



SHERBURNE COUNTY

The Board of Commissioners of Sherburne County, Minnesota, does hereby ordain and adopt this Ordinance establishing regulations and standards for the management of the County Rights-of-Way pursuant to Minnesota Statute Chapters 160, 163, 237 and Minnesota Rules Chapter 7819.

Ordinance Number ORD-170

Management of the Public Right-of-Way

Adopted by the Sherburne County Board of Commissioners on November 10, 2009

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SECTION 100 RIGHT OF WAY MANAGEMENT

Sec. 101 Purpose and Scope

To provide for the health, safety and welfare of its citizens and to ensure the integrity of its roads and streets and the appropriate use of the right-of-way, the County strives to keep the right-of-way under its jurisdiction in a state of good repair and free from unnecessary encumbrances.

Accordingly, the County hereby enacts this Ordinance relating to right-of-way permits and administration. This Ordinance imposes regulations on the placement and maintenance of facilities and equipment currently within its right-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Ordinance, persons excavating and obstructing the right-of-way will bear financial responsibility for their work. In addition, this Ordinance provides for recovery of out-of-pocket and projected costs by the County from persons using the public right-of-way. This Ordinance, upon adoption, supersedes and vacates Sherburne County Ordinance No. ORD-016.

Further, the Board of Commissioners recognizes the need for regulation of entrances from adjoining lands to the traveled way of the County State Aid Highways and the County Road Systems under their supervision in order to promote the public safety, the esthetic values and engineering integrity of said road systems. Therefore, the purpose of this Ordinance is also to permit access to the road from abutting lands as is compatible with the principals as set forth in this Ordinance and the County's Long-Range Transportation Plan, as amended.

Sec. 102 Statutory Authority to Manage the Public Right-of-Way

This Ordinance is created to manage and regulate the public use of the County's right-of-way along County roads pursuant to the authority granted to the County under state and federal statutory, administrative and common law. The County hereby elects to manage right-of-way under its jurisdiction. All right-of-way users are subject to the provisions in this Ordinance. The County is exempt from the obligation of obtaining and paying for permits or other fees imposed by this Ordinance. This Ordinance shall be interpreted consistent with 1997 Session Laws, Chap. 123, substantially codified in Minnesota Statute §§ 237.16, 237.162, 237.163, 237.79, 237.81, 238.086 (the "Act"), Minnesota Statute CH 216D and the other laws governing applicable rights of the County and users of the right-of-way.

This Ordinance shall also be interpreted consistent with Minnesota Rules CH 7819.0050 – 7819.9950 where possible. To the extent any provision of this Ordinance cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This Ordinance shall not be

interpreted to limit the regulatory and police powers of the County to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public. "Manage the Right-of-Way" means the authority of the County to do any or all of the following (Minnesota Statute CH 237.162, subd. 8, (1998)):

- a. require registration;
- b. require construction performance bonds and insurance coverage;
- c. establish installation and construction standards;
- d. establish and define location and relocation requirements for equipment and facilities;
- e. establish coordination and timing requirements;
- f. require right-of-way users to submit, henceforth required by the County, project data reasonably necessary to allow the County to develop a right-of-way mapping system including GIS system information;
- g. require right-of-way users to submit, upon request of the County, existing data on the location of user's facilities occupying the public right-of-way within the County. The data may be submitted in the form maintained by the user in a reasonable time after receipt of the request based on the amount of data requested;
- h. establish right-of-way permitting requirements for access, excavating/grading, utility services, landscaping and obstruction;
- i. establish removal requirements for abandoned equipment or facilities, if required, in conjunction with other right-of-way repair, excavation or construction; and
- j. impose reasonable penalties for unreasonable delays in construction.
- k. require Permittees to indemnify the County for actions of third persons who seek to locate facilities and other fixtures in the right of way.
- l. prohibit the planting of agricultural crops within County right-of-way.

Statutory Authority pertaining to access onto County Right of Way is pursuant to Minnesota Statutes Chapter 160, Sec. 160.08, Subd.3, Sec. 160.18 Subd. 1, 2, 3, and Sec. 160.27 Subd. 1 through 13.

Sec. 103 Definitions

The following definitions apply in this Ordinance. References hereafter to "sections" are, unless otherwise specified, references to sections in this Ordinance. Defined terms remain defined terms whether or not capitalized.

103.1 Abandoned Facility means a Facility no longer in service or is physically disconnected from a portion of the operating facility, or from any other Facility, that is in use or still carries service. A Facility is not abandoned unless declared so by the Right-of-Way user.

103.2 Access means the physical connection to public or private property over, on, or in Right-of-Way for residential, agricultural, commercial or municipal street purposes.

103.3 Access Permit means the permit which must be obtained from the County before a person may make a physical connection to a County road or highway.

103.4 Access Permit Fee means money paid to the County by a Permittee to cover the costs as provided in Sec. 112 and required to obtain the permit.

103.5 Applicant means any person requesting permission to access, excavate/grade, place a utility service, landscape or obstruct a Right-of-Way.

103.6 Cartway means an access to a County Road created by either a Township Board or County Board, pursuant to Minnesota Statute CH 164 (as amended), which is expected to generate, on average less than 100 vehicle trips per 24 hour period.

103.7 Commission means the Minnesota Public Utilities Commission.

103.8 Commercial Access means access requested for commercial, retail or industrial purposes, public, or institutional facilities.

103.9 Congested Right-of-Way means a crowded condition in the subsurface of the public Right-of-Way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statute CH 216D.04, subd. 3, over a continuous length in excess of 500 feet.

103.10 Construction Performance Bond means any of the following forms of security provided at Permittee's option:

- a. individual project bond;
- b. cash deposit;
- c. security of a form listed or approved under Minnesota Statute Sec. 15.73, Subd.3;
- d. letter of credit, in a form acceptable to the County;
- e. self-insurance in a form acceptable to the County;
- f. blanket bond for projects within the County or construction bond for a specified time and in a form acceptable to the County.

103.11 County means the County of Sherburne, Minnesota. For purposes of Sec. 129 Indemnification and Liability, County means its elected and appointed officials, officers, employees and agents.

103.12 County Ditch means ditches maintained by the Sherburne County Ditch Authority pursuant to Minnesota Statute CH 103E.

103.13 Degradation means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the Right-of-Way, resulting in the need to reconstruct such Right-of-Way earlier than would be required if the excavation did not occur.

103.14 Department means the Sherburne County Public Works Department.

103.15 Department Inspector means any person authorized by the Director to carry out inspections related to the provisions of this Ordinance.

103.16 Developer means any entity that is proposing to subdivide land for the purposes of constructing a residential, commercial, or industrial development.

103.17 Director means the Sherburne County Public Works Director or designee.

103.18 Driveway means any private way that provides access to residences, businesses, industry or other similar appropriate use.

103.19 Engineer means the Sherburne County Engineer, or designee.

103.20 Emergency means a condition that (1) immediately endangers the life or safety of persons, (2) will cause an immediate threat of significant loss or injury to property; or (3) requires immediate repair or replacement in order to restore essential service to customers.

103.21 Equipment means any tangible asset used to install, repair, or maintain facilities in any Right-of-Way.

103.22 Excavate/Grade means to dig into or in any way remove or physically disturb or penetrate any part of a public Right-of-Way.

103.23 Excavation/Grading Permit means a permit issued by Sherburne County authorizing the Permittee to excavate in County right-of-way as specifically described in the Permit.

103.24 Excavation/Grading Permit Fee means money paid to the County by an Applicant to cover the costs as provided in Sec. 112 and required to obtain a Permit.

103.25 Facility or Facilities means any tangible asset, including equipment, in the Right-of-Way which is required to provide utility service.

103.26 Field Entrance means any private way that provides access to an agricultural field for primarily agricultural purposes.

103.27 Five-year Project Plan shows road projects adopted by the County for construction within the next five years.

103.28 High Density Corridor means a designated portion of the public Right-of-Way within which telecommunications Right-of-Way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

103.29 Landscaping means vegetative plantings, gardens, in-ground sprinkler systems and related features.

103.30 Local Representative means a local person or persons, or designee of such person or persons, authorized by a Registrant to accept legal notice or service and to accept communications and to make decisions for that Registrant regarding all matters within the scope of this Ordinance.

103.31 Management Costs means the actual costs the County incurs in managing its public Right-of-Way, including, but not limited to such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying Right-of-Way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user equipment and facilities during public Right-of-Way work; determining the adequacy of Right-of-Way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking Right-of-Way permits.

Management costs do not include payment by a telecommunications Right-of-Way user for the use of the Right-of-Way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, CH 123; Minnesota Statute CH 237.162 or 237.163 or any ordinance enacted under those sections, or the County fees and costs related to appeals taken pursuant to Section 131 of this Ordinance.

103.32 Mapping Information shall mean the information required in Sec. 124, Subd. 3 of this Ordinance.

103.33 Obstruction means any physical object in a public Right-of-Way such as, but not limited to: transformers, concrete pads, control panels, monuments, cable boxes, signs (temporary or permanent), fences, landscaping, retaining walls, sprinkler systems, plantings, etc.

103.34 Obstruction Permit means the Permit which, pursuant to this Ordinance, must be obtained before a person may obstruct any part of a Right-of-Way, allowing the holder to hinder free and open passage over the specified portion of that Right-of-Way by placing any tangible object therein for the duration specified.

103.35 Obstruction Permit Fee means money paid to the County by a Permittee to cover the costs as provided in Sec. 112 of this Ordinance and required to obtain the Permit.

103.36 Patch or Patching means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing Pavement for a minimum of two feet beyond the edges of the Excavation in all directions. A Patch is considered full Restoration only when the Pavement is included in the County's five-year project plan.

103.37 Pavement means any type of improved surface that is within the public Right-of-Way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

103.38 Permit has the meaning given “right-of-way permit” in Minn. Stat. § 237.162.

103.39 Permittee means any Registrant to whom a permit to access, excavate/grade, place a utility service, landscape or obstruct a Right-of-Way has been granted by the County under this Ordinance.

103.40 Person means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

103.41 Private Access or Driveway means any private street, road access or way that provides access to residences, businesses, industries or other similar appropriate low-volume use that is expected to generate, on average less than 100 vehicle trips per 24 hour period.

103.42 Probation means the status of a person that has not complied with the conditions of this chapter.

103.43 “Probationary Period” means one year from the date that a Person has been notified in writing that they have been put on Probation.

103.44 Public Access means any street or road that will serve more than two residences, businesses, or industries.

103.45 Public Right-of-Way means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, public sidewalk or area in which the County has an interest, including other dedicated rights-of-way for transportation purposes and utility easements of the County. A public Right-of-Way does not include the airwaves above a Right-of-Way with regard to cellular or other nonwire telecommunications or broadcast service. The lands described by an easement, deed, dedication, title, law or occupation of a road, highway, street, cartway, bicycle lane, or sidewalk are included as Right-of-Way.

103.46 Registrant means any person who (1) has or seeks to have its facilities located in any Right-of-Way, or (2) in any way occupies or uses, or seeks to occupy or use, the Right-of-Way or place its facilities in the Right-of-Way. This does not include any person seeking an Access Permit pursuant to Section 200 of this ordinance.

103.47 Residential/Agricultural Access means access requested for individual, residential or agricultural purposes.

103.48 Restoration Cost means the amount of money to achieve the level of restoration required by this Ordinance.

103.49 Restore or Restoration means the process by which an excavated public Right-of-Way and surrounding area, including pavement, pavement foundation, ditches, and

drainage systems, is returned to the same or similar condition that existed before excavation, according to plates 1 to 13 of the Minnesota Administrative rules, CH 7819.9900. The appropriate plate will be determined by Sherburne County.

103.50 Right-of-Way Permit has the same meaning as “Permit,” defined above.

103.51 Right-of-Way User means (1) a telecommunications right-of-way user as defined by Minn. Stat. § 237.162, subd. 4; or (2) a person owning or controlling a facility in the Right-of-Way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public Right-of-Way; or (3) any person or entity to whom a permit to use the Right-of-Way has been issued by the County.

103.52 Service or Utility Service includes (1) those services provided by a public utility as defined in Minn. Stat. § 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications system as defined in Minn. Stat. Chap. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat. Chap. 308A; (6) water, sewer, steam, cooling or heating services; and (7) privately-owned utility services, including drain tiles.

103.53 Service or Utility Service Permit means a permit issued by Sherburne County authorizing the permittee to place a service or utility service in County Right-of-Way as specifically described in the permit.

103.54 Service or Utility Service Permit Fee means money paid to the County by an Applicant to cover the costs as provided in Sec. 112 of this Ordinance and required to obtain a permit.

103.55 Street Access means access requested for municipal street purposes.

103.56 Supplementary Application means an application made to excavate or obstruct more of the Right-of-Way than allowed in, or to extend, a Permit that has already been issued.

103.57 Telecommunication Rights-of-Way User means a person owning or controlling a facility in the Right-of-Way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this Ordinance, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications Right-of-Way users.

103.58 Temporary Surface means the compaction of subbase and aggregate base and replacement, in kind, of existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the County's two-year project plan, in which case it is considered full restoration.

103.59 Trench means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Sec. 104 Administration

104.1 Authority. The County Public Works Director or designee shall administer and enforce the provisions of this Ordinance. The Director may delegate any or all of the duties hereunder.

104.2 Amendments. The Sherburne County Board of Commissioners may amend, supplement or repeal provisions of this Ordinance after a public hearing has been held pursuant to applicable law.

104.3 Jurisdiction within City Limits. Access to the County road system within a city or township requires a County Access Permit. This is in addition to any applicable permits required by the City and/or the Township.

104.4 Validity. Should any section, subdivision, or provision of this Ordinance be declared by the courts to be invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

104.5 Variances. Any deviation from the spacing standards in the Sherburne County Long Range Transportation Plan and/or this Ordinance, may be granted by the Director, if the deviation will facilitate the safe, efficient use of the property for lawful purposes and will not interfere with the construction, maintenance, or safe and efficient use of the roadway and its appurtenances by the public.

104.6. Violations and Penalties. Any Person who violates or fails to comply with any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be punished to the maximum extent allowed by law. For each day the violation continues, a separate offense shall be declared.

Sec. 105 Registration and Right-of-Way Occupancy

105.1 Registration. Each Person who occupies, uses, or seeks to occupy or use the public Right-of-Way or place any equipment or facilities in the Right-of-Way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the County. Registration will consist of providing application information and paying a registration fee. Registration fees shall be set by the County Board at a public meeting and may be amended by them at a public meeting. Persons seeking an Access

Permit pursuant to Section 200 of this Ordinance will not be required to register or pay a registration fee.

105.2 Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work, including Landscaping, on, or use any facilities or any part thereof in any Right-of-Way without first being registered with the County. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 216D, "Gopher State One Call" Law.

Sec. 106 Registration Information

106.1 Information Required. The information provided to the Director at the time of registration shall be on the form approved by the County or this Ordinance and shall include, but not be limited to:

- a. Each registrant's name, Gopher State One-Call registration certificate number, address, e-mail address if applicable, and telephone and facsimile numbers.
- b. The name, address, e-mail address if applicable, and telephone and facsimile numbers of a Local Representative. The Local Representative or designee shall be accessible for consultation at all times. Current information regarding how to contact the Local Representative in an emergency shall be provided at the time of registration.

106.2 Notice of Changes. The Registrant shall keep all of the information listed above current at all times by providing to the Director information as to changes within fifteen (15) days following the date on which the Registrant has knowledge of any change.

Sec. 107 Permit Requirement

107.1 Permit Required. Except as otherwise provided in this code, no person may access, landscape, place a service utility, excavate/grade or obstruct any Right-of-Way without first registering and having obtained the appropriate Right-of-Way permit from the County to do so.

107.2 Permit Extensions. No Person may access, landscape, place a service utility, excavate/grade or obstruct the Right-of-Way beyond the date or dates specified in the Permit unless such person (a) makes a supplementary application for another Right-of-Way Permit before the expiration of the initial permit; and (b) a new permit or permit extension is granted.

107.3 Delay Penalty. In accordance with Minnesota Rule 7819.1000 subp. 3 notwithstanding subd. 2 of this Section, the County shall establish and impose a Delay Penalty for unreasonable delays in Right-of-Way excavation, Obstruction, Patching, or Restoration. The Delay Penalty shall be established from time to time by County Board resolution and shall include any delays or damages charged by the County's construction

contractor resulting from delays in Right-of-Way excavation, Obstruction, Patching, or Restoration, and may include liquidated damages consistent with the contract.

107.4 Routine Maintenance Activities. The Director may approve a permit plan which, among other conditions, allows for maintenance activities without separate notice and separate compensation. "Pot-holing" by utility companies will be exempt from obtaining a permit for the use of their locating utilities. However, utilities shall inform the county of these activities. "Pot-holing shall not be exempt from restoration.

107.5 Permit Display. Permits issued under this Ordinance shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the County.

Sec. 108 Permit Applications

Application for a permit is made to the Director on the form provided by the County. Right-of-way permit applications shall contain and will be considered complete, only upon compliance with the requirements of the following provisions:

- a. Registration with the County pursuant to this Ordinance;
- b. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities of the permittee in the project area.
- c. Payment of money due the County for:
 - (1) permit fees;
 - (2) prior unpaid Right-of-Way or Obstruction Permit Fees;
 - (3) any undisputed loss, damage, or expense suffered by the County because of applicant's prior excavations or obstructions of the Right-of-Way or any emergency actions taken by the County;
 - (4) other charges, if applicable.
- d. Payment of disputed amounts due the County by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing.
- e. Submission of bond, letter of credit, or other suitable instrument of financial security to cover the estimated cost of Restoration and/or Degradation and other management costs.

Sec. 109 Insurance Required

109.1 Before any Permit shall be issued allowing work in the public Right-of-Way, the Applicant or Registrant shall provide a certificate of insurance or self-insurance:

- a. Verifying that an insurance policy has been issued to the Applicant/Registrant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the Director;
- b. Verifying that the Applicant/Registrant is insured against claims for bodily injury, including death, as well as claims for property damage arising out of the

- (i) use and occupancy of the Right-of-Way by the Registrant, its officers, agents, employees and Permittees; and (ii) placement and use of Facilities in the Right-of-Way by the Registrant, its officers, agents, employees and Permittees, including, but not limited to, protection against liability arising from contracts, independent contractors, products and completed operations, explosions, damage of underground facilities and collapse of property;
- c. Naming the County, its officers, employees and agents, as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage;
- d. Requiring that the Director be notified thirty (30) days in advance of cancellation of the policy, non-renewal or material adverse modification of a coverage term;
- e. Indicating commercial general liability coverage, business automobile liability coverage, workers compensation and umbrella coverage established by State Statutes.
- f. Verifying the insurance shall remain in effect for the entire duration of all work described in the Permit application.

109.2 The County may require a copy of the actual insurance policies or certificates of insurance.

109.3 If the Person is a corporation, that person shall, upon request, file with the Director a copy of the articles of incorporation and articles of amendment required to be filed with the Minnesota Secretary of State pursuant to Minn. Stat. Sec. 302A.151, as amended.

109.4 A copy of the Person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the Person is lawfully required to have such certificate from said Commission or other state or federal agency.

Sec. 110 Construction Performance Bonds

110.1 Requirement. At the Director's discretion, a Construction Performance Bond may be required from either the Applicant or Registrant for any work in the public Right-of-Way which requires a Permit pursuant to this Ordinance.

110.2 Amount of Bond. The Director shall determine the Construction Performance Bond amount based on estimated costs to restore the Right-of-Way if the Applicant/Registrant is non-compliant with conditions of Sec. 113 Right-of-Way Patching and Restoration.

Sec. 111 Issuance of Permit; Conditions

111.1 Permit Issuance. If the Applicant has satisfied the requirements of this Ordinance, the County shall issue a Permit.

111.2 Conditions. The Director may impose reasonable conditions upon the issuance of the Permit and the performance of the Applicant hereunder to protect the health, safety and welfare or, when necessary, to protect the Right-of-Way and it's current and future use.

Sec. 112 Permit Fees

112.1 Right-of-Way Permit Fee. The County shall establish Right-of-Way Permit fees in an amount sufficient to recover the following costs.

- a. The County right-of-way management costs;
- b. Degradation costs, if applicable.

112.2 Obstruction Permit Fee. The County shall establish the Obstruction Permit Fee which shall be in an amount sufficient to recover the County Right-of-Way management costs. No Obstruction Permit Fee will be imposed on any right of way work covered by an existing permit.

112.3 Conditions. The Director may impose conditions upon the issuance of Permits and the performance of the Applicant hereunder to protect the public's health, safety and welfare, or when necessary, to protect the public Right-of-Way and its current use, including but not limited to the recovery of any unusual management costs not recovered through the standard Permit fee, including but not limited to the cost of assigning a police officer to provide traffic management or the cost of assigning a field observer.

112.4 Payment of Permit Fees. A Right-of-Way or Obstruction Permit shall not be issued without payment of Permit fees.

112.5 Non-refundable. Permit fees that were paid for a Permit that the Director has revoked for a breach as described in Sec. 123 are not refundable.

112.6 Permit Fee Schedule. The County Board, by public meeting, shall periodically review and approve the fee for Permits issued under this Ordinance as part of the County's Fee Schedule.

Sec. 113 Right-of-Way Patching and Restoration

113.1 Timing. The work to be done under the Right-of-Way Permit, and the Patching and Restoration of the Right-of-Way as required herein, must be completed within the dates specified in the Permit, increased by as many days as work could not be done because of

extraordinary circumstances beyond the control of the Permittee or when work was prohibited as unseasonable or unreasonable under this Ordinance.

113.2 Temporary Surfacing, Patch and Restoration. Permittee shall patch its own work.

- a. **County Restoration.** If the County restores any part of the Right-of-Way, the Permittee shall pay the costs thereof within thirty (30) days of billing. If the County restores only the surface of the Right-of-Way and during the twenty-four (24) months following such restoration, the pavement settles, the Permittee shall pay to the County, within thirty (30) days of billing, all costs related to restoring the Right-of-Way or associated with having to correct the defective work of Permittee, which may include removal and replacement of any or all work done by the Permittee. These costs shall include administrative, overhead mobilization, material, labor, and equipment.
- b. **Permittee Restoration.** If the Permittee restores the Right-of-Way itself, it shall at the time of application for a Right-of-Way Permit, post a construction performance bond in an amount determined by the Director to be sufficient to cover the cost of restoration. If, within twenty-four (24) months after completion of the restoration of the Right-of-Way, the Director determines that the Right-of-Way has been properly restored, the surety on the Construction Performance Bond shall be released.

113.3 Standards. Restoration must return the Right-of-Way to the same condition that existed before excavation as determined by the County Engineer. Subject to this standard, plates 1 to 13 shown in Minn. Rules pts. 7819.9900 to 7819.9950, as amended, indicate the maximum limits of restoration methods and area requirements the County may impose when a Right-of-Way user excavates in the public Right-of-Way. The Engineer and the Right-of-Way user may agree to a lesser requirement.

All levels of restoration include compaction of the materials placed in the excavation of the subgrade and aggregate base, plus pavement replacement in kind. If required by the Engineer, all work must be performed according to the County's standards and specifications and drawing.

The Permittee shall restore ditches and drainage systems to the same condition that existed before the excavation as determined by the County Engineer. For Excavation Permits, the Permittee shall be required to import material to the work area to compensate for the loss of material due to compaction. This determination shall be made by the County Engineer.

113.4 Guarantees. The Permittee guarantees its work and shall maintain it for twelve (12) months following its completion and acceptance by the County. The obligation is limited to one (1) year for plantings and turf establishment. During this 12-month period the Permittee shall, upon notification from the Engineer, correct all restoration work to the extent necessary, using the method required by the Engineer. Said work shall be completed within fifteen (15) working days after receipt of the notice from the Engineer, taking into consideration days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.

113.5 Duty to Correct Defects. The Permittee shall correct defects in Patching, or Restoration performed by Permittee or its agents. The Permittee, upon notification from the County, shall correct all Restoration work to the extent necessary, using the method required by the County. Said work shall be completed within fifteen (15) working days of the receipt of the notice from the County, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable.

113.6 Failure to Restore. If the Permittee fails to restore the public Right-of-Way in the manner and to the condition required by the Engineer, or fails to satisfactorily and timely complete all restoration required by the Engineer, the Engineer shall notify the Permittee in writing of the specific alleged failure or failures and shall allow the Permittee at least fifteen (15) working days from receipt of the notice to cure the failure or failures, or to respond with a plan to cure.

In the event the Permittee fails to cure or fails to respond to the notice, the County may, at its option, perform the necessary work and the Permittee shall pay to the County, within thirty (30) days of billing, the cost of restoring the Right-of-Way. If Permittee fails to pay as required, the County may exercise its rights under the Construction Performance Bond. Nothing in this section shall prevent the County from determining that an emergency situation arises and to take prompt action to protect the health and safety of the public.

Sec. 114 Joint Applications

114.1 Joint Application. Registrants may be required to jointly apply for Permits to access, excavate/grade, place a utility service, landscape or obstruct the Right-of-Way at the same place and time. For joint application, each individual applicant shall be considered as a Permittee under this Ordinance, and thus subject to all terms and conditions of this Ordinance on a joint and several basis.

114.2 Shared Fees. Registrants who apply for Permits for the same obstruction or Right-of-Way Permit action may share in the payment of the obstruction or Right-of-Way Permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

114.3 With County Construction Projects. Permittees who join in a scheduled obstruction or Right-of-Way Permit action coordinated with a County construction project by the Engineer, whether or not it is a joint application by two or more Permittees or a single application, are not required to pay any fees, but a Permit is still required. The provisions of Section 107.3 of this Ordinance will apply, if appropriate.

Sec. 115 Supplementary Applications

115.1 Limitation on Area. A Right-of-Way Permit is valid only for the area of the Right-of-Way specified in the Permit. No Permittee may do any work outside the area specified in the Permit, except as provided herein. Any Permittee which determines that an area greater than that specified in the Permit must be obstructed or excavated must before working in that greater area (a) make application for a Permit extension and pay any additional fees required thereby, and (b) be granted a new Permit or Permit extension. The Engineer may orally waive the requirement for a Permit extension or the payment of an additional fee. County shall maintain a written record of any waivers granted.

115.2 Limitation of Work in Area. A Right-of-Way Permit is valid only for the work in the Right-of-Way specified in the permit. No Permittee may do any additional work in the area specified in the permit, except as provided herein. Any Permittee which determines that additional work is necessary in the area of the Right-of-Way shall before conducting any additional work (a) make application for a Permit extension and pay any additional fees required thereby, and (b) be granted a new Permit or Permit extension. The Director may orally waive the requirement for a Permit extension or the payment of an additional fee. County shall maintain a written record of any waivers granted.

115.3 Limitation on dates. A Right-of-Way Permit is valid only for the dates specified in the Permit. No Permittee may begin its work before the Permit start date or, except as provided herein, continue working after the end date. If a Permittee does not finish the work by the Permit end date, it must apply for a Permit extension for the additional time it needs, and receive the Permit extension before working after the end date of the original Permit. This supplementary application must be done before the original Permit end date. A fee may be required for the Permit extension. The Director may orally waive the requirement for a Permit extension or the payment of an additional fee. County shall maintain a written record of any waivers granted.

115.4 Additional Construction Performance Bond. The Permittee may be required to post an additional or larger Construction Performance Bond for additional facilities or additional work, pursuant to this Section. The determination for any additional Construction Performance Bond will be made by the Director.

Sec. 116 Other Obligations

116.1 Compliance with Other Laws. Obtaining a Right-of-Way Permit does not relieve Permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the County or other appropriate jurisdiction or other applicable rule, law or regulation. Permittee shall comply with other local codes and with road load restrictions. Permittee shall comply with all requirements of local, state and federal laws, including Minnesota Statute CH 216D.01-.09 ("Gopher State One Call Excavation Notice System") and OSHA requirements. Permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the Right-of-Way pursuant to its Permit, regardless of who does the work.

116.2 Prohibited Work. Except in an emergency or with the approval of the Director, no Right-of-Way Obstruction or Excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

116.3 Interference with Right-of-Way. Permittee shall not so obstruct a Right-of-Way that the natural free and clear passage of water through gutters, culverts, ditches, tiles or other waterways shall be interfered. Private vehicles of those doing work in the Right-of-Way may not be parked within or next to a Permit area, unless parked in conformance with County or applicable township and city parking regulations. The loading or unloading of trucks must be done solely within the defined Permit area unless specifically authorized by the Permit. Traffic control shall conform to the Minnesota Manual on Uniform Traffic Control Devices (MN MUTCD) and its field manual and any written directions of the Director.

116.4 Binding Agreement. The Permittee, by signing the Permit Application, agrees to follow and be bound by the terms and conditions of this Ordinance, as well as all applicable state and federal statutes, rules, and regulations.

Sec. 117 Denial of Permit

The County may deny a Permit for failure to meet the requirements and conditions of this Ordinance or if the County determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the Right-of-Way and its current and future use. The County may deny a Permit if the Permittee/Applicant has failed to comply with previous Permit conditions. The County may withhold issuance of a Permit until conditions of previous Permit are complied with, including filing a Completion of Certificate.

Sec. 118 Installation Requirements

The excavation, backfilling, Patching and Restoration, and all other work performed in the Right-of-Way shall be done in conformance with Minnesota Rules 7819.1100, 7819.5000 and 7819.5100, as amended, and shall conform to MnDOT standard specifications and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statute CH 237.162 and 237.163, as amended.

Sec. 119 Inspection

119.1 Notification. The Permittee will provide a minimum of two business days notice to the County, prior to commencement of work in the Right-of-Way, in order for the County to be able to inspect the work. Of particular concern to the County are maintaining approved work safety zone procedures, coordination and protection of the County ditch

system, protecting urban services such as water, sanitary and storm sewer facilities, and to observe Restoration.

119.2 Site Inspection. Permittee shall make the work-site available to the County or its agents and to all others as authorized by law for inspection at all times during the execution of and upon completion of the work.

119.3 Notice of Completion. When the work under any Permit hereunder is completed, the Permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.

119.4 Authority of County.

- a. At the time of inspection the Director may order the immediate cessation and correction of any work which poses a serious threat to the life, health, safety or well being of the public.
- b. The Director may issue an order to the Permittee for any work which does not conform to the terms of the Permit or other applicable standards, rules, laws, conditions, or codes so long as the nonconformance constitutes a “substantial breach” as set forth in Minnesota Statute CH 237.163, subd. 4(c) (1)-(5). The order shall state that failure to correct the violation will be cause for revocation of the Permit. Within a reasonable time after issuance of the order, the Permittee shall present proof to the Director that the violation has been or will be corrected within a time period set forth by the Director in the order. If such proof has not been presented within the required time, the Director may revoke the Permit pursuant to Sec. 123 of this Ordinance.
- c. The cost of any action required by the County under this section shall be paid by the Permittee.

Sec. 120 Emergency Situations

Each Registrant shall notify the Director as soon as practical of any event regarding its facilities that it considers to be an emergency. The Registrant will proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the Registrant shall apply for the necessary Permits, pay the fees associated therewith as required, and fulfill the rest of the requirements necessary to bring itself into compliance with this Ordinance for the actions it took in response to the emergency.

The Permittee requirements shall not apply if the repair is caused by another Permittee’s work in the Right-of-Way. If the County becomes aware of an emergency regarding a Registrant's facilities, the County will attempt to contact the local representative of each Registrant affected, or potentially affected, by the emergency. In any event, the County may take whatever action it deems appropriate to the emergency, the cost of which shall be borne by the Permittee whose facilities occasioned the emergency.

Sec. 121 Work Done Without a Permit

Except in an emergency, any person who, without first having obtained the necessary Permit, obstructs or excavates a Right-of-Way must subsequently obtain a Permit, and as a penalty pay double the normal fee for said Permit, pay double all the other fees required by the County, deposit with the County the fees necessary to correct any damage to the Right-of-Way and comply with all of the requirements of this Ordinance.

Sec. 122 Supplementary Notification

If the obstruction or excavation of the Right-of-Way begins later or ends sooner than the date given on the Permit, Permittee shall notify the County of the accurate information as soon as this information is known.

Sec. 123 Revocation of Permits

123.1 Substantial Breach. The County reserves its right, as provided herein, to revoke any Right-of-Way Permit, without a fee refund, if there is a substantial breach of the terms and conditions of any relevant statute, ordinance, rule or regulation, or any material condition of the Permit including a threat to the safety of workers, or the Right-of-Way user or the utility users. The County may also utilize the Permittee's instrument(s) of financial security at its sole discretion. A substantial breach by Permittee shall include, but shall not be limited to, the following:

- a. The violation of any material provision of the Right-of-Way Permit;
- b. An evasion or attempt to evade any material provision of the Right-of-Way Permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the County or its citizens;
- c. Any material misrepresentation of fact in the application for a Right-of-Way Permit;
- d. The failure to complete the work in a timely manner; unless a Permit extension is obtained, or unless the failure to complete work is due to reasons beyond the Permittee's control, or failure to relocate existing facilities as specified in this Ordinance; or
- e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 119.
- f. Failure of the utility to pay any required costs, fees, or charges billed by the County.
- g. Failure to provide traffic control that conforms to the provisions of the Minnesota Manual on Uniform Traffic Control Devices, including the Temporary Traffic Control Zones Field Manual.

123.2 Written Notice of Breach. If the County determines that the Permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the Permit the County shall make a written demand upon the

Permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the Permit. A substantial breach, as stated above, will allow the County, at its discretion, to place additional or revised conditions on the Permit to mitigate and remedy the breach.

123.3 Response to Notice of Breach. Within five (5) working days of receiving a written notification of breach from the County, Permittee shall provide the County with a plan acceptable to the Director that will cure the breach. Permittee's failure to so contact the County, or failure to submit an acceptable plan or to reasonably implement the approved plan, shall be cause for immediate revocation of the Permit. Further, failure to contact the County, or to submit an acceptable plan or to reasonably implement the approved plan, shall automatically revoke the Permit and may include placing the Permittee on Probation for one (1) full year.

123.4 Cause for Probation. From time to time, the County may establish a list of conditions of the Permit, which if breached will automatically place the Permittee on Probation for one full year, such as, but not limited to, working out of the allotted time period or significantly outside of the Permit authorization.

123.5 Automatic Revocation. If a Permittee, while on Probation, commits a breach as outlined above, Permittee's Permit will automatically be revoked and Permittee will not be allowed further permits for one full year, except for Emergency repairs.

Subd. 6. Reimbursement of County Costs. If a Permit is revoked, the Permittee shall also reimburse the County for the County's reasonable costs, including restoration costs.

Subd. 7. Revoked Permit. If the County revokes a Permittee's permit for breach of this Ordinance, the Permittee will not be allowed to obstruct or excavate within the County Right-of-Way until the breach situation is corrected to the satisfaction of the Director and the Permit is reissued.

Sec. 124 Mapping Data

124.1 Information Required. Each Registrant and Permittee shall provide project data necessary to allow the County to develop a Right-of-Way mapping system in accordance with Minnesota Rules 7819.4000 and 7819.4100.

124.2 Application Required. County requires a permit for excavation in or obstruction of its public Right-of-Way. A person wishing to undertake a project within the public Right-of-Way shall submit a Right-of-Way Permit Application, which will require the filing of mapping information pursuant to subdivision 3.

124.3 Mapping Information. Sherburne County requires as part of its Permit the filing of all of the following information for placement of utilities:

- a. Location and elevation of Applicant's mains, cables, conduits, switches, and related equipment and facilities, with the location based on one of the following methods:
 - (i) The preferred method is: X, Y, and Z coordinates in NAD 83 1996 Adjustment (also known as HARN Adjustment) horizontal datum and NAVD 88 vertical datum. This information is to be supplied in an electronic format in an ASCII comma-delimited file including: Point Number, Northing, Easting, Elevation and Description. The alignment position shall be collected at a minimum interval of two hundred feet or as required by changes in direction of the utility being located to define the horizontal alignment. Elevation "as built" depth locations shall be collected at a minimum of 10 per mile. The horizontal and vertical accuracy requirements for all collected positions shall be within 0.5 feet of their reported position as evidenced by the certification of a licensed Land Surveyor registered in the State of Minnesota.
 - (ii) Offsets from property lines, distances from the centerline of the public Right-of-Way, and curb lines as determined by the County.
 - (iii) Any other system agreed upon by the Right-of-Way user and the County.
- b. the type and size of the utility facility;
- c. a description of aboveground appurtenances;
- d. any facilities to be abandoned, if applicable, in conformance with Minnesota Statute CH 216D.04, subd. 3.
- e. easement location(s) and description(s)

124.4 Changes and Corrections. The application must provide that the Applicant agrees to submit "as built" data, reflecting any changes and variations from the information provided under Sec. 124.3.

124.5 Additional Construction Information. In addition, the Right-of-Way user shall submit a completion certificate to County at the time the project is completed.

124.6 Manner of Conveying Permit Data. A Right-of-Way user is not required to provide or convey mapping information or data in a format or manner that is different from what is currently utilized and maintained by that user. A Permit Application Fee may include the cost to convert the data furnished by the Right-of-Way user to a format currently in use by the County.

124.7 Data on Existing Facilities. At the request of Sherburne County, a Right-of-Way user shall provide existing data on its existing facilities within the public Right-of-Way in the form maintained by the user at the time the request was made, if available.

Sec. 125 Location and Relocation of Facilities

125.1 Placement, Location, and Relocation. Placement, location, and relocation of Facilities must comply with other applicable law and with Minnesota Rules 7819.3100, 7819.5000, and 7819.5100, as amended, to the extent the rules do not limit authority otherwise available to Sherburne County. Utility poles and guy anchors, and any other equipment, shall conform to NCHRP 350 standards for crash worthiness or must be located outside of applicable clear zones. Any installation that does not conform to Minnesota Department of Transportation Clear Zone standards must be approved by the Director and the facility owner shall indemnify, defend, and hold the County harmless.

125.2 Corridors. The County may assign specific corridors within the Right-of-Way, or any particular segment thereof as may be necessary, as a best management practice for each type of facility or equipment that is, or, pursuant to current technology, the County expects will someday be, located within the Right-of-Way. All Right-of-Way, Obstruction, or other Permits issued by the County involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. A typical cross section of the location for utilities may be on file at the Engineer's office.

This section is not intended to establish "high density corridors." Any Registrant who has Facilities in the Right-of-Way in a position at variance with the corridors established by the County shall, no later than at the time of the next reconstruction or excavation of the area where the Facilities are located, move the Facilities to the assigned position within the Right-of-Way, to prevent interference with planned local government use of the Right-of-Way unless this requirement is waived by the County for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the Registrant.

125.3 Limitation of Space. To protect health, safety, and welfare or when necessary to protect the Right-of-Way and its current use, the County shall have the power to use best management practices to prohibit or limit the placement and location of new or additional facilities within the Right-of-Way. In making such decisions, the County shall strive to the extent possible to accommodate all existing and potential users of the Right-of-Way, but shall be guided primarily by considerations of the public interest, the public's need for the particular utility service, the condition of the Right-of-Way, the time of year with respect to essential utilities, the protection of existing facilities in the Right-of-Way, and future County plans for public improvements and development projects which have been determined to be in the public interest.

125.4 Relocation of Facilities. A Right-of-Way user shall promptly and at its own expense, with due regard for seasonal working conditions, permanently remove and relocate its facilities in the Right-of-Way when it is necessary to prevent interference, and not merely for convenience of the local government unit, in connection with: (a) a present or future local government use of the Right-of-Way for a public project; (b) the public health or safety; or (c) the safety and convenience of travel over the Right-of-Way.

A Right-of-Way user is not required to remove or relocate its facilities from a Right-of-Way that has been vacated in favor of a nongovernmental entity unless and until the reasonable costs to do so are first paid to the Right-of-Way user.

Sec. 126 Location of Facilities During Design Process

In addition to complying with the requirements of Minnesota Statute CH 216D.01-.09 ("One Call Excavation Notice System"), each Registrant who has Facilities or equipment in the project area shall provide location information to the County of all said facilities.

Sec. 127 Damage to Other Facilities

The provisions of Minnesota Statute CH_216D, as amended, shall apply to all situations involving damages to facilities during excavation operations. The Permittee shall immediately cease all work, and notify the Director, if the Permittee causes any damage to other Facilities in the Right-of-Way, adjacent property, roads, fixtures, or structures.

Sec. 128 Right-of-Way Vacation

Reservation of Right. If the County vacates a Right-of-Way that contains the Facilities of a Registrant, the Registrant's rights in the vacated Right-of-Way are governed by Minnesota Rule 7819.3200 and other applicable laws.

Sec. 129 Indemnification and Liability

129.1 An approved permit allows the Permittee to perform work within the limits of the County Right-of-Way. The research, determination, and verification of the actual extents of the County Right-of-Way are the sole burden and responsibility of the Permittee. All work performed outside the County Right-of-Way must be coordinated with any and all affected landowners. In no event will the County be liable for any damages, including loss of business, lost profits, business interruption, or other pecuniary loss that might arise from the Permittee's lack of research, determination and verification of the actual extent of the County Right-of-Way.

By registering with the County, or by accepting a permit under this Chapter, a Registrant or Permittee agrees to defend and indemnify the County in accordance with the provisions of Minnesota Rule 7819.1250, as amended.

129.2 All Permits are granted subject to the ownership rights the County may have in the property involved and to the extent that state, federal, and local laws and regulations allow and said Permit is subject to all such laws and rules.

Sec. 130 Abandoned or Unusable Facilities

130.1 Discontinued Operations. A Registrant who has determined to discontinue all or a portion of its operations in the County must provide information satisfactory to the County that the Registrant's obligations for its Facilities in the Right-of-Way under this Ordinance have been lawfully assumed by another Registrant.

130.2 Removal. Any Registrant who has abandoned or unusable Facilities in any Right-of-Way shall remove it from that Right-of-Way if required in conjunction with other Right-of-Way repair, excavation, or construction, unless the County waives this requirement.

Sec. 131 Appeal

A Right-of-Way user that: (1) has been denied registration; (2) has been denied a Permit; (3) has had Permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request by the County Board. The County Board shall act on a timely written request. A decision by the County Board affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Sec. 132 Reservation of Regulatory and Police Powers

A Permittee's or Registrant's rights are subject to the regulatory and police powers of the County to adopt and enforce ordinances necessary to protect the health, safety and welfare of the public.

Sec. 133 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. Nothing in this Ordinance precludes the County from requiring a franchise agreement with the Applicant, as allowed by law, in addition to requirements set forth herein.

Sec. 134 Penalty for Violation

134.1 Any Person who shall violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof, punished by a fine not to exceed \$1,000 or by imprisonment in the County jail for a period not to exceed 90 days or both.

134.2 Each day that a violation exists shall constitute a separate offense. The imposition of any fine or sentence shall not exempt the offender from compliance with the requirements of this Ordinance.

134.3 Any violation of this Ordinance is hereby declared to be a nuisance per se and Sherburne County through its qualified officers as provided by statute for maintaining suits, may institute proceedings in the Court for the purposes of restraining any violation of any of the provisions of this Ordinance. The violation may also result in the loss of bond funds or other instruments of financial security.

SECTION 200 ACCESS MANAGEMENT

Sec. 201 Access Permit Requirements

201.1 Authority. Construction, reconstruction or relocation of any Access onto a County Road for public or private use will require an Access Permit granted by the Director in accordance with the requirements set forth herein. An accompanying letter outlining any special conditions is part of the Permit.

201.2 Responsibilities. The Permittee shall be responsible for all costs associated with construction of the Access that may include, but not limited to, obtaining the Permit, construction of the Access, turn lanes, raised medians, drainage structures, site grading and restoration and the acquisition of Right-of-Way. A simple property split does not create a right for a new or additional Access for contiguous parcels under a common related ownership.

201.3 Permit Requirements. A Permit application will be required to be submitted for any new Driveway, Field Entrance, or Public Access. The Permit application will be accompanied by a bond or similar instrument and a Permit fee. The amount of the Permit fee will be according to a fee schedule, which will be determined by the County Board from time to time.

201.4 Timely Completion. Work shall be completed within the timeframe specified in the access Permit as approved by the County Public Works Director or designated representative.

201.5 Substandard Accesses. Accesses which do not comply with the standards set out in the access Permit may be completed by the County utilizing the bond or similar instrument, required under Section 110 of this Ordinance, to bring the Access up to County standards or may be removed by the County at its option.

201.6 Shared Access. Where a shared Access has been approved, only one Permit is required.

201.7 After the Fact Permits. Permits issued after the fact will be a twice the cost normally associated with the Permit.

201.8 Access Removal. In cases where access removal benefits the County, the Permit fee may be waived by the Director.

Sec. 202 Spacing Criteria

Spacing shall be in accordance with the Sherburne County Transportation Plan, as amended. Deviations from the minimum spacing may be granted by the County Public Works Director on a case by case basis.

Sec. 203 Design and Construction Requirements

203.1 Design Standards. The design of all new Driveways, Field Entrances, and Public Accesses onto Sherburne County roadways shall meet Sherburne County standards, as well as those depicted on Minnesota Department of Transportation Standard Plate 9000D, as amended. Wherever possible, access locations shall be directed onto roadways with a lower functional classification or lower traffic volume.

203.2. Other Design Considerations. All accesses onto County Right-of-Way shall be aligned to be straight and perpendicular to the centerline of the adjacent County roadway. Other important safety factors to be considered when granting Access include, but not limited to, adequate sight distance, profile/elevation of the Access and the consolidation of accesses. Additional considerations include;

- (a) Wherever possible the location of new access points shall be aligned with street accesses and/or entrances on the opposing side of the roadway to create four way intersections. Offset intersections within the spacing criteria are to be avoided.
- (b) Wherever possible access points to commercial areas shall be combined through service roads or common access points.

203.3 Maximum Width. Maximum width of a Public Access shall conform to Sherburne County standards.

203.4 Landscaping, Signs, Fencing. Divided Public Access, with landscaped or decorative islands will be prohibited within County Road Right-of-Way. All facilities such as signs, entrances medians, fencing, etc. shall be placed or constructed outside the County Right-of-Way.

203.5 Culverts. Culverts constructed/placed within County Right-of-Way, as part of an Access shall be minimum of 15” or a size determined by the Sherburne County Department of Public Works which ever is greater. Safety aprons (6:1) and safety grates shall be installed. Plastic pipe will not be used on accesses within the County Right-of-Way.

203.6 Turn Lane Prohibitions. A new Access will not be allowed within a left turn lane, right turn lane or bypass lane. An exception to this requirement may be granted by the County Engineer if no reasonable alternative is available.

203.7 Right In/Right Out Access. A right in/right out access may be considered if no other access option is available.

Sec. 204 Turn Lanes and Bypass Lanes

204.1 Turn Lane Requirements. A Developer may be required to install an auxiliary lane(s) (left turn, right turn, by pass) and associated drainage improvements on the County road or County State Aid Highway at its expense for new subdivisions or industrial developments. The need for any auxiliary lane(s) will depend on traffic volumes, sight distances, proximity to existing accesses, and any other factor deemed appropriate by the County Engineer for the safety of the traveling public. Any auxiliary lane deemed necessary by the County Engineer shall be designed and constructed to meet Sherburne County standards.

204.2 Design Requirements. Any auxiliary lane shall be designed and constructed to match the existing base and bituminous surface cross section of the County road.

204.3 Planned County Road Improvements. If the County has an improvement planned and programmed on the affected County roadway, the developer shall pay the County the cost of designing and constructing the necessary auxiliary lane(s).

204.4 Payment in Lieu of Construction. In lieu of construction of auxiliary lane(s), the County may require that the developer pay into an escrow account, an amount adequate to cover the projected costs of the auxiliary traffic lane(s) that will be needed to accommodate the projected impact of the development to the County road system when complete development occurs.

204.5. Additional Right-of-Way. In the event that construction of an auxiliary lane(s) requires additional Right-of-Way, the developer will be required to provide the necessary additional Right-of-Way to the County.

APPROVED BY THE SHERBURNE COUNTY BOARD OF COMMISSIONERS

Brian Bensen,
County Administrator

Rachel Leonard
Chair, County Board of Commissioners

Date: _____

Date: _____