

ORDINANCE PROHIBITING ENCROACHMENT UPON ROADS, STREETS, ALLEYWAYS AND EASEMENTS

Section I. Title/Purpose. This ordinance is entitled “Ordinance Prohibiting Encroachment Upon Roads, Streets, Alleyways and Easements”. The purpose of this Ordinance is as follows:

To promote the safety, health and general welfare by regulating the encroachment upon roads, streets, alleyways and easements in the Town of Shelby.

To keep roads, streets, alleyways and easements unobstructed to allow the passage of emergency vehicles and to allow for easements to be maintained to allow emergency vehicles to travel safely on the easement.

Section II. Adoption of Ordinance. The Town Board of the Town of Shelby hereby adopts the following:

A. No person or entity shall erect or cause to be erected or place or cause to be placed any fence, stand, building, structure or object in such a manner or in such a location so as to encroach upon, or obstruct, whether temporarily or permanently, any: (1) street, highway, alley, road, right-of-way or easement, maintained by or under the authority of the Town of Shelby; (2) utility easement in the Town of Shelby; or (3) Private Road Easement in the Town of Shelby.

B. No person or entity shall deposit or cause to be deposited any leaves, weeds, sod, brush, snow, trees, gravel, rock, waste, rubbish or construction materials on any: (1) street, highway, alley, road, right-of-way or easement maintained by or under the authority of the Town of Shelby; (2) utility easement in the Town of Shelby. This includes driveways or washouts directing gravel or dirt onto road. No person or entity shall allow soil, gravel or other debris to wash or be carried onto any: (1) street, highway, alley, road, right-of-way or easement maintained by or under the authority of the Town of Shelby or (2) any utility easement in the Town of Shelby; or (3) Private Road Easement in the Town of Shelby.

C. A "Private Road Easement" is defined as an access road or driveway located on an easement. The width of the "Private Road Easement" is the width of the defined easement as recorded. Easements with no recorded width shall have a width necessary to allow emergency vehicles to travel the easement to service the properties served by the easement. Any property owner being served by an easement may maintain the easement road and keep it clear of ice and snow, including plowing, salting and sanding.

D. The Town may issue permits for encroachments and obstructions, either temporary or permanent. Upon application being made for the encroachment or obstruction, the Town shall determine the conditions regarding the permit.

E. In the event of a violation of Section II. A., the Town of Shelby shall notify in writing the occupant or owner of the land through which said street, highway, alley, road, right-of-way or easement runs and to which the encroachment shall be appurtenant of said encroachment. Within seventy-two (72) hours of receipt of the notice, the owner or occupant shall remove the encroachment.

Section III. Enforcement and Penalties.

A. In the event of a violation of Section II.A, the occupant or owner shall forfeit and pay to the Town of Shelby the sum of One Hundred Fifty Dollars (\$150.00).

B. In the event of a violation of Section II.A, if the occupant or owner has not removed the encroachment within seventy-two (72) hours after the receipt of written notice as provided in Section 2.E., the occupant or owner shall forfeit and pay to the Town of Shelby the sum of One Hundred Dollars (\$100.00) for every day after the expiration of the seventy-two (72) hour period during which the encroachment continues. An action to recover such penalty may be brought in any court of record. In all cases where a judgment is rendered, the judgment shall order that the occupant or owner remove the encroachment within the time fixed by the judgment. Upon failure to obey the order, the Town Board may remove the encroachment and recover from the occupant or owner the cost of said removal.

C. Any person who violates Section II.B or Section II.C of this Ordinance shall forfeit and pay to the Town of Shelby a sum of One Hundred Fifty Dollars (\$150.00), together with the cost of cleanup.

Section IV. Severability. The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have

passed the provisions of this Ordinance irrespective of whether one or more provisions may be declared invalid, and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section V. Effective Date. This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous Ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: March 22, 2010

Lynnetta P. Kopp, Town Chair

Randall R. Knapp, Town Supervisor

John O. Zahn, Town Supervisor

ATTEST:

Catherine Brott, Town Clerk