



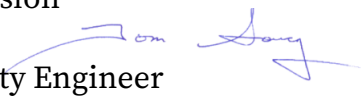
## Highway Department

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### MEMORANDUM

TO: Cass County Commission

FROM: Thomas Soucy, County Engineer 

DATE: February 21, 2025

SUBJECT: Agenda Item for March 5<sup>th</sup>, 2025 Commission Meeting: County Highway Access Ordinance Revision

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The Cass County Highway Department has developed revisions to the current County Highway Access Ordinance which would revise the current access regulation adopted in 2007. This revised ordinance would more effectively regulate access onto the county highway systems by defining access distances required inside (1/4 Mile Spacing) and outside (1/2 Mile Spacing) of city limits (Sec 10.1.2).

This revision would also change the performance guarantee for temporary access facilities from \$1,000 to \$5,000 as we have been having issues with temporary access facilities being removed in a timely manner and restored to county standards (Sec 8.1).

These revisions in addition to the current access ordinance would continue to preserve the level of service, minimize conflicts between vehicles entering the county road system, provide proper location for new accesses, promote and ensure safety to the motoring public and provide for the establishment of sufficient pavement, right-of-way, and easement widths.

**SUGGESTED MOTION:** Conduct first reading of Cass County Highway Access Ordinance and schedule second reading and adoption for April 7, 2025.

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# Cass County Highway Access Ordinance

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## **CHAPTER 1 Title, Introduction, Purpose, and Commentary**

### **1.1 Title**

This Ordinance shall be known as and may be referred to as the "Cass County Highway Access Ordinance," hereinafter referred to as the Ordinance.

### **1.2 Introduction**

The owner of a parcel of land abutting a County Highway has a property right to reasonably access that County Highway. However, this right does not guarantee the right to access the County Highway at any and/or all points along a property's frontage on the County Highway. The County, through the use of its police power, may restrict access or require the use of indirect access to serve a property. As long as the exercise of that power leaves the landowner with reasonable access, there is no taking of a property right and no compensation is due.

Through the authority granted by the laws of the State of North Dakota, the County may, in accordance with regulations adopted by the County Commission, regulate the access to County Highways. To provide for the efficient movement of traffic, safeguard the motoring public, and reduce congestion on the public ways, it is hereby declared to be the policy of the County to regulate access to County Highways for public and private use through the standards and specifications established by this Ordinance. The standards and specifications contained in this Ordinance were developed to minimize the frequency and severity of conflicts between vehicles using a County Highway and vehicles entering or exiting at approved access facilities. The review of a request for access to a County Highway will involve the consideration of all factors affecting the operation, capacity, and safety of the County Highway and the proposed access facility.

### **1.3 Purpose**

The primary function of County Highways is to carry large volumes of through traffic. A secondary and subservient function is to provide access to abutting property.

The absence of reasonable controls and regulations for access results in a reduction of roadway capacity and safety. Unregulated access substantially increases delay and congestion and decreases safety to the motoring public using the County Highway system.

Conflicts between vehicles using a County Highway and vehicles entering and exiting via access facilities are minimized through the application of appropriate design standards. Therefore, the

application of the regulations and standards contained in this Ordinance will promote consistent driver expectations, resulting in maximum operational efficiencies and safety, and protect the public investment in County Highways.

This Ordinance is adopted for the following purposes:

- To protect and provide for the public health, safety, and general welfare of the County;
- To preserve an acceptable level of service on County Highways;
- To minimize conflicts between vehicles using County Highways and vehicles entering and leaving via access facilities on County Highways;
- To promote and ensure the safety of the motoring public using County Highways;
- To preserve the ability of the County to provide adequate and safe highway facilities to serve the general public;
- To provide for the proper location and limit the number of access facilities to regulate safe and reasonable access from County Highways to abutting property and to provide sufficient spacing between access points to minimize interference with traffic using adjacent access facilities;
- To establish reasonable standards and design specifications for access facility improvements on County Highways to protect the public infrastructure;
- To minimize congestion and delay on County Highways which are the results of providing access to abutting property, and reduce air pollution;
- To prohibit the use of a County Highway as a portion of the internal circulation system of abutting property;
- To provide for the establishment of sufficient pavement, right of way, and easement widths; and
- 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 current American Association of State Highway and Transportation (AASHTO) and North Dakota Department of Transportation (NDDOT) standards and specifications.

#### **1.4 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 Chapter 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 the 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.
9. Terms not specifically defined in this Ordinance have the meaning commonly associated in conversation and/or in similar ordinances.

### **2.3 Definitions**

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

*Access.* A means of vehicular entry to or exit from a property.

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

*Access Permit.* A permit issued by Cass County granting access to a County Highway from abutting property and allowing construction or reconstruction of an access facility in accordance with the provisions of this Ordinance.

*Applicant.* A municipality, property owner, or utility company that makes application for a permit.

*Average Daily Traffic (ADT).* The number of vehicles using a road (in both directions) during a twenty-four (24) hour period.

*Clear Zone.* Roadside border area available for safe use by errant vehicles. The desired minimum width is dependent upon traffic volumes and speeds.

*County.* County of Cass, North Dakota, also Cass County, North Dakota.

*County Commission.* The County Commission of Cass County, North Dakota.

*County Engineer.* The Cass County Engineer acting directly, or his designee.

*County Highway.* A public road designated by the Cass County Commission as part of the county highway system.

*Dedication.* The transfer of property interests from private to public ownership for a public purpose. The transfer may be of fee-simple interest or of a less than fee interest.

*Design Speed.* A speed determined for design and correlation of the physical features of a highway that can influence vehicle operation. It is the maximum safe speed that can be maintained over a specified section of highway when conditions are so favorable that the design features of the highway govern.

*Driveway.* A private or public way, for the use of vehicles, providing service between a highway and abutting property.

*Emergency Access.* An access which is designated and utilized solely by emergency vehicles.

*Facility.* A non-roadway object, structure, or device, manmade or natural, that is designed, constructed, located, or placed to serve a specific function, purpose, or perform a particular service. Facilities include, but are not limited to, sidewalks, bike paths, sewer lines, water lines, street lighting, signage, trees, or any other non-highway appurtenance.

*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.

*Geometric Plan.* A preliminary plan identifying proposed roadway improvements as warranted by the traffic study.

*Highway Department.* The Cass County Highway Department.

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

*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.

*MUTCD.* Manual on Uniform Traffic Control Devices for Streets and Highways.

*Negative Access Easement:* An easement, usually designated on a plat, which operates to deny direct access to a street or public way from the lot or lots adjacent to such street or way.



*Legal Lot.* A designated parcel, tract, or area of land established by a plat or otherwise permitted by law at the time of its creation to be used, developed, or built upon as a unit.

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

*Parcel.* See legal lot.

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

*Performance Guarantee.* A check (cashier's or personal), bank draft, or bank money order made payable to the Cass County Highway Department to protect the county highway system and ensure compliance with this Ordinance for the construction or modification of all access facilities.

*Permit.* A formal, written document authorizing an access point onto a County Highway and authorizing certain work to be performed within the right of way of a County Highway which sets forth the terms and conditions applicable to the access point and of said work in conformance of this Ordinance.

*Posted Speed.* The speed limit of the County Highway as indicated on the regulatory sign.

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

*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.

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

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

## **CHAPTER 3 Administrative Provisions**

This Chapter sets forth the administrative provisions for this Ordinance.

### **3.1 Authority**

The North Dakota Century Code, as amended, provides for the County Commission and the County Engineer to have authority over supervision of County Highways. This Ordinance is hereby adopted to preserve and protect the public safety, health, and general welfare as it relates to the operation and use of County Highways, and associated right of ways.

Pursuant to Section 24-05-17 of the North Dakota Century Code, as amended, the Cass County Board of County Commissioners has sole authority and responsibility to acquire land for, construct, maintain, and operate the county highway system. Section 39-10-21 of the North Dakota Century Code, as amended, provides Cass County the authority by ordinance to prohibit the use of any such roadway by any class or kind of traffic which is found incompatible with the normal and safe movement of traffic with respect to any controlled-access roadway.

Section 24-01-30 provides county highway authorities the power to establish controlled-access facilities for public use wherever such authority or authorities are of the opinion that traffic conditions, present or future, will justify such special facilities. Said highway authorities of the county, in addition to the specific powers granted by law, also have and may exercise, relative to controlled-access facilities, any and all additional authority now or hereafter vested in them relative to highways or streets within their respective jurisdictions. Said units may regulate, restrict, or prohibit use of such controlled-access facilities by the various classes of vehicles or traffic in a manner consistent with the definition of a controlled-access facility.

Section 39-10-20 of the North Dakota Century Code restricts any person from driving onto or from any controlled-access roadway except at such entrances and exits as are established by public authority.

Article 2 of the Home Rule Charter states that the electors granted the Cass County Board of Commissioners authority to provide for the adoption, amendment, repeal, initiation, referral, enforcement, and penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, and welfare.

Article 2 of the Home Rule Charter states that the electors granted the Cass County Board of Commissioners authority to lay out or vacate public grounds, and provide for the construction, use, operation, designation, and regulation of a county highway system.

### **3.2 Jurisdiction**

This Ordinance shall apply to all access facilities providing, or proposed to provide, service from and/or to a County Highway to any property after the enactment of this Ordinance by the County Commission.

This Ordinance shall not be construed in any manner or form to limit or restrict the power or authority of the County 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 facility permitted under this Ordinance or any access facility permitted prior to the adoption of this Ordinance.

### **3.3 Enactment**

This Ordinance shall be in full force and effect from and after its passage and effective date according to law except for all access requests submitted prior to the adoption of this Ordinance and which have received written preliminary approval. All requests submitted prior to adoption of this Ordinance, which have not been given written preliminary approval, and all requests submitted subsequent to the adoption of this Ordinance shall be governed by the provisions of this Ordinance as finally enacted.

### **3.4 Repealer and Savings Clause**

The prior policies establishing rules, regulations, and specifications 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 in equity to require compliance or prosecute violations thereunder, it being the County's intention to preserve all such causes of action and not to excuse any violation under the prior rules, regulations, and specifications.

### **3.5 Interpretation and Separability**

#### **3.5.1 Interpretation**

The County Engineer shall render any interpretations of this Ordinance, which are necessary to promote efficient administration and review of access 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 higher standard shall control.

#### **3.5.2 Separability**

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

- 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.
- 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, or access facility, such judgment shall not affect the application of the provisions to any property, access, highway improvement, or access facility not specifically included in the judgment.

#### **3.5.3 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 North Dakota. Any suit regarding requirements of this Ordinance must be brought in a court of competent jurisdiction in Cass County, North Dakota.

#### **3.5.4 Compliance**

No new access facility shall be approved or constructed, and no existing access facility shall be modified, which does not comply with the provisions set forth in this Ordinance.

Should an access be illegally placed within the County right of way, it may be removed by the Highway Department at the owner's expense.

### **3.6 Amendments**

In order to promote the public health, safety, and general welfare, the County Commission may from time to time amend the regulations imposed by this Ordinance.

### **3.7 Types of Access**

The following types of access, described more fully in Chapters 7, 8 and 9, are hereby established:

(a) Permanent, (b) Temporary, and (c) Field Drive.

### **3.8 Variance**

#### **3.8.1 General**

Where the County Engineer finds that hardships or practical difficulties may result from strict compliance with this Ordinance, the County Engineer may approve a variance to the requirements of this Ordinance so that substantial justice may be done and the public interest subserved thereby, provided that such variances shall not have the effect of nullifying the intent and purpose of this Ordinance.

The County Engineer may require that a Traffic Impact Study, studies, or data be submitted when reviewing a request for a variance from the provisions of this Ordinance.

#### **3.8.2 Variance Requests**

A petition for any variance shall be submitted in writing to the County Engineer by the applicant. The applicant must prove that the variance will not be contrary to the public interest and that a practical difficulty or hardship will result if it is not granted.

#### **3.8.3 Standards for Variance**

No variance in the strict application of the provisions of this Ordinance shall be granted unless it is found that the following relevant requirements and conditions are satisfied. The County Engineer may grant variances whenever it is determined that all of the following have been met.

- a. The granting of the variance 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 or be detrimental to the safety of the motoring public using the 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 applicant 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 hardship. It is not sufficient to show that greater profit or economic gain would result if the variance 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 applicant 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 applicant of the property in question.
- d. The variance is the least deviation from the provisions of this Ordinance which will mitigate the hardship or practical difficulty.

#### 3.8.4 Action by the County Engineer

Upon receipt of all the relevant information, facts, data, and a review by the County Engineer, the County Engineer shall render a decision in writing to the applicant. The County Engineer may, in the decision for a variance, stipulate conditions or impose requirements in granting of a variance from the provisions of this Ordinance.

### **3.9 Appeals Procedure**

#### **3.9.1 County Engineer**

All objections to any action or decision concerning access shall be filed in writing with the County Engineer. The County Engineer shall consider the objections, and after a decision has been made shall inform the applicant the action taken on said objection.

#### **3.9.2 County Commission**

If the applicant is dissatisfied with the action or decision of the County Engineer, a written objection may be filed with the County Commission and the County Commission will consider the objection and formulate a response. The County Commission may modify or overturn any previous action or decisions.

### **3.10 Violations and Penalties**

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.

The County Engineer shall have the authority to delay the issuance of permits to an applicant due to the failure of the applicant to comply with the provisions of other permits issued to the applicant or if the property served by the permitted work or facility is in violation of or has not complied with the provisions of the Access Ordinance or any other ordinance, statute, regulation or administrative order that may apply to such property. Approval will not be unreasonably denied.

#### **3.10.1 Newly constructed Access Facility**

Any owner of a newly constructed access facility in violation of the requirements of this Ordinance shall be notified by the Highway Department and ordered to remove the access facility by an appropriate removal date established by the County Engineer. The County Engineer may also place temporary barricades blocking said access facility until such point the owner has removed the access facility which is in violation of this Ordinance.

Whoever shall construct, or cause to be constructed, any access facility in violation of the requirements of this Ordinance and who has also failed to remove the access facility by the removal date established by the County Engineer shall be subject to a fine of \$250.00

for each access facility so constructed. Each day the access facility is in place in violation of this Ordinance shall constitute a separate offense, subject to the above penalties. A violation shall also include any access facilities to County Highways built without approval and a permit as required by this Ordinance as well as approved facilities built with substandard designs and specifications.

### 3.10.2 Change in Land-Use or Land-Use Density

Any owner or person utilizing an existing access facility in violation of the requirements of this Ordinance because change in land-use or land-use density has occurred shall be notified by the Highway Department and ordered to immediately cease use of said access facility and the County Engineer may place temporary barricades blocking said access facility.

Whoever shall use any existing access facility in violation of the requirements of this Ordinance because change in land-use or land-use density has occurred and who continues using the access facility after notification by the Highway Department shall be subject to a fine of \$250.00. Each day the access facility is continued to be used following the notification of the Highway Department shall constitute a separate offense, subject to the above penalties.

### **3.11 Responsibility for Damage Claims**

The applicant shall indemnify, save harmless, and defend the Highway Department and the 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 the access permit.

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



## **CHAPTER 4 Classification of Access Types and General Requirements**

An access permit shall be required for the construction of any new access facility or the modification of any existing access facility within the right of way of a County Highway when the work is to be done by any person or public agency other than Cass County or when the use of an existing facility is changed. An access permit shall not be required for a public agency when a joint agreement covers the work involved therein or at such times as the County Engineer is exercising statutory supervisory authority. The County Engineer may, upon written request, extend the term of an access permit for such a period as seen fit. The access type corresponds to specific design standards and specifications. The applicant must specify the type of access being requested: Permanent, Temporary, or Field Drive Access.

### **4.1 General Requirements**

The applicant 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 as required by this Ordinance to accommodate the access facility and the traffic using the access facility.

## **CHAPTER 5 Right of Way**

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

This section sets forth right of way requirements, including minimum widths and restoration.

#### **5.1.1 General**

The right of way widths for County Highways shall be 100 feet from the centerline of the County Highway to the right of way line on both sides of the highway, unless the County Engineer determines an increase or decrease in width is appropriate. If the property abutting a County Highway is to be subdivided or a permanent access facility is being requested, the owner shall dedicate, at no cost to the County, sufficient land to satisfy this right of way requirement.

#### **5.1.2 Restoration of Right of Way**

Upon completion of any construction work within the right of way, the right of way shall be restored in accordance with the permitted plans acceptable to the County Engineer.

COMMENTARY: Additional right of way required in this section is needed to accommodate future highway improvements because of the cumulative traffic generation

of developments and to accommodate access facilities. Right of way widths are also needed to accommodate roadway drainage, snow storage, utilities and facilities, and to provide for traffic and pedestrian safety.

## **CHAPTER 6 Subdivision Plats**

### **6.1 Subdivision Plats**

When property abutting a County Highway is to be subdivided or developed, direct access to a County Highway shall not be used in lieu of an adequate internal traffic circulation system and any direct access to a County Highway shall meet the Cass County Highway Access Ordinance and be approved by the County Engineer.

### **6.2 Direct Access**

Direct access, either to or from the County Highway shall be restricted and shown on the plat with a negative access easement.

### **6.3 Negative Access Easement**

The negative access easement shall be depicted on the plat with a legible hatched area of appropriate width and shall include the following language on the plat:

Negative Access Easement, as noted on this plat, is an easement dedicated as part of the right of way dedication which easement denies direct vehicular access to a street or public way from the lot or lots adjacent to such street or way. The negative access easement is not a strip of land of any certain width, but is a line coterminous with the boundary of the adjacent lot or lots.

## **CHAPTER 7 Requirements for Permanent Access Facilities**

### **7.1 Permit Process and Requirements**

The process for a Permanent Access Permit consists of the following steps:

1. The applicant shall sign and submit an application to the County Engineer along with a nonrefundable application fee.
2. A performance guarantee (see Chapter 13) in an acceptable form for \$1000 dollars shall be submitted and made payable to the Cass County Highway Department.

3. The Highway Department will make an onsite survey to determine the culvert length and diameter, as applicable. In addition, the Highway Department will verify the access location and determine if the location will provide safe ingress and egress to the lot.
4. The County Engineer may require other additional studies, plans, and information in order to review and evaluate the applicant's application. At the County Engineer's discretion the applicant shall provide the following studies, plans, and information:
  - Traffic Impact Study
  - Traffic Signal Warrant Analysis
  - Sight Distance Study
  - Geometric Plan
  - Pavement Design
  - Engineering Plans
  - On-site Engineering Plan
  - Cost Estimate
  - Photographs of the existing right of way at 100 foot intervals. All photographs must be taken parallel, not perpendicular to, the right of way.

All submitted documents shall be signed and sealed by a professional engineer. Specific direction will be given at the initial meeting or in the initial review letter.

5. Upon receipt and approval of items 1-4 in Section 7.1, the Permanent Access Permit will be issued and construction of the new approach or modification of an existing approach may commence as per the installation start date.
6. When construction has been completed and all required reports have been submitted, the applicant or applicant's representative shall notify the Highway Department in writing and request a final inspection (see Section 12.6). Depending on seasonal workload, please allow 1-2 weeks for final inspection to be completed.
7. At such time as all work has been done to the complete satisfaction of the Highway Department, the performance guarantee shall be released.

## **CHAPTER 8 Requirements for Temporary Access Facilities**

### **8.1 Permit Process and Requirements**

The process for a Temporary Access Permit consists of the following steps:

1. The applicant shall sign and submit an application to the County Engineer along with a nonrefundable application fee.
2. A performance guarantee (see Chapter 13) in an acceptable form for \$5000 dollars shall be submitted and made payable to the Cass County Highway Department.
3. The Highway Department will make an onsite survey to determine the culvert length and diameter, as applicable. In addition, the Highway Department will verify the access location and determine if the location will provide safe ingress and egress to the lot.
4. Upon receipt and approval of items 1-3 listed in Section 8.1, the Temporary Access Permit will be issued and construction of the new approach may commence as per the permit installation date. The removal date of the approach will be included with the approved permit.
5. When construction has been completed, the applicant or applicant's representative shall notify the Highway Department in writing and request a final inspection (see Section 12.6). Depending on seasonal workload, please allow 1-2 weeks for final inspection to be completed.
6. At such time as all work has been done to the complete satisfaction of the Highway Department, the performance guarantee shall be released.

## **CHAPTER 9 Requirements for Field Drive Access Facilities**

### **9.1 Permit Process and Requirements**

The process for a Field Drive Access Permit consists of the following steps:

1. The applicant shall sign and submit an application to the County Engineer along with a nonrefundable application fee.

2. A performance guarantee (see Chapter 13) in an acceptable form for \$1000 dollars shall be submitted and made payable to the Cass County Highway Department.
3. A Field Drive Access will be permitted where, in the determination of the County Engineer, the field has no other reasonable access. Typically, one field drive access may be granted to a property under the same ownership or controlling interest. Additional Field Drive Accesses may be permitted if the necessity for such additional access is demonstrated due to topography or ongoing agricultural activities. Field Drive Accesses will be kept to the minimum necessary in order to provide reasonable access. The permit for a Field Drive Access will state the conditions as to its use by agricultural equipment only.

If a change in land-use occurs and an existing field drive access is proposed to be used, the owner shall sign and submit an application to the Highway Department to continue use of the existing access facility. The application shall be reviewed as per the requirements for a new access facility and all the provisions of this Ordinance shall apply.

4. Upon receipt and approval of items 1-2 in Section 9.1, the Field Drive Access Permit will be issued and construction of the new approach or modification of an existing approach may commence as per the installation start date.
5. When construction has been completed, the applicant or applicant's representative shall notify the Highway Department in writing and request a final inspection (see Section 12.6). Depending on seasonal workload, please allow 1-2 weeks for final inspection to be completed.
6. At such time as all work has been done to the complete satisfaction of the Highway Department, the performance guarantee shall be released.

## **CHAPTER 10 Access Policies**

Any owner of property abutting a County Highway has the right of reasonable access. The following policies shall be applied to all types of access.

## 10.1 Access Criteria

This Section describes criteria applicable to all access facilities. The criteria presented include the maximum number of access facilities and their permissible location with respect to adjacent access facilities and intersecting streets.

### 10.1.1 Alignment with Existing Access Facilities 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 whenever possible. Given site specific characteristics or operational considerations on the County Highway, the County Engineer may waive this requirement.

### 10.1.2 Spacing of Adjacent Access Points and Intersecting Streets

To function effectively, adjacent access points and intersecting streets shall be spaced to ensure safe and efficient traffic movements and operations. **Access shall generally be restricted to the following:**

1. **A maximum of one access facility every one half (1/2) mile outside of city limits.**
2. **A maximum of one access facility every one quarter (1/4) mile inside of city limits.**

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

## 10.2 Restricted Turning Movements

In certain instances, turning movements may be restricted. Conditions under which turning movements may be restricted are listed below.

1. Where numerous low-volume 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 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 sight distance, prevent left turns in or left turns out from being made safely.
4. Where a particular parcel is provided with more than one access point and volumes do not justify left-turn access into and/or from both access points, restrictions may be required at one or both access points.
5. When a parcel has access provided by both a signalized access point and an unsignalized access point, left turns in and left turns out may be prohibited at the unsignalized location.
6. When the median opening for left-turning vehicles would be too close to another median opening, left turns may be prohibited at one of the access points.
7. When other capacity, delay, operational, or safety conditions make specific left turns in or left turns out detrimental to the public interest. These conditions will be identified on a site-specific basis.

Turning movement restrictions shall be enforced with barrier median channelization or driveway channelization. The County Engineer shall determine the type of channelization on a case-by-case basis. Signing shall also be required. The signing shall conform to the provisions of the MUTCD.

### **10.3 Indirect Access**

#### **10.3.1 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 County Engineer shall determine, on a site-specific basis whether access will be permitted to the County Highway.

#### **10.3.2 Access to Property Being Subdivided or Developed**

When property abutting a County Highway is to be subdivided or developed, direct access to a County Highway shall not be used in lieu of an adequate internal traffic circulation system. Indirect access to individual lots shall be required from an internal traffic circulation system which itself provides access to the County Highway or other street. The



County Engineer shall determine, on a site-specific basis, which lots abutting the County Highway may have direct access and which lots shall have indirect access.

COMMENTARY: As an area develops and subdivisions are platted contiguous to one another, the internal street system should interconnect. Such interconnection permits local movement between subdivisions without forcing trips between subdivisions to use major roads such as County Highways as part of an internal circulation system.

For commercial developments, outlots and service to individual businesses should be provided by an internal circulation system. The purpose of major roads such as County Highways is to carry traffic to and from such sites, not to augment or be a part of an internal circulation system.

#### **10.4 Changes in Land-Use**

If a change in land-use or land-use density occurs and an existing access facility is proposed to be used, the owner shall make application to the Highway Department to continue use of the existing access facility. The application for use of the existing access facility shall be reviewed as if it were a new access facility and all the provisions of this Ordinance shall apply.

COMMENTARY: Changes in land-use or land-use density result in a change in the number of vehicles using an access facility; therefore, modifications, improvements, or revisions may be required to the access facility and/or the County Highway to accommodate the change.

#### **10.5 Access to Subdivided or Previously Platted Parcels**

Access to land subdivided prior to the adopted date of this Ordinance April 2, 2007, shall comply with the requirements of this Ordinance to the extent possible. Owners of such property for which access is being requested and for which compliance with this Ordinance cannot be attained may request the County Engineer to grant access. Such access granted by the County Engineer shall be the least deviation from the rules, regulations, and specifications of this Ordinance.

COMMENTARY: Many older existing subdivisions were platted with small lots fronting on County Highways. In these instances shared access or indirect access can be used to reduce the number of access points on a County Highway.

## **10.6 Shared Access**

Certain geometric, land-use, and site conditions may require shared access among two or more developments or properties. This would occur when frontages are small and each development or property is unable to meet the requirements of this Ordinance. In these instances, shared access shall be provided to adjacent developments or properties. The County Engineer shall determine on a site-specific basis when shared access shall be required.

## **CHAPTER 11 Design Standards**

The design of highway improvements and access facilities shall comply with the standards and specifications set forth in this Ordinance (see Figure 11.1). Any deviations from these specifications must be filed as a variance (refer to Section 3.8) unless otherwise specified.

### **11.1 General**

#### **11.1.1 Crown**

The pavement crown shall have a 2.5 percent slope for gravel access facilities and 2.1 percent slope for hard surface access facilities.

#### **11.1.2 Side slopes**

The access facility shall have 8:1 side slopes within the clear zone of the intersecting highway.

#### **11.1.3 Driving Surface**

The access facility shall have a minimum 24 foot driving surface for field access and very low volume private drives. Width requirements for higher volume facilities will be determined by the County Engineer.

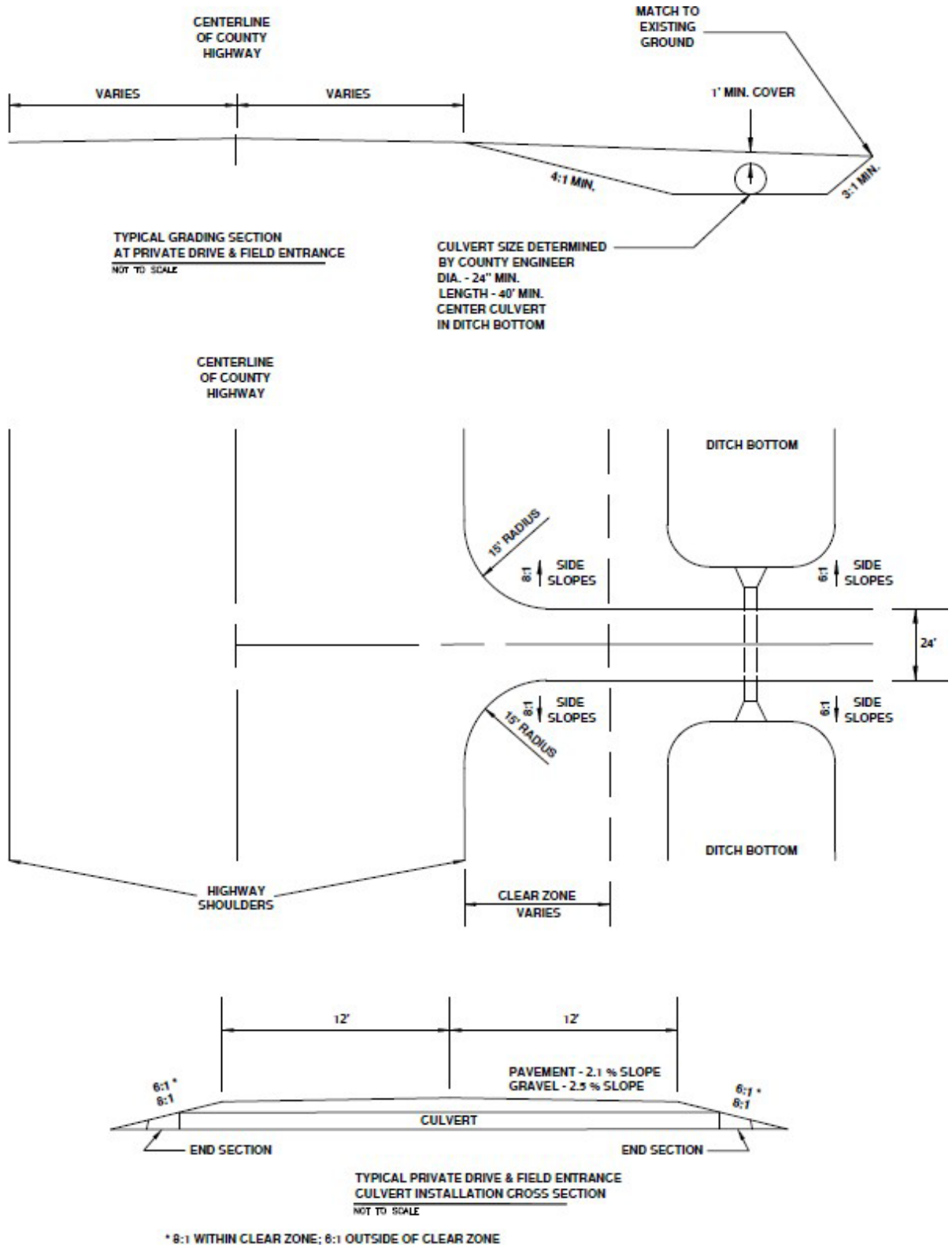
#### **11.1.4 Culvert**

The culvert diameter shall be a minimum of 24 inches and the length of the culvert shall be a minimum of 40 feet as determined by the County Engineer. Private and field drive entrance culverts shall be installed in the center of the ditch bottom.

#### **11.1.5 Radius**

The access facility shall have a minimum 15 foot radius for field accesses and very low volume private drives. Radius requirements for higher volume facilities will be determined by the County Engineer.

Figure 11.1



## **11.2 Design Speed**

The design speed to be used for designing improvements under the provisions of this Ordinance shall be equal to or exceed the posted or regulatory speed of the County Highway to which the improvement is being made.

## **11.3 Auxiliary Lanes**

Where appropriate, the County Engineer may require additional traffic lanes to facilitate vehicular turning movements at existing or proposed highway access facilities.

### **11.3.1 Turn Lanes**

Turn lane installation will generally be calculated using Figure 11.2, as it presently exists or may hereafter be amended.

Warrants are determined by plotting thru traffic volume and turning traffic volume on Figure 11.2 for two-lane highways. Traffic volumes should be adjusted for the percentage of heavy vehicles. Divide each approach volume by the appropriate correction factor from Table 11.1 before plotting on Figure 11.2.

Design year ADT is used to determine left-turn lane warrants. A left-turn lane provides a full-width lane for vehicle storage. If a left-turn lane is warranted on only one approach of the mainline at a four-way intersection, a left-turn lane should be provided on the opposite approach as well.

Warrants for right-turn lanes are based upon present ADT and are divided into two categories – major and minor. A major right-turn lane provides a full-width lane for deceleration from the design speed on the mainline. A minor right-turn lane assumes vehicles will decelerate to 30 mph on the mainline before entering the auxiliary lane.

### **11.3.2 Design**

Turn lanes shall be constructed to the design and specifications of the County Engineer.

### **11.3.3 ADT**

The latest average daily traffic (ADT) for the road shall be utilized in the calculation, unless such figure is out of date or significant change to the road, traffic, or area has occurred since the ADT was last collected, as determined by the County Engineer. Projected ADT's may be used if significant increases in traffic are anticipated by the

County Engineer.

#### 11.3.4 Trip Generation

The developments ADT shall be calculated by trip generation rates prepared by the ITE as indicated in Table 11.2 or as listed in the latest edition of the ITE Generation Manual. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

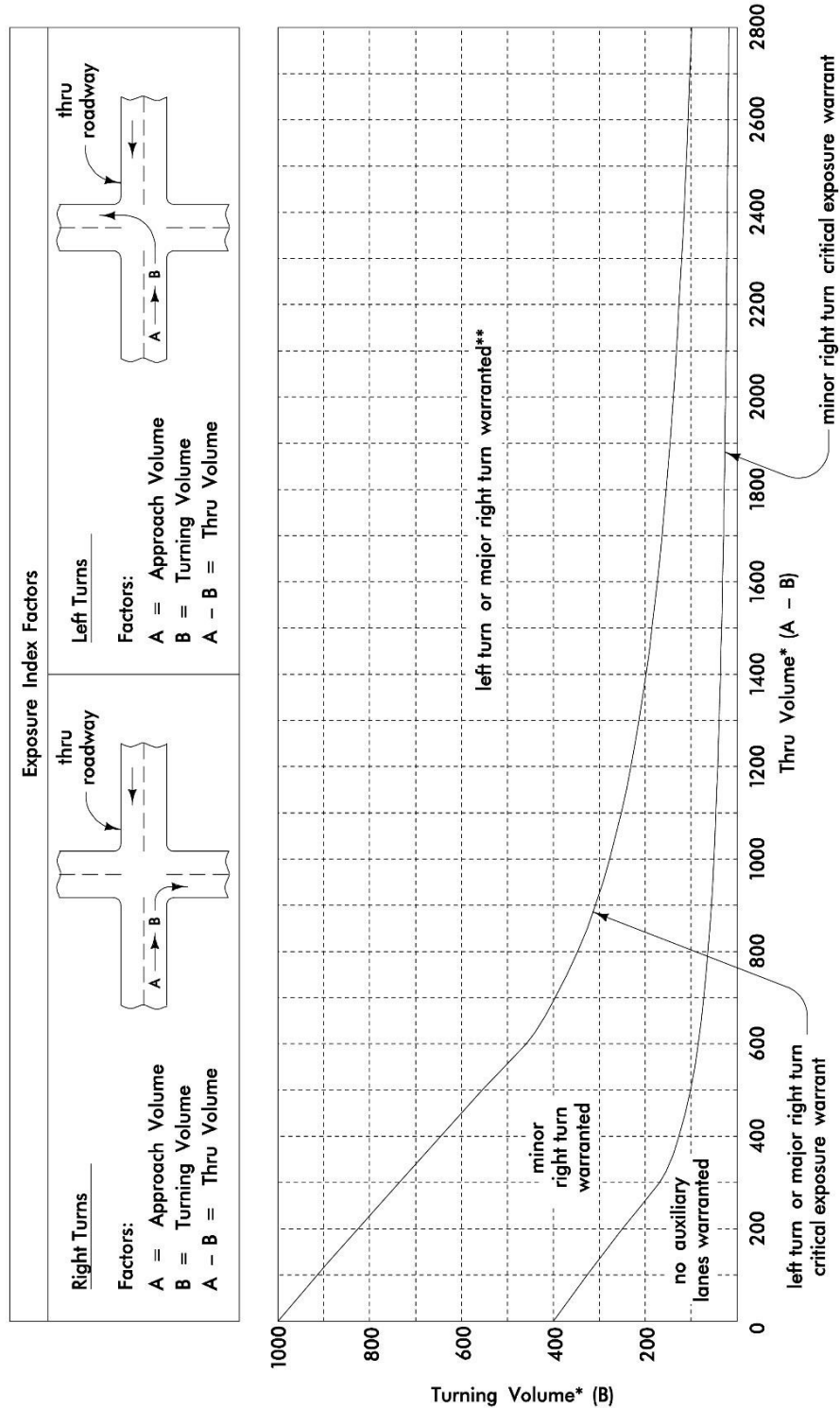
#### 11.3.5 Improvement Costs

If a turn lane is warranted, the cost of such improvement shall be the responsibility of the applicant and constructed to the design and specifications of the County Engineer.

Figure 11.2

# Rural Two-Lane Highways

## Rural Two-Lane Highways



Traffic volume is based on current ADT for right turns, and design year ADT for left turns.

\*Traffic volume must be adjusted for trucks based on Table 1.

\*\*At gravel road intersections, use minor right turn.

Source: Iowa Department of Transportation Office of Design. 2004. [Horizontal intersection design: rural two lanes \(6A-1\)](#). Ames, Iowa: Iowa Department of Transportation Office of Design.

**Table 11.1**

**Truck adjustment factors. Divide each approach volume by the appropriate factor.**

Truck %	Correction Factor	Truck %	Correction Factor	Truck %	Correction Factor	Truck %	Correction Factor
0	1.05	6	0.99	12	0.93	18	0.87
1	1.04	7	0.98	13	0.92	19	0.86
2	1.03	8	0.97	14	0.91	20	0.85
3	1.02	9	0.96	15	0.90	25	0.80
4	1.01	10	0.95	16	0.89	30	0.75
5	1.00	11	0.94	17	0.88	35	0.70

**Source:** Iowa Department of Transportation Office of Design. 2004. [\*Horizontal intersection design: rural two lanes \(6A-1\)\*](#). Ames, Iowa: Iowa Department of Transportation Office of Design.

Table 11.2

**INSTITUTE OF TRANSPORTATION ENGINEERS  
COMMON TRIP GENERATION RATES (PM Peak Hour)**

(Trip Generation Manual, 9th Edition)

Code	Description	Unit of Measure	Trips Per Unit
<b>PORT AND TERMINAL</b>			
30	Truck Terminal	Acres	6.55
90	Park and Ride Lot with Bus Service	Parking Spaces	0.62
<b>INDUSTRIAL</b>			
110	General Light Industrial	1,000 SF	0.97
120	General Heavy Industrial	Acres	2.16
130	Industrial Park	1,000 SF	0.85
140	Manufacturing	1,000 SF	0.73
150	Warehousing	1,000 SF	0.32
151	Mini-Warehouse	1,000 SF	0.26
152	High-Cube Warehouse	1,000 SF	0.12
170	Utilities	1,000 SF	0.76
<b>RESIDENTIAL</b>			
210	Single-Family Detached Housing	Dwelling Units	1.00
220	Apartment	Dwelling Units	0.62
221	Low-Rise Apartment	Dwelling Units	0.58
230	Residential Condominium / Townhouse	Dwelling Units	0.52
240	Mobile Home Park	Dwelling Units	0.59
251	Senior Adult Housing - Detached	Dwelling Units	0.27
252	Senior Adult Housing - Attached	Dwelling Units	0.25
253	Congregate Care Facility	Dwelling Units	0.17
254	Assisted Living	Beds	0.22
255	Continuing Care Retirement Community	Dwelling Units	0.16
<b>LODGING</b>			
310	Hotel	Rooms	0.60
320	Motel	Rooms	0.47
330	Resort Hotel	Rooms	0.42
<b>RECREATIONAL</b>			
411	City Park	Acres	0.19
412	County Park	Acres	0.09
413	State Park	Acres	0.07
415	Beach Park	Acres	1.30
416	Campground / Recreation Vehicle Park	Camp Sites	0.27
417	Regional Park	Acres	0.20
420	Marina	Berths	0.19
430	Golf Course	Acres	0.30
431	Miniature Golf Course	Holes	0.33
<b>Code Description</b>			
432	Golf Driving Range	Tees / Driving Positions	1.25
433	Batting Cages	Cages	2.22
435	Multi-Purpose Recreational Facility	Acres	5.77
437	Bowling Alley	1,000 SF	1.71
441	Live Theater	Seats	0.02
443	Movie Theater without Matinee	1,000 SF	6.16
444	Movie Theater with Matinee	1,000 SF	3.80
445	Multiplex Movie Theater	1,000 SF	4.91
452	Horse Race Track	Acres	4.30
454	Dog Race Track	Attendance Capacity	0.15
460	Arena	Acres	3.33
473	Casino / Video Lottery Establishment	1,000 SF	13.43
480	Amusement Park	Acres	3.95
488	Soccer Complex	Fields	17.70
490	Tennis Courts	Courts	3.88
491	Racquet / Tennis Club	Courts	3.35
492	Health / Fitness Club	1,000 SF	3.53
493	Athletic Club	1,000 SF	5.96
495	Recreational Community Center	1,000 SF	1.45
<b>INSTITUTIONAL</b>			
520	Elementary School	1,000 SF	1.21
522	Middle School / Junior High School	1,000 SF	1.19
530	High School	1,000 SF	0.97
536	Private School (K-12)	Students	0.17
540	Junior / Community College	1,000 SF	2.54
560	Church	1,000 SF	0.55
565	Daycare Center	1,000 SF	12.46
566	Cemetery	Acres	0.84
571	Prison	1,000 SF	2.91
580	Museum	1,000 SF	0.18
590	Library	1,000 SF	7.30
591	Lodge / Fraternal Organization	Members	0.03
<b>MEDICAL</b>			
610	Hospital	1,000 SF	0.93
620	Nursing Home	1,000 SF	0.74
630	Clinic	1,000 SF	5.18
640	Animal Hospital / Veterinary Clinic	1,000 SF	4.72



Code	Description	Unit of Measure	Trips Per Unit
<b>OFFICE</b>			
710	General Office Building	1,000 SF	1.49
714	Corporate Headquarters Building	1,000 SF	1.41
715	Single Tenant Office Building	1,000 SF	1.74
720	Medical-Dental Office Building	1,000 SF	3.57
730	Government Office Building	1,000 SF	1.21
732	United States Post Office	1,000 SF	1.22
733	Government Office Complex	1,000 SF	2.85
750	Office Park	1,000 SF	1.48
760	Research and Development Center	1,000 SF	1.07
770	Business Park	1,000 SF	1.29
<b>RETAIL</b>			
812	Building Materials and Lumber Store	1,000 SF	4.49
813	Free-Standing Discount Superstore	1,000 SF	4.35
814	Variety Store	1,000 SF	6.82
815	Free Standing Discount Store	1,000 SF	4.98
816	Hardware / Paint Store	1,000 SF	4.84
817	Nursery (Garden Center)	1,000 SF	6.94
818	Nursery (Wholesale)	1,000 SF	5.17
820	Shopping Center	1,000 SF	3.71
823	Factory Outlet Center	1,000 SF	2.29
826	Specialty Retail Center	1,000 SF	2.71
841	New Car Sales	1,000 SF	2.62
842	Recreational Vehicle Sales	1,000 SF	2.54
843	Automobile Parts Sales	1,000 SF	5.98
848	Tire Store	1,000 SF	4.15
850	Supermarket	1,000 SF	9.48
851	Convenience Market (Open 24 Hours)	1,000 SF	52.41
852	Convenience Market (Open 15-16 Hours)	1,000 SF	34.57
853	Convenience Market with Gasoline Pumps	1,000 SF	50.92
854	Discount Supermarket	1,000 SF	8.34
857	Discount Club	1,000 SF	4.18
860	Wholesale Market	1,000 SF	0.88
861	Sporting Goods Superstore	1,000 SF	1.84
862	Home Improvement Superstore	1,000 SF	2.33
863	Electronics Superstore	1,000 SF	4.50
864	Toy / Children's Superstore	1,000 SF	4.99
866	Pet Supply Superstore	1,000 SF	3.38
867	Office Supply Superstore	1,000 SF	3.40
875	Department Store	1,000 SF	1.87

Code	Description	Unit of Measure	Trips Per Unit
876	Apparel Store	1,000 SF	3.83
879	Arts and Craft Store	1,000 SF	6.21
880	Pharmacy / Drugstore without Drive-Through Window	1,000 SF	8.4
881	Pharmacy / Drugstore with Drive-Through Window	1,000 SF	9.91
890	Furniture Store	1,000 SF	0.45
896	DVD/Video Rental Store	1,000 SF	13.60
<b>SERVICES</b>			
911	Walk-In Bank	1,000 SF	12.13
912	Drive-In Bank	1,000 SF	24.30
918	Hair Salon	1,000 SF	1.93
925	Drinking Place	1,000 SF	11.34
931	Quality Restaurant	1,000 SF	7.49
932	High-Turnover (Sit-Down) Restaurant	1,000 SF	11.15
933	Fast Food Restaurant without Drive-Through Window	1,000 SF	26.15
934	Fast Food Restaurant with Drive-Through Window	1,000 SF	33.84
935	Fast Food Restaurant with Drive-Through Window and No Indoor Seating	1,000 SF	153.85
936	Coffee / Donut Shop without Drive-Through Window	1,000 SF	40.75
937	Coffee / Donut Shop with Drive-Through Window	1,000 SF	42.8
938	Coffee / Donut Shop with Drive-Through Window and No Indoor Seating	1,000 SF	75
940	Bread / Donut / Bagel Shop with Drive-Through Window	1,000 SF	18.99
941	Quick Lubrication Vehicle Shop	Service Bays	5.19
942	Automobile Care Center	1,000 SF	3.11
943	Automobile Parts and Service Center	1,000 SF	4.46
944	Gasoline / Service Station	Fueling Positions	13.87
945	Gasoline / Service Station with Convenience Market	Fueling Positions	13.51
946	Gasoline / Service Station with Convenience Market and Car Wash	Fueling Positions	13.94
947	Self Service Car Wash	Stalls	5.54
948	Automated Car Wash	1,000 SF	14.12
950	Truck Stop	1,000 SF	13.63

**Note: All land uses in the 800 and 900 series are entitled to a "passby" trip reduction of 60% if less than 50,000 ft<sup>2</sup> or a reduction of 40% if equal to or greater than 50,000 ft<sup>2</sup>.**

\* Approximated by 10% of Weekday average rate.

## Definitions of Land-use Categories

The following land-use definitions are derived from the *ITE Trip Generation* (9th Edition) publication. They have been modified as appropriate for the City of Portland. ITE land-use codes are shown; where multiple codes are listed, the code used for trip generation is marked with an asterisk (\*).

### *Residential*

**Single Family, detached:** Includes all single-family detached homes on individual lots and clustered homes of up to 3 units. (ITE # 210)

**Multi Family:** A building or buildings designed to house four or more families living independently of each other. Includes low-rise, mid-rise, and high-rise apartments. (ITE # 220)

**Senior Housing:** Residential units similar to apartments or condominiums restricted to senior citizens. (ITE # 251)

**Accessory Dwelling Unit.** A second dwelling unit created on lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than the house, attached house, or manufactured home. (ITE # 210 calculated at 50% of the trip generation rate)

**Row House / Townhouse/ Condo:** A building or buildings designed to house two or more families living independently of each other. Includes condos and attached townhouses of 2 units or more. (ITE # 230)

**Nursing Home:** A facility whose primary function is to provide chronic or convalescent care for persons who by reason of illness or infirmity are unable to care for themselves. Applies to rest homes and convalescent centers. (ITE # 620)

**Congregate Care/Assisted Living:** One or more multi-unit buildings designed for people who are unable to live independently due to physical or mental handicap. Facilities may contain dining rooms, medical facilities, and recreational facilities. (ITE # 253)

### *Commercial-Services*

**Bank:** A building, with or without a drive-up window, for the custody or exchange of money, and for facilitating the transmission of funds. (ITE # 911, 912\*)

**Day Care:** A facility for the care of infant and preschool age children during the daytime hours. Generally includes classrooms, offices, eating areas, and a playground. This also includes preschools. (Note: This does not apply to day care homes, family day care, mini-day care centers or mini-schools, rates for which must be separately calculated.) (ITE # 520)

**Library:** A public facility for the use, but not sale, of literary, musical, artistic, or reference materials. (ITE # 590)

**Post Office:** A building with service windows for mailing packages and letters, post office boxes, offices, vehicle storage areas, and sorting and distribution facilities for mail. (ITE # 732)

**Hotel/Motel:** A place of lodging providing sleeping accommodations. May include restaurants, cocktail lounges, meeting and banquet rooms or convention facilities. (ITE # 310\*, 320)

**Service Station/Gasoline Sales:** A facility used for the sale of gasoline, oil, and lubricants. May include areas for servicing or repairing vehicles. May include a minimart (not to exceed 1,500 square feet) and/or carwash. (ITE # 946)

**Movie Theater:** Consists of audience seating, with one or more screens, and a lobby and refreshment

stand. Typically includes matinee showings. (ITE # 444)

**Carwash:** Manual operations where the driver parks and washes the vehicle in a stall, or an automated facility for the same purpose. (ITE # 947)

**Health Club:** Privately owned facility that may include swimming pools and whirlpools, saunas, weight-lifting and gymnastics equipment, exercise classes, tennis, racquetball, and handball courts. Features exercise sports and other active physical conditioning, as well as a broader range of services such as juice bars and meeting rooms. (ITE #s 492\*, 493)

**Marina:** A facility providing moorage for boats. (ITE # 420)  
*Commercial-Institutional*

**School, K-12:** Covers full range of primary and secondary schools. Includes elementary, junior high, middle school and high school uses. Both public and private schools are included in this land use. (ITE# 520, 530, average)

**University/College:** Facilities of higher education including two-year, four-year and graduate-level institutions. (ITE # 550)

**Church:** A building providing public worship facilities. Generally houses assembly hall or sanctuary, meeting rooms, classrooms, and occasionally dining facilities. (ITE # 560)

**Hospital:** A building or buildings designed for the medical, surgical diagnosis, treatment and housing of persons under the care of doctors and nurses. Rest homes, nursing homes, convalescent homes and clinics are separate uses. (ITE #610)

**Park:** Parks are typically owned and operated by the City, but may include private uses. They can vary widely as to location, type and number of facilities, including boating or swimming facilities, ball fields, campsites and picnic facilities. (ITE # 411)  
*Commercial-Restaurant*

**Restaurant:** An eating establishment that sells prepared food or beverages and generally offers accommodations for consuming the food or beverage on the premises. Usually serves breakfast, lunch, and/or dinner; generally does not have a drive-up window. (ITE # 931)

**Quick Service Restaurant (Drive-through):** An eating establishment that offers quick food service and a limited menu of items. Food is generally served in disposable wrappings or containers, and may be consumed inside or outside the restaurant building. Restaurants in this category have a drive-up window. (ITE # 934)  
*Commercial-Retail*

**Miscellaneous Retail:** Small strip shopping centers or retail space within a mixed-use building up to 199,999 square feet that contain retail shops specializing in quality apparel, hard goods, and services, such as small restaurants (under 3000 square feet), real estate offices, dance studios, and florists. (ITE #826)

For the purpose of this definition a mixed-use building consists of two or more of the following land use categories; residential, shopping/retail, entertainment, hotel/motel, or office. These land use categories have similar internal trip-making characteristics. Other land use categories, such as warehouse or manufacturing, do not share the same internal trip-making characteristics.

**Shopping Center:** An integrated group of commercial establishments that is planned, developed,

owned, or managed as a unit and are 200,000 square feet and over. Onsite parking facilities are provided, and administrative office areas are usually included. In addition to the integrated unit of shops in one building or enclosed around a mall, Shopping Centers may include certain peripheral buildings located on the perimeter of the center adjacent to the streets and major access points. (ITE #820)

**Supermarket:** Retail store (greater than 5,000 gross square feet [GSF]) that sells a complete assortment of food, food preparation and wrapping materials, and household cleaning and servicing items. Supermarkets may also include ATMs, bakeries, books and magazines, floral shops, limited service banks, photo centers, pharmacies and video rental areas. Some facilities may be open 24 hours a day. If gasoline sales are included on-site, use Gasoline Sales TSDC times number of fueling positions to calculate additional trips. (ITE # 850)

**Convenience Market:** A use that combines retail food sales with fast food or take-out food service; generally open long hours or 24 hours a day. If gasoline sales are included on-site, use Service Station/Gasoline Sales TSDC rate. (ITE # 851)

**Free-standing Discount Store:** A free-standing store or warehouse that offers centralized cashiering and a wide range of merchandise and/or food products. May include items sold in large quantities or bulk. Often is the only store on a site, but can be found in mutual operation with its own or other supermarkets, garden centers and service stations, or as part of community-sized shopping centers. Fred Meyer stores, Costco, and big box consumer electronic/ computer/toy stores are examples of this land use. If gasoline sales are included on-site, use Gasoline Sales TSDC rate times number of fueling positions to calculate additional trips. (ITE #s 813, 815\*)

**Car Sales (New/Used):** Facilities are generally located as strip development along major arterial streets that already have a preponderance of commercial development. Generally included are auto services and parts sales along with a sometimes substantial used-car operation. Some dealerships also include leasing activities and truck sales and servicing. (ITE # 841)

#### *Commercial-Office*

**Administrative Office:** An administrative office building houses one or more tenants and is the location where affairs of a business, commercial or industrial organization, professional person or firm are conducted. The building or buildings may be limited to one tenant, either the owner or lessee, or contain a mixture of tenants including professional services, insurance companies, investment brokers, and company headquarters. (ITE # 710)

**Medical Office/Clinic:** A facility that provides diagnoses and outpatient care on a routine basis but does not provide prolonged in-house medical/surgical care. A medical office is generally operated by either a single private physician/dentist or a group of doctors and/or dentist. (ITE # 720)

#### *Industrial*

**Light Industrial/Manufacturing:** A facility that may contain industrial or manufacturing uses. Manufacturing facilities have the primary activity of converting raw materials or parts into finished products. In addition to the actual production of goods, manufacturing facilities may also have office, warehouse, research and associated functions. Light Industrial facilities may be characterized by a mix of manufacturing, service and warehouse functions. Many produce goods by assembling other products, such as assembly of computers or other electronics. (ITE # 130)

**Warehouse/Storage:** Warehouses are primarily devoted to the storage of materials, but may also include limited office and maintenance areas. (ITE # 150)

**Self Storage:** Buildings in which a number of storage units or vaults are rented for the storage of goods. Each unit is physically separated from other units, and access is usually provided through an

overhead door or other common access point. (ITE # 151)

**Truck Terminal:** A facility where goods are transferred between trucks, trucks and railroads, or trucks and ports. (ITE #30)

#### **11.4 Signage within the Right of Way**

Standard signs and signage, as specified in the MUTCD, shall be used. The type, size, and location of all traffic control signage shall be determined by the County Engineer.

As per Sections 4.1 and 12.4, the developer shall be responsible for all costs associated with traffic control signage required for an access facility.

### **CHAPTER 12 Construction Requirements**

#### **12.1 Notification of Utility Companies**

The County, all applicable utility companies, and North Dakota One Call must be notified before construction work commences.

#### **12.2 Modifications to Plans**

Any modifications to approved engineering plans prior to permit issuance must be submitted and approved by the Highway Department.

#### **12.3 Traffic Control**

Traffic control and protection measures are required during the construction phases, if deemed appropriate by the County Engineer. In such cases, a traffic control plan, engineering plan, and specifications shall be submitted to the Highway Department. Should adequate traffic control measures not be in place, a representative of the Highway Department has the authority, but not the duty, to halt the construction until such time as the traffic control measures are in place to safely and efficiently move traffic through the construction area.

The first infraction will result in the halting of construction until such time as traffic control measures are corrected. The second infraction will result in the halting of construction for the remainder of that day. Traffic control measures must be established prior to the start of the next workday. Should there be a third infraction, the permit shall be revoked and there shall be a meeting with the applicant and Highway Department to discuss what measures will be taken to reinstate the permit.

## **12.4 Responsibility for Improvements**

Regardless of contracts, agreements, or inspections performed, the responsibility for the installed improvements required by this Ordinance shall rest solely with the applicant. The total cost of all construction and maintenance of the work specified shall be borne by the applicant.

## **12.5 Construction of Improvements**

### **12.5.1 General Requirements**

Construction of improvements required by this Ordinance shall be in accordance with the rules, regulations, and specifications as set forth in this Ordinance.

The construction of any improvements within the right of way shall not commence until an access permit is issued.

The construction of improvements must begin within six months of the date of issuance of an access permit and must be completed within 12 months of the issuance of an access permit. These time periods may be extended by the County Engineer upon receipt of a written request detailing sufficient cause.

### **12.5.1 Maintenance During Construction**

#### **a. Emergency Work**

If any emergency repairs or actions are required of the Highway Department on a County Highway due to construction of an improvement as approved by this Ordinance, the Highway Department may perform such emergency repairs or actions and charge the applicant for all the costs associated with such work.

#### **b. Debris Removal**

The applicant shall be responsible for cleaning and maintaining the right of way of the County Highway. The pavement surface shall be kept clean and free of mud, gravel, debris, trash, and other extraneous material at all times. Should the applicant fail to keep the pavement clean and free of mud and debris or the drainage functioning properly, the County shall have the right, but not the duty to clean the pavement and restore drainage to maintain a safe and passable

highway. The applicant shall be responsible for all costs incurred by the County for the pavement cleaning.

Persistent failure by the applicant to comply with this section will result in the Highway Department revoking the permit and taking any action necessary to keep the pavement clean and drainage functioning properly. Should the permit be revoked, there shall be a meeting with the applicant and Highway Department to discuss what measures will be taken to reinstate the permit.

c. Erosion and Sedimentation Controls

The applicant shall minimize the erosion and sedimentation that occurs during the construction of the access facility. The applicant shall develop and implement an erosion control plan consistent with the North Dakota Department of Transportation (NDDOT) Erosion and Sediment Control Handbook, as it presently exists or may hereafter be amended.

d. Damage to Utilities

Any damage caused to any utilities during construction shall be repaired at the applicant's expense to the satisfaction of the authority owning such utility. The Highway Department and owner of the utility shall be notified immediately by the applicant after damage has occurred, and the applicant shall outline the steps to be taken to repair the facility.

e. Winter Maintenance

No construction involving the widening of a County Highway will be allowed to commence after September 15th. Construction may resume when asphalt plants open the following spring.

Prior to the suspension of construction for the winter months, the applicant shall contact the Highway Department. The Highway Department shall perform a field inspection to identify any potential winter maintenance problems. The applicant shall correct any problems identified by the Highway Department to the satisfaction of the Highway Department. The applicant shall be solely responsible for all costs to correct any problems identified by the Highway Department.



## **12.6 Final Inspection and Acceptance**

Upon written notification by the applicant or applicant's representative that construction has been completed and all required reports have been submitted, the Highway Department shall perform a final inspection. Prior to final approval and acceptance by the Highway Department, the applicant shall correct any deficiencies noted by the Highway Department. Depending on seasonal workload, please allow 1-2 weeks for final inspection to be completed.

At such time as all work has been done to the complete satisfaction of the Highway Department, the performance guarantee shall be released.

## **CHAPTER 13 Performance Guarantees**

### **13.1 Performance Guarantees**

An acceptable Performance Guarantee to protect the County Highway System and ensure compliance with this Ordinance and with issued permits shall be provided prior to the issuance of a permit as provided for in this Ordinance. A Performance Guarantee shall be in an acceptable form for all Permanent, Temporary, and Field Drive access permits constructing a new access or modifying an existing access. The County Engineer shall be, and is hereby authorized to act for the County in all matters relating to Performance Guarantees. The County Engineer may, upon receipt of written application from an applicant substantiating good and reasonable cause, waive this requirement.

All performance guarantees shall be \$1000 dollars for the construction or modification of all access facilities and may be increased at the discretion of the County Engineer. The performance guarantee shall be made payable to the Cass County Highway Department and shall be submitted to the County Engineer. The type of performance guarantee provided may be a Check (cashier's or personal), Bank Draft, or Bank Money Order.

#### **13.1.1 Default**

If the applicant fails to perform the work with sufficient work force and equipment; with sufficient materials to insure the completion of said work within the specified time; performs the work unsuitably as determined by the County Engineer; neglects or refuses materials or performs anew such work as shall be rejected as defective and unsuitable; discontinues the execution of the work; or for any other cause whatsoever does not carry

on the work in an approved manner, the County Engineer shall give notice to the applicant and specify the corrective measures required. After said notice, the County Engineer shall then draw on the Performance Guarantee to complete the necessary work, in accordance with the terms of the Ordinance, permit, and Performance Guarantee, and the applicant will be billed for the cost associated with completing said work. If the bill remains unpaid for two consecutive months, the bill will be certified to the County Auditor and all of the expenses shall be charged against the land and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected.