

**SHAMROCK TOWNSHIP
AITKIN COUNTY, MINNESOTA**

Resolution No. 2008-8

**RESOLUTION ESTABLISHING REQUIREMENTS AND
SPECIFICATIONS THAT MUST BE MET BEFORE THE
TOWN WILL ASSUME THE MAINTENANCE OF A ROAD**

WHEREAS, there are a number of plats existing within Shamrock Township (the “Town”) and the Town Board anticipates additional plats will be established in the future;

WHEREAS, the Town Board determines it is in the best interests of the Town, its taxpayers, developers, and current and future owners of lots within plats to establish specifications and requirements that must be satisfied before the Town Board will be willing to open and maintain a road as part of the Town's system of roads (hereinafter collectively referred to as “Specifications”);

WHEREAS, the Town Board makes, based on information supplied by the Town's attorney, the following findings and determinations regarding roads dedicated to the public by plat:

- a. When a plat is recorded at the County Recorder's office, it serves to automatically transfer to the local government (in this case the Town) all easements and other areas dedicated to the public on the plat (roads, drainage easements, utility easements, parks);
- b. The Town holds the easements it receives upon the recording of a plat in trust for the benefit of the public;
- c. Easements dedicated by plat are not abandoned or otherwise extinguished by the Town's non-user and remain until such time as the Town Board decides to open and maintain them or vacate them pursuant to the procedure set out in Minn. Stat. § 164.07;
- d. Until the Town Board does accept a dedicated road for public maintenance, pursuant to Minn. Stat. § 164.11 they are to be deemed a legal cartway provided they are at least 30 feet in width;
- e. As a cartway, the public may use and maintain it for road purposes, but the Town is prohibited under Minn. Stat. §§ 164.08, subd. 2(d) & 164.10 from spending any public funds on it until the Town Board determines by resolution to open and maintain it as a Town road;

- f. Whether roads dedicated to the public in older plats that are not at least 30 feet wide are open to public use before the Town decides, if ever, to open and maintain them as Town roads is not clear under the law and the Town makes no assertions regarding such roads other than to acknowledge the Town continues to hold the easements for such roads in trust for the public;
- g. Because there are platted roads in the Town that were dedicated at less than 66 feet wide, the Town Board determines it is necessary and appropriate to establish two sets of specifications since it would not be reasonably feasible to comply with all of the specifications as to the structure and width of a road if the dedicated right-of-way area is less than 66 feet wide;
- h. The Town does not administer its own zoning or subdivision regulations, and instead the County administers the platting of land within the Town; and
- i. Any review, comments, or approvals the Town Board may have expressed in the past, or may express in the future, with respect to a proposed plat related to the plat as a whole and does not constitute, nor shall be construed as constituting, an agreement to open or maintain any of the easements dedicated to the public within the plat.

NOW, THEREFORE, BE IT RESOLVED, the Town Board hereby adopts the following the specifications and requirements that must be satisfied before the Town will open and maintain a road dedicated to the public, by plat or otherwise, as a Town road.

1. Status and Maintenance of Platted Roads before Town Acceptance.

- a. **Platted Roads are Public Roads.** The dedication of a road to the public by plat becomes effective upon the plat having received all required approvals and its recording in the County Recorder's office. If a dedicated road has a width of at least 30 feet, under Minn. Stat. § 164.11 it is deemed a legal cartway is open for public travel.
- b. **Maintenance.** Roads dedicated for public use by plat or otherwise shall not be maintained by the Town, and the Town shall spend no public funds on them, until the Town Board passes a resolution determining they satisfy the Town's specification in effect at the time of the request for Town maintenance and that it is in the public's interest to assume maintenance of the road or road segment. Until the Town pass such a resolution, roads dedicated to the public shall be maintained by the developer and/or the owners of the properties adjacent to the road.
 - i. **Notification to Owners.** Developers and real estate professionals need to notify purchases of lots within plats that it is the responsibility of the developer

and/or the owners within the plat (whether formally through a homeowner's association or otherwise) to maintain the roads and other areas dedicated to the public within the plat until such time as the Town Board passes a resolution to open and maintain a road.

2. **Road Acceptance Process.** Any developer or person may make application to the Town Board requesting that it agree to open and maintain a road the public as part of the Town's system of roads. Any such request must comply with all of the following:

- a. **Non-Platted Roads.** Anyone wishing to dedicate all or a portion of their land directly to the Town pursuant to Minn. Stat. § 164.15, or through a means other than by plat under Minn. Stat. Chap. 505, to establish a public road must present its proposal to the Town Board at a regular meeting before submitting an application or executing an easement or other form of conveyance. The Town Board will consider the proposal and inform the person or persons whether it is interested in accepting a dedication. If the Town Board expresses an interest in accepting the dedication, the road to be dedicated must comply in all respects to the specifications established herein. Additionally, the Town Board may require the person or persons wishing to dedicate their land to the Town to execute one or more easements on a form provided or approved by the Town Board. Furthermore, the Town will pay no damages for acquiring the road and will require those making the dedication to reimburse the Town for the actual costs its incurs related to the dedication including, but not limited to, professional fees incurred to draft or review documents, attend meetings, inspect the road, and recording costs.

- i. **Establishment of a Town Road.** If all of the owners over which a proposed Town road would cross are not offering to dedicate a easement to the Town at no cost to the Town, those interested in pursuing the establishment of the road must submit a petition to the Town pursuant to Minn. Stat. § 164.07.

- b. **Platted Roads.** Except for platted roads the Town has, prior to the date of this Resolution, regularly been maintaining as part of its system of Town roads, no roads dedicated to the public in a plat, whether now existing or dedicated as part of a future plat, shall be considered opened and maintained by the Town, or otherwise part of the Town's system of roads, unless and until the Town Board passes a resolution expressly agreeing to accept the road, or portion thereof, for Town maintenance. The Town will not pass such a

resolution until it determines the road satisfies the applicable specification contained herein.

3. **Specifications.**

- a. **Previously Platted Roads.** Roads dedicated by a plat recorded with the County Recorder's office prior to the date of this Resolution shall comply with the specifications set out in this part before the Town will pass a resolution to open and maintain any such road as a Town road. Roads dedicated at a width of less than 66 feet shall comply with the specifications contained in Exhibit A attached hereto before the Town will pass a resolution to open and maintain any such road as a Town road.
 - i. **Roads Less than 33 Feet Wide.** It is exceedingly difficult for the Town to maintain a road with a width of less than 33 feet. The Town's maintenance equipment cannot easily, if at all, travel such roads and it is much more likely routine maintenance activities could result in damage to structure built near the road or to other private property. As such, the Town will generally refuse to open and maintain a road that is less than 33 feet wide. Anyone interested in having the Town Board consider maintaining such a road may raise the issue at a regular meeting. However, in such cases the Town Board will likely require additional right-of-way be acquired and the road be improved to satisfy the specifications contained in Exhibit A attached hereto before the Town would agree to pass a resolution to open and maintain any such road as a Town road.
- b. **New Platted Roads.** Roads dedicated by plats recorded with the County Recorder's office after the date of this Resolution shall comply with the specifications contained in Exhibit B attached hereto before the Town will pass a resolution to open and maintain any such road as a Town road.

4. **Preservation of Easements.** The Town Board expressly intends to retain the public's interest in all easements dedicated to the public by plat and nothing herein is intended to, or shall be construed as, constituting an abandonment or extinguishment of those easements.

Adopted this _____ day of _____ 2008.

BY THE TOWN BOARD

Town Chairperson

Attest: _____

Town Clerk

**RESOLUTION ACCEPTED BY SHAMROCK TOWN BOARD AND SIGNED
NOVEMBER 13, 2008**