

McHENRY COUNTY

ACCESS CONTROL AND RIGHT-OF-WAY MANAGEMENT ORDINANCE

EFFECTIVE JANUARY 1, 2009



McHenry County Division of Transportation
1611 Nelson Road
Woodstock, IL 60098
Phone: (815) 334-4960
Fax: (815) 334-4989
www.co.mchenry.il.us

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

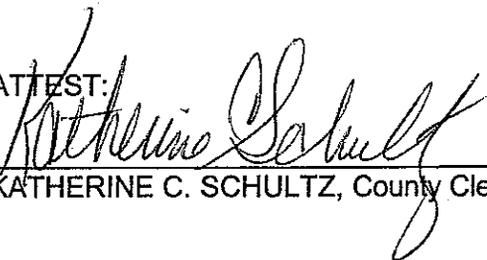
BE IT FURTHER ORDAINED, that the Ordinance as approved replaces in its entirety, the McHenry County Access Management Ordinance adopted by the McHenry County Board on March 18, 1997; and

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 6th 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 3.6.4.b 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.d and 4.2.1.e.

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.

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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**

County Highway Classification	Minimum Right-of-Way Width
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.

5.1.2 Wording on Plats

The following wording shall be used to dedicate right-of-way on a plat of subdivision or a plat of dedication; "HEREBY DEDICATED FOR PUBLIC ROAD PURPOSES."

5.1.3 Right-of-Way Encumbrances

All right-of-way to be dedicated shall be free and clear of any existing encumbrances which would render the right-of-way in any manner or form, unusable for road purposes, or would in any manner or form result in any extraordinary costs to the County at such times as said right-of-way is to be used for road purposes.

Conveyance of right-of-way by means other than a Plat of Subdivision shall result in a "fee simple" transfer of land. Quit Claim deeds are not an acceptable means to convey right-of-way to the County.

5.1.4 Objects, Utilities, and other Facilities in the Right-of-Way

No new objects, trees, plantings, bushes, landscaping, signs, rocks, debris, berms, detention or retention facilities, or any other materials shall be permitted within the right-of-way. Any new utilities or new facilities requested for placement within the highway right-of-way shall be permitted separately pursuant to the requirements found in Chapter 6 of this Ordinance.

In those instances where additional right-of-way is being dedicated as required by this Ordinance, existing objects, trees, plantings, bushes, landscaping, signs, rocks, debris, berms, detention or retention facilities, and other such obstacles may be required by the McHenry County Division of Transportation to be removed from or relocated outside of the new right-of-way line along the entire frontage of the development.

Existing aboveground utilities shall be relocated to the right-of-way line (outside edge of the right-of-way adjacent to the private property line) across the entire frontage of the development. Underground utilities and facilities shall be relocated to ensure that the utilities or facilities are out from under proposed pavement, shoulders, and/or curb lines, and in areas as required through the McHenry County Division of Transportation permitting process, or that would interfere with the structure of the roadway base. Underground utilities and facilities that would be in such a location as to cause disruption to the roadway pavement and motoring public by routine maintenance activities of the utility or facility shall also be relocated out from under proposed pavements, shoulders, and/or curb lines.

5.1.5 Right-of-Way Restoration

Upon completion of any construction work within the County Highway right-of-way, the right-of-way shall be restored by the permittee to the same or better condition than existed prior to the work. Those facilities and roadway appurtenances (signs, guardrail, culverts, etc.) within the County Highway right-of-way that are damaged as a result of the permitted work shall be repaired or replaced immediately by the permittee to the satisfaction of, and at no cost to, the McHenry County Division of Transportation.

5.1.6 Plat of Subdivision Requirements and Other Permit Coordination

The Plat Act (765 ILCS 205/2) requires simultaneous submittal of preliminary and final plat of subdivision to both the municipality in which the subdivision is located and to the McHenry County Division of Transportation for subdivisions that front a County Highway and/or are requesting access to a County Highway.

5.1.6.a. Requirements Prior to Signature by County Engineer

The primary concerns for plat review and approval are safety, number, location and type of access points, future highway needs, provision for utilities outside of the right-of-way, and the related impacts to the County Highway System. The County Engineer may not sign a plat that is submitted for review and approval by the permittee if there are unresolved issues regarding permit submittal requirements, access location, extent and nature of roadway improvements as required by this Ordinance, or inadequate right-of-way to construct the required improvements.

5.1.6.b Sidewalk or Shared-Use Path Easements – Plat of Subdivision

Separate easements may be required to be platted outside of any required dedication of right-of-way to allow for the installation of any required or planned future sidewalks or shared-use paths. Said easements shall extend across the entire frontage of the subdivision adjacent to the County Highway and may occupy the same area as any municipal utility/facility easement. The municipality having jurisdiction over the approval of easements outside of the right-of-way should be contacted to determine the requirements for joint-

use easements and requirement for sidewalks or shared-used paths.

5.1.6.c Plat of Subdivision or Dedications – Submittal of Recorded Documents

Any required Plat of Subdivision, Plat of Dedication, or other instrument conveying fee simple title of land for right-of-way shall be properly recorded and copies of the recorded document, with document number, submitted to the McHenry County Division of Transportation. Failure to submit recorded copies of plats or other documents may result in the McHenry County Division of Transportation withholding issuance of an access permit or the release of Performance Guarantees for required highway improvements.

5.1.6.d Plat Language and County Highway Certificate

Specific language notes and required County Highway Certificates specifically related to the County Highway or access points and right-of-way will be required for any plat that requires signature by the County Engineer.

The following notes shall appear individually on all plats that have frontage on a County Highway and/or are requesting access to a County Highway.

- a. Proposed right-of-way shall be labeled as “HEREBY DEDICATED TO MCHENRY COUNTY FOR PUBLIC ROAD PURPOSES”.
- b. Existing right-of-way shall be labeled as “Heretofore Dedicated for Public Road Purposes”. If the existing right-of-way was by previous dedication, the document number for that dedication shall be referenced on the Plat.
- c. The County Highway name and County Highway Route number shall be provided on the Plat. County Highway names and corresponding County Highway Route numbers can be found in the Permit Procedures and Requirements Manual.
- d. All Plats of Subdivision shall include an access restriction note that states: “Direct access to the County Highway known as _____, Route

_____, from lots number _____ is prohibited". All lots shall be listed by number individually for all properties with frontage on the County Highway (e.g., lots 1, 2, 3, and 4, not lots 1-4).

- e. The following note shall be placed on all plats: "In accordance with Chapter 605, Act 5, Section 9-115.1 of the Illinois Highway Code, "it is unlawful for any person to construct or cause to be constructed any drainage facility for the purpose of detention or retention of water within a distance of 10 feet plus one and one half times the depth of any drainage facility adjacent to the right-of-way of any public highway without the written permission of the highway authority having jurisdiction over the public highway. It is unlawful for any person to construct, or cause to be constructed any earthen berm such that the toe of such berm will be nearer than 10 feet to the right-of-way of any public highway without the written permission of the highway authority having jurisdiction over the public highway".
- f. Include a signature block for the County Engineer as provided in the Permit Procedures and Requirements Manual.

5.2 Required Highway Improvements

Access to a County Highway shall not result in a degradation of traffic operations at the location of the access point and adjacent existing intersections. As such, and as a condition of issuance of a Major Access Permit, improvements to the County Highway at the access location and adjacent intersections may be required to mitigate the impacts of new, development-related, traffic.

5.2.1 Cost of Access Facilities and Improvements to County Highways

The permittee shall be solely responsible for paying all costs associated with the design and construction of an access facility and all costs associated with the design and construction of any improvements to a County Highway and/or any roadway intersecting a County Highway or any roadway within the limits of a required improvement to a County Highway, as required by this Ordinance. Costs to the permittee shall include, but are not limited to, the following:

- a. Preparation of engineering plans, studies, information, or data required in order for the McHenry County Division of Transportation to review an access request and any revision thereto.
- b. Obtain and conduct traffic counts and preparation of a Traffic Impact Study and any revisions thereto (see Section 5.2.2.).
- c. Preparation of concept and preliminary geometric plans.
- d. Preparation of a traffic signal warrant analysis and any revisions thereto.
- e. Preparation of stormwater management studies, hydraulic and hydrologic studies, floodplain studies, and any revisions thereto. The McHenry County Division of Transportation shall be contacted prior to the development of any such studies for specific format and analysis requirements.
- f. Preparation of engineering plans, specifications, estimates of cost, and any revisions thereto.
- g. Relocation of utilities and other facilities located within the right-of-way out from underneath existing or proposed pavement.
- h. Relocation of aboveground utilities (including utility poles) and other facilities to the proposed right-of-way line (see Section 5.1.4.).
- i. Removal of objects in the right-of-way (see Section 5.1.4.).
- j. Obtaining and posting Performance Guarantees, Certificates of Insurance, and Maintenance Guarantees.
- k. All other costs associated with an access facility and improvements to a County Highway as required by this Ordinance.

5.2.2 Traffic Impact Study

All applications for Major Access Permits shall include submittal of a Traffic Impact Study prepared by a licensed Professional Engineer who has also been certified as a Professional Traffic Operations Engineer (P.T.O.E.) by the Transportation Professional Certification Board (T.P.C.B.). A Traffic Impact Study shall also be required when the permittee is applying for a variance from this Ordinance (refer to Chapter 8.) The Traffic Impact Study shall bear the name, signature and seal of the Professional Engineer and be included on any updates

or subsequent revisions to the Traffic Impact Study. In addition, the traffic engineer shall also include their P.T.O.E. certification number.

The permittee shall be responsible for all costs associated with preparation of the Traffic Impact Study including updates and subsequent revisions including review fees that may be required if an outside consultant is retained to review the study. The requirements, scope, and format for the Traffic Impact Study shall be based on the Access Management Highway Classification, as defined by this Ordinance, for the County Highway the access is being requested from and as described fully in the Permit Procedures and Requirements Manual. **The Traffic Impact Study shall be no more than one (1) year old at the time of submittal.**

The Traffic Impact Study must be approved by the McHenry County Division of Transportation prior to the determination of any required access-related improvements to the County Highway.

5.2.3 Signalized Intersection Level-of-Service Requirements

Analysis of all signalized intersections shall be based on the methodologies presented in the "Highway Capacity Manual" published by the Transportation Research Board (TRB). Level-of-Service (LOS) criteria range from "A" (good) to "F" (poor) and are based on average delay. The permittee shall be responsible for making any required improvements to existing adjacent signalized intersections to ensure that the LOS letter grade does not decrease and that the volume to capacity ratio (v/c) does not significantly degrade as a result of a proposed development. Detailed analysis requirements are included in the Permit Procedures Requirements Manual.

5.2.4 Auxiliary Turn-Lane Requirements for Major Access Locations

Safe and efficient traffic operations along a County Highway are directly related to minimizing the speed differential of the vehicles traveling along the County Highway. Construction of auxiliary turn lanes is the most effective means of limiting the speed differential between a turning vehicle and through traffic that follows. In this Ordinance, the County Highways are separated into four (4) classifications (County Freeways, Principal Arterials, Arterials, and Other) as depicted on the Access Classification Map.

Mobility of through traffic on all County Highways, especially those designated as County Freeways and Principal Arterials, is critical to the safe and efficient operation of the County Highway System. Therefore, auxiliary left-turn lanes and right-turn lanes shall be required at all Major

Access locations on any County Highway that is designated as a County Freeway or Principal Arterial.

For those County Highways classified as Arterials and Other, the relationship between the volume of turning traffic at an access location and the volume of through traffic on the County Highway shall be used to determine whether auxiliary left-turn and right-turn lanes are required.

5.2.4.a Auxiliary Left-Turn Lane Requirements (Arterials and Other County Highways)

The warrants for requiring construction of a left-turn lane on those County Highways designated as Arterials and Other on the Access Classification Map shall be based on the traffic volumes developed in the Traffic Impact Study and the requirements of Figure 5-2.4.a.

5.2.4.b Auxiliary Right-Turn Lane Requirements (Arterials and Other County Highways)

The warrants for requiring construction of a right-turn lane on those County Highways designated as Arterials and Other on the Access Classification Map shall be based on the traffic volumes developed in the Traffic Impact Study and the requirements of Figure 5-2.4.b.

LEFT-TURN LANE REQUIREMENTS

(Applies to "Arterial" and "Other" County Highway Classifications)

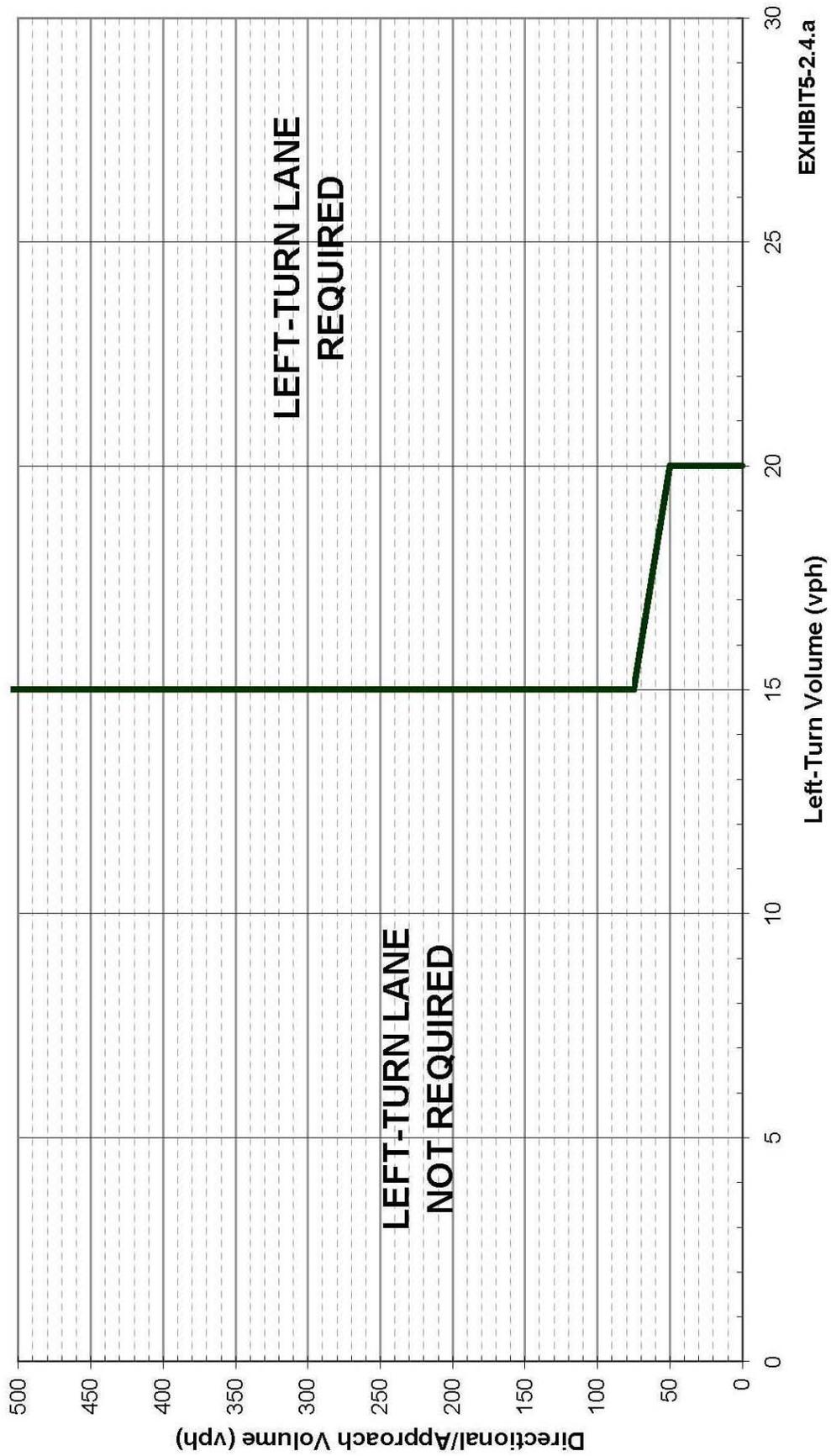


EXHIBIT5-2.4.a

RIGHT-TURN LANE REQUIREMENTS

(Applies to "Arterial" and "Other" County Highway Classifications)

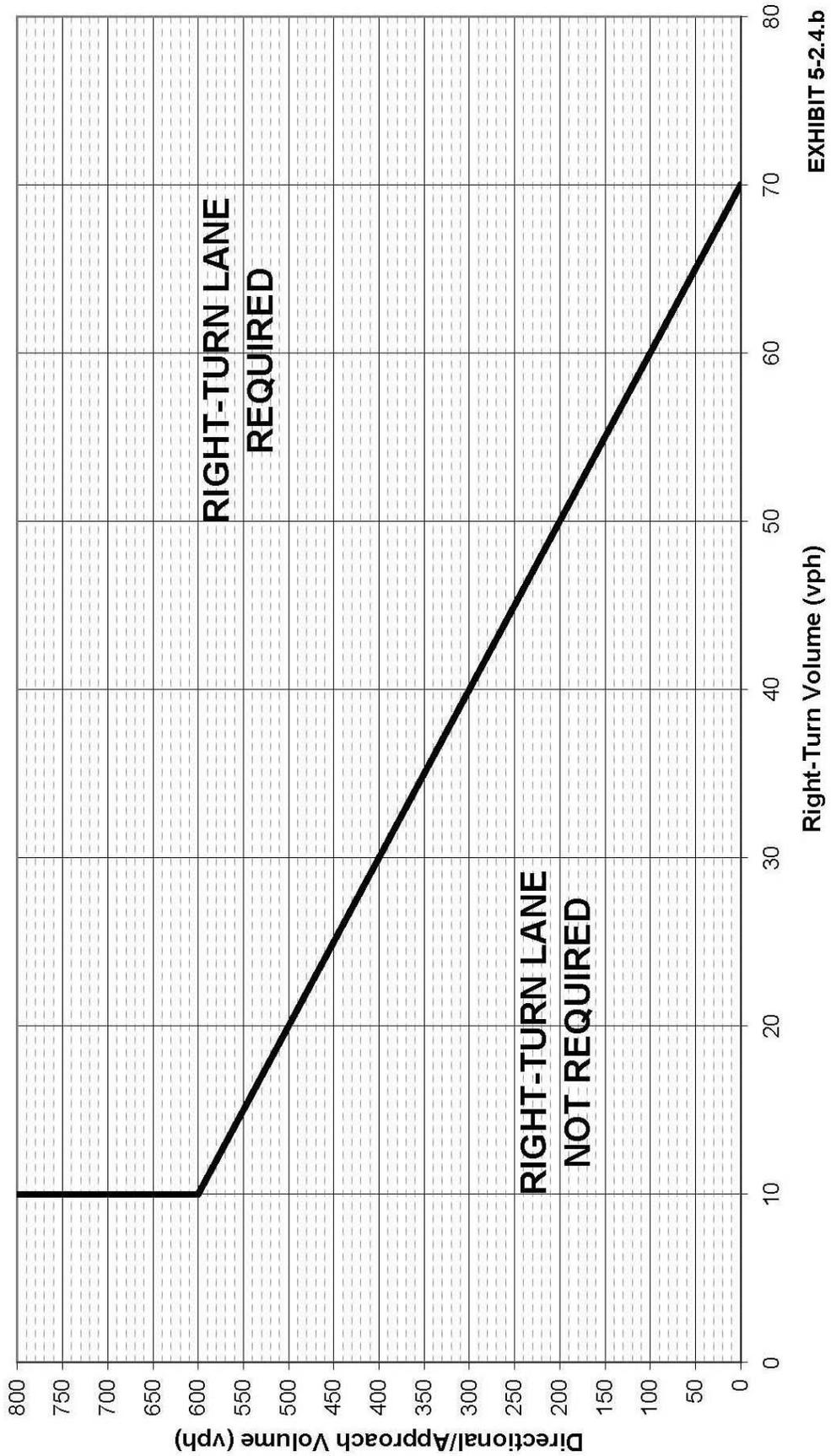


EXHIBIT 5-2.4.b

5.3 Joint Highway Improvements

In certain circumstances, it may be advantageous to the motoring public to construct access improvements as part of a larger overall improvement or in conjunction with programmed County Highway improvements. In order to minimize disruptions to the public, the County Engineer may require access related improvements to proceed in a coordinated and comprehensive manner.

5.3.1 Programmed Improvements

If McHenry County has a highway improvement programmed for the section of County Highway for which a permittee is applying for access and the permittee, in accordance with the provisions of this Ordinance is required to construct improvements to the County Highway as a result of the proposed access facility, then the County Engineer may recommend and require that both improvements proceed simultaneously and as a coordinated joint improvement.

For such improvements, the County Engineer shall have the option to require a formal joint agreement to be approved by the County Board that shall specifically provide for the responsibilities and obligations of the County and the permittee as related to the joint improvement. Said joint agreement shall be prepared by the McHenry County Division of Transportation. Nothing in this section shall be construed as to relieve the permittee of any financial responsibilities related to an access facility.

If the permittee or the County Engineer determines that a joint agreement for an improvement is not appropriate, the County Engineer shall specify the conditions to be made part of the access permit such that the construction of the access facility does not interfere with the County's proposed highway improvement project.

5.3.2 Ongoing Improvements

In certain circumstances, the McHenry County may already have a highway improvement under construction for the section of County Highway for which an access is being requested. If said access, under the provisions of this Ordinance, requires improvements to the County Highway that is already under construction by the McHenry County Division of Transportation, then the County Engineer may recommend that the highway improvements required for the access facility be incorporated into the ongoing County Highway improvement project by means of a formal joint agreement or by a donation of money, from the party requesting access, to be made a part of the access permit. If a

formal joint agreement is recommended, the parties shall proceed forth as specified in Section 5.3.1

If a donation of money is recommended by the County Engineer, the permittee shall have the option to agree in writing to an amount as determined by the McHenry County Division of Transportation based on the contract unit prices for the ongoing County Highway improvement. The amount shall be sufficient to cover the cost of the required access improvement, including engineering costs and construction supervision, preparation of plats and legal descriptions, appraisal and negotiation fees, and recording fees. The donation shall be subject to acceptance by the Transportation Committee in accordance with 605 ILCS 5/5-101.7 et seq., as amended. Nothing in this section shall be construed as to relieve the permittee of any financial responsibilities related to an access facility.

If the Transportation Committee elects not to proceed with a donation, the County Engineer may direct the McHenry County Division of Transportation staff to specify the conditions to be made a part of the access permit approval so that construction of the access improvement by the permittee required for the access facility shall not interfere with the ongoing County Highway improvement project.

5.3.3 Donations

The Transportation Committee, in accordance with 605 ILCS 5/5-101.7 et seq., as amended, shall have the authority to accept money or right-of-way (beyond the level identified as a minimum requirement in this Ordinance) or additional detention or compensatory floodplain storage donated from any source and to use the same for County Highway purposes to mitigate for impacts to the County Highway System from the proposed development.

5.3.4 Coordination of Development

If property abutting a County Highway is being developed and access is requested to the County Highway, it shall be the responsibility of the permittee to effect any coordination necessary to comply with the requirements and provisions of this Ordinance and requirements of the governmental authority having land-use regulatory authority.

The issuance of an access permit by the McHenry County Division of Transportation shall not be construed as to relieve the permittee of any responsibility to secure any other permits or to comply with any requirements of any other governmental authority having any jurisdictional responsibilities as it relates to a development. The

permittee shall also be responsible for securing any permits or complying with any other requirements of any governmental authority as they may relate to the construction of an access facility or related highway improvement.

5.3.5 Coordination of Adjacent Developments

If two or more separate properties abutting a County Highway are being developed during the same approximate time period and they are located in the same general vicinity of each other, the McHenry County Division of Transportation may require each permittee to cooperate jointly to design and construct their respective roadway access improvements as a joint and coordinated effort.

***COMMENTARY:** A joint improvement would require a single set of engineering plans and result in a single construction project for all of the required improvements, thus minimizing disruptions to the motoring public and reducing or eliminating the need for removal and reconstruction of newly placed roadway improvements that would typically have been installed by the first developer requesting access.*

5.4 MAJOR ACCESS PERMIT PROCESS

Review and issuance of all Major Access Permits shall be governed by the following process:

5.4.1 Submittal of Major Access Permit Application

No permit review shall commence until the permittee has submitted a complete application and paid the appropriate fees required under this Ordinance. The application shall be accompanied by:

- Overall site plan of the proposed development
- Preliminary plat (if applicable)
- Traffic Impact Study
- Sight distance study

5.4.2 Engineering Plan Review

The McHenry County Division of Transportation shall review the application for completeness and to determine if unique conditions exist that may require additional engineering information to be submitted in order to provide for a thorough review.

The McHenry County Division of Transportation, based on workload, complexity of the project, and other factors, has the right to refer the review to a County selected consultant. If the plans are referred for consultant reviews, the permittee shall be responsible for all consultant review costs and shall agree, in writing, for the payment of said review costs. Multiple reviews may be necessary prior to approval of the engineering plans. The McHenry County Division of Transportation shall develop a checklist, to be included in the Permit Procedures and Requirements Manual to provide guidance to the permittee on the engineering plan requirements.

5.4.3 National Pollution Discharge Elimination System (NPDES) Permits

It is the responsibility of the permittee to satisfy all Illinois Environmental Protection Agency requirements related to obtaining a National Pollution Discharge Elimination System (NPDES) Permit for any work required under this Ordinance.

A Storm Water Pollution Prevention Plan (SWPPP) for construction activities within the County highway right-of-way shall be submitted to the McHenry County Division of Transportation as part of the engineering plan submittals.

The permittee shall be responsible for preparing and submitting to the Illinois Environmental Protection Agency the required Notice of Intent (NOI) prior to construction, a Notice of Termination (NOT) and any Incidents of Non-Compliance (ION). A copy of said notices shall be submitted to the McHenry County Division of Transportation.

The McHenry County Division of Transportation shall not be a party or co-applicant of any NPDES permits and therefore shall not be responsible for any costs associated with design, installation, maintenance or any fines incurred as a result of non-compliance with any NPDES permits required for construction activities required under this Ordinance.

5.4.4 Engineer's Cost Estimate

Upon approval of the engineering plans by the McHenry County Division of Transportation, a detailed, itemized, estimate of costs for the proposed work within the County highway right-of-way, including any utility relocation costs, shall be prepared by a Professional Engineer, signed, sealed, dated, and submitted to the McHenry County Division of Transportation for review and approval. The estimate of cost shall be based on unit prices for individual work items. Work items shall conform

to the pay items established by IDOT and as used by the McHenry County Division of Transportation. The estimate shall include a fifteen percent (15%) construction contingency and a fifteen percent (15%) contingency to provide for the County's cost of administering the completion of the improvement, if necessary. Upon receipt of the cost estimate, the McHenry County Division of Transportation may review the minimum unit prices for work items based on awarded contract unit prices for the most recent 12-month period of similarly bid County projects. All changes and revisions shall be made, if required by the McHenry County Division of Transportation, prior to acceptance and approval of the Engineers Cost Estimate by the McHenry County Division of Transportation. Once the cost estimate has been approved by the McHenry County Division of Transportation a Performance Guarantee can be submitted (refer to Chapter 9 for Performance Guarantee requirements and the Permit Procedures and Requirements Manual for detailed requirements of the cost estimate.)

5.4.5 Certificate of Insurance and Workers Compensation Insurance

A Certificate of Insurance meeting the coverage limits and insurance company ratings, as specified in the Illinois Department of Transportation Standard Specifications, shall be submitted and shall name "McHenry County, the McHenry County Division of Transportation, its employees and agents" as additional insured parties. The Certificate shall also include proof of Evidence of Worker's Compensation Insurance coverage.

5.4.6 Resident Engineer Letter

The permittee shall provide a Registered Professional Engineer to act as Resident Engineer and who shall be responsible for inspections on behalf of the permittee and who will be responsible for ensuring that the permitted work is constructed in compliance with the approved engineering plans and specifications. While the McHenry County Division of Transportation may conduct periodic inspections, it is not their responsibility to provide project management or day-to-day oversight of the construction. The Resident Engineer information shall be submitted to the McHenry County Division of Transportation on the Resident Engineer's Company letterhead and include the Engineer's name, address, telephone number, and Professional Engineer's license number for the Registered Professional Engineer who will act as Resident Engineer. A sample letter for use by Resident Engineers can be found in the Permit Procedures and Requirements Manual.

5.5 CONSTRUCTION OF MAJOR ACCESS PERMIT IMPROVEMENTS

Construction of improvements required under a Major Access Permit shall not commence until the following requirements have been met:

5.5.1 Contractor Name and Start Dates

The permittee shall provide the name, address, contact person name, and a twenty-four (24) hour telephone number for the party who will be acting as the general contractor for the roadway work on the County Highway. Proposed dates for starting construction shall also be provided. While this information may not be available prior to issuance of a permit, it must be provided prior to any pre-construction meeting or starting of work in a County highway right-of-way.

5.5.2 Notification Prior to Beginning Work

A pre-construction meeting shall be scheduled by the permittee or their representative at least five (5) business days prior to starting construction in a County highway right-of-way, unless otherwise waived by the McHenry County Division of Transportation. The permittee, resident engineer, contractor, or other designated representative shall notify the McHenry County Division of Transportation at least forty-eight (48) hours prior to starting construction in a County highway right-of-way. If the applicant or their representative should fail to hold a pre-construction meeting or give notice that construction will begin, prior to starting work in County right-of-way, the McHenry County Division of Transportation may suspend all permitted work in accordance with Section 3.7 of this Ordinance.

5.6 COMMENCEMENT AND DURATION OF IMPROVEMENTS

Construction must begin within six (6) months and be completed within twenty-four (24) months from the date of permit issuance, unless otherwise specified in the permit. If, after construction begins, additional construction time is needed, the permittee shall make a written request to, and must obtain approval from, the McHenry County Division of Transportation for a time extension otherwise the construction must be completed within the above described time period. The permittee shall indicate the specific reason for the needed extension.

5.7 CONSTRUCTION REQUIREMENTS

During construction of the permitted work and/or restoration of the County highway right-of-way, the following requirements shall be observed:

- Vehicle traffic using the County highway, including traffic to and from adjacent properties, shall be maintained.
- Regulatory signing shall be kept in view at all times. Traffic Control and Protection in accordance with all applicable MUTCD and IDOT Standards shall be in place prior to construction and properly maintained throughout construction and restoration.
- Excavation shall be kept to a minimum and backfilled or protected at the close of each working day. No open excavation shall be allowed over night within the pavement.
- Roadway pavements shall not be damaged by construction equipment and shall be kept clean of dirt, mud, and other debris. The permittee will be responsible for the repair of any damage to the roadway or structures within the right-of-way. If the permittee, contractor, or their representative is notified by the McHenry County Division of Transportation of any problem regarding cleanliness or debris from the construction zone, the permittee shall cause the road to be cleaned or remove the debris to the satisfaction of the McHenry County Division of Transportation. Failure to complete cleanup may result in liquidated damages of \$500 per occurrence in accordance with State statutes.
- All existing drainage shall be maintained and be functional.
- The McHenry County Division of Transportation shall be immediately notified of any tile lines found and shall be given the opportunity to witness the repair or reconnection prior to backfilling.
- When portions of existing highways are to be widened to accommodate a proposed access, the existing edge of pavement to be widened shall be saw cut full depth to obtain a clean vertical face. Trimming of the existing edge of pavement will be permitted only with the approval of the McHenry County Division of Transportation.
- When a major access is constructed on a curbed highway, the existing barrier or mountable curb and gutter shall be removed in the area of the improvement. For a minor access it may be acceptable to cleanly cut off the back of the curb.

- Any disturbed areas of the County highway right-of-way shall be promptly restored to a condition equal to or better than existed or as directed by the McHenry County Division of Transportation.
- Excavation for construction on both sides of the highway pavement at the same time will not be permitted.
- It shall be the responsibility of the contractor and applicant to protect all disturbed areas with suitable soil and erosion control measures, including areas disturbed within County highway right-of-way, as necessary to protect adjacent property, ditches, shoulders, and waterways from soil erosion and sedimentation.

5.8 COMPLETION OF WORK/ REQUEST FOR FINAL INSPECTION

Upon completion of the access and roadway improvements to the County Highway, including but not limited to final paving, drainage, striping, and restoration work, the Resident Engineer shall certify in writing to the McHenry County Division of Transportation that all work has been completed in conformance with the requirements of the Ordinance, any permit conditions and plan requirements and shall request the McHenry County Division of Transportation perform a final inspection. Without submittal of an acceptable final certification and request for final inspection letter, the McHenry County may not provide a final inspection or release the Performance Guarantee. Payment of any required inspection fees due the McHenry County Division of Transportation shall also be paid at this time. (Reference the latest edition of the Permit Fee Schedule). A sample letter for use by Resident Engineers can be found in the Permit Procedures and Requirements Manual.

5.8.1 Final Inspection by McHenry County Division of Transportation

Upon completion of the permitted work, including restoration, receipt of the written request from the Resident Engineer for a final inspection and payment of any inspection fees that are required, the McHenry County Division of Transportation will conduct an inspection and provide the permittee or their representative with a written report of deficiencies (punch-list items), if any, that require corrective action. The Resident Engineer shall request follow-up inspection(s) as needed until all deficiencies noted in the McHenry County Division of Transportation inspection reports have been corrected. Additional inspection fees may apply and shall be paid prior to follow-up inspections as required by the McHenry County Division of Transportation. (Reference the latest edition of the Permit Fee Schedule.)

The McHenry County Division of Transportation may require field tests to be performed, including but not limited to, core sampling, nuclear density tests, or bump test, to ensure compliance with the plans, construction standards, and the requirements of this Ordinance. These tests shall be completed at the expense of the permittee.

5.8.2 Record Drawings

Upon completion and acceptance of the roadway improvements required from a Major Access Permit, the Resident Engineer shall submit a paper and electronic set of certified record drawings (as-builts) to the McHenry County Division of Transportation.

5.8.3 Release of Performance Guarantee

Upon completion of the roadway improvements by the permittee and acceptance by the McHenry County Division of Transportation, a Maintenance Guarantee shall be submitted to the McHenry County Division of Transportation, if required, in order to obtain release of the Performance Guarantee. Reference section 9.2 of this Ordinance and the Permit Procedures and Requirements Manual for further details on the Maintenance Guarantee and forms.

5.9 ERRORS OR OMISSIONS

The permittee shall be responsible for any additional work, drawings, or revisions needed to accommodate the construction, and all cost thereof, that may be required as a result of errors or omissions in the engineering plans and for the correction of any construction, maintenance, or safety problems which occur or may only become apparent during construction or through inspections made by the permittee's Resident Engineer or the McHenry County Division of Transportation. The review and approval of engineering plans by the McHenry County Division of Transportation does not constitute a release from or grant a variance from the standards and specifications required by the McHenry County Division of Transportation. The permittee and/or all successors and assigns shall be ultimately responsible for all work and improvements within the County Highway right-of-way. All work and materials necessary to construct the improvements on the highway shall be in conformance with the provisions and requirements of the McHenry County Division of Transportation, applicable portions of the most current editions of the Standard Specifications for Road and Bridge Construction, Supplemental Specifications and Recurring Special Provisions, and Manual on Uniform Traffic Control Devices, including any amendments and successor documents to the aforementioned documents.

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CHAPTER 6: UTILITY/FACILITY REQUIREMENTS AND DEVELOPMENT
UTILITY COORDINATION REQUIREMENTS

In order to provide for the safe placement of utilities and facilities within the rights-of-ways of County Highways, safeguard the motoring public, promote the orderly and efficient use of public rights-of-way, and to ensure that said placement of utilities and facilities does not inhibit the County's ability to maintain, operate, and improve the County Highway System it is hereby declared to be the policy of the County to regulate the placement, removal, relocation, modification, or abandonment of utilities and facilities within the rights-of-way of County Highways through the rules, requirements, and regulations established by this Ordinance and the specifications, requirements and conditions contained in the Permit Procedures and Requirements Manual.

Illinois Statute (605 ILCS 5/9-113) requires approval by the appropriate highway authority for the placement, removal, relocation, modification, or abandonment of utilities and facilities within public highways including their placement within the rights-of-way of County Highways. For County Highways in McHenry County, the appropriate highway authority shall be the McHenry County Division of Transportation.

Any public utility company, municipal corporation, or other public or non-public corporation, association, or person may request permission to locate, place, or construct upon, under, or along any highway, utilities, or facilities provided that the entity receive written consent from the McHenry County Division of Transportation prior to the placement of the utility or facility within the right-of-way of a County Highway. However, because it is impossible to anticipate the future needs of the County Highway System, the McHenry County Division of Transportation has the right to deny any application for the placement of utilities or facilities for any reasonable cause or for safety concerns when such placement would, in the opinion of the McHenry County Division of Transportation, be detrimental to current or future needs of the County Highway System.

COMMENTARY: *The primary function of a County Highway and its associated right-of-way is for highway purposes by the motoring public. The placement, removal, relocation, modification, or abandonment of any utility or facility within the right-of-way is secondary and subservient to providing for the safe and efficient movement of vehicular traffic on a County Highway. Given the limited space available in County Highway rights-of-way and the need to provide for the placement and improvement of roadway pavement and associated appurtenances, these highway related uses must take precedence and priority over the placement, removal, relocation, modification, or abandonment of any utility or facility within the right-of-way of a County Highway.*

The absence of rules and regulations governing utility and facility placement results in conflicts between the utilities and facilities and the highway pavements and appurtenances. These conflicts can result in significant costs to the County and utility/facility operators to resolve. These regulations are adopted in order to minimize

these conflicts and thereby assist in the efficient operation, maintenance, and improvement of the County Highway System.

6.1 GENERAL REQUIREMENTS

A permit shall be required for the replacement, relocation, or removal of an existing utility or facility and any manner or form of work relating to the construction or placement of a new utility or facility within the right-of-way of any County Highway. All work associated with a utility or facility to be placed or already existing within the right-of-way of a County Highway shall be performed at no cost to the County.

If the proposed utility or facility work is to be accomplished as part of an access permit or adjacent private development project, said utility or facility work shall be included on the engineering plans submitted for the access permit or adjacent private development project, but shall be permitted separately by the respective utility company or public agency responsible for the maintenance and operation of the utility or facility.

Non-public utilities or non-public facilities are generally prohibited from placement within County Highway rights-of-way. Special approval by the McHenry County Division of Transportation will be considered on a case-by-case basis with additional requirements, specifications, and guarantees.

Any placement, relocation, reconstruction, repair, modification, removal, or enlargement does not relieve the permittee from obtaining permission from the legal property owner where the County Highway right-of-way is in the form of an easement or dedication limited to public road or highway purposes.

COMMENTARY: *Any major utility or facility work shall require a permit.*

Examples of the types of utilities requiring a permit include, but are not limited to, installation of new belowground electric lines, telephone lines, telecommunication lines, cable television lines, and natural gas lines and all related appurtenances, including service connections to individual users; installation of new pole lines for various utilities; and installation or replacement of municipal potable water or sanitary sewer lines.

Examples of the types of utilities requiring a permit include, but are not limited to:

- Cable television facilities and cable
- Electric cables
- Natural gas pipelines
- Telecommunication cables
- Service connections of utilities
- Related appurtenances to above types of utilities

- Installation or relocation of utility poles

Examples of the types of public facilities/utilities and non-public facilities that may be permitted by the County include, but are not limited to:

Public Facilities/Utilities

- Multi-use paths
- Fire or police emergency signaling systems
- Sanitary sewers, potable water mains, and related services
- Pedestrian crossing structures
- Pedestrian crossing features (sidewalk, special signage).
- Public transportation shelters
- Sidewalks
- Storm drainage systems not operated or maintained by the County
- Street lighting
- Traffic signals
- Red light running cameras
- Municipal or governmental owned or operated facilities

Non-Public Facilities

- Contaminated and groundwater remediation piping
- Enclosed/underground conveyors for movement of granular materials under a highway
- Monitoring wells

Appurtenances shall consist of aboveground facilities such as junction boxes, switch gear, pedestals, transformers, and belowground equipment such as vaults, junction chambers, etc.

Not all County Highway rights-of-way are owned fee-simple by the County. Some rights-of-way are in the form of easements, prescriptive rights-of-way or dedications for the sole purpose of providing and allowing for the existence, use, and maintenance of the roadway and related appurtenances. In these circumstances, legal ownership of the adjacent private property may extend to the center of the roadway. It is the responsibility of the utility or facility owner to determine whether the placement of said utility or facility requires property owner's permission (see Section 6.1.5).

6.1.1 Purpose of County Highways

The rights-of-way of County Highways are established for the location of highway pavements and their related appurtenances. In order to minimize impacts to adjacent private properties and to minimize the cost to the motoring public, County Highway rights-of-ways are minimally established for highway uses and do not include additional areas for utilities and facilities. Therefore, all utilities and facilities shall be located

within such rights-of-ways in a manner that will not impede or conflict with any existing highway or associated appurtenance or any future improvement or widening of a highway and the construction or reconstruction of associated appurtenances, whether by a County construction project or a permitted improvement by others. A utility or facility is not considered a highway appurtenance. Installation of any aboveground utility appurtenances must meet the clear zone setback requirements, for installations proposed within the County Highway rights-of-way.

6.1.2 Required Relocation of Existing Utilities and Facilities

Whenever a County Highway is improved, widened, reconstructed, resurfaced, modified, or additional lanes are added by the County or a permitted improvement of the County Highway is constructed by others, the owner of the existing utility or facility or the permittee shall relocate, remove, or modify the utility or facility from under the widened pavement and shoulders or curb line or out of the limits of the improvement at no cost to the County. The McHenry County Division of Transportation shall determine the need and limits for said relocation, removal or modification on a case-by-case basis.

Any and all additional or extraordinary costs that may be incurred by the County due to the presence, abandonment, or proposed placement of any utility or facility within the right-of-way of a County Highway shall be borne solely by the owner of said utility or facility. Payment to the County for said additional or extraordinary costs shall be made as determined by the McHenry County Division of Transportation.

6.1.3 Conflicts with Existing Utilities and Facilities/Insufficient Space

In the event that the placement, construction, relocation, modification, enlargement, or any manner of work to be performed on any utility or facility, existing or proposed, within the County Highway rights-of-way results in insufficient space for the placement of said utility or facility, the County is not responsible for providing additional space in any manner or form. In the event the County determines that there is insufficient space within the right-of-way for the proposed placement construction, relocation, modification, enlargement, or proposed related construction activities or that such work would be detrimental to the operation, maintenance or safety of the County Highway, the proposed work may not be permitted. Installation of any aboveground utility appurtenances must meet the clear zone setback requirements, for installations proposed within the County Highway right-of-ways.

In the event of a conflict between any existing or proposed utility or facility located or proposed to be located within the right-of-way of a County Highway, said conflict shall be resolved by the owners of said utilities or facilities. The resolution of any conflict shall not result in the County incurring any costs, either now or in the future, and shall not result in an undue delay to the utility or facility construction that would unduly impede traffic or hinder the operation of the County Highway. The resolution of any conflict must be a part of any permitted work and shall be approved by the McHenry County Division of Transportation through the permitting process required by this Ordinance if the proposed resolution involves work to be performed within the right-of-way of a County Highway.

6.1.4 Other Agency Permits and Approvals

The issuance of a permit under the rules, regulations, and specifications of this Ordinance does not relieve, excuse, diminish, or negate, in any manner or form, the authority, rules, requirements, or permission that may be required by any governmental authority or person that regulates the placement, location, construction, reconstruction, enlargement, removal, relocation, modification, abandonment, or any manner of work to be performed on any utility or facility subsequent to the issuance of a permit under the provisions of this Ordinance. The owner of the utility or facility may be required to submit evidence of approval and compliance with rules, regulations, and specifications of any other applicable regulatory agency or person for the work to be performed within the right-of-way of a County Highway.

6.1.5 Property Owner's Permission

The issuance of a permit under the rules, regulations, requirements, and specifications of this Ordinance ***does not relieve the permittee from obtaining permission from the legal property owner*** to locate the utility or facility on any County Highway where the right-of-way is in the form of an easement or dedication for public road purposes and the County does not own title to the right-of-way. The rules, regulations, requirements, and specifications of such permission shall not be in conflict with the provisions of this Ordinance nor supersede, diminish, alter, or in any manner or form interfere with use of said easement or public road dedication, nor shall said permission result in any costs to the County either now or in the future. It shall be the responsibility of the permittee, not the McHenry County Division of Transportation, to determine when permission is required from the legal property owner. Failure to obtain permission can be just cause to deny issuance of a permit by the County or to suspend or revoke an issued permit.

6.1.6 Commencement of Work

No work within the County Highway right-of-way shall commence until such time as a permit is issued in accordance with the rules and regulations of this Ordinance. No delivery, stock piling or temporary placement of materials, storage of equipment, or other preparatory work shall take place within the County Highway right-of-ways until such time as a permit is issued in accordance with the rules and regulations of this Ordinance.

6.1.7 Emergency Maintenance Work

Emergency work related to utilities and facilities shall not require issuance of a permit in advance of said emergency subject to the following conditions:

1. The emergency work is immediately required to protect the public health, safety, and welfare.
2. The emergency work is required as a result of a natural disaster, flooding, storm-related damage, or other state of emergency.
3. The McHenry County Division of Transportation is notified during normal business hours of the required emergency work. If the emergency occurs after normal business hours, the McHenry County Division of Transportation shall still be notified within twenty-four (24) hours of identification of the emergency work and with joint notification to the McHenry County Sheriff's Department or the local municipality which has police jurisdiction if the highway requires lane closures.
4. The emergency work is limited to interim repair or maintenance activities of the utility or facility in order to remove the immediate hazard or potential hazard to the public.
5. All necessary traffic control is provided in accordance with the requirement of the Manual on Uniform Traffic Control Devices (MUTCD).
6. A permit is applied for, after the fact, that clearly identifies the nature and location of the emergency work as would have normally been submitted if the work had not been of an emergency nature.

Initiation of emergency repairs or maintenance as authorized under this provision that subsequently require permanent reconstruction, modification or relocation of the utility or facility

does not relieve, excuse, diminish, or negate, in any manner or form the requirements of this Ordinance that would otherwise be applicable to the reconstruction, relocation, modification, or other major work, **including issuance of a permit**, in accordance with all of the applicable requirements, regulations, rules, or specifications required by this Ordinance.

6.1.8 Protection of Highway Pavements

Open cutting of County Highway pavement for the placement, modification, enlargement, or alteration of existing utilities or facilities is generally prohibited, with possible exceptions given for emergency cases or other applications where it is determined appropriate by the McHenry County Division of Transportation, to permit open cutting. Requests for open cutting of a County Highway pavement will be reviewed on a case-by-case basis and then only when all other options for crossing the County Highway have been pursued and no feasible options remain. Written documentation indicating the impracticality of alternate means of crossing must be submitted along with any request for open cutting.

Should existing utilities or facilities underneath existing County Highway pavements or shoulders require modification, enlargement, or alteration, the McHenry County Division of Transportation may prohibit such work and require, as a condition of the permit, the placement of a new utility or facility out from underneath the pavement, shoulder, or curb lines in order to replace the existing utility or facility.

County Highway pavement shall not be broken, cracked, or damaged in any manner or form. Equipment with grogger pads, cleats, studs, or tracks shall not be operated or allowed on any highway pavement.

Any dirt, mud, or any other form of debris shall be immediately removed from the highway pavement.

In the event the owner of the utility or facility causes damage to the highway pavement and refuses to remedy or otherwise repair said damage in a timely manner upon written notification by the County, the McHenry County Division of Transportation may, but has no duty to, order that the repair work be done in order to correct said damage. The owner of the utility or facility shall reimburse the County at a rate not to exceed one hundred and thirty percent (130%) of the costs incurred by the County and shall cease any and all other work authorized under the permit until such time as reimbursement has been made and alternate construction methods, acceptable to the McHenry County Division of

Transportation, have been submitted and approved by the McHenry County Division of Transportation.

6.1.9 Restoration of Right-of-Way

Upon completion of the utility and facility work authorized by permit under this Ordinance, all disturbed areas of the right-of-way shall be restored to the original condition or better. Said restoration shall include any special landscaping or enhanced areas that existed in the right-of-way prior to the commencement of the permitted work. For projects in excess of five hundred (500) feet in length, restoration work shall be completed as areas are backfilled and rough graded. The County shall bear no responsibility for costs associated with such restoration.

6.1.10 Interference with County Highway Maintenance or Construction Activities

Any maintenance operations or construction activities performed by the McHenry County Division of Transportation on County Highways shall take precedence over and supersede all utility and facility construction, maintenance, placement, removal, relocation, modification, and use of the County Highway rights-of-way as authorized under this Ordinance.

6.1.11 Locating Utilities and Facilities

The owner of any utility or facility permitted within the rights-of-way of a County Highway shall determine the location of its utility or facility as required by the County due to design, engineering, construction, or maintenance work to be performed on a County Highway by the County, its agents, employees, contractors, or permitted activities by others. Such locating may include exposing the utility or facility and/or providing distance and depth measurements.

The location of a utility or facility shall be performed within 48 hours (2 working days) and depth measurements or exposing of the utility or facility shall be performed within fifteen (15) days of any request.

6.1.12 Maintenance of Utilities and Facilities

The owner of a utility or facility located within the rights-of-way of a County Highway shall be solely responsible for the use, operation, and maintenance of the utility or facility at no cost to the County.

In the event a utility or facility located within the rights-of-way of a County Highway becomes a hazard or potential hazard, the owner of

the utility or facility shall immediately take action to remedy and alleviate the hazard or potential hazard. Said remedy shall not result in any cost to the County and shall not alter, diminish, lessen, change, or in any manner or form, limit the use of a right-of-way for roadway purposes.

6.1.13 Abandonment of Utilities and Facilities

The owner of any utility or facility shall be responsible for any utilities or facilities remaining in the rights-of-way of a County Highway that have been abandoned or are no longer in use. Their responsibility shall include locating and removing, or reimbursing the County for the cost of removing the abandoned utility or facility that are in conflict with any County Highway improvement, construction, maintenance or other project performed by, or permitted by the County. **At no time shall an abandoned utility or facility be allowed to remain under any proposed pavement, shoulders or curb lines of a County Highway. All abandoned utilities or facilities that are no longer used for service shall be removed from within the County Highway right-of-way,** unless written approval to allow the abandoned utilities/facilities to remain is obtained from the McHenry County Division of Transportation.

Capping, grouting, or otherwise filling an abandoned utility of facility that will be under existing or new pavements, shoulders, or curb lines is not an acceptable alternative.

6.1.14 Utilities and Facilities Attachment to Bridges and Structures

It shall be the general policy of the County to grant approval for accommodation of utilities or facilities on bridges or grade separations only when engineering and economic studies substantiates that all other means of accommodating the utility are not practical. Other means shall include, but not be limited to, underground, under stream, independent poles, cable supports, and tower supports, all of which are completely separate from the bridge.

The utility company or facility owner shall include detailed supporting data in their request that indicates the impracticality of alternate routing. The utility company or facility owner shall also conduct and provide to the County all necessary and appropriate structural engineering studies and investigations to determine the impact, including long-term replacement and life-cycle impacts to the structure. All such engineering and economic studies shall be conducted at no cost to the County.

Approval for utility or facility attachments to bridges and structures shall not relieve, excuse, diminish, or negate, in any manner or form the utility

company or facility owner's obligations relating to relocation requirements in accordance with Section 6.1.2 of this Ordinance.

6.1.15 Change in Permittee Status

The permittee shall promptly notify the McHenry County Division of Transportation of any actual or proposed change in status, including but not limited to bankruptcy, or transfer of or acquisition by any other party of, control of the permittee. The word "control" as used herein is not limited to major stockholders, but also includes actual working control in whatever manner exercised. A presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person, group of persons, or groups of persons jointly acquiring five percent (5%) or more of the voting shares of the permittee. Said notification shall be in writing and sent to the McHenry County Division of Transportation with in thirty (30) days of the change in status.

Failure by the permittee to duly notify the County as required under this Ordinance shall result in the County Engineer having the authority, but not the duty to, revoke the utility or facility permit and required the removal of the utility or facility from the County Highway right-of-way.

6.2 PERMIT TYPES

Construction, maintenance, placement, removal, relocation, modification, or any other utility and facility work governed by this Ordinance shall be granted via either a Utility or Facility Permit. The four categories that fall under those permit types are:

1. Public Utility Permit
2. Municipal Utility or Facility
3. Non-Public Utility
4. Emergency Maintenance

6.2.1 Public Utility Permit

Public Utility permits may be granted to those utilities that are listed with the Illinois Commerce Commission as a public utility or have a current franchise or license agreement with the County. Those utilities with current franchise or license agreements shall not be subject to the permit fees authorized under this Ordinance.

The presence of a current franchise or license agreement with the County does not relieve, excuse, diminish, or negate, in any manner or form, the rules, regulations, requirements, and specifications that are be

imposed on all utility and facility permittees as authorized under this Ordinance.

6.2.2 Municipal Utility or Facility

Any municipal utility or facility that is proposed to be placed within a County Highway right-of-way shall require the municipality or government entity responsible for said utility or facility to be the permittee. Such permit projects shall not list the contractor or developer as the permittee. This applies to installation of municipal utilities or facilities associated with a new development where a private developer is responsible for the cost and installation of the municipal utility or facility that will be accepted for maintenance and operation by the municipality upon completion of the work.

Issuance of a permit for municipal utilities and facilities under this Ordinance in which a developer is installing or paying to install a municipal utility or facility within a County Highway right-of-way does not relieve, excuse, diminish, or negate, in any manner or form, the responsibility of the municipality to ensure that permitted work is constructed within the requirements, rules, regulations, and specifications required by this Ordinance, including, but not limited to, providing adequate supervision of construction activities and installation of proper traffic control.

In the event that any work permitted under this Ordinance for a municipal utility or facility is progressing in an unsatisfactory or potentially unsatisfactory manner, it shall be the responsibility of the municipality to take action to immediately remedy and alleviate the unsatisfactory work.

Issuance of a permit for a municipal utility or facility does not relieve the municipality or government entity from the requirements of Section 6.1.2 of this Ordinance to relocate, at no cost to the County, any and all utilities and facilities that may be in conflict with any improvements to the County Highway as authorized or permitted by the County.

6.2.3 Non-Public Utility and Facility Permits

Non-public utilities or non-public facilities are limited for placement within County Highway rights-of-way. Special approval by the McHenry County Division of Transportation will be considered on a case-by-case basis.

In the event that the McHenry County Division of Transportation determines that placement of a non-public utility or facility is

permissible, the permittee may be required to provide as a condition of approval, a long-term financial guarantee, in a manner and form acceptable to the McHenry County Division of Transportation, to ensure that adequate financial resources are available to the McHenry County Division of Transportation to remove the non-public utility or non-public facility should the County require removal or relocation of the non-public utility or non-public facility and the permittee is no longer in existence, incapable, or refuses to perform said relocation or removal work.

6.3 BICYCLE AND PEDESTRIAN FACILITIES

It is the policy of the County to encourage travel by pedestrian and bicycle facilities. Pedestrian and bicycle facilities should be integral to the transportation facilities of adjacent neighborhoods and development and shall be located within adjacent development and neighborhoods with access across the County Highway rights-of-way at acceptable locations as determined by the McHenry County Division of Transportation.

Bicycle and pedestrian facilities to be constructed as part of new developments and neighborhoods shall be located in easements outside of the right-of-way of the County Highway. The County reserves the right to reject requests for permitting of bicycle and pedestrian facilities where such facilities would pose a hazard or potential hazard to either the motoring public or pedestrian and bicycle traffic or insufficient area exists to accommodate the proposed pedestrian and bicycle facilities without interfering with highway pavements and related appurtenances. In such cases, the County shall require that the pedestrian and bicycle facilities be located in easements outside of the County Highway right-of-way.

Detailed design requirements and specifications, including desired location and requirements for handicapped and accessible ramps are provided in the Highway Standards.

Bicycle and pedestrian facilities permitted under this Ordinance shall not be maintained by the County. The permittee for such facilities must be a municipal or government agency with sufficient financial and operational resources to properly maintain and operate said facilities in a manner satisfactory to the County.

6.4 TRAFFIC SIGNAL INSTALLATIONS

Traffic signal installations, even if they are part of a Major Access Permit improvement are required to be permitted separately as a facility. The permittee for such facilities must be a municipal or government agency with sufficient

financial and operational resources to properly maintain and operate said facilities in a manner satisfactory to the County.

Any traffic signal proposed to be installed on a County Highway shall be designed in accordance with McHenry County Division of Transportation Traffic Signal Design Guidelines, latest edition.

6.5 RED-LIGHT RUNNING CAMERAS

Public Act 94-0795 provides that a governmental agency in a municipality or county may establish an automated traffic law enforcement system (red-light running cameras.) County Highways extend through both municipal (incorporated) and unincorporated areas. Traffic signals on County Highways in McHenry County are under the jurisdiction of, and are the maintenance responsibility of, the McHenry County Division of Transportation. Installation of automated traffic law enforcement systems by a municipality or County law enforcement agency on County traffic signals shall require the prior written approval of the McHenry County Division of Transportation.

Review, approval, requirements, and conditions for permitting such installations shall be in accordance with the published policy “Automated Traffic Law Enforcement Systems Policy: Red Light Running (RLR) Camera Enforcement Systems and Automated Railroad Grade Crossing (RGC) Enforcement Systems” adopted by the McHenry County Division of Transportation (latest edition.)

6.6 DEVELOPMENT REQUIRED UTILITY/FACILITY CONFLICT SHEETS

Any development requiring a Major Access Permit under the requirements of this Ordinance shall also be required to develop a Utility/Facility Conflict Sheet. This sheet shall show the following information for areas within the County Highway right-of-way:

- Existing pavement and shoulders, both paved and aggregate
- Proposed pavement widening and shoulders
- Existing and proposed storm drain structures and ditch lines
- Any utilities or facilities that are being proposed by the developer or required by the local authority to service the development shall be clearly labeled as to the type.
- All existing utilities or facilities that are present within the right-of-way including under existing or proposed pavement, shoulder, and curbed sections of roadway along the entire frontage of the development.

COMMENTARY: *The purpose of this submittal is to identify, prior to permit approval and construction of the access and improvements to the County Highway, any possible utility or facility conflicts that may exist and that may require relocation or removal.*

The Permit Procedures and Requirements Manual provides additional guidance on the preparation of the utility conflict sheet.

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CHAPTER 7: SPECIAL PERMITS

In order to safeguard the users of the County Highway System, the County's rights-of-way must be kept free of obstructions that pose, or potentially may pose, a safety or operational hazard to the public. Disruptions to traffic that affect, or could potentially affect, the flow of traffic in a detrimental manner shall not occur without the prior permission of the McHenry County Division of Transportation. To ensure the safe and efficient flow of traffic on the County Highway System, no activity shall take place within the County Highway right-of-ways that inhibits the County's ability to maintain, operate, and improve the County Highway System.

The Illinois Compiled Statutes, as amended, provide for the County Board and County Engineer to have the general supervision of the County Highway System and to have the authority to regulate various activities that occur along the County Highway System and within its rights-of-way. Permitting of access, utilities and other facilities are addressed in Chapters 4 through 6 of this Ordinance. Those activities requiring permits not covered previously are addressed within this Chapter. These activities and the statutory authority to regulate such activities are listed below:

<u>Statute</u>	<u>Regulation</u>
605 ILCS 5/5-414	Permit required for temporary closure of County Highway
605 ILCS 5/9-115.1	Requires offset of detention and berms from right-of-way
605 ILCS 5/9-117	Permit required for grading and drainage facilities within right-of-way
605 ILCS 5/9-118	Permit required for landscaping within the right-of-way

It is hereby declared to be the policy of the County to regulate those activities for which statutory authority is granted through the rules and regulations provided in this Ordinance and the specifications and requirements of the Permit Procedures and Requirements Manual.

Any municipal corporation or governmental entity, or other public or private corporation, association, or person may request permission to temporarily close a County Highway or alter the County Highway right-of-ways through landscaping, grading, or for the improvement or modification to the existing flow of drainage along any highway provided that the entity receive written consent from the McHenry County Division of Transportation prior to the commencement of said activities.

COMMENTARY: *The County Highway System is comprised primarily of arterial highways that serve as a critical linkage between municipalities, employment centers, provide critical access to State Highways, and service large volumes of traffic, including the movement of emergency service vehicles. The primary function of a County Highway and its associated right-of-way is for highway purposes by the motoring public. The alteration of the County's rights-of-way or the temporary closure to traffic of any County Highway is secondary and subservient to providing for the safe and efficient*

movement of vehicular traffic on a County Highway. These highway-related uses must take precedent and priority over such activities as temporary roadway closures and the modification of the rights-of-way.

The absence of rules and regulations governing the temporary closure of a County Highway or modifications to its rights-of-way could result in significant congestion, delays in response time of emergency vehicles, or result in significant costs to the motoring public through lost time, deployment of County Highway resources to address said congestion and respond to public inquiries and complaints. These regulations are adopted in order to clearly communicate the requirements of the County, to minimize potential conflicts, and thereby assist in the efficient operation, maintenance and improvement of the County Highway System.

7.1 TEMPORARY HIGHWAY CLOSURES

In general, the temporary full or partial closure of a County Highway shall not be permitted unless it is demonstrated that no other feasible option exists and it is clearly demonstrated that a suitable detour route exists that will not unduly delay the motoring public. Temporary closures shall not impact the peak periods of traffic flow in the morning, late afternoon and evening or as further restricted by the McHenry County Division of Transportation. Temporary closures for emergency repairs, natural disasters, or other states of emergency are exempt from these regulations.

Temporary closure of a County Highway shall not result in any manner or form of actual or incurred costs to the County. The County shall not be responsible for advance notification of temporary closures, the detour route, traffic control, including signage and police/Sheriff presence or assistance if required. The McHenry County Division of Transportation has the sole authority to request that the permittee have police or Sheriff's presence during the detour.

Examples of a temporary highway closure covered under this section include, but are not limited to:

- Movement of buildings or other large structures or appurtenances across a County Highway
- Setting of overhead structures such as pedestrian bridge.
- Parades, marathons, festivals, or other special events.
- Filming of movies or commercials

7.1.1 General Requirements

Unless required for emergency repairs, natural disasters, or other states of emergency, only those County Highways that are designated as Arterials or Other on the Access Classification Map are typically eligible for temporary highway closures.

Temporary closure and application of procedures of any County Highway shall be at the sole discretion of the McHenry County Division of Transportation and may require additional conditions of approval, including, but not limited to, significant coordination with local and regional emergency service agencies, notification of media outlets, placement of changeable message signs on the route prior to the closure, etc.

Extension, placement, modification, adjustment, or enlargements of utilities or facilities as governed by Chapter 6 of this Ordinance are not eligible activities for temporary closure of a County Highway.

Temporary closure of a County Highway to reduce installation and construction costs is not a legitimate reason under this Ordinance to permit a temporary closure. Cost is not a deciding factor in determining whether an alternate to closure of a County Highway is feasible.

7.1.2 Access for Emergency Service Providers

In the event a temporary closure is permitted, provisions must be made to allow for the safe passage of emergency vehicles through the closed portion of roadway. If it is not feasible to permit passage of emergency vehicles during the closure, written approval must be provided by all emergency service providers within a 10-mile radius and the County's Emergency Management Agency (EMA) and Sheriff's Department indicating that it will not have a significant impact on their response or transport activities. The McHenry County Division of Transportation may require additional approvals by other emergency service providers as deemed necessary by the McHenry County Division of Transportation.

7.1.3 Detour Requirements

The permittee shall be responsible for providing adequate and advance notification of a temporary closure, including advance communication of detour routes. The requirements for said advance notification are provided in the Permit Procedures and Requirements Manual.

The permittee shall be responsible for the advance placement, operation, and maintenance of all traffic control devices including signing,

changeable message signs, temporary traffic signals, and other devices that may be required for the temporary closure of a County Highway. Said devices shall be inspected, maintained, repaired, and replaced by the permittee as required.

7.1.4 Access to Adjacent Property and Property Owner's Permission

Written approval from all adjacent property owners within the limits of the temporary closure who will be affected shall be obtained by the Permittee, with copies submitted to the McHenry County Division of Transportation, prior to issuance of a permit. The permittee shall be responsible for accommodating access to adjacent properties and/or providing suitable measures for parking of vehicles unable to access said properties. Temporary parking of vehicles must be accommodated outside of the right-of-way of the County Highway and such provisions must be approved by the McHenry County Division of Transportation prior to issuance of a permit.

Failure of the permittee to obtain written permission from adjacent property owners can be just cause for the McHenry County Division of Transportation to deny issuance of a permit or to suspend or revoke an issued permit.

7.1.5 Other Requirements

Any activities associated with the temporary closure shall be subject to the requirements of sections 6.1.8 and 6.1.9 of this Ordinance as they relate to the protection of pavement and other appurtenances, restoration of right-of-ways, including the removal of any debris, litter, signs, or other appurtenances that were temporarily in place during the closure.

In the event that the permittee fails to remove any debris, litter, signs, or other appurtenances that were temporarily in place during the closure upon cessation of the temporary closure, the County reserves the right, but does not have the duty to, perform those activities necessary to remove any debris, litter, signs, or other appurtenances that were temporarily in place during the closure without advance notification and bill the permittee for said costs.

7.1.6 Revocation of Permit

The County reserves the right to require the cessation of all work and removal of the temporary closure if any of the requirements of this Ordinance or additional regulations, requirements, and conditions imposed by the permit have not taken place or if, in the opinion of the County, the

traffic control requirements are not in accordance with the requirements of the permit.

The County shall not be responsible for any damages, monetary or otherwise, resulting from revocation of the permit.

7.2 EARTHEN BERMS AND STORMWATER MANAGEMENT FACILITIES

7.2.1 Earthen Berms

Earthen berms are not permitted within the right-of-way of a County Highway. Berms on property adjacent to the County Highway shall conform to the statutory requirements, which state:

“It is unlawful for any person to construct or cause to be constructed any earthen berm such that the toe of such berm will be nearer than 10 feet to the right-of-way of any public highway without the written permission of the highway authority having jurisdiction over the public highway.”
605 ILCS 5/9-115

The berm shall not obstruct visibility at intersections and access points, and shall not obstruct natural drainage or pre-existing man-made drainage patterns.

7.2.2 Stormwater Management Facilities

Detention and retention basins, or any appurtenance thereof, shall not be permitted within the rights-of-way of a County Highway. Such facilities shall be located in accordance with statutory requirement, which state that said facilities shall be offset from the right-of-way at a minimum distance of ten (10) feet plus one and one-half times the depth of the detention or retention basin.

Those detention or retention facilities whose location satisfies the requirements of this Ordinance but are still within the clear zone of the highway and could pose, or potentially pose, a safety hazard to vehicles leaving the right-of-way may be required to be offset from the right-of-way at a greater distance or require additional protection as deemed necessary by the McHenry County Division of Transportation.

7.2.3 Miscellaneous Drainage Facility Work

Work within the right-of-way for rehabilitation of drainage ditches or the replacement or repair of field tiles that intersect or cross the County Highway right-of-ways will be allowed, provided that a permit, as required

by this Ordinance is obtained, and there are no negative impacts to the County Highway right-of-way.

Drainage ditches parallel and adjacent to the County Highway and contained within the right-of-ways of the County Highway are for the purpose of collecting and conveying stormwater runoff from the County Highway pavements, right-of-ways and adjacent areas tributary to the right-of-ways. Altering, re-grading, filling, or otherwise modifying these ditches is prohibited unless written approval is obtained from the McHenry County Division of Transportation.

7.2.4 Other Agency Permits and Approvals

The issuance of a permit by the McHenry County Division of Transportation under the rules, regulations, and specifications of this Ordinance does not relieve, excuse, diminish, or negate, in any manner or form, the authority, rules, requirements or permission that may be required by any other governmental authority or person that regulates the placement, location, construction, reconstruction, enlargement, removal, relocation, modification, abandonment, or any manner of work to be performed on any earthen berm or stormwater management facility.

7.3 LANDSCAPING AND RELATED FEATURES

Landscaping features, including trees, shrubs, plants, decorative retaining walls, fences, benches, irrigation systems, and other appurtenances are not permitted within County Highway right-of-ways unless they are a part of a municipal enhancement program such as a unified streetscape or gateway features. Such requests will be reviewed on a case-by-case basis and an intergovernmental agreement shall be required.

Factors to be considered in the review, shall include safety (clear zone requirements) visibility, type of plant material to be used including species and mature trunk diameter of trees, conflicts with drainage facilities, utilities and other facilities, current and future operational requirements of the County Highway.

The intergovernmental agreement shall contain provisions and assurances for perpetual maintenance and repair of all landscaping and related features. If this work is permitted, the municipality shall be responsible for the removal or relocation of any landscaping features and related appurtenances that interfere with any County maintenance activities, or improvement projects by the County, or improvements by others that have been permitted by the McHenry County Division of Transportation at no cost to the County. The intergovernmental agreement shall also contain indemnification provisions, as determined by the McHenry County State's Attorney.

In those locations along a County Highway where additional right-of-way is being conveyed to the County, the McHenry County Division of Transportation may require removal or relocation of any existing materials within the new right-of-way that interfere with sight visibility of existing or permitted new access locations or result in new or existing maintenance difficulties for the McHenry County Division of Transportation, or where removal is required to facilitate the installation or relocation of utilities, or if said materials pose a potential safety hazard to the motoring public. For purposes of this section, materials include, but are not limited to, fences, trees, rocks, brush, bushes, shrubbery, signs, or other similar objects. Any existing landscaping that is allowed to remain within the County Highway right-of-way shall not result in an obligation by the McHenry County Division of Transportation to maintain said landscaping.

In locations where a project is permitted by the McHenry County Division of Transportation for access, and utilities or facilities will impact existing landscaping within the County Highway right-of-way, it shall be the permittee's responsibility to coordinate the removal and/or relocation of any existing landscaping that exists by permit within the right-of-way. Coordination to find acceptable space to relocate landscaping, including the physical relocation activities, shall be approved by the McHenry County Division of Transportation prior to said relocation efforts. Provisions for perpetual maintenance of said relocated landscaping shall be provided to the McHenry County Division of Transportation for review and approval. Any relocated landscaping that is allowed to remain within the County Highway right-of-way shall not result in an obligation by the McHenry County Division of Transportation to maintain said landscaping.

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CHAPTER 8: VARIATIONS AND APPEALS

Minimizing congestion and delay, ensuring the safety of the motoring public, and protecting the County's ability to maintain and improve the County Highway System are among the objectives of this Ordinance. Under conditions of practical difficulty and extraordinary hardships, it may be difficult to strictly comply with the requirements of this Ordinance. The purpose of a variation is to provide relief from strict compliance with the regulations and requirements of this Ordinance so long as the objectives of this Ordinance are not compromised.

It is the permittee's responsibility to clearly prove that a variation will not be contrary to the public interest and that a practical difficulty or extraordinary hardship will result if a variance is not granted. Procedures and requirements to apply for a variation from this Ordinance are included in this chapter.

8.1 VARIANCE PROCEDURES

If the McHenry County Division of Transportation has denied a permit request or assigned conditions to the permit that the applicant disagrees with, the applicant can then make a written appeal request to the County Engineer for a variance. The County Engineer shall review and may approve variations to the requirements of this Ordinance so that substantial justice may be done and the public interest subserved thereby, provided that such variations shall not have the effect of nullifying the intent and purpose of this Ordinance.

The owner must clearly prove that the variation will not be contrary to the public interest and other objectives of this Ordinance and shall prove that a practical difficulty or extraordinary hardship will result if the variance is not granted. In particular, the owner shall establish and substantiate that the variation conforms to the requirements and standards as set forth in Section 8.1.3 of this Ordinance.

8.1.1 Variation Request Format

A petition for any variation from the requirements of this Ordinance shall be made in writing to the County Engineer and any required fees for processing of the variance paid for in advance. The request shall identify the specific requirement of the Ordinance that the petitioner is requesting a variance from along with all supporting documentation.

8.1.2 Supporting Documentation and Studies

The County Engineer may require that additional documentation, data, engineering studies, traffic studies, or other information be submitted in order to provide for a complete and thorough review of a variance request.

It is the owner's responsibility to develop and provide said additional documentation. The cost of said documentation, data, and studies shall be the sole responsibility of the owner and no reimbursement of said costs will be made if the applicant's variance request is approved or denied.

8.1.3 Standards for Variation

A variation, in the strict application of the provisions of this Ordinance, shall not be granted unless it is found that all of the following relevant requirements and conditions are satisfied. The County Engineer may grant variations whenever it is determined that all of the following have been met:

- a. The granting of a variation shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance and shall not result in undue delay or congestion, shall not be detrimental to the safety of the motoring public using the County Highway, and shall not limit the ability of the McHenry County Division of Transportation to maintain or otherwise improve a County Highway.
- b. There must be proof of unique or existing special circumstances or conditions where the strict application of the provisions of this Ordinance would deprive the owner of reasonable access. Circumstances that would allow reasonable access by a road or street other than a County Highway, circumstances where indirect or restricted access can be obtained, or circumstances where engineering or construction solutions can be applied to mitigate the condition shall not be considered unique or special.
- c. There must be proof of practical difficulty or unnecessary hardship. It is not sufficient to show that greater profit or economic gain would result if the variation would be granted. Furthermore, the hardship or difficulty cannot be self-created or self-imposed; nor can it be established on this basis by the owner who purchases with or without knowledge of the provisions of this Ordinance. The difficulty or hardship must result from the strict application of this Ordinance, and it must be suffered directly and solely by the owner.
- d. The variation is the least deviation from the requirements of this Ordinance that will mitigate the hardship or practical difficulty.

8.1.4 Action by the County Engineer

Upon receipt of the required variance application forms, supporting documentation, data, studies, and other requested information, and upon payment of all related variance fees, the County Engineer shall review the

variance request and render a decision in writing to the developer by certified mail within thirty (30) calendar days. The County Engineer may stipulate conditions or impose requirements as a condition of granting a variance from the provisions of this Ordinance.

8.2 APPEALS PROCEDURE

Objections to any formal action or decision made by the County Engineer concerning issuance of a permit or variance under this Ordinance can be appealed by the owner to the Transportation Committee of the McHenry County Board and adjudicated through an Appeal Hearing.

8.2.1 Appeal Hearing Request Requirements

Requests from the applicant for an Appeal Hearing by the Transportation Committee shall be made in writing to the County Engineer within thirty (30) calendar days of receipt of the County Engineer's written variance decision, and must be accompanied by payment of an Appeal Hearing fee. If the written request **and** Appeal Hearing fee are not received within thirty (30) days, the applicant forfeits the right to an Appeal Hearing before the Transportation Committee.

8.2.2 Appeal Hearing Date and Notice

The Appeal Hearing shall be conducted at a regularly scheduled Transportation Committee meeting with the Appeal Hearing date set by the Chairman of the Transportation Committee upon notification by the County Engineer. The date of the Appeal Hearing shall provide for sufficient notice and review time. The petitioners will be notified, in writing, of the date and time of the hearing no less than fifteen (15) days prior to the hearing. The hearing shall take place no later than sixty (60) days from receipt of the written request for an Appeal Hearing unless an alternate date is agreed to by the affected parties.

8.2.3 Appeal Hearing Proceedings

The Appeal Hearing is formal, but strict rules of evidence will not be followed.

The Chairman of the Transportation Committee shall preside over and conduct the Appeal Hearing. All testimony provided during the Appeal Hearing shall be sworn and any documents, exhibits, etc. utilized in the Appeal Hearing shall be admitted into evidence and kept by the Committee. The meeting shall be open to the public and comply with all

requirements of the Open Meetings Act including keeping a record of the proceedings. The hearing format shall generally consist of:

- Identification of owner, his representatives, and witnesses providing testimony and staff, staff representatives, and staff witnesses providing testimony.
- Comments by the public.
- Owner's evidence and witness testimony followed by cross examination by the Committee and staff.
- Staff evidence and witness testimony followed by cross examination by the Committee and the owner.
- Owner's rebuttal of evidence presented by staff.
- Closing statements by the owner and staff.
- Closing of Appeal Hearing
- Deliberation and decision by Transportation Committee

8.2.4 Decision by Transportation Committee

The decision of the Transportation Committee shall be made in accordance with the testimony and evidence presented at the Appeal Hearing and shall take into account the standards of Section 8.1.3 of this Ordinance in their decision.

The Transportation Committee decision shall be considered final under this Ordinance and shall be communicated in writing to the owner within thirty (30) calendar days. Minutes of the hearing and subsequent deliberations shall be provided to the owner and made available for public review in accordance with the Open Meetings Act.

CHAPTER 9: GUARANTEES AND INSURANCE REQUIREMENTS

Prior to the issuance of any permit for work to occur within a County Highway right-of-way, 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 financial guarantees shall consist of both Performance and Maintenance guarantees.

9.1 Performance Guarantees

An acceptable performance guarantee to protect the County Highway System and to ensure compliance with the terms and conditions of issued permits and the requirements of this Ordinance shall be provided to the McHenry County Division of Transportation prior to issuance of a permit. A Performance Guarantee in the form of:

- Irrevocable Letter of Credit
- Cash Bond

is preferred or other guaranteed bonding as deemed good and sufficient by McHenry County and consistent with State Laws. All Performance Guarantees shall be posted in an amount equal to one-hundred fifty percent (150%) of the estimated cost of the improvement after review and approval of the estimate as approved by the McHenry County Division of Transportation. Cost estimates shall include a fifteen percent (15%) construction cost contingency and provide for the County's cost of administering the completion of the improvement, if necessary, to be estimated at fifteen (15%) . This estimate shall also include the cost to relocate any non-municipal utilities (telephone, electric, natural gas, cable TV, etc.) Refer to the **Permit Procedures and Requirements Manual** for detailed requirements of the cost estimate and Performance Guarantee.

The Performance Guarantee shall be valid for a period of no less than two (2) years from the date of issuance of the Guarantee of a permit. If construction extends beyond the original two (2) year time period, then the Performance Guarantee shall be extended accordingly. If all permitted work has been completed, inspected, and accepted by the McHenry County Division of Transportation, and an acceptable Maintenance Guarantee has been provided, then the Performance Guarantee may be released prior to the end of the two (2) year bond period at the discretion of the McHenry County Division of Transportation.

The McHenry County Division of Transportation shall be and is hereby authorized to act for the County in all matters relating to Performance Guarantees. The **Permit Procedures and Requirements Manual** provides detailed information regarding the format and requirements for the various types of acceptable Performance Guarantees.

The McHenry County Division of Transportation may, upon reviewing and substantiating good and reasonable cause, waive the Performance Guarantee requirements for certain Major Access, Minor Access, and Facility permits.

Performance Guarantees shall be required for all Temporary Access locations.

During the period the Performance Guarantee is in effect, the owner shall be responsible for the maintenance of all facilities within the right-of-way. The McHenry County Division of Transportation shall provide snow removal of the open lanes of the County Highway pavements, but shall not be responsible for any snow removal from pavements located behind work zone traffic control devices or entry roadway pavements within the County Highway right-of-way. The owner shall be responsible for the removal of snow, ice, gravel, and other debris from the paved surface of the access and keeping the access in a safe condition for the general public. Said activities shall not impede or hinder the McHenry County Division of Transportation in its maintenance operations.

9.1.1 Default on Performance

If the owner fails to perform the work with sufficient work force, equipment and materials to ensure the completion of said work within the specified time, or performs the work unsuitably as determined by the McHenry County Division of Transportation, or discontinues the execution of work, or refuses to perform anew such work as has been rejected by the McHenry County Division of Transportation as defective and unsuitable, or for any other cause whatsoever does not carry on with the work in an approved or safe manner, the McHenry County Division of Transportation shall give notice to the owner and the owner's bank or surety by registered mail of such delinquency, with said notice to specify the corrective measures required. After said notice, the McHenry County Division of Transportation shall draw on the Performance Guarantee to have the work completed in accordance with the terms of the Permit, Performance Guarantee, and this Ordinance.

The McHenry County Division of Transportation, upon receipt of funds, may then take over the work, including any and all materials on the project site, as may be suitable and acceptable, and may complete the work with the McHenry County Division of Transportation forces or any other method as the McHenry County Division of Transportation may deem necessary in order to facilitate completion of the work in an acceptable manner.

9.2 Maintenance Guarantees

To ensure that all road and access work completed as a condition of a permit issued under this Ordinance is constructed of sufficient materials and workmanship and to allow the work to be monitored under traffic conditions for a

full season, a Maintenance Guarantee shall be required as a condition of release of the Performance Guarantee. A Maintenance Guarantee shall be submitted by the owner to the McHenry County Division of Transportation after satisfactory completion of all required permit work as determined by and based upon an acceptable final inspection by the McHenry County Division of Transportation.

A Maintenance Guarantee in the form of:

- Irrevocable Letter of Credit
- Cash Bond

is preferred or other guaranteed bonding as deemed good and sufficient by McHenry County and consistent with State Laws. All Maintenance Guarantees shall be posted in an amount equal to fifteen percent (15%) of the amount of the original Performance Guarantee. The Maintenance Guarantee shall be valid for a period of no less than one (1) year from the date of final acceptance by the McHenry County Division of Transportation. The McHenry County Division of Transportation has the right and authority, based on the inspection of the improvements prior to release of the Performance Guarantee, to request a period longer than one (1) year, but no more than three (3) years for the Maintenance Guarantee.

The McHenry County Division of Transportation shall be and is hereby authorized to act for the County in all matters relating to Maintenance Guarantees. The **Permit Procedures and Requirements Manual** provides detailed information regarding the format and requirements for the various types of acceptable Performance Guarantees.

The McHenry County Division of Transportation may, upon reviewing and substantiating good and reasonable cause, waive the Maintenance Guarantee requirements for certain Minor Access and Facility permits where disturbance in the right-of-way is outside of County Highway pavements and limited in nature.

All failures that occur during the Maintenance Guarantee period shall be corrected by the owner and restored to a condition satisfactory to the McHenry County Division of Transportation. During the Maintenance Guarantee period, the McHenry County Division of Transportation shall maintain, in accordance with its normal maintenance policies, the pavement, shoulders, ditches and drainage facilities, pavement markings and traffic control devices, curb and gutter, and the turf area located within the right-of-way. Systems or facilities specifically permitted separately, requiring maintenance by others (e.g. sidewalks, bike paths, water and sanitary sewer, special landscaping, other utilities) shall be excluded and maintained by parties other than McHenry County Division of Transportation.

At the end of the Maintenance Guarantee period, a maintenance inspection will be conducted by the McHenry County Division of Transportation. If all permitted work is acceptable, the Maintenance Guarantee will be released. If the permitted work is deemed unacceptable at the end of the Maintenance Guarantee period, the owner shall affect such repairs as necessary and the Maintenance Guarantee period extended until the McHenry County Division of Transportation is satisfied with the permitted work.

9.2.1 Default on Maintenance

If the owner fails to restore, repair, or replace any portion of the permitted work within the period of the Maintenance Guarantee to satisfactory conditions or performs said work unsuitably, as determined by the McHenry County Division of Transportation, or for any other cause whatsoever shall not carry on the restoration in a suitable manner, the McHenry County Division of Transportation shall give notice by registered mail to the owner and the owner's surety specifying the corrective measure(s) required. If after a period of thirty (30) days after receipt of said notice, the owner or the owner's surety does not proceed in accordance therewith, the McHenry County Division of Transportation shall call upon the Maintenance Guarantee and effect completion of the required restoration work in accordance with the terms of the Maintenance Guarantee.

9.3 Insurance Requirements

A Certificate of Insurance shall be provided to the McHenry County Division of Transportation prior to the issuance of a permit for work within the County Highway right-of-way to afford protection against all claims for damage to public or private property, and injuries to persons, arising out of and during the progress of the permitted work to its completion.

The McHenry County Division of Transportation shall be, and is hereby authorized to act for the County in all matters relating to insurance requirements. The **Permit Procedures and Requirements Manual** provides detailed information regarding the type and levels of insurance required. The owner shall indemnify McHenry County and the McHenry County Division of Transportation, its agents, and employees as specified in the **Permit Procedures and Requirements Manual**.

The owner shall cease or cause to be ceased, operations, work, and construction of any permitted work if the required insurance is cancelled or reduced below the requirements of the McHenry County Division of Transportation.

The issuance of a permit by the McHenry County Division of Transportation is not intended by any of the Provisions of any part of the permit to create the public or any member thereof as a third party beneficiary, 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.