



## OWNER OBLIGATION TO MAINTAIN TOWN ROAD DITCHES

The town board, as the road authority, is responsible for maintaining town road ditches including mowing and destroying noxious weeds as needed and in accordance with state law. The statutes provide an opportunity for the town electors to make property owners adjacent to town roads responsible for certain aspects of ditch maintenance.<sup>1</sup>

Minn. Stat. § 366.015 states that the question must be submitted at the annual meeting rather than the annual election like the board would when adopting Minn. Stat. § 366.016. Meaning that the town board has the discretion to submit the ditch maintenance question to the electors at the annual town meeting. At any regular meeting, the board may make a motion to submit the question to the electors at the annual town meeting. The ballot should be prepared and handled in accordance with election laws and the question must be worded as follows:

”Shall persons who own or occupy real estate that adjoins a town road and is not a part of an incorporated municipality be required to remove rocks larger than five inches in diameter from and to cut, destroy or remove all weeds, grass and other plants up to three inches in diameter that grow upon the town road adjacent to their land?

Yes.....

No.....”

If a majority of the electors voting on the question vote yes, a person who *owns or occupies* real estate that adjoins a town road must perform the following activities on the town road adjacent to his or her land and within five feet of the persons mailbox if located off of the property:

1. Cut, destroy, or remove all weeds, grass, and other plants up to three inches in diameter; and
2. Remove rocks larger than five inches in diameter.

The statute recognizes that a person may “fail” to perform the required activities but does not describe how to determine *when* a person has failed to perform. Because this information is vital to enforcing the obligation, once the electors pass the question, the board should pass a resolution

---

<sup>1</sup> Minn. Stat. § 366.015.

to fully explain the procedures it intends to follow. **See APPENDIX A** for a sample resolution. Keep in mind that the resolution is just one example of how the board may structure application of the obligation. Also, if the town uses the resolution, realize it requires the town to take certain actions. When the board chooses to adopt to apply the obligation, be sure it is administered and enforced equally.

To determine when a person has failed to comply with the maintenance obligation, the board will need to establish a date by which the work must be completed. When setting the date, the board must keep in mind its own statutory limitations regarding mowing roadsides. A road authority may only mow beyond the first eight feet from the edge of the road surface between July 31 and August 31. After August 31, the entire right-of-way may only be mowed if necessary, to maintain sight distances for safety and then the mowing may not go below 12 inches. Mowing to maintain sight distances may occur at any time. These restrictions do not apply to owners adjacent to town roads.<sup>2</sup> Furthermore, road authorities are responsible for seeing that all noxious weeds on their road rights-of-way are cut or destroyed as often as may be necessary to prevent the ripening or scattering of seeds and other propagating parts of such weeds.<sup>3</sup> Therefore, select a date that will allow the board enough time to initiate enforcement actions, including the notice, and still be within the period during which the town may mow the right-of-way.

Once a date is selected, it is recommended that the town annually publish a notice in the spring reminding owners of their maintenance obligation. **See APPENDIX B** for a sample notice. If a person fails to comply with the obligation, the board enforces the obligation by providing at least 10-days mailed notice to the owner. **See APPENDIX C**. It is recommended the notice be mailed at least 15 days before the deadline established by the board for the person to come into compliance. Mail the notice to both the owner and the occupant of the property if they are different. If the work is not done within the 10 days (or a later date stated in the notice), the board may have the work completed. The cost of performing the work is a lien on the real estate. The board must certify an itemized statement of the expenses paid by the town to the county auditor. **See APPENDIX D** for a sample certificate of costs. Towns should certify the costs to the county auditor by September 15<sup>th</sup>. The amount is then entered as a tax upon the land and is collected in the same manner as other real estate taxes.

---

<sup>2</sup> Minn. Stat. § 160.232.

<sup>3</sup> Minn. Stat. § 160.23.

RESOLUTION  
# \_\_\_\_\_  
**OWNER OBLIGATION TO MAINTAIN  
TOWN ROAD DITCHES**

**WHEREAS**, Minn. Stat. § 366.015 creates an opportunity for town electors to vote to make owners or occupants of land adjacent to town roads responsible for certain road ditch maintenance activities;

**WHEREAS**, at the annual town meeting held on the \_\_\_\_ day of March, 20\_\_\_\_ the question described in Minn. Stat. § 366.015, subd. 1 was submitted to the electors and was passed by a majority of those voting on the question;

**WHEREAS**, regular and consistent destruction of weeds, grass, and other plants up to three inches in diameter and the removal of rocks larger than five inches in diameter is important to maintaining proper sight distances, reducing safety hazards caused by drifting snow, controlling noxious weeds, promoting proper drainage, and addressing other safety and maintenance concerns on town roads;

**NOW, THEREFORE, BE IT RESOLVED**, that the town board of \_\_\_\_\_ Township, \_\_\_\_\_ County, Minnesota shall administer the town road maintenance obligation created by the electors under Minn. Stat. § 366.015 in the following manner:

1. The town board shall publish, in a local newspaper of general circulation in the township, an annual notice describing the ditch maintenance obligation of owners and occupants created under Minn. Stat. § 366.015. Failure of the board to publish the annual notice does not relieve an owner or occupant from the necessity to fully comply with the maintenance obligation or in any way prevent the town board from enforcing the obligation.
2. On or before \_\_\_\_\_ (day/month) each year the owners or occupants of real estate in the township shall be required to remove rocks larger than five inches in diameter from and to cut, destroy or remove all weeds, grass and other plants up to three inches in diameter that grow upon the town road adjacent to their land, and within five feet of their mailboxes located off of their property.
3. If a person fails to comply with the maintenance obligation by the date stated above, the town board may send notice to the owner of the parcel as stated in the records of the county auditor, stating the maintenance obligation and providing a date by which the work must be completed.
4. If the person does not comply with notice by the date stated in the notice, or within fourteen days after the notice was sent, whichever is later, the town board may have the work performed. The expenses incurred shall be a lien on the real estate.

**APPENDIX A**  
**Sample Resolution**

- 5. The town board shall certify an itemized statement of the amount of the expenses paid by the town to the county auditor. The amount is a tax upon land and will be collected in the same manner as other real estate taxes.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Town Board Chair

Attest: \_\_\_\_\_

Town Clerk

\_\_\_\_\_ **TOWNSHIP**  
**NOTICE OF OBLIGATION TO**  
**MAINTAIN TOWN ROAD DITCHES**

Occupants and owners of land within \_\_\_\_\_ Township,  
\_\_\_\_\_ County, Minnesota are hereby notified that pursuant to Minn. Stat.  
§ 366.015 they must remove rocks larger than five inches in diameter from and cut, destroy or  
remove all weeds, grass and other plants up to three inches in diameter that grow upon town roads  
adjacent to their land and within five feet of their mailboxes located off of their property. The work  
must be completed by \_\_\_\_\_ or the town board may perform the work and have the  
expenses collected as a tax on the property

**Appendix C**  
**Sample Individual Notice**

STATE OF MINNESOTA            )  
COUNTY OF \_\_\_\_\_ ) ss.  
TOWNSHIP OF \_\_\_\_\_ )

**NOTICE**

**PLEASE TAKE NOTICE** that the town board of \_\_\_\_\_ Township,  
\_\_\_\_\_ County, Minnesota has determined that the owner or occupant of the  
property located at:

has failed to comply with the ditch maintenance obligation created by the town electors under  
Minn. Stat. § 366.015, and set forth in the attached resolution, on the town road known as  
\_\_\_\_\_, that is adjacent to said property.

**YOU ARE HEREBY NOTIFIED** that you must provide for the removal of rocks larger than five  
inches in diameter from and the cutting, destruction or removal of all weeds, grass and other plants  
up to three inches in diameter that are growing upon the town road adjacent to the above described  
property and within five feet of your mailbox if located off of the property. The work must be  
completed by \_\_\_\_\_, 20\_\_\_\_ or the town board will have the work performed. The  
expenses incurred by the town to perform the work will be charged to the property owner. Failure  
to pay the charged amount will result in collection against the property taxes.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Town Clerk

**APPENDIX D**  
**Certificate of Expenses**

STATE OF MINNESOTA                    )  
  ) ss  
COUNTY OF \_\_\_\_\_)

**CERTIFICATION OF EXPENSES**

TO: \_\_\_\_\_ COUNTY AUDITOR

The town board of \_\_\_\_\_ Township, \_\_\_\_\_ County, Minnesota hereby certifies expenses in the amount of \$ \_\_\_\_\_ as an unpaid charge to be collected together with property taxes upon the real estate located at:

The county auditor is required to enter the amount herein certified on the tax books as a tax upon the above described land. The amount shall be collected in the same manner as other real estate taxes and paid over to the Township along with any applicable interest and penalties.

This certification is made pursuant to the authority provided in Minn. Stat. § 366.015 to collect expenses incurred by the township for the failure of an owner and/or occupant to complete their obligation to maintain the roadside adjacent to their property as set out in statute and Township resolution.

The required ten days' notice was sent to the owner and/or occupant on \_\_\_\_\_, 20\_\_\_. When the owner and/or occupant failed to rectify the situation by the date provided in the notice, the town board caused the work to be done. The following is an itemized statement of the expenses incurred by the township:

| Description | Cost |
|-------------|------|
|             |      |
|             |      |
|             |      |
|             |      |
|             |      |

Total Expenses: \$ \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Town Clerk