

# McHENRY COUNTY

## ACCESS CONTROL AND RIGHT-OF-WAY MANAGEMENT ORDINANCE

EFFECTIVE JANUARY 1, 2009



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**ORDINANCE**  
**ADOPTING THE MCHENRY COUNTY ACCESS CONTROL AND RIGHT-  
OF-WAY MANAGEMENT ORDINANCE**

**WHEREAS**, the County Board and the County Engineer have authority over the supervision of County Highways pursuant to the Illinois Compiled Statutes; and

**WHEREAS**, the following chapters of the Illinois Compiled Statutes grant the County Board and the County Engineer the authority to establish regulations related to access and other uses of the County Highway System:

605 ILCS 5/5-413 of the Illinois Compiled Statutes, as amended, provides for permitting of access roads and driveways for public and private use upon receipt of a permit from the County Engineer and in accordance with regulations adopted by the County Board.

605 ILCS 5/5-414 of the Illinois Compiled Statutes, as amended, provides for the temporary closing of a County Highway upon receipt of a permit issued by the County Engineer.

605 ILCS 5/5-101.7 of the Illinois Compiled Statutes, as amended, provides the County Board with the ability to accept funds from any source (public or private) to construct and improve County Highways.

605 ILCS 5/8-101 and 5/8-102 of the Illinois Compiled Statutes, as amended, grants County Boards the authority to designate highways under their jurisdiction as freeways and to grant or deny any new points of access, or allow for the modification or other changes to any existing point of access.

605 ILCS 5/9-101.1 of the Illinois Compiled Statutes, as amended, states that if a county highway adjoins a parcel of land to be subdivided, the sub-divider shall notify and offer the County the opportunity, at the County's cost, to acquire additional capacity in any stormwater detention facility for the future availability of the highway authority to meet stormwater detention requirements for future highway improvements.

605 ILCS 5/9-113 of the Illinois Compiled Statutes, as amended, provides for the County to develop rules and regulations for the installation of any public or private utilities, ditches or drains along any County Highway, and requires written consent from the County in order to place such utilities or other facilities within the right-of-way of a County Highway.

605 ILCS 5/9-115.1 of the Illinois Compiled Statutes, as amended, requires that detention facilities be offset from the right-of-way at a distance equal to 10 feet plus one and one-half times the depth of the drainage facility and also requires that the "toe" of any earthen berm be offset from the right-of-way at a minimum distance of 10-feet unless written approval from the County is provided.

765 ILCS 205/2 of the Illinois Compiled Statutes, as amended, requires that written approval be obtained from the appropriate local highway authority regarding highway access prior to final approval and recording of a plat by a municipality or the County.

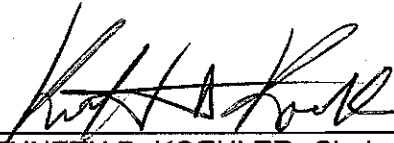
**WHEREAS**, the County has developed regulations concerning access and other uses of the County Highway system; said rules and regulations known as the "McHenry County Access Control and Right-of-Way Management Ordinance," attached hereto and hereby made a part hereof.

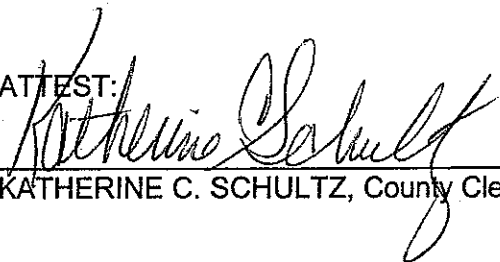
**NOW THEREFORE BE IT ORDAINED**, that the McHenry County Access Control and Right-of-Way Management Ordinance is hereby adopted and shall take effect on January 1, 2009; and

**BE IT FURTHER ORDAINED**, that the Ordinance as approved replaces in its entirety, the McHenry County Access Management Ordinance adopted by the McHenry County Board on March 18, 1997; and

**BE IT FURTHER ORDAINED**, that the County Clerk is hereby directed to distribute a certified copy of this Ordinance to the County Administrator and the Director of Transportation/County Engineer.

**DATED** at Woodstock, Illinois, this 6<sup>th</sup> day of November, A.D., 2008.

  
\_\_\_\_\_  
KENNETH D. KOEHLER, Chairman  
County Board Chairman

ATTEST:  
  
\_\_\_\_\_  
KATHERINE C. SCHULTZ, County Clerk

STATE OF ILLINOIS            )  
  SS  
COUNTY OF MCHENRY        )

I, Katherine C. Schultz, County Clerk within and for said County and State aforesaid, do hereby certify the foregoing to be a true and complete copy of Ordinance No. O-200811-82-068, Ordinance adopting the McHenry County Access Control and Right of Way Management Ordinance . WHEREOF I have hereunto subscribed my hand and affixed the official seal of said County, at my office in Woodstock, Illinois this 7 day of Nov AD, 2008 .

Katherine C. Schultz  
McHenry County Clerk

# Access Control and Right-of-Way Management Ordinance

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# Access Control and Right-of-Way Management Ordinance

## **CHAPTER 1: OVERVIEW**

### **1.1 TITLE**

This Ordinance shall be known as, and may be referred to as the McHenry County Access Control and Right-of-Way Management Ordinance.

### **1.2 PURPOSE**

The proper management and operation of the County Highway's infrastructure is critical to the safety of the motoring public and directly related to the overall economic health and quality of life of McHenry County. The economic vitality of the County is also related to the availability of access to the arterial highway system. This requires the implementation of access management regulations that provide for a balance between the need to move traffic safely and efficiently while still providing access to adjacent properties.

The construction, maintenance and improvement of the County Highway System represent a substantial investment of public funds. Impacts from development on the County Highway System shall be mitigated by development and shall not result in the need for the investment of additional public funds. The use of the County Highway System's rights-of-way by non-highway uses must be properly managed to ensure that these non-highway uses do not constrain the ability of the County to improve the County Highway System in the future.

Therefore, this Ordinance is adopted for the following purposes:

1. To protect, provide and promote the health, safety and general welfare of the motoring public utilizing County Highways.
2. To minimize congestion and delay on County Highways which results from providing access to abutting property.
3. To maintain an acceptable Level of Service on County Highways.
4. To minimize conflicts between vehicles traveling along the County Highway and vehicles entering and exiting County Highways via private or public access facilities.

5. To provide for the proper location and spacing of access facilities, to limit the number of access facilities to abutting properties, to minimize interference with the flow of traffic on the County Highway, and to minimize interference with traffic using adjacent access facilities.
6. To allow the County Engineer to establish reasonable standards and design specifications for access facility improvements on County Highways to protect the public investment.
7. To provide for the establishment of sufficient pavement, right-of-way and easement widths and to provide for highway related stormwater management facilities.
8. To prohibit the use of a County Highway as a portion of the internal circulation system of abutting property, to prohibit backing onto a County Highway, and to prohibit, where necessary, parking on County Highway rights-of-way.
9. To establish reasonable requirements for performance and maintenance guarantees, to ensure the proper construction of required improvements, and to ensure that required improvements are completed in an expeditious manner in accordance with accepted engineering and geometric standards and specifications.
10. To establish reasonable regulations and procedures to ensure that any public or private utilities and facilities are either placed in easements outside of the right-of-way or are placed within existing rights-of-way such that future expansion of the County Highway can be accomplished at no additional cost to the County to relocate or remove such utilities and facilities.
11. To provide regulations and procedures for the temporary use or closure of a County Highway.
12. To ensure that drainage facilities or earthen berms are not constructed immediately adjacent to the right-of-way so as to significantly limit the ability of the County to expand the right-of-way in the future.

### **1.3 COMMENTARY**

Whenever a section of this Ordinance requires additional explanation to clarify the intent, subsections prefaced "COMMENTARY" are included. They are intended solely as a guide for both officials and the general public to aid in the administration and interpretation of this Ordinance.

## **CHAPTER 2: DEFINITIONS**

### **2.1 PURPOSE**

It is the purpose of this Article to define words, terms, and phrases contained in this Ordinance.

### **2.2 GENERAL WORD USAGE**

In the interpretation of this Ordinance, the following provisions shall be observed and applied except when the context clearly requires otherwise:

1. Words used or defined in one tense or form shall include other tenses and derivative forms.
2. Words in singular shall include the plural and words in the plural shall include the singular.
3. The masculine gender shall include the feminine, and the feminine gender shall include the masculine.
4. The word "shall" is mandatory.
5. The word "must" is mandatory.
6. The word "may" is permissive.
7. The word "should" is advisory.
8. In the event of any difference of meaning or implication between the text of this Ordinance and any caption, illustration, or table, the text shall control.

### **2.3 ABBREVIATIONS**

Abbreviations are used in this Ordinance and shall have meanings as set forth in Section 2.4.

### **2.4 DEFINITIONS**

Words, terms, and phrases in the definitions are those which are defined in this Section. The following words, terms, and phrases are hereby defined and shall be interpreted as such throughout this Ordinance.

**AASHTO:** The American Association of State Highway and Transportation Officials.

**Abutting:** Having a common border with, or being separated from such common border by an alley or easement.

**Access:** A private or public way for providing entry or exit between a highway and abutting property.

**Access Facility:** A private or public driveway or road providing service to and/or from abutting property to a highway.

**Access Management Highway Classification Map:** Map of County Highway System classifications for purposes of determining various access related requirements as outlined in this Ordinance.

**Access Permit:** A permit issued by the McHenry County Division of Transportation granting access to and from a County highway allowing for the construction or reconstruction of an access facility in accordance with the provisions of this Ordinance.

**Access Point:** The location of access.

**Actuation:** The initiation of a change in, or extension of, a traffic signal phase through the operation of any type of detector.

**Adjacent Access Point:** An adjoining access facility which may be on either side of the highway and either upstream or downstream of a proposed access point.

**Administrative Policies Manual:** The current Manual of Administrative Policies as published by the Illinois Department of Transportation Bureau of Local Roads.

**Applicant:** The individual, company, governmental agency or organization that is requesting review and approval of a permit application and associated plans, studies, plats, and/or documents and is requesting permission to perform construction within County highway right-of-way. For access permit projects, the applicant is typically the property owner and/or developer and becomes the permittee. The property owner/ developer may designate another person or party to act on their behalf, in which case this representative shall be known as the applicant and indicate such on the application.

**Average Daily Traffic (ADT):** The number of vehicles using a road (in both directions) during a twenty-four (24) hour period, specified as the average daily traffic by the Illinois Department of Transportation or the McHenry County Division of Transportation (MCDOT).

**Berm:** An earth mound that is designed to control and divert surface runoff or is of a decorative or landscape nature.

**Bureau of Design and Environment Manual:** The current Bureau of Design and Environment Manual as published by the Illinois Department of Transportation.

**Cash Bond:** A certified check or bank cashiers check payable to the McHenry County Division of Transportation held by the McHenry County Division of Transportation to insure that all permitted work will be completed in compliance with this Ordinance and the conditions of the permit.

**Certify or Certification:** The act or process of attesting that the specific inspections, calculations, or tests, where required, have been performed and that they comply with the applicable requirements of this Ordinance.

**Certificate of Insurance:** An executed, completed, original document providing evidence that the developer or contractor has insurance in the amounts required and which provides additional coverage for additional parties.

**Common Ownership:** A shared interest in real property by the same person or any persons related by marriage, adoption, or blood within an immediate family, including parents, spouses, siblings, and children

**Contractor:** A person or firm engaged in construction, landscaping, or landscape maintenance on a contract basis.

**Corner or Return Radii:** The pavement radius of the arc between the edge of pavement of the access facility and the edge of pavement of the abutting road used to facilitate vehicular turning movements.

**County:** McHenry County, Illinois.

**County Board:** The County Board of McHenry County, Illinois.

**County Engineer:** The County Engineer of McHenry County, Illinois. The appointed head of the McHenry County Division of Transportation (MCDOT).

**County Highway:** A public road as defined by the Illinois Highway Code as part of the County highway system, and any proposed roads as yet un-built but planned as a part of the County highway system.

**County Recorder:** The County Recorder of McHenry County, Illinois.

**County Treasurer:** The Treasurer of McHenry County, Illinois.

**Cross Access Easement:** Shared access between adjacent parcels to allow the interaction of traffic without impacting public roadways.

**Cross-Drain Structures:** A culvert or structure that crosses under a roadway, typically perpendicular to the highway, and is used for the relief or conveyance of roadside drainage.

**Dedication:** The transfer of property interests from private to public ownership for a public purpose. The transfer shall be of fee-simple interest, or a lesser interest for an easement.

**Design Speed:** The speed to which a road is being or has been designed.

**Detention Basin:** A facility designed to temporarily store stormwater runoff either on, below or above the ground surface accompanied by controlled release of the stormwater.

**Developer:** A legal or beneficial owner of a lot or parcel of any land proposed for a development, including the holder of an option or contract to purchase.

**Development:** The subdivision of land; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any buildings; any use or change in use of any buildings or land; any extension of any use of land or any clearing, grading, excavation, or other movement of land.

**Discharge:** The outflow of water, silt, or other mobile substances passing along a conduit, watercourse, or a channel, or released detention storage.

**Drainage:** The removal of surface water or groundwater from land by drains, grading, or other means. Drainage includes the control of runoff to minimize erosion and sedimentation during or after development and includes prevention or alleviation of flooding.

**Drainage Area:** The area contributing runoff water to a watercourse, drainage system, detention basin or retention basin, sometimes referred to as a watershed.

**Drainageway:** A watercourse identified by the presence of an intermittent or perennial flow of water.

**Driveway Throat:** The width between points on a driveway at which the corner returns are tangent to the driveway.

**Easement:** A right to use or control the property of another for designated purposes, such as for drainage or placement of utilities.

**Encumbrance:** Prior easement, rights, or other legal constraint that would limit or prohibit use of dedicated right-of-way by the McHenry County Division of Transportation or others.

**Engineer:** A licensed Professional Engineer registered in the State of Illinois, under the Illinois Professional Engineering Act.

**Engineering Plans:** A signed and sealed set of design plans, specifications, and estimates of cost, containing all engineering elements necessary to construct an access facility or highway improvement.

**Erosion:** The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**Facility:** All structures, devices, objects, materials, and related appurtenances including, but not limited to, bike paths, sidewalks, street lighting, trees, pedestrian crossing structures, fire and police emergency signal systems, public transportation shelters, municipal information signage, and municipal utilities such as water mains, force mains and sanitary sewer systems. A facility also includes a stormwater system not designed or constructed for direct County Highway roadside drainage. For purposes of this Ordinance, the term “facility” shall not include any facility owned or operated by the McHenry County Division of Transportation.

**Fence:** An artificial barrier constructed of any material or combination of materials erected to enclose or screen areas of lands.

**Freeway:** A highway designated by the County Board as a freeway in accordance with Article 8 of the Illinois Highway Code. A freeway can be either a full or partial access-controlled facility.

**Frontage:** The distance, as measured along the highway right-of-way line, between the property lines of the abutting property.

**Frontage Road:** A road which is adjacent to or included in the right-of-way of a highway or railroad, and which provides access to abutting properties and separation from through traffic.

**Full Access:** An access to a highway or other roadway that allows movements to and from a roadway in all directions without geometric restrictions.

**Fully Actuated:** A type of traffic control signal operation in which all signal phases function on the basis of actuation.

**Grading Easement:** A temporary easement outside of the right-of-way when grading outside of the right-of-way is needed for roadway related improvements.

**Highway:** See County Highway.

**Highway Capacity Manual:** The most recent edition of the Highway Capacity Manual and all amendments thereto and successor documents as published by the Transportation Research Board.

**Highway Standards:** Drawings published by the Illinois Department of Transportation or the McHenry County Division of Transportation that show the details of various construction items and are used in conjunction with the Standard Specifications, General Notes, or Special Provisions. The applicable Standards are referenced on the cover sheet of the plans.

**IDOT:** The Illinois Department of Transportation.

**IMUTCD:** The current edition of the Illinois Manual on Uniform Traffic Control Devices.

**Illinois Highway Code:** The laws of the State of Illinois relating to roads.

**Improvement:** Any manufactured changes to any land, structure, or highway.

**Improvement, Public:** Any improvement necessary to provide for public needs.

**Influence Area:** The area associated with the function of an intersection, auxiliary lanes, and access points(s).

**Intersection:** The general area where an access facility and a road, or two or more roads, or two access facilities join or cross.

**Intersection Sight Distance:** The distance, assumed for design purposes, that a vehicle preparing to exit an intersection can see an approaching vehicle and enter the roadway accelerating to 85% of the design speed without causing the approaching vehicle to reduce its speed.

**Island:** A defined area between traffic lanes for control of vehicle movements or for pedestrian refuge.

**ITE:** The Institute of Transportation Engineers.

**ITE Trip Generation:** The most recent edition of and any supplements thereto of the informational report ITE Trip Generation, and any successor documents.

**Land Use:** See Use.

**Land-Use Density:** An intensity measurement usually expressed in terms of the number of units or square feet of a particular land use permitted to be built, constructed, or placed on a defined parcel of land.

**Level of Service:** Qualitative measure describing operational conditions within a traffic stream as defined in the Highway Capacity Manual.

**Lot:** A single legally divided parcel of land. A lot of record which is part of a subdivision, the plat of which has been duly authorized and recorded in the office of the Recorder of Deeds of McHenry County, Illinois and are in conformance with the McHenry County Subdivision Ordinance and/or State Plat Act.

**Lot, Corner:** A lot abutting on two roads at their juncture.

**Maintenance Easement:** A permitted, platted easement outside of the right-of-way for the maintenance of roadway-related improvements.

**Maintenance Guarantee:** A financial guarantee, preferably in the form of an Irrevocable Letter of Credit or Cash Bond, used to replace the Performance Guarantee upon acceptance of the permitted and constructed work by the McHenry County Division of Transportation (MCDOT).

**MCDOT:** The McHenry County Division of Transportation.

**McHenry County Division of Transportation:** County department tasked with administering and enforcing the requirements of this Ordinance. Includes the County Engineer or his designated representative.

**Median:** A portion of a divided highway or divided driveway separating the traveled ways for traffic flowing in opposite directions. A median can either be raised or flush.

**Median Opening:** A gap in a median provided for crossing and turning vehicles.

**Modification:** Any alteration to an existing access facility that would change the size, shape, area, or otherwise alter the physical configuration of the access. Routine maintenance of an access is not considered a modification.

**MUTCD:** The Manual on Uniform Traffic Control Devices for Streets and Roads as adopted by the Federal Highway Administration.

**Municipal Utility:** A utility owned, maintained and operated by a municipality.

**Municipal Utility Easement:** A platted easement outside of the County Highway right-of-way that is for the use and benefit of a municipality to accommodate utilities or facilities as defined by this Ordinance.

**Owner:** The person having the right of legal title or beneficial interest in or a contractual right to purchase a lot or parcel of land.

**Parcel:** Any legally described piece of land.

**Peak-Hour Volume:** The highest hourly vehicular volume observed or anticipated at the point of analysis during a normal day.

**Performance Guarantee:** A financial guarantee, preferably in the form of an Irrevocable Letter of Credit or Cash Bond, to ensure that all permitted work will be completed in compliance with this Ordinance and the conditions of the permit.

**Permit:** Written permission to perform specified work within the County right-of-way. Conditions and specifications are considered part of the permit.

**Permittee:** An individual, company, agency, corporation, organization, or other party that is issued a permit to construct access, roadway, facility, or other improvements within the County highway right-of-way.

**Person:** Any individual, public or private firm or corporation, the State of Illinois and its agencies or political subdivisions, and the United States of America, its agencies, and instrumentalities, and any agent, servant, officer, or employee of any of the foregoing.

**Plat:** A plat of survey defines the boundaries of a parcel of land, as required by law.

**Preliminary Plan:** A plan, preliminary in nature, showing proposed development, driveway, and road intersection geometrics, and all engineering and physical planning elements.

**Private Road:** A road in which there is no public interest and for which no public agency had jurisdictional or maintenance responsibilities.

**Professional Engineer:** An engineer registered in the State of Illinois under the Illinois Professional Engineering Act.

**Professional Land Surveyor:** A surveyor registered in the State of Illinois under the Illinois Land Surveyor Act.

**Professional Traffic Operations Engineer (P.T.O.E.):** A Professional Engineer who has been certified as a P.T.O.E. by the Transportation Professional Certification Board (T.P.C.B.)

**Public Utility Company:** Utility company subject to the regulation of the Illinois Commerce Commission

**Recapture Agreement:** An agreement authorizing the owner of a property upon which an access facility is constructed to recapture a pro-rata portion of the cost of that facility from the owners of properties served by the facility.

**Restricted Access:** An access that has geometric restrictions that limit specific traffic movements to and from the roadway.

**Retention Basin:** A facility designed to completely retain a specified amount of stormwater runoff without release except by means of evaporation, infiltration, emergency bypass, or pumping.

**Right-of-Way:** A strip of land occupied or intended to be occupied for public road purposes.

**Right-of-Way Line:** The boundary between the land acquired for or dedicated to highway use and abutting property.

**Road:** A private or public way, however designated, for vehicular travel, including rights-of-way, bridges, drainage structures, signs, guardrails, protective structures, and all other structures and appurtenances necessary or convenient for vehicular traffic.

**Shared Access:** An access facility used jointly by two or more properties.

**Shared Access Easement:** An easement appurtenance permitting common access from and through adjacent properties pursuant to specified terms and conditions.

**Shoulder:** The portion of the highway contiguous with the traveled way for the accommodation of stopped vehicles and for emergency use.

**Strategic Regional Arterial (SRA):** An arterial street designated by the Illinois Department of Transportation. Additional right-of-way and/or increased pavement thickness may be required on SRA's.

**Standard Specifications:** The most recent edition of the Standard Specifications for Road and Bridge Construction and also included by reference to the standard specifications, the most recent editions of the Supplemental Specifications and Recurring Special Provisions, and all amendments and successor documents to the aforementioned documents published by IDOT.

**State's Attorney:** The State's Attorney of McHenry County, Illinois.

**Stopping Sight Distance:** The distance, assumed for design purposes, required for a vehicle traveling at the design speed to stop after an object on a roadway

becomes visible. It includes the distance traveled during driver perception and reaction times and the vehicle braking distance.

**Storm Sewer:** A closed conduit for conveying stormwater.

**Stormwater Drainage Facility:** Any element in a stormwater drainage system which is made or improved by people.

**Stormwater Drainage System:** All facilities used for conveying stormwater to, through, or from a drainage area to the point of final outlet.

**Structural Engineer:** An engineer who is licensed in structural engineering and whose principal professional practice is in the field of structural engineering.

**Structure:** Anything constructed, erected, or placed which has location in or on the ground or is attached to something having a location on the ground.

**Subdivision:** Development of a parcel of land; any division or re-division of a parcel of land into two or more parts by means of mapping, platting, conveyance, change, or rearrangement of boundaries, or the subdivision of land, as defined by an applicable municipal or county ordinance.

**Surveyor:** A licensed Professional Land Surveyor registered in the State of Illinois under the Illinois Land Surveyor Act.

**Temporary Access:** An access facility permitted for a specific time period and with restrictions on usage. Such access may be granted for preliminary site work or as a temporary facility for special events or any other non-permanent use. Typically used as a construction entrance to a site.

**Traffic Control Devices:** All signs, signals, markings, and devices, which conform to the Illinois Manual on Uniform Traffic Control Devices, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

**Traffic Engineer:** An engineer whose principal professional practice is in the field of traffic engineering.

**Traffic Impact Study:** A comprehensive collection and analysis of all information necessary to accurately evaluate the effect and impact of traffic generated by a development on the current and future road network surrounding the development.

**Traffic Signal Warrant Study:** A study conducted to determine if a proposed traffic signal meets the warrants based on the most recent edition of the MUTCD

and if the installation of such a signal will improve the overall safety and/or operation of the intersection.

**Transportation Committee:** A subcommittee of the County Board or its successor committee.

**Turnaround:** An area utilized by vehicular traffic to change direction.

**Turning Lane:** An auxiliary lane, including tapered areas, primarily for the deceleration and queuing of vehicles leaving the through lanes.

**Turning Movement:** Vehicles making a designated turn.

**Use:** The purpose or activity for which land, or any structure thereon, is designated, arranged, or intended, or for which it is occupied or maintained.

**Utility:** A privately, publicly, or cooperatively owned lined facility or system for producing, transmitting, or distributing communications, cable television, power, electricity, light, heat, gas, oil, crude products, potable water, steam, and sanitary sewer systems.

**Utility Easement:** A platted easement, outside of the County Highway right-of-way that is for the use and benefit of a public or private utility to accommodate their utilities or facilities as defined by this Ordinance.

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## **CHAPTER 3: AUTHORITY AND JURISDICTION**

### **3.1 AUTHORITY**

The Illinois Compiled Statutes, as amended, provide for the County Board and the County Engineer to have authority and supervision of County Highways. This Ordinance is adopted in order to protect and preserve the public safety, health and general welfare as they relate to the operation and use of County Highways and their associated right-of-way. Provided below is a partial listing of references to the Illinois Compiled Statutes from which authority is granted for the establishment of regulations relating to access and other uses of the County Highway System:

605 ILCS 5/5-413 of the Illinois Compiled Statutes, as amended, provides for permitting of access roads and driveways for public and private use upon receipt of a permit from the County Engineer and in accordance with regulations adopted by the County Board.

605 ILCS 5/5-414 of the Illinois Compiled Statutes, as amended, provides for the temporary closing of a County Highway upon receipt of a permit issued by the County Engineer.

605 ILCS 5/5-101.7 of the Illinois Compiled Statutes, as amended, provides the County Board with the ability to accept funds from any source (public or private) to construct and improve County Highways.

605 ILCS 5/8-101 and 5/8-102 of the Illinois Compiled Statutes, as amended, grants County Boards the authority to designate highways under their jurisdiction as freeways and to grant or deny any new points of access, or allow for the modification or other changes to any exiting point of access.

605 ILCS 5/9-101.1 of the Illinois Compiled Statutes, as amended, states that if a county highway adjoins a parcel of land to be subdivided, the sub-divider shall notify and offer the County the opportunity, at the County's cost, to acquire additional capacity in any stormwater detention facility for the future availability of the highway authority to meet stormwater detention requirements for future highway improvements.

605 ILCS 5/9-113 of the Illinois Compiled Statutes, as amended, provides for the County to develop rules and regulations for the installation of any public or private utilities, ditches or drains along any County Highway, and requires written consent from the County in order to place such utilities or other facilities within the right-of-way of a County Highway.

605 ILCS 5/9-115.1 of the Illinois Compiled Statutes, as amended, requires that detention facilities be offset from the right-of-way at a distance equal to 10 feet plus one and one-half times the depth of the drainage facility and also requires that the “toe” of any earthen berm be offset from the right-of-way at a minimum distance of 10-feet unless written approval from the County is provided.

765 ILCS 205/2 of the Illinois Compiled Statutes, as amended, requires that written approval be obtained from the appropriate local highway authority regarding highway access prior to final approval and recording of a plat. For County Highways, the written approval would come from the County Engineer.

### **3.2 JURISDICTION**

This Ordinance shall apply to access facilities providing, or proposed to provide, service to and/or from a County Highway to any public or private property after the enactment of this Ordinance by the County Board. This includes any land, in any municipality or township, located partially or entirely within the County.

This Ordinance shall also apply to the installation, maintenance and removal of any private or public utilities, to the extent provided by law, or other facilities to be located within County Highway rights-of-way. This includes utilities proposed as part of subdivisions, changes in land uses, re-development, or other types of development under construction that are adjacent to a County Highway.

This Ordinance shall not be construed in any manner or form to restrict or limit the power or authority of the County Board or the County Engineer to maintain, operate, improve, construct, reconstruct, manage, widen, or expand any County Highway as may be best determined, as provided by law, including the modification, restriction, or elimination of any access or other facility permitted under this Ordinance or any access facility permitted prior to the adoption of this Ordinance.

### **3.3 PLAT APPROVAL**

The County Engineer shall have authority to review, approve or disapprove, in writing, plats for all properties abutting a County Highway, whether there is a request for direct access or no access requested to the County Highway.

765 ILCS 205/2 of the Illinois Compiled Statutes, as amended, requires that written approval be obtained from the appropriate local highway authority regarding highway access prior to final approval and recording of a plat by a municipality or county. For County Highways, the authority is the County Engineer. The McHenry County Division of Transportation's concern is the control of access, future planning, maintenance, and management of the County

Highway right-of-way. The responsibility for determining land-use requirements rests solely with the governmental authority having the land-use regulation authority.

### **3.4 ENACTMENT**

This Ordinance shall be in full force and effect from and after its passage according to law except for all access, utility, and facility requests submitted prior to the adoption of this Ordinance which have received written approval from the McHenry County Division of Transportation. All requests submitted prior to adoption of this Ordinance, which have not been given a formal written approved permit by the McHenry County Division of Transportation, and all requests submitted after adoption of this Ordinance shall be governed by the provisions of this Ordinance as finally adopted.

### **3.5 REPEALER AND SAVINGS CLAUSE**

The policies establishing rules and regulations governing access to County Highways are hereby repealed, provided such repeal shall not affect the right of the County to institute any action at law or inequity to require compliance or prosecute violations there under, it being the County's intention to preserve all such causes of action and not to excuse any violation under the prior rules and regulations.

### **3.6 INTERPRETATION AND SEPARABILITY**

#### **3.6.1 Interpretation**

The County Engineer shall render any interpretations of this Ordinance which are necessary to promote efficient administration and review of access, utility and facility requests. This Ordinance shall be interpreted strictly and in accordance with the standards set forth herein. Whenever any provision of this Ordinance overlaps, contradicts, or covers the same subject matter as any other provision of this Ordinance or any other County Ordinance, regulation or rule, the more restrictive or highest standard shall control.

#### **3.6.2 Separability**

Each article, section, subsection, paragraph, subparagraph, sentence, clause, phrase, word, provision, regulation, or restriction established by this Ordinance or any amendments thereto are hereby declared to be separable and independent, in accordance with the following:

**3.6.2.a** If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any provision of this Ordinance not specifically included in the judgment

**3.6.2.b** If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, access, highway improvement, utility or facility, such judgment shall not affect the application of the provisions to any property, highway improvement, utility or facility not specifically included in the judgment.

### **3.6.3 Law Governing**

In any controversy or dispute under this Ordinance or in any claims arising hereunder or related hereto, whether in contract or tort, they shall be governed by the laws of Illinois. Any suit regarding requirements of this Ordinance must be brought to a court of competent jurisdiction in McHenry County, Illinois.

### **3.6.4 Enforcement**

#### **3.6.4.a Compliance**

No new access, utility, or facility shall be approved or constructed and no existing access shall be modified which does not comply with the provisions set forth in this Ordinance. Should an access, utility, or facility be illegally placed within the County Highway, right-of-way it shall be removed, if so directed by the McHenry County Division of Transportation by the person or party that constructed the illegal access, facility, or utility at the sole expense of said person or party. If said person or party refuses, or fails to make or cause to be made such removal upon written notice, the McHenry County Division of Transportation shall have the right, but not the duty, to cause the removal of said illegal access, facility, or utility and to invoice the person or party responsible for the costs of said removal. Said notice from the McHenry County Division of Transportation shall be given in writing, via certified mail, and shall allow the person or party responsible a minimum of thirty (30) calendar days, from receipt of notice, to perform said removal. Removal, as defined in this Ordinance, shall include restoration of the County Highway right-

of-way to a like or better condition than existed prior to the illegal placement.

#### **3.6.4.b Division of Transportation Powers and Responsibilities**

By authority of the County Board and adoption of this Ordinance, through powers vested through the Illinois Compiled Statutes, as amended, and all other applicable laws, statutes, orders, and regulations of the State of Illinois and the County of McHenry, the County Board of McHenry County hereby grants to the County Engineer and the McHenry County Division of Transportation the following powers and responsibilities regarding enforcement of this Ordinance:

1. To review, approve, and/or disapprove requests for access, utility and facility permits on County Highways.
2. To issue permits and maintain records thereof.
3. To establish a Permit Procedures and Requirements Manual to assist and guide the public through the permit application and procedures. The Permit Procedures and Requirements Manual shall also include technical engineering standards and requirements for type, extent and nature of the studies, drawings, sketches, plans, engineering plans, forms, applications, type of permits or any other types of documents that are needed for the administration and implementation of this Ordinance.
4. To update, revise, modify, and otherwise change the Permit Procedures and Requirements Manual including engineering standards, studies, drawings, sketches, plans, engineering plans, forms, applications, type of permits or any other types of documents that are needed.
5. To review, approve, disapprove, or cause changes and modifications to be made to all studies, drawings, sketches, plans, engineering plans, and other documents that are required by this Ordinance as they relate to access, utility and facility placement and related highway improvements.
6. To conduct inspections and field investigations as necessary to ensure compliance with the rules, regulations, and specifications of this Ordinance.

7. To institute any appropriate action as set forth in the Illinois Compiled Statutes, as amended, or this Ordinance and to request that the State's Attorney institute any proceedings to prevent unlawful construction, reconstruction, alteration, modification, enlargement, conversion, and/or unlawful use of an access or placement of an utility or facility within a County Highway right-of-way without a permit.
8. To advise the County Board on all proposed amendments to this Ordinance.
9. To maintain and update the Access Management Highway Classification Map.
10. To develop and place into use any forms, applications, sketches, drawings and/or permits to be used for the administration and interpretation of this Ordinance and to change, modify, and/or revise these documents as needed.
11. To render interpretations of this Ordinance in accordance with the provision set forth in Section 3.6.1.
12. To approve or disapprove plats in accordance with Section 3.3.
13. To coordinate the requirements and provisions of this Ordinance with the governmental authority having land-use regulatory authority over a development taking access or developing property adjacent to a County Highway.
14. To collect, deposit in the County Highway Fund, and expend such funds as may be derived from any fees collected pursuant to this Ordinance.
15. To administer and carry out the provisions of this Ordinance in a period of time, as established by the County Engineer, set as a goal and not as a requirement, given staffing levels, workload, and budgeting constraints.
16. To act at the direction of the Transportation Committee in those matters relating to access improvements, utility and facility placement, and programmed or ongoing highway improvements, including the preparation of intergovernmental agreements, recommending participation by the County, either by monetary (donation) or physical means; establishing escrow accounts for future highway

improvements; and collecting, depositing, and expending donations and such funds for County Highway purposes.

17. To perform other such duties as are required by this Ordinance.

### **3.7 VIOLATIONS, PENALTIES AND AUTHORITY TO ISSUE STOP-WORK ORDER**

Whoever shall construct, or cause to be constructed, any access facility, utility or facility in violation of the requirements of this Ordinance shall be subject to a fine of \$500.00 for each access, utility or facility constructed. Each day that the access facility, utility or facility is in place shall constitute a separate offense, subject to the above penalty. A violation shall also include any access, utility or facility constructed without a permit as required by this Ordinance as well as permitted work that is built to a substandard design or construction specifications.

Whenever it shall come to the knowledge of the County Recorder that any of the provisions of this Ordinance have been violated, as they relate to plats, it shall be the County Recorder's duty to notify the County Engineer and the State's Attorney.

The McHenry County Division of Transportation shall have the authority to stop any and all work that it determines is proceeding in an unsafe or substandard manner, or poses any danger to the public or the County Highway. In the event any aspect of the permittee's construction, placement, maintenance, repair, use or operation of the County Highway at any times violates or is forbidden by any law, statute, rule, regulation, order, or requirement of any governmental authority, the permittee shall immediately discontinue such operations and at its own expense take all necessary required corrective action including and without limitation the removal of all or any portion of County Highway from the easement premises, if required, within the lesser of (i) thirty (30) days from permittee's notice of such violation or (ii) the period of time required by law for the correction of such violation.

The provisions of this Ordinance shall not be deemed exclusive and shall not be deemed to prevent the maintenance of any other action or proceeding in law or equity to enforce the provisions of this Ordinance or to vacate and remove any access facility constructed in violation of this Ordinance.

### **3.8 INACTIVE SUBMITTALS**

An application for any permit under this Ordinance will be considered inactive if no response is provided by the applicant or their representative, including any engineers involved with the submittals, within six (6) months from the date of the last written review comments received from the McHenry County Division of Transportation. If that time period has lapsed, the application will be considered invalid and the applicant must reapply and comply with any and all new conditions, policies, standards or Ordinances that may be in effect at the time of the re-submittal. It shall be the permittee's responsibility to contact the McHenry County Division of Transportation to determine the status of any permit submittals.

### **3.9 COMPLIANCE WITH PREVAILING WAGE ACT**

Issuance of a permit under this Ordinance does not relieve the permittee, their contractor, sub-contractors or other crafts working on any improvement required under this Ordinance from complying with any and all applicable provisions of the Prevailing Wage Act (820 ILCS 130).

### **3.10 RESPONSIBILITY FOR DAMAGE CLAIMS**

The permittee shall indemnify, and save harmless and defend the McHenry County Division of Transportation and McHenry County, its officers, agents, and employees against all loss, damage, or expense that it or they may sustain as a result of any suits, actions, or claims of any character brought on account of property damage, injury to or death of any person or persons, including all persons performing any work under the access permit, which may arise in connection with the work to be performed under any permit issued under this Ordinance.

Any Permit issued under this Ordinance is not intended by any of the Provisions of the Permit to make the public or any member thereof a third party beneficiary of the Permit, or to authorize any one not a party to the Permit to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of the Permit. The duties, obligations, and responsibilities of the parties to the Permit with respect to third parties shall remain as imposed by law.

## **3.11 AMENDMENTS**

### **3.11.1 County Board Action**

In order to protect, provide and promote the health, safety, and general welfare of the motoring public utilizing the County Highways, the County Board may from time to time amend the regulations imposed by this Ordinance and may amend from time to time the Access Management Highway Classification Map. These amendments shall be adopted with the advice of the County Engineer.

All requests submitted prior to adoption of amendments to this Ordinance, which have not been given a formal written approved permit by the McHenry County Division of Transportation, and all requests submitted after adoption of this Ordinance shall be governed by the provisions of any enacted amendments to this Ordinance.

### **3.11.2 Standards for Amendments**

Amendments to this Ordinance shall demonstrate compliance with the following standards:

- a. The proposed amendment to this Ordinance shall state in particular the article, section, subsection, paragraph, sentence, and word sought to be amended.
- b. The proposed amendment shall contain the specific language of the proposed amendment and shall recite the specific reason for such a change.
- c. The proposed amendment shall be consistent with the intent and purpose of the Ordinance and with its various provisions.
- d. The proposed amendment shall not be detrimental to the safety, operation, or capacity of a County Highway.
- e. The proposed amendment shall in no manner limit, restrict, or unduly impede the County in its statutory authority as it relates to County Highways.

## **CHAPTER 4: GENERAL ACCESS REQUIREMENTS**

The location and overall control of access points, whether full or restricted, is necessary to provide efficient, productive, and safe highway operations for motorists using highway facilities. The use of frontage roads, joint access, and interconnection to other adjacent properties, whether existing or proposed, or indirect access to the County Highway System via other existing or proposed roads, whether State, County, Township, or municipal roads, may be required and be used as the sole means of access to a property. In all cases, the operational characteristics of the new access point must meet traffic engineering criteria for safe traffic operations as required by this Ordinance. In many cases, roadway improvements including, but not limited to turning lanes, medians, turning restrictions, traffic signals, and roadway lighting may be required and shall be funded and constructed by the permittee in order to ensure safe traffic operations and visibility.

An access permit issued by the McHenry County Division of Transportation shall be required for the construction of any new access facility and any related improvements required by this Ordinance, including, but not limited to, widened pavements for additional lanes, shoulders, ditches, storm drainage facilities, or the modification or replacement of any existing access facility within the right-of-way of a County Highway when the work is being performed by any person, developer, contractor, or public agency other than McHenry County.

Any access and associated highway improvements shall be constructed by, and at the sole cost of the property owner(s) or developer(s) and at no cost to McHenry County or the McHenry County Division of Transportation.

An access permit shall also be required when a *change in use* of the access facility or change in the land use or land-use density occurs and the continued use of an existing access is proposed. Changes in land use or land-use density may result in a change in the number of vehicles using an access facility. Therefore, modifications, improvements, additional right-of-way dedications, or revisions may be required to the access facility and/or the County Highway to accommodate the change in traffic.

**COMMENTARY:** *Redevelopment of an existing gas station to include a convenience store and car wash is an example of a change in land-use density and use. Expansion of a commercial building to include additional stores, or offices above is another example of a change in land-use density.*

An access permit shall not be required for a public agency when an intergovernmental agreement covers the work involved therein or at such times as the County Engineer is exercising statutory supervisory authority.

Ancillary facilities such as utilities, traffic signals, sidewalks, multi-use paths, lighting, etc. that may accompany a private development and that may be requested to be placed within a County Highway right-of-way shall be permitted, if the placement of said

facilities in the right-of-way is acceptable to the McHenry County Division of Transportation, separately from the access. Chapters 5 and 6 of this Ordinance contain the permit requirements for utilities, facilities, and other types of permits.

Requirements for access to a County Highway are based on two factors:

1. The Classification of the County Highway from which the access is being permitted
2. The type of access (Major, Minor, Temporary, Emergency)

The party requesting access must specify the type of access being requested. If the access type is unknown or ambiguous, the party requesting access shall consult the McHenry County Division of Transportation. The County Engineer has the responsibility and final authority for determining the access type.

To assist a property owner, developer, their engineer, contractor, public agencies, or any other applicant in the administrative, procedural, and engineering requirements of this Ordinance, please refer to the Permit Procedures and Requirements Manual.

#### **4.1 HIGHWAY CLASSIFICATION FOR ACCESS MANAGEMENT**

605 ILCS 5/5-102 of the Illinois Compiled Statutes, as amended, describes County Highways as those highways that “shall be as nearly as possible highways connecting the principal municipalities and trading points in each county with each other, and also with the principal municipalities and trading points in other counties.” By their definition, the primary function of County Highways is to provide a high degree of mobility.

**COMMENTARY:** *Most highway design, administrative, and regulatory policies vary depending on the function a highway provides. This functional classification is based on mobility (the degree to which traffic can move easily and the volume of traffic moved) and accessibility (the ease of entering/exiting adjacent property). Functional classification ranges from freeways (high mobility, low accessibility) to local streets (low mobility, high accessibility.) Studies have shown that an effective access- management program can reduce crashes by as much as 50%, increase roadway capacity by 23% to 45%, and reduce travel time and delay as much as 40% to 60% (source: Access Management Manual, Transportation Research Board, 2003.) Therefore, the appropriate degree of access control varies according to the function the roadway provides.*

##### **4.1.1 Highway Classification Definitions**

The County Highway System is comprised of roadways with varying functional classification. For purposes of determining the requirements and procedures for permitting of access facilities, the following Highway Classifications for Access Management are established:

Designated Freeway: Those roadways that, in accordance with 605 5/8-101 of the Illinois Compiled Statutes, as amended, have been designated by the County Board as freeways and as such are intended to provide the highest level of mobility within the County Highway System. They are intended to provide very low accessibility.

Principal Arterials: Those County Highways that, by their length and connectivity with other county and/or state highways within or adjacent to McHenry County, provide for a high degree of mobility and supplement the mobility of State Highways and freeways.

Arterials: Those County Highways that provide connectivity between the municipal street system and other County or State Highways or serve as a connection between County Highways.

Other: Those roadways within the County Highway System whose functional classification is below an arterial or by their current physical characteristics provides a low level of mobility.

#### **4.1.2 Access Management Highway Classification Map**

##### **4.1.2.a Adoption of Map**

To implement the intent of this Chapter, the County Highway System is hereby divided into Highway Classifications for Access Management as depicted on the Access Management Highway Classification Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

##### **4.1.2.b Map Amendments**

As County Highways are constructed, improved, reconstructed, or otherwise altered, there may be a need to change the classification of a County Highway for access management purposes. The Access Management Highway Classification Map may be amended from time to time by the County Board in accordance with Chapter 3.10.1 of this Ordinance.

The McHenry County Division of Transportation shall be responsible for maintaining and updating the Access Management Highway Classification Map pursuant to all amendments enacted by the County Board.

## 4.2 ACCESS POLICIES

Any owner of property abutting a County Highway has the right of reasonable access. Indirect access via other existing or proposed streets or easements or restricted access is considered reasonable access to a County Highway. The following policies shall be applied to all types of access.

To assist a property owner, developer, their engineer, contractor, public agencies, or any other applicant in the administrative, procedural, and engineering requirements of this Ordinance, please refer to the Permit Procedures and Requirements Manual.

### 4.2.1 Access Criteria

The criteria presented include the number of access facilities, their location with respect to adjacent access facilities and public streets.

#### 4.2.1.a Number of Access Points

Each development or property, regardless of the number of parcels, shall be limited to one full-access point, except as provided for otherwise in this Ordinance. For County Highways that are not designated as Freeways, one additional access point may be granted if it can be demonstrated that the Level of Service at the approved (initial) access point would be improved by a minimum of one letter grade of Level of Service and a minimum spacing requirement of one-quarter mile between full-access points can be met. A Level-of-Service improvement above a Level of Service "C" shall not warrant additional access points, whether full or restricted. If the approved initial access point is to be signalized, then no additional full-access points shall be permitted.

The McHenry County Division of Transportation may permit one additional restricted access point permitting right-turns-in and right-turns-out only, provided that the permittee clearly demonstrates a substantial need and complies with all the applicable provisions of this Ordinance. This option will only be considered where the enforcement of this restricted movement will be possible.

**COMMENTARY:** *Where additional access points are requested to a County Highway, first consideration shall be given to supplemental access points which restrict turning movements. Shared access points or indirect access from adjacent public streets is encouraged, and in some cases, may*

*be required instead of direct access and/or additional access points to a County Highway.*

**4.2.1.b Existing Frontage on Multiple County Highways**

When a property or development has frontage on more than one County Highway, access may be restricted to the County Highway having the lower Average Daily Traffic (ADT) volume, based on McHenry County Division of Transportation ADT maps or recent traffic count data reviewed and approved by the McHenry County Division of Transportation.

**4.2.1.c Alignment with Existing Access Locations or Roads**

Where an existing access facility or road is on the opposite side of the County Highway from an abutting property for which access is being requested, the proposed access point shall be aligned with the existing access facility or road.

If the highway has an existing major access or public road on the opposite side of the highway from the proposed new major access and a left-turn lane is required on the County Highway for the new major access based on the requirement of this Ordinance, then a left turn shall also be constructed on the County Highway serving the existing major access on the opposite side regardless of whether the prior, existing major access had a left-turn lane (refer to the Permit Procedures and Requirements Manual for additional clarifications).

Given site-specific characteristics or operational considerations on the County Highway, the McHenry County Division of Transportation may waive this requirement if, at a minimum, the following conditions exist:

- a. The abutting property for which access is being requested has insufficient frontage to allow for the proper alignment with the existing access facility or road.
- b. The proposed point of access would not comply with other provisions and requirements set forth in this Ordinance.
- c. The alignment of the proposed access point with an existing access facility or road would be detrimental to traffic flow, result in undue delay, impede traffic operations, or impair traffic safety on the County Highway.

In the event that a proposed access point is not aligned as provided for in this Section, the spacing of access points with existing adjacent access points and roads shall comply with the provisions of Sections 4.2.1.c and 4.2.1.d.

#### **4.2.1.d Spacing of Adjacent Access Points**

To enhance traffic safety and operations on County Highways and to function effectively, adjacent access shall be spaced to ensure safe and efficient traffic movements and operations.

The minimum distance between adjacent full-access points shall be determined by the distance required to provide full left-turn tapers and storage bays along the County Highway for inbound turning movements to each access facility, regardless of the present need for said tapers and storage bays if none currently exist.

If a property has inadequate frontage to meet these spacing requirements, the McHenry County Division of Transportation shall determine the location of the access point using the standards and provisions established by the Ordinance. The McHenry County Division of Transportation may require that the access facility be shared, that indirect access be used, or the access facility restrict turning movements.

#### **4.2.1.e Distance from Existing Public Streets**

To enhance traffic safety and operations on County Highways, access point shall be located a sufficient distance from intersecting streets.

The minimum distance between an access point and an intersecting street shall be determined by the distance required to provide full left-turn tapers and storage bays along the County Highway, for inbound turning movements, for both the access point and the intersecting street, regardless of the present need for said tapers and storage bays if none currently exist.

If a property has inadequate frontage to meet this distance requirement, the McHenry County Division of Transportation shall determine the location of the access point using the standards and provisions established by the Ordinance. The McHenry County Division of Transportation may require that

the access facility be shared, that indirect access be used, or the access facility restrict turning movements.

**4.2.1.f Proximity to Adjacent Intersections and Access Facilities-Extension of Improvements**

If construction of the required improvements for an access location, as determined by this Ordinance, requires the widening and improvements to the abutting County Highway and an existing intersection or major access facility falls within the limits of construction, then such widening or improvements shall extend through and beyond the intersection or access facility before tapering down to the existing pavement width. Exclusive left-turn lanes shall be provided at the existing intersection or access facility. In such instances, the McHenry County Division of Transportation shall determine the geometrics and limits of construction of the widening and improvement to a County Highway based on traffic flow and traffic safety.

If the limits of any required County Highway improvements for an access location fall within seven-hundred (700) feet of the start of any through-lane tapers of an existing widened section of a County Highway, then the required widening for the access improvements shall extend through both the tapered sections and intervening gap and match into the fully-widened section of the existing adjacent improvement in order to maintain through lane alignment and continuity. The 700-foot criteria is defined as the distance from the start of any existing through-lane widening taper to the start of the proposed through-lane widening taper for the required access improvement. Additional clarification is provided in the Permit Procedures and Requirements Manual.

**4.2.1.g Removal or Modification of Existing Adjacent Access Facilities**

If construction of the proposed access interferes with or causes the need for modification of an existing adjacent access point, the permittee may be required to remove, modify, relocate, or reconstruct said existing adjacent access in order to provide for the safe and efficient flow of traffic on the County Highway at the proposed access location. The cost of said modifications, relocation, or reconstruction shall be the sole responsibility of the permittee.

## **4.2.2 Restricted Turning Movements**

In certain instances, turning movements may be restricted at an access location. Conditions under which turning movements may be restricted are listed below:

1. Where numerous access points exist and the spacing between them does not permit adequate left-turn tapers and storage bays for inbound vehicles without blocking adjacent access points.
2. At access points close to an existing intersection where inbound or outbound left turns would have to be made within areas where traffic is queued during any period of the day.
3. Where other conditions, such as limited visibility (inadequate sight distance) prevent left turns in or left turns out from being made safely.
4. Where a parcel of land is provided with more than one access point, such as indirect access or access to an existing adjacent street.
5. Where a parcel of land has access provided by a signalized access point and an unsignalized access point, left turns shall be prohibited at the unsignalized location.
6. When other detrimental capacity, delay, operational, or safety conditions would result from permitting left turns into or out of the access point.

Turning-movement restrictions shall be enforced with barrier median or driveway channelization. The McHenry County Division of Transportation shall determine the type of channelization based on site conditions and the Highway Classification. Design standards and details are provided in the Permit Procedures and Requirements Manual.

## **4.2.3 Indirect Access**

### **4.2.3.a Access to Other Streets**

Access to a County Highway may be prohibited when a property abutting a County Highway has frontage on one or more other streets and reasonable access can be provided from said streets. The McHenry County Division of Transportation shall determine, on a site-specific basis, whether access will be permitted to the County Highway if access to other streets is available.

#### **4.2.3.b Access to Out Lots and Corner Lots**

Subdivisions or developments that result in the platting of out lots or corner lots must provide internal indirect access to these lots via cross-easements, frontage roads, or other internal roadway system. Direct access to a County Highway from individual out lots or corner lots of a development shall be prohibited.

#### **4.2.4 Provisions for Interconnect to Existing or Proposed Developments and Adjacent Properties**

New access locations for developments along a County Highway shall provide easements, roadways, and other means of future indirect access to allow for future connections to adjacent parcels or developments and to reduce the use of the County Highway as the sole means of traveling between adjacent developments or properties.

As a condition of access to a property or development, provisions for such easements and construction of the internal roadway system to the property lines shall be required. No plat of subdivision shall be approved and signed by the County Engineer unless said subdivision provides adequate provisions for interconnection to existing or future adjacent developments and properties.

**COMMENTARY:** *Internal connections between developments permit motorists to move between developments without forcing these trips between subdivisions or other destinations to overburden the County Highway System which increases congestion. Such interconnections provide for additional means of access for emergency responders, maintenance operations, or other public agencies during periods of roadway construction, inclement weather, or obstruction of roadways during emergencies.*

#### **4.2.5 Required Use of Shared Access**

Certain geometric, visibility, and site conditions or constraints may require that access between two or more developments or properties be shared. When individual parcel frontages are of such limited length that individual access points cannot be constructed and meet the spacing requirements of this Ordinance (see Sections 4.2.1.d, 4.2.1e, and 4.2.1 f) or adequate visibility (sight distance) cannot be provided along the frontage of an individual parcel or development, shared access with adjacent developments or properties may be required.

#### **4.2.6 Changes in Land Use or Land-Use Density**

The property owner or developer shall make application to the McHenry County Division of Transportation to request continued use of the existing access. The application shall be reviewed as if a new access is being permitted, and all of the provisions of this Ordinance shall apply.

If a property is being re-subdivided or redeveloped, the existing access point(s) may require relocation, reconstruction, or the number of access points reduced to comply with the requirements of this Ordinance.

**COMMENTARY:** *Some older residential subdivisions were developed on a grid system with each local street accessing the County Highway. Should these areas redevelop, some of the existing local streets may be required to be closed (cul-de-sac) or be converted to restricted access (such as right-turns-in/right-turns-out only.) Older commercial developments often have multiple full-access driveways, such as driveway for each building in a development. Upon redevelopment, consolidation of access points or conversion of some of these access points to restricted access (right-turns-in/right-turns-out only) will be required.*

#### **4.2.7 Property Being Subdivided or Developed- Internal Circulation**

When property abutting a County Highway is to be subdivided or developed, direct access to a County Highway shall not be the sole means of access in lieu of an adequate internal traffic circulation system that could provide access to an existing public street (indirect access) or a County Highway of lesser volume (see 4.2.1.b.) Lack of an adequate internal traffic circulation system shall not be a reason to be granted additional access locations.

The internal circulation of a development shall not result in backing or other related turning maneuvers on or within the County Highway right-of-way in order to access buildings or loading docks. Parking shall not be permitted within the County Highway right of way. Provisions for adequate turnarounds and parking shall be provided outside of the County Highway right-of-way.

#### **4.2.8 Required Minimum Offset to Internal Roadways – Designated Freeways and Principal Arterials**

Any major access on a Designated Freeway or Principal Arterial shall have a minimum distance between the centerline of the County Highway and the centerline of the first continuous driveway or internal roadway of at

least 400 feet. Refer to the Permit Procedures and Requirements Manual for additional guidance on this requirement.

If the minimum 400 feet cannot be accommodated, additional through lanes and auxiliary turning lanes will be required on the access approach roadway to accommodate the projected level of queuing on the access as estimated in the traffic impact study.

#### **4.2.9 Previously Subdivided Lands**

Land subdivided prior to the effective date of this Ordinance for which access is now being requested shall comply with the requirements of this Ordinance to the extent possible. If the access requirements of this Ordinance cannot be met, a variance, in accordance with Chapter 8 of this Ordinance can be requested.

**COMMENTARY:** *The design, or lack thereof, of internal roadways that link various portions of a development is not reason to request additional full-access locations. For example, the internal traffic circulation of a retail development should allow traffic to move between buildings, out lots, and connect to adjacent commercial developments. Residential developments should not consist of a series of loop roads or cul-de-sacs that require multiple access points on the County Highway and should instead loop and connect neighborhoods internally.*

### **4.3 ACCESS PERMITS**

Written authorization, in the form of a permit issued by the McHenry County Division of Transportation, is required prior to the construction of any new access facility, modification of any existing access facility, or the construction of any temporary access or the commencement of any construction activities within the County Highway right-of-way. Permit applications, forms, and other administrative procedures are contained within the Permit Procedures and Requirements Manual.

#### **4.3.1 Definition of Access Permit Classifications**

Access to a County Highway shall be granted via one of four (4) types of access permit classifications. Access Permit classifications are a function of the traffic volumes that the access will generate and the usage of the access. The four (4) classifications of permits followed by their definitions are:

1. Minor Access Permit
2. Major Access Permit

3. Temporary Access Permit
4. Emergency Access Permit

#### **4.3.2 Minor Access**

A Minor Access is one which serves property abutting a County Highway, has an anticipated ADT volume of no more than fifty (50) trips, as estimated utilizing the latest edition of the Institute of Transportation Engineers trip generation statistics, and has no regular use by vehicles or vehicle combinations of three axles or more (personal recreational vehicles and agricultural field equipment excluded.)

**COMMENTARY:** *Land uses that would potentially qualify for a Minor Access are farm entrances, small residential developments (one to four houses), apartment complex with less than 8 units, or an office building with less than 3,000 square feet of gross area.*

Administrative and processing requirements for Minor Access permits are contained within the Permit Procedures and Requirements Manual.

#### **4.3.3 Major Access**

A Major Access is one which serves property abutting a County Highway and has an anticipated ADT volume of more than fifty (50) trips, as estimated utilizing the latest edition of the Institute of Transportation Engineers trip generation statistics. Major accesses have an impact on the capacity, use and traffic flow of the adjacent County Highway. Because of these impacts, all applicants for a Major Access Permit shall meet with the McHenry County Division of Transportation at the initial planning stages of the development to discuss location, basic requirements, and future changes or plans for the County Highway. Detailed permit application requirements and further guidance are provided in the Permit Procedures and Requirements Manual. All Major Access Permits requests require, at a minimum, submittal of a Traffic Impact Study (T.I.S.) as defined in Section 5.2.2 of this Ordinance.

**COMMENTARY:** *Land uses that would require a Major Access are residential or commercial subdivisions, office buildings/complexes, individual businesses such as restaurants, office or service businesses, institutional or public buildings such as schools, governmental buildings, or churches with larger congregations, day care, or preschool facilities.*

#### **4.3.4 Temporary Access**

A Temporary Access is one which serves property abutting a County Highway and is used for a specified purpose for a short duration of time,

typically less than 12 months, and then is removed in its entirety or is replaced with either a Major Access or Emergency Access.

**COMMENTARY:** *Examples of temporary access are temporary access for construction of on-site utilities, special events, construction access to backyards, or access for a construction entrance to begin initial site preparation work such as mass grading, construction of the internal road system, and installation of main utility lines.*

Temporary Access permits for utility and initial site work on property that will be served by a Major Access Permit shall be issued at the discretion of the McHenry County Division of Transportation and only at such time as a Major Access Permit has been applied for, a Traffic Impact Study and Preliminary Plat has been previously submitted to the McHenry County Division of Transportation for review, and the location and extent of improvements required for the Major Access have been agreed to by the McHenry County Division of Transportation.

The Temporary Access shall not be used to access, construct, or occupy any home(s) or building(s) within a development, unless specifically authorized in writing by the McHenry County Division of Transportation. The Temporary Access shall not be used to access and occupy any home or building within a development in lieu of the internal access being constructed.

The permittee shall notify or require their contractor to notify the McHenry County Division of Transportation prior to the installation of the access to provide for scheduling of inspections by the McHenry County Division of Transportation in accordance with the conditions attached to the permit and as specified in the Permit Procedures and Requirements Manual.

All temporary access locations shall be removed by the expiration date indicated on the permit and all disturbed areas of the highway right-of-way restored to a pre-construction condition or better, unless the temporary access is replaced with Major Access. An extension of the time period for the temporary access will be considered by the McHenry County Division of Transportation upon written request from the permittee.

The installation and continued maintenance of a Temporary Access shall be the responsibility of the permittee and shall be installed and maintained in accordance with the specifications, conditions and requirements of the McHenry County Division of Transportation as attached to the permit and as provided in the Permit Procedures and Requirements Manual. The continued cleanup of any mud, dirt, aggregate, or other debris that may be tracked out of a Temporary Access onto the County Highway shall be a condition of approval of said Temporary Access. Failure to adequately

maintain the temporary access and keep the County Highway pavements free of any mud, dirt, aggregate, or other debris may result in revocation of the permit and removal of the access as outlined below.

Failure by the permittee to remove a permitted Temporary Access after the expiration date of the permit is a violation of this Ordinance and may result in the assessment of fines, in accordance with Chapter 3 of this Ordinance, until such time as the access has been removed. If the permittee should fail to remove the access, the McHenry County Division of Transportation will facilitate such removal and shall bill the property owner or permittee for the expense of such removal including fines, administrative and legal costs if so incurred by the County.

In the event the McHenry County Division of Transportation determines that the permittee is using the Temporary Access for purposes, or for a period of time, not in conformance with this Ordinance or any approved conditions that were a part of the Temporary Access permit, the McHenry County Division of Transportation may require the removal of said Temporary Access by the permittee or have the access removed by County forces and invoice the permittee for said costs to remove the access and restore the County Highway right-of-way.

In the case of residential or commercial developments, the site development plans and access plans to the County Highway shall include a design to show the temporary access geometrics, location, pavement section, and signage to the standards as set forth by the McHenry County Division of Transportation. Reference the Permit Procedures and Requirements Manual for geometric, pavement, and signage details required for a Temporary Access.

Prior to the issuance of a Temporary Access Permit the owner shall provide sufficient financial guarantees and evidence of insurance to safeguard claims against the County for such work. Depending on the type and magnitude of the work, the McHenry County Division of Transportation may require both Performance and Maintenance guarantees. Chapter 9 of this Ordinance defines the requirements for Performance and Maintenance guarantees.

#### **4.3.5 Emergency Access**

The installation of emergency access points on County Highways is discouraged, in some cases may not be permitted, and should only be used when providing other means of indirect access are not feasible. An Emergency Access is one which serves property abutting a County Highway and is used exclusively by emergency response providers such as fire and rescue agencies for purposes of accessing areas of a

development in times of emergency or natural disaster whereby normal street access is blocked.

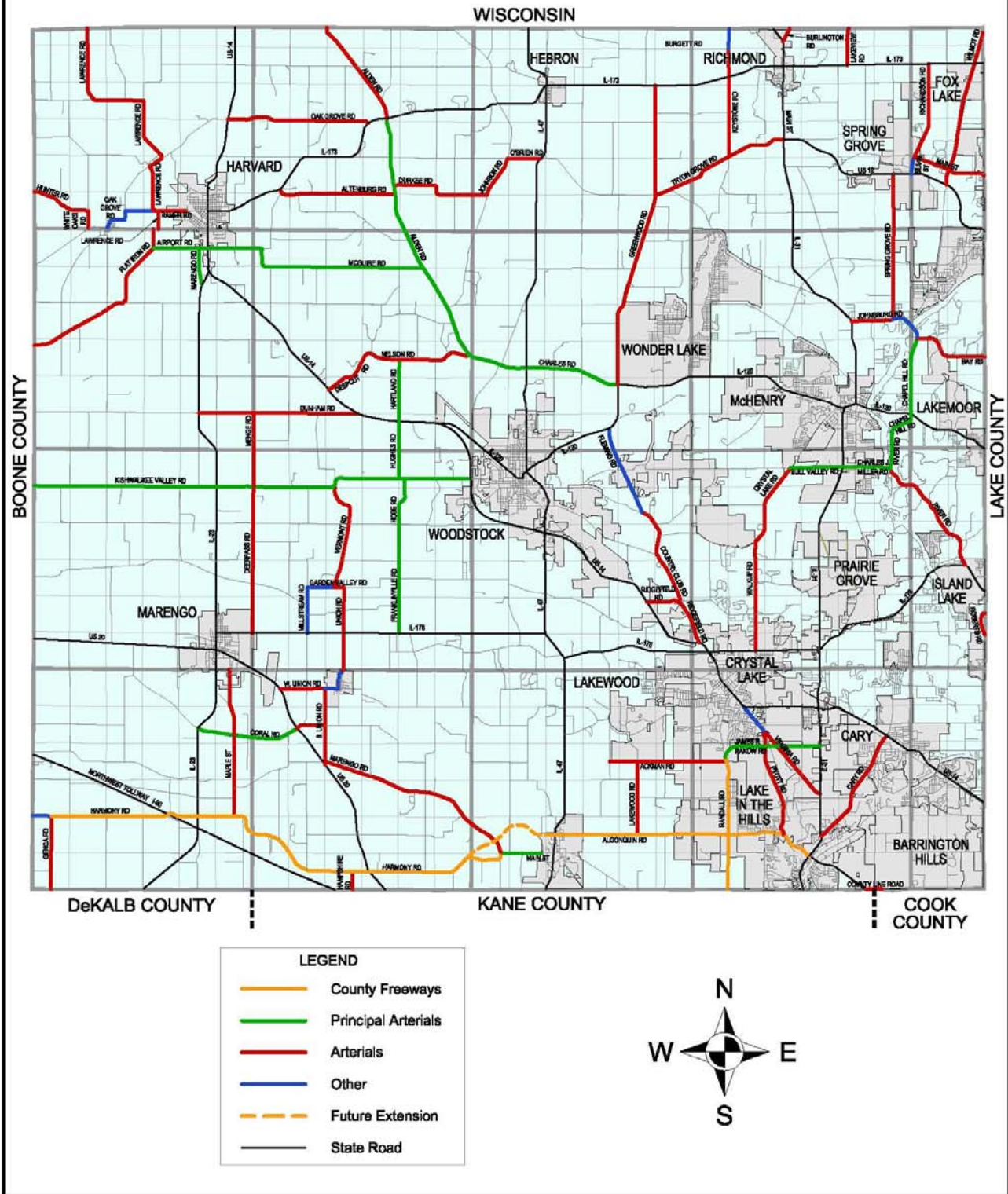
Issuance of an Emergency Access permit shall be at the sole discretion of the McHenry County Division of Transportation and shall be reviewed on a case-by-case basis taking into account site-specific conditions and constraints. Written documentation requesting and justifying the Emergency Access shall be provided by the local emergency agency or local authority having jurisdiction over the property requesting access and is required as part of the McHenry County Division of Transportation's review process.

Emergency access shall not be provided at a signalized intersection on a County Highway.

Emergency access driveways shall be gated with a locking mechanism and shall be designed to discourage use by unauthorized vehicles and shall be maintained by parties other than the McHenry County Division of Transportation.

Signage shall be designed and installed on the gate structure facing the County Highway. The construction material used within the County Highway right-of-way shall be as specified by the McHenry County Division of Transportation. Reference the Permit Procedures and Requirements Manual for geometrics, materials, gate, and signage details and other requirements for Emergency Access driveways. All gates and related appurtenances shall be located outside of the County Highway right-of-way.

# ACCESS CLASSIFICATION MAP FOR COUNTY HIGHWAYS IN McHENRY COUNTY



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## **CHAPTER 5 : REQUIRED HIGHWAY IMPROVEMENTS**

Access facilities are the physical interface between a development and the abutting County Highway. The economic success and vitality of the development and the safety of the motoring public are both linked to efficient traffic operations at the access intersections serving the development.

In order to maintain safe and efficient traffic operations at the access intersection and to ensure that the impact of development accessing a County Highway does not result in a degradation of traffic operations, improvements to the County Highway System may be required.

**COMMENTARY:** *Increases in traffic from development result in two (2) types of impacts to the County Highway System:*

- *Impacts that occur at the access point(s) and adjacent intersections that result in an increase in delays at those specific locations and are directly attributable to a specific development.*
- *Cumulative impacts to the overall roadway network that result from the incremental increases in traffic from developments.*

*In order to prevent a degradation in traffic operations at access locations and adjacent intersections, improvements to the County Highway at the access location and adjacent intersections may be required.*

To mitigate the cumulative impact of increased traffic from new developments to the overall roadway network, additional right-of-way shall be dedicated to facilitate the County in making future area-wide improvements to the County Highway system as a result of overall traffic growth generated at both the development access point(s) and the incremental increase in overall traffic.

### **5.1 Right-of-Way Requirements**

The County Highway rights-of-way serve a multitude of purposes beyond just the immediate area for the physical roadway pavement. Room is also needed for associated drainage and stormwater management facilities, snow storage, utilities, and other facilities to provide buffer areas for traffic safety and to buffer the roadway from non-motorized facilities and adjacent development.

If the property abutting a County Highway is to be subdivided, developed, rezoned, undergoes a change in land use or density, or a Major Access facility or Emergency Access is being requested, the permittee shall dedicate or cause the dedication to occur at no cost to the County, sufficient land for right-of-way to

meet the requirements of this Ordinance. Dedication shall be across the entire frontage of a development and shall be the greatest of:

- Minimum widths depicted on Table 5-1 based on the County Highway Access Classification
- Minimum width to accommodate highway improvements required by this Ordinance
- Widths identified in completed Phase I/feasibility studies conducted by the County, the Illinois Department of Transportation, or by others with County concurrence on the section of County Highway where access or development is being proposed.

If additional right-of-way is required from property not controlled by the permittee in order to construct the highway improvements required for a Major Access, then the permittee shall obtain the additional right-of-way in the name of the County at no cost to the County or the McHenry County Division of Transportation. The negotiation and acquisition process, including all associated costs, of this additional right-of-way is the responsibility of the party requesting access.

**Table 5-1  
Minimum Right-of-Way Requirements  
by County Highway Access Classification**

<b>County Highway Classification</b>	<b>Minimum Right-of-Way Width</b>
Designated Freeways	170 feet (85 ft. half R.O.W.)
Principal Arterials	140 feet (70 ft. half R.O.W.)
Arterials & Other Highways	110 feet (55 ft. half R.O.W.)

### **5.1.1 Right-of-way Radius at Intersections**

The intersection of right-of-way lines between a County Highway and an intersecting street/road or Major Access facility that will become or has the potential to become a public road or street, shall be designed and platted in the form of a 35-foot by 35-foot right-of-way triangle. For County Highways classified as Principal Arterials or Designated Freeways, the right-of-way triangle shall be a minimum of 50-foot by 50-foot. Right-of-way triangles larger than the above minimums may be required by the McHenry County Division of Transportation if sight-visibility (sight distance) issues are present or the nature of the required roadway improvements is such that additional area is required. Refer to the Permit Procedures and Requirements Manual.



































































