Minnesota Statute §160.2715 or other relevant Minnesota State Statutes.

- (b) “Public Road Right-of-Way” means the area of land reserved by law, public ownership, easement, dedication or public use for the operation and maintenance of a public road under the Township’s road jurisdiction, including the traveled portion of the road, shoulders and the remaining area on both sides of the road extending to the outer boundaries of the right-of-way.

Section 4. Man-made Obstructions Prohibited in Public Road Rights-of Way.

In addition to the prohibitions contained in Minnesota Statute §160.2715 and other relevant state statutes, no person shall place or cause to be placed a man-made obstruction within any Township road right-of-way without a permit or approval from the Town Board. This prohibition includes, but is not limited to, the following:

- (a) Rocks, boulders or other man-made obstructions shall not exceed four (4) inches in total height, and shall not be located closer than three (3) feet from the edge of the road pavement;
- (b) Placement of fill or creation of a berm or wall;
- (c) Planting, cultivation or growing of plants, trees, bushes, gardens, landscaping or crops, except for grass, flowers and plants landscaped and maintained so that they do not create a potential safety hazard and do not reduce corner clearances or diminish visibility of or by road users;
- (d) Placing fences, posts, barriers, ditches, signs, advertising devices or other decorative or preventative materials;
- (e) Excavation or alteration of ditches, grade, contour, embankment or road drainage;
or
- (f) Mailboxes may be located within the Township road right-of-way in accordance with U.S. Postal Service regulations provided the mailbox conforms to the requirements contained in Minn. Stat. § 169.072; Minn. R. Chap. 8818 and any other relevant state statutes and rules, including the Township policy. All other mailboxes are prohibited without a permit or approval from the Town Board.

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.

Section 6. 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 7. Violation.

- (a) 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 as provided in Section 6, the property owner shall be invoiced for all of the Township's costs which shall be paid within 30 days of the date of the invoice, should the 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 statute.
- (b) 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.
- (c) In the discretion of the Township, the matter may also be forwarded to the Carver County Sheriff's Department, so that a citation can be issued to violator based on Minnesota Statute § 160.2715 or other relevant statute.

Section 8. Removal of Man-made Obstructions.

- (a) A man-made obstruction in the public road right-of-way, which the Township in its sole discretion determines to be an immediate safety hazard, may, without notice or liability for damages, be abated or removed by the Township.
- (b) A man-made obstruction in the public road right-of-way 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 9. Abutting Property Owner.

For purposes of this Ordinance, the owner or occupant of the property abutting the public road right-of-way, according to the property tax roll, is presumed to be responsible for any man-made obstructions in the abutting public road right-of-way unless the evidence or circumstances indicate a different responsible party.

Section 10. 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 11. 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 12. 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 13. Repealer.

All regulatory provisions contained in other Township ordinances, which conflict with the provisions of this Ordinance, are hereby repealed.

Section 14. Effective date.

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

Adopted by the Town Board of Dahlgren Township this 12 day of February, 2024.

Township Chairman

Township Clerk

UNAPPROVED