
**PREBLE TOWNSHIP
ORDINANCE TO GRANT ACCESS
TO TOWNSHIP ROADS
Ordinance No. 2006-02**

The Board of Supervisors of Preble Township, Fillmore County, hereby adopts and ordains this Ordinance to Grant Access to Township Roads:

Section 1. Purpose and Authority. Preble Township owns or controls various township road and other public rights-of-way. Minnesota Statutes § 160.18 authorizes Preble Township to grant by permit to township property owners and residents the right to develop and maintain a suitable approach and access to township roads from their property. Preble Township hereby approves and adopts this Ordinance to Grant Access to Township Roads, to provide the basis and standards for approving permits to develop and maintain a suitable approach and access to township roads from adjacent property.

Section 2. Definitions. The following definitions of terms are hereby adopted and incorporated into this Ordinance:

- (a) “Access Permit” means a permit issued by the Township Board authorizing an Applicant to build, construct and develop an Approach from Applicant’s property onto an adjacent Township Road.
- (b) “Applicant” means any person who submits an Access Application to the Township Board in accordance with this Ordinance.
- (c) “Approach” means a constructed drive entrance, bridge or connection across the Township Right-of-Way between the traveled surface of the Township Road and the adjacent property that is intended to provide access to (i) a residential driveway or (ii) an agricultural field, for vehicles and equipment from the Township Road.
- (d) “Non-Conforming Approach” means an Approach in existence as of the date of adoption of this Ordinance that does not conform with the standards required for a new Approach.

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(e) "Permit Application" means a request or application (made on a Township Board approved application form) from an Applicant to obtain an Access Permit.

(f) "Permittee" means an Applicant to whom the Township Board has issued an Access Permit under this Ordinance.

(g) "Township Board" means the Board of Supervisors of Preble Township.

(h) "Township Right-of-Way" means the untraveled area, under the control and management of Preble Township, between the traveled surface of the Township Road and the adjacent property.

(i) "Township Road" means a public road owned or controlled by Preble Township.

Section 3. Access Without Permit Prohibited. No person shall excavate, build, construct or develop any Approach from private property onto a Township Road, without first obtaining an Access Permit from the Township Board.

Section 4. Permit Required. An Access Permit shall be required for any person intending to develop an Approach.

Section 5. Permit Applications. An Applicant for an Access Permit shall submit an application (on the form adopted by the Township Board) to the Township Clerk, providing the following information:

- Name, address, telephone and fax of Applicant.
- Name, address, telephone and fax of any contractor, excavator or builder of Applicant who will perform the work developing an Approach.
- A legal description of the property that would be serviced by the proposed Approach.
- Identify the Township Road to which the proposed Approach would provide access.
- Describe the reason for developing the proposed Approach.
- Give exact location of present access to the property.
- Number of existing Approaches and access points to the property.
- Provide a drawing or map showing the exact location of the proposed Approach.
- The start and completion dates of the proposed work developing the Approach.

Section 6. Incomplete Applications. If a Permit Application received by the Township Board is incomplete, the Township Board will notify the Applicant within 15 days of receipt by the Township Clerk that additional information is required before the Permit Application will be considered. Incomplete Permit Applications are invalid and shall be deemed rejected unless all required

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information is submitted to the Township Board within 30 days of the date the Township Board notifies the Applicant the Permit Application was incomplete.

Section 7. Automatic Permit. A Permit Application shall be deemed approved and an Access Permit automatically issued to Applicant if the Township Board does not notify Applicant of the denial of a Permit Application, within 60 days of the date on which the Township Clerk received Applicant's Permit Application.

Section 8. Permit Conditions. The Township Board may impose reasonable conditions upon the issuance of an Access Permit, to protect (i) the integrity of the Right-of-Way, and (ii) the health, safety and welfare of neighboring property owners and residents or roadway users. The Township Board may require that Applicant install a culvert beneath the proposed Approach to assist drainage of the Right-of-Way.

Section 9. Approach Costs. The Permittee shall be responsible for all costs of developing an Approach, including the costs of (i) purchasing and installing a culvert and (ii) restoring the Right-of-Way to the same condition prior to the start of work developing the Approach. Preble Township will not be responsible for any costs of developing an Approach.

Section 10. Permit Denial. The Township Board may deny a Permit Application if:

- (a) Applicant refuses to complete all required information in its Permit Application, or provide the Township Board with any additional requested information,
- (b) sight distances, access spacing and density, or road speeds at the location of the proposed Approach, as determined by site inspection of the Township Board, indicate that vehicle traffic entering or exiting the Township Road using the Approach would cause driving safety hazards,
- (c) the proposed location of the Approach would cause drainage problems for the Right-of-Way or the Township Road, or
- (d) Applicant's proposed Work would adversely affect the health, safety or welfare of neighboring property owners and residents or roadway users.

Section 11. Approach Specifications. The location of an Approach must provide adequate sight distances for vehicles and equipment to safely cross or enter the adjacent Township Road. The Township Board will use the MnDot *Roadway Design Manual* for sight distance guidelines, access density, access spacing and other standards for locating and constructing Approaches. The Approach shall be constructed not less than 16 feet or more than 24 feet wide, and of sufficient base

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strength to support and provide access for emergency and fire vehicles. Installation of a suitable culvert may be required to provide adequate drainage of the Right-of-Way or Township Road.

Section 12. Non-Conforming Approaches. A Non-Conforming Approach providing residential or agricultural access to private property may continue providing the same access to such property.

(a) If the access or use of such Non-Conforming Approach is discontinued or abandoned, subsequent access to the property may be required to conform to the provisions and standards of this Ordinance. If a Non-Conforming Approach has been abandoned and not used for a period of at least one year, the Township Board will be entitled to excavate and destroy the Non-Conforming Approach to assist suitable drainage of the Right-of-Way or Township Road.

(b) If a property owner or resident attempts to expand the access or use of a Non-Conforming Approach, the Township Board will have the right to require that the Non-Conforming Approach be brought into conformance with the standards and provisions of this Ordinance.

(c) If the Township Board determines that a Non-Conforming Approach requires a culvert to be installed for suitable drainage of the Right-of-Way or Township Road, the Township Board will be entitled to install the culvert under the Non-Conforming Approach, at cost to Preble Township.

Section 13. Enforcement. Upon discovery of a violation of this ordinance, the Township Board may issue a correction order to the violator order the person to correct such violation by a designated time deadline. If the violator fails or refuses to comply with the correction order, the Township Board may cause Preble Township to correct the violation. The cost of correcting the violation and penalties shall be the responsibility of the violator. If the Township Board provides for the correction of the violation, all expenses incurred by Preble Township, including reasonable attorneys fees and costs, shall be charged to the violator. If the correction costs and penalties are not paid upon demand, the Township Board may seek enforcement of such collection in the appropriate Minnesota federal or state courts.

Section 14. Penalty. Any person who violates this ordinance shall be guilty of a misdemeanor and subject to the penalties for such as provided by law. Each day of existence of such violation shall constitute a separate and distinct offense. If convicted, the violator may be assessed costs of prosecution as allowed by Minnesota Statutes § 366.01, subd. 10.

Section 15. Waiver. The failure of the Township Board to exercise, or to timely exercise, any right under this ordinance, including enforcement, shall not operate as a waiver of any violation, and shall

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not constitute a waiver of Preble Township's rights or interests.

Dated: January 17, 2006

Gerald Peter

Supervisor

Brad Kelly

Supervisor

Attest:

David Larson

David Larson, Township Clerk

David Williams

Supervisor

Return Recorded Document To:
David Larson, Township Clerk
Rural Route 2 - Box 160
Mabel, Minnesota 55954
Telephone: 507.864.2690