

ORDINANCE # 2005-05

**DITCH AND WATER COURSE MAINTENANCE
TOWN OF BRILLION, CALUMET COUNTY, WISCONSIN**

BE IT ORDAINED by the Town Board of Brillion, Calumet County, Wisconsin as follows:

Section 1. PURPOSE. The purpose of this Ordinance is to promote the public health, safety and general welfare, and to provide for adequate provisions for the orderly maintenance of any ditch or water course adjacent to roadways upon public right-of-way or upon easements designed for drainage of surface waters or natural water course. The requirements of this Ordinance shall be applicable to surface water/storm water detention/retention ponds or earthen structures of the Town or privately maintained detention/retention within subdivisions of the Town created by subdivision control ordinance, surface/storm water ordinance, development agreements and platting restrictions/requirements and the requirements shall be construed as being in addition or supplemental thereto.

Section 2.

- a. This ordinance and regulation shall apply to all property owners in the Town of Brillion owning property which abuts upon any ditch, water course or other earthen structure designed and used for drainage of surface water on public right-of-way or dedicated easements for drainage or natural water course which exists upon easements or public right-of-way for roads or ditches in the Town of Brillion.
- b. Any property owner in the Town of Brillion who has property which abuts any ditch, water course, or other earthen structure, as described above, shall be responsible to control activities upon and maintain the owned property in such a manner as to not cause or contribute to obstructions in the ditch, water course or other earthen structure which would restrict, block or prohibit the free, open and continuous flow of water through the ditch, water course or other earthen structure.
- c. Where there occurs in the said ditch, water course or earthen structure any accumulation or deposits of materials or vegetation which are the result of the failure to regulate or control activities upon or the failure to maintain the property of the abutting owner upon or adjacent to said easement, (other than naturally deposited snow and/or ice) which shall create a condition that shall cause the obstruction, diversion, or blockage, temporary or otherwise, of water, which blockage causes the backing up of the water flow or stagnation of the water, or causes the said water to flow upon property of another or of the Town of Brillion outside of the area of the said easement for said ditch, water course or earthen structure, said abutting property owner shall be required to remove such blockage, obstruction or materials causing diversion within forty-eight (48) hours of notice in writing from the Town of Brillion whichever is later.

- d. This Ordinance shall also apply to earthen structures referred to as detention or retention ponds where the activities or maintenance of the abutting property owner on the abutting property alter the function of the pond or earthen structure so that it does not function as originally designed or engineered. Where such detention has occurred the abutting property owner, on forty-eight (48) hour notice from the Town, shall be required to restore the detention or retention structure to its original design and function.
- e. If the owner of said property or premises shall be in violation of Section (c) or (d) and fails to comply with said notice to remedy as required by this Ordinance, the Town of Brillion, under the direction of the Town Board and Town Road Department, shall do said work and the expense thereof shall be calculated and shall be made a special tax charge upon the property adjacent to which the work was done pursuant to the above definition of areas of responsibility of the property owners.
- f. Town Work Excluded – The provision of this Ordinance shall not apply to excavation work under the direction of the Road Supervisor by Town employees or contractors performing work under contract with the Town necessitating openings or excavations in Town roads.

Section 3. SEVERABILITY. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the above provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or its application.

Section 4. EFFECTIVE DATE. This Ordinance shall be in effect from and after its passage and proper publication as required by law.

This ordinance was passed by a vote of 3 ayes 0 naves by the Town Board of Supervisors at the meeting of said Town Board of the Town of Brillion, Calumet County, Wisconsin, held at the Forest Junction Municipal Building on September 13, 2005.

Attest:

 Karen Lamers, Clerk
 Town of Brillion

 Wayne Maile, Chair

 Mark Schnell, Supervisor

 Jamie Bell, Supervisor