

**ARAGO TOWNSHIP
HUBBARD COUNTY, MINNESOTA
Ordinance No. 4-2016**

AN ORDINANCE REGULATING DRIVEWAYS AND DRIVEWAY ACCESSES

The Board of Supervisors of the Town of Arago ordains:

1. **Purpose.** It is the purpose of this ordinance is to establish reasonable regulations, requirements, and restrictions regarding the construction and reconstruction of driveway access onto town roads in order to protect the health, safety and welfare of Town residents, those traveling on town roads, and the general public. It is also the purpose of this ordinance to protect the cumulative investment the public has made to construct, maintain, and improve the Town's roads by requiring those undertaking construction or reconstruction projects in and near town roads to obtain a permit from the Town and to be responsible for constructing or reconstructing such accesses to certain minimum specifications. Finally, this ordinance provides for the recovery by the Town of its actual expenses incurred related to such projects where reimbursement is required by this ordinance.
2. **Authority, Scope, and Violation.** Pursuant to Minnesota Statutes, sections 160.18 and 160.2715, a permit is required from the road authority before constructing a driveway access to a public right-of-way and constructing a driveway headwall. The Town Board is the road authority for town roads within the Town. The Town requires an owner to apply for and obtain a driveway access permit from the Town before constructing a new driveway access, or reconstructing an existing driveway access, that provides access to or from a town road. A driveway access permit is required regardless of the intended use of the driveway including, but not limited to, driveway accesses used for agricultural or recreational purposes. The owner shall pay the applicable application fee, reimburse the Town for costs of an engineering review if required, and is responsible for all costs associated with constructing the driveway access and obtaining and installing a culvert, or other drainage structures, as may be required. For the purposes of this ordinance, the reconstruction of a driveway access requiring a driveway access permit includes any alteration that increases or decreases the vertical profile or width of the driveway access, any alteration to drainage by raising, lowering, changing the diameter, removing, or blocking an existing culvert, or a change in the use of the land that results in a significant change in the use of the driveway access. The restrictions contained in this ordinance that may occur within a town road right-of-way are in addition to the prohibitions contained in Minnesota Statutes, sections 160.2715, 609.74, and such other law as may apply. A failure to obtain a driveway access permit from the Town when required by this ordinance, or failure to install a driveway approach in accordance with this ordinance or the permit issued for the project, shall constitute a violation of this ordinance and of the cited statutory sections.
3. **Driveway Access Permits Required.** The construction or reconstruction of a driveway access onto a town road shall require a driveway access permit from the Town. All driveway accesses constructed or reconstructed within a town road right-of-way shall comply with the standards and requirements in this ordinance and comply with all other applicable laws, rules, regulations, and ordinances.

4. **Application Procedures.** A request for a driveway access permit to access a town road must be on the application form approved by the Town and submitted with the required permit fee in accordance with the following:

- (a) The applicant shall provide all information required in the application form including, but not limited to, a sketch of the driveway access showing its proposed location, width, and describing any proposed culverts or other drainage structures. If the applicant is not an owner of the property to be served by the driveway access, the application must be signed by both the applicant and the property owner. The application shall be submitted to the Town Clerk or such other person as designated by the Town Board.
- (b) The applicant shall place stakes at each end and at each corner of the desired access showing its proposed location and width.
- (c) The Town will inspect the proposed driveway access. If the inspector determines that review by the Town's engineer is required, the applicant shall be required to reimburse the Town the actual costs it incurs related to the engineer's review. The requirement to reimburse the Town for its costs for the engineer's review is a condition of issuing the permit and failure to fully reimburse the Town is a violation of the permit and of this ordinance. Any specific requirements, conditions, or restrictions identified by the engineer during the review shall be incorporated in and made part of the driveway access permit.
- (d) A driveway access permit shall be obtained from the Town before any driveway access is constructed or reconstructed within the right-of-way of a town road. Furthermore, no work on the driveway access shall occur until the Town has issued the driveway access permit. The driveway access and associated drainage structures must be constructed in accordance with the driveway approach standards adopted by the Town Board, which are incorporated herein by reference, and any specific requirements, conditions, or restrictions set out in the permit, including the engineer's report if one is issued. The engineer's report is automatically incorporated in and made part of the driveway access permit issued by the Town.
- (e) A change, or proposed change, in use of a property that results in a significant increase or intensification of the use of an existing driveway access requires a new driveway access permit from the Town. The permit may require reconstruction of the driveway access in order to adequately accommodate the increased or intensified use.

5. **Standards.** The construction or modification of a driveway access shall comply with the following standards as well as any specific requirements imposed on the permit issued for the driveway access.

- (a) **Width Requirements.** The permitted width of a driveway access shall be established in the permit issued for the driveway access. The driveway access must be able to reasonably accommodate the type of vehicles anticipated to use the particular driveway access based on the primary use of the property. The entire portion of the driveway access within the right-of-way shall comply with the width requirements, except that the driveway access may be flared as it approaches the

surface of the road. The total width of the flared portion shall not exceed the permitted width of the driveway access by more than 5 feet and the flare shall be limited to the area within 5 feet from the edge of the surface of the road.

- (b) **Vertical Clearance.** The area above the driveway access shall be clear of tree branches and other obstructions in order to achieve a vertical clearance of at least 14 feet and such vertical clearance shall be maintained in order to allow access by emergency vehicles.
- (c) **Setbacks.** No driveway access shall be placed within any of the following setback distances. Additional corner clearance may be required in the sole discretion of the Town based on the presence of turning lane(s), a skew or complex intersection, atypically wide intersection, heavily traveled roadways or other conditions that reasonably require a further setback distance. Common or shared driveway accesses are exempt from the side lot line setback requirement. The setback from an intersection shall be measured from the closest edge of the intersection right-of-way.

Setback From:	Setback Distance
Another Driveway access	30 feet
Right-of-Way Intersection	60 feet
Side Lot Line	10 feet

- (d) **Driveway access Angle and Profile:** Any driveway access shall meet the State of Minnesota Department of Transportation recommended standards for approaches and entrances as adopted by the Town Board as part of its standards.
- (e) **Driveway Headwalls.** The sides of a driveway access used to support its surface, which are also referred to as headwalls, must be constructed in a manner so as not to create an unreasonable hazard for recreational vehicles and vehicles that may leave the travelled surface of the road. Furthermore, placing rocks, fences, pillars, posts, and other materials or structures that extend above the level of the driveway access can also pose a safety hazard and interfere with maintenance of the right-of-way. In order to avoid or reduce such hazards and interferences, a driveway headwall erected or reconstructed within the right-of-way of a town road shall have a slope of no steeper than 3 to 1. No materials or structures shall be placed on or along a driveway access that interfere with the maintenance of the right-of-way or that extend more than one foot above the surface of the access drive. This prohibition does not apply to mailboxes and newspaper boxes provided, however, that any mailbox placed or replaced within a town road right-of-way shall comply with the standards in Minnesota Rules, Chapter 8818 regardless of the speed limit on the town road.
- (f) **Drainage.** Drainage along the town road shall be maintained at all times. No driveway access shall be constructed, expanded, altered, or maintained such that it interferes with the drainage of water within a ditch or along a curb and gutter. A culvert shall be required for a driveway approach unless the permit issued for the particular driveway approach indicates a culvert is not required. A permit issued for a driveway access may impose specific requirements for the installation of a culvert or other drainage structure to properly accommodate drainage. A culvert installed within a driveway access shall, at a minimum, have a size of 15 inches in

diameter, be a corrugated metal pipe (CMP), reinforced concrete pipe (RCP), or other material approved by the Town that is designed for such use, be at least 20 feet in length, and shall extend at least 2 feet beyond the edges of the driveway.

- (g) **Maintenance of Drainage Structures.** The owner or occupant of land is responsible for maintaining the drainage structures installed in or associated with a driveway access including, but not limited to, keeping culverts free of dirt and debris, repairing, and replacing drainage structures as needed so as not to not interfere with or obstruct the drainage of water along the right-of-way. If an owner or occupant fails to maintain, clean, repair, or replace a culvert or other drainage structure as needed to avoid obstructing drainage, the Town may undertake such work as may be needed and the owner of the property shall be responsible for fully reimbursing the Town for its costs.
6. **Multiple Driveway Accesses.** No more than one driveway access to a lot shall be permitted, except upon approval of the Town Board. A request for an additional driveway approach shall not be approved unless the owner demonstrates, to the Town Board's satisfaction, a specific need for an additional driveway access and that the additional driveway approach can be placed and constructed in such a way as to not unreasonably interfere with the safe use or maintenance of the right-of-way.
7. **Unsafe Driveway Accesses.** Any driveway access within a town road right-of-way that creates a safety hazard for the traveling public, or unreasonably interferes with the use, maintenance, or drainage of the road, is hereby declared a public nuisance and is prohibited. The Town may issue one or more written orders requiring the owner or occupant of the property, or both, to take such actions as the Town determines are needed to eliminate or otherwise correct the nuisance condition. If the owner or occupant fails to promptly correct the condition as directed, or if the condition creates an eminent safety hazard requiring immediate action, the Town may take action to eliminate the nuisance condition. The owner shall be required to fully reimburse the Town for all costs it incurs to correct the condition.
8. **Surfacing.** The Town may require any driveway access to be hard surfaced if it determines paving is required to prevent excessive erosion onto the road surface or to ensure proper maintenance of the right-of-way.
9. **Construction.** The construction or reconstruction of a driveway access must not interfere with the maintenance or safe use of the town road. No materials shall be dumped or stockpiled on the surface of the road, on the shoulder, or within the right-of-way outside of the permitted location for the driveway access. Upon the completion of construction, the right-of-way must be cleared of any excess materials and any dirt or other materials shall be removed from the surface of the road. Unless stated otherwise, all construction activities, right-of-way restoration, and clean up shall be completed within 30 days from issuance of the driveway access permit.
10. **Restoration.** Any part of the right-of-way disturbed during construction of a driveway access, or the installation of drainage facilities, shall be restored by the applicant to its pre-construction or pre-installation condition. Such restoration shall include, but not be limited to, grading, seeding, and landscaping as needed to fully restore the right-of-way and prevent erosion.

11. **Waivers.** An applicant for a driveway access permit may request the Town Board grant a waiver of one or more of the standards or requirements of this ordinance. No waiver will be granted unless the applicant can demonstrate, to the satisfaction of the Town Board, that there are extenuating circumstances necessitating the deviation and that granting the waiver will facilitate the safe and efficient use of the property and will not interfere with the construction, maintenance, and safe use of the road and its appurtenances. A waiver must be in writing and approved by the Town Board at a meeting.
12. **Recovering Costs.** If the owner or applicant fails to fully reimburse the Town for any of the Town's costs required to be reimbursed in this ordinance, the unreimbursed amount, together with collection costs, constitute a service charge that may be collected on the taxes of the owner's property as provided in Minnesota Statutes, section 366.012, or collected in accordance with any other legal authority available to the Town.
13. **Definitions.** For the purposes of this ordinance, the following terms shall have the meaning given them in this section.
- (a) **Applicant.** A person who submits a permit request for a permit in accordance with this ordinance.
 - (b) **Driveway.** A private road, drive, or way constructed for use by motor vehicles to provide access from a public road to a parking area on private property. The term includes the entire length of the drive on the property including, but not limited to, the portion of the drive located within the public right-of-way and which is referred to herein as the driveway access.
 - (c) **Driveway Access.** The portion of a driveway located within a public right-of-way and which serves to connect the portion of the driveway located on private property to the surface of the public road. A driveway access is sometimes referred to as, and the term includes, a driveway approach or an access drive.
 - (d) **Driveway Access Permit.** A permit issued by the Town to allow for the construction or reconstruction of a driveway access within a town road right-of-way.
 - (e) **Right-of-Way.** The entire area of a town road in which the Town has an interest including, but not limited to, the road surface, shoulders, ditches, backslopes, and all areas beyond such improvements out to the edges of the Town's easement or other ownership interest.
 - (f) **Town.** Arago Township, Hubbard County, Minnesota.
 - (g) **Town Board.** The board of supervisors of Arago Township, Hubbard County, Minnesota.
 - (h) **Town Road.** A public roadway right-of-way that is regularly maintained by the Town as part of its system of regularly maintained roads. The term includes, but is not limited to, platted roads and cartways that have been taken over by the Town for public maintenance, and minimum-maintenance roads.

14. **Delegation.** The Town Board may delegate authority to administer and enforce all or any aspect of this ordinance to one or more supervisors, employees, contractors or agents as it deems appropriate.
15. **Severability.** If any portion of this ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.
16. **Violation and Penalty.** Any person who violates, or fails to comply with, a provision of this ordinance, knowingly makes a false statement in any document required to be submitted under the provision hereof, or that violates a condition of a permit issued, shall be guilty of a misdemeanor. Upon conviction thereof, such person shall be punished by a fine and/or imprisonment as authorized by law for the punishment of a misdemeanor. Each day that a violation continues shall constitute a separate offense.

In the event of a violation of this ordinance, the Town Board, in addition to the other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, restrain, correct or abate such violations. Criminal prosecution of a violation shall not bar the Town from also pursuing a civil remedy, just as pursuit of a civil remedy does not bar criminal prosecution of a violation.

This ordinance is hereby adopted this 13th day of September, 2016 and shall be effective upon the first day of publication.

BY THE TOWN BOARD

Michael H. Wilson
Town Chairperson

Attest: *Patricia A. Stulich*
Town Clerk



**ARAGO TOWNSHIP
HUBBARD COUNTY, MINNESOTA
Resolution No. 4-2016**

**RESOLUTION APPROVING SUMMARY PUBLICATION OF
AN ORDINANCE REGULATING DRIVEWAY ACCESSES**

WHEREAS, on September 13, 2016, the Town Board of Arago Township adopted Ordinance No 4-2016, "An Ordinance Regulating Driveways and Driveway Accesses" to regulate the construction and reconstruction of driveway accesses within town road right-of-ways and to require a permit (the "Ordinance");

WHEREAS, Minnesota Statutes, section 365.125, subdivision 2 allows the publication of a summary of an ordinance instead of publishing the whole ordinance; and

WHEREAS, the Town Board determines publication of the entire Ordinance is impractical and that publication of a summary is sufficient to clearly inform the public its intent and effect.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby determines to publish the following summary language, which is hereby approved, in lieu of publishing the full text of the Ordinance:

**ARAGO TOWNSHIP
ORDINANCE NO.4-2016**

AN ORDINANCE REGULATING DRIVEWAYS AND DRIVEWAY ACCESSES

The Town Board of Arago Township adopted Ordinance No. 9-2016 to regulate and require a permit for the construction and reconstruction of driveway accesses within town road right-of-ways. The ordinance sets out the permit application procedures, establishes standards and requirements, and makes the violation of the ordinance punishable as a misdemeanor. The entire text of the ordinance can be obtained by contacting the Town and is available for inspection at the Park Rapids Public Library.

BE IT FINALLY RESOLVED, that the Town Clerk is hereby authorized and directed to:

1. Publish the above approved summary language once in the Town's official newspaper;
2. Maintain a copy of the full text of the Ordinance in the office of the Town Clerk and make it available for inspection upon reasonable request;
3. Place a copy of the full Ordinance at the Public Library in Park Rapids;
4. Place a copy of the full Ordinance at the Hubbard County Law Library; and

5. Place a copy of the full Ordinance in the Town's ordinance book within 20 days from adoption together with a copy of this Resolution and a copy of the affidavit of having published the approved summary language.

Adopted on this 13th day of September, 2016 by at least a two-thirds vote of the Town Board.

BY THE TOWN BOARD

Tracy A. Wilson
Town Chairperson

Attest: *Patricia A. Stulich*
Town Clerk



A000389226
HUBBARD COUNTY, MINNESOTA
CERTIFIED, FILED, AND/OR
RECORDED ON
2/15/2017 11:23:59 AM
NICOLE K. LUETH
HUBBARD COUNTY RECORDER
BY LMS Dep PAGES: 10
WELL CERT RCVD
MTG REG TAX PD \$
DEED TAX PD \$
TAX EXEMPT

Arago Township

Permit Number: _____

The attached Ordinance is considered part of this permit form.

Owner Name: _____

Mailing Address: _____

Telephone(s): _____

Applicant Name: _____ Telephone Number: _____

Address and location of Driveway/ Access: _____

911 Numbers: _____

Purpose of Driveway/ Access: _____ Residence _____ Commercial (Specify Type) _____

Other Specify Type

Property Platted? _____ No Yes _____ Date Proposed Entrance Needed _____

Number of present driveways to property: _____

Contractor: _____ Address: _____

Construction must be completed by: _____

I/we, the undersigned, herewith make application for permission to construct the driveway / access at the above location, said entrance to be constricted in accordance with the Arago Township Ordinance Regulating Driveways and Driveway Accesses adopted 09-13-2016 and to any special provisions included in the permit. It is agreed that all work will be done to the satisfaction of the Town Board. It is further agreed that no work in connection with this application will be started until the application is approved and the permit is issued. It is expressly understood that this permit is conditioned upon replacement or restoration of the town road to its original or satisfactory condition. It is further understood that this permit is subject to the approval of the Arago Town Board.

Date _____

Signature of Applicant _____

ROAD & ACCESS PERMIT

- NOT VALID UNLESS SIGNED AND NUMBERED

Permit number: _____

A non-refundable application fee of \$50 dollars made payable to Arago Township must be made at the time of application.

The Town hereby grants a driveway access permit to construct or expand a driveway access as described in the above application, said driveway to be constructed in accordance with the Arago Township Ordinance Regulating Driveways and Driveway Accesses. The application for a driveway access permit in this manner is incorporated into this permit by reference.

Special Provisions:

Culvert _____ Yes _____ No _____ Other: _____

An application fee of \$50 Dollars, in the form of cash, check or money order shall be paid at the time of application.

Fee paid by: Cash _____ Check # _____ Money Order # _____

In the event construction of the driveway access has not been completed and approved within six months (6 months) of the date of the issuance of this permit, this permit becomes null and void unless a written extension is issued by the Town. The permit fee is non-refundable.

Date: _____ By: _____

Arago Township Chair

ROAD & ACCESS PERMIT: FINAL INSPECTION & APPROVAL

PERMIT NO: _____

Final Approval of the construction driveway / access entrance: _____

Date: _____ By: _____

Arago Township Chair