

TOWNSHIP OF ELK MOUND

Town Road Damage Ordinance

A) Title/Purpose

- 1) This ordinance is enacted to reduce, minimize, prohibit, or eliminate premature damage to township roads caused by deposits of any debris, overweight trucks, tractors, implements, the use of track equipment, or any other activity.
- 2) This ordinance establishes both penalties as well as charge back of costs and expenses incurred by the township arising out of or related to damage to township roads.

B) Authority

This ordinance is based on authority granted by Wis. Stats. §§ 60.22, 66.0627, 82.03, 86.01, 86.02, and 86.021.

C) General provisions and definitions

- 1) "Premature" shall mean occurring or created before the customary, correct, usual or assigned time.
- 2) "Damage" shall mean any destruction, harm, or physical impairment that causes unscheduled repairs or expedites the normal time for replacement of the township road, bridge, or culvert, including, but not limited to, disruption to the roadway surface and shoulders.
- 3) Wis. Stats. §§ 60.22, and 82.03, establish powers, duties, and responsibilities upon the Town Board for the care, supervision, and maintenance of township roads.
- 4) Wis. Stats. §§ 60.22, 66.0627, 86.01, 86.02, and 86.021 prohibit persons or entities from damaging town roads and permit town boards to demand payment of penalties, fines, forfeitures, and impose charges against real estate for services rendered to the property served for injury to township property, including roads.
- 5) No person or entity shall cause damage to any town road within the Township of Elk Mound without a prior written permit issued by the Town Board in which the person or entity agrees to repair, or pay for the repair, of any and all damages.

D) Damage to town road

- 1) No person or entity shall act in any manner so as to cause any damage to any town road within the Township of Elk Mound.
- 2) No vehicle due to size, weight, or contact with a town road surface is permitted to create premature damage, destruction, or undue wear to any town road within the Township of Elk Mound.

E) Violations, penalties, and charges

- 1) Any person, organization, or business that violates any part of this ordinance shall be fined not less than Five Hundred (\$500) Dollars nor more than One Thousand (\$1,000) Dollars as determined appropriate by the Town Board based on the extent of damage.
- 2) In addition to any fine, any person, organization or business that violates any part of this ordinance and such violation results in premature damage or destruction of a town road, shall be responsible for all costs and expenses incurred by the Township of Elk Mound for the repair and reconstruction of any such damaged or destroyed town road.
- 3) If the Township of Elk Mound incurs costs and expenses for repair and reconstruction of any town road and such repairs and reconstructions arise out of, relate to, or are necessitated by any private construction, demolition, planting, or harvesting project in the Township then, in that event, the Town Clerk shall charge the costs and expenses incurred by the Township to the property owner where such construction, demolition, planting, or harvesting project occurred.
- 4) Any person, organization, entity or business violating this ordinance shall also be liable to the Township of Elk Mound for all costs and actual attorney fees incurred by the Township in enforcing this ordinance.

F) Property owner allowed time to pay or appeal and appeal process.

- 1) The Town Clerk shall give each property owner billed for services as provided for herein notice that they shall have a specified period of time, of not less than thirty (30) days, to pay. Said notice shall also state that within 15 days of the date of the notice, the property owner may request a hearing before the Town Board regarding the charges against the property. Said notice shall also include an itemized statement of the costs and expenses to be charged. Thereafter, if the property owner requests a hearing within the proper time period, the matter shall proceed as described below. If a hearing is not requested within the required time period, if that charge remains unpaid, the Town Clerk shall automatically charge the same as a delinquent

tax against the property as provided by law. In the event the statement rendered to the property owner or the time given for the property owner to pay or following a hearing if the Town Board approves all or part of the charge, it is too late in the current year for the charge, when it becomes delinquent, to be extended on that year's tax roll, then the delinquent charge shall be extended to the following year's tax roll.

- 2) Upon receipt of a timely request for hearing, the Town Board shall hold a hearing regarding the property charges at its next scheduled meeting or as soon as feasible. Such hearing shall be preceded by posted public notice and reasonable notice, via first class mail, to the property owner. In the event a hearing is requested, no charges shall be placed on the tax roll unless and until such hearing has been held and a decision has been rendered by the Town Board to approve the charges against the tax roll in whole or in part. If approved only in part, only that part of the charges that are approved may be charged against the tax roll.

G) SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

H) EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Adopted this 12 day of December, 2019

TOWN BOARD:

By: Elton Christopherson
Elton Christopherson
Town Chairman