

**CITY OF ST. AUGUSTA  
STEARNS COUNTY  
STATE OF MINNESOTA**

**ORDINANCE #2009-02**

**ORDINANCE REGULATING THE CONSTRUCTION  
AND MAINTENANCE OF CULVERTS  
WITHIN THE CITY**

**THE CITY COUNCIL OF THE CITY OF ST. AUGUSTA, STEARNS COUNTY,  
MINNESOTA HEREBY ORDAINS:**

1. All parts of ordinances in so far as they are inconsistent with the provisions of this Ordinance are hereby repealed.
2. All construction of driveways, approaches, culverts, and other activities in public City rights-of-way undertaken after the date of enactment of this ordinance, must comply with the terms of this ordinance.

**Section 1. Authority.**

This ordinance is adopted pursuant to Minn. Stat. Chapter 462 and the City's police powers.

**Section 2. Purpose.**

The purpose of this ordinance is to promote the public safety, the general welfare of the community and to enforce the goals and policies of the City of St. Augusta. This ordinance applies to the construction or modification of driveways, culverts and public accesses located within the City of St. Augusta that provide access to buildings constructed or to be constructed after the effective date of this ordinance.

**Section 3. Definitions.**

"Driveway" is defined as a road or path giving access from a City road, private road or cartway to one or more dwelling units or commercial buildings located or to be constructed on adjacent lands.

"Field Approach" is defined as a path or access route from a public road to an adjacent field or pasture.

**Section 4. Permit Required.**

- A. That all persons seeking to construct a new driveway, new field approach or to convert an existing field approach to a driveway must apply for and obtain a right-of-way (ROW) permit from the City prior to commencing construction.
- B. Every application for a ROW permit shall provide such information as the City may require.
- C. No ROW permits shall be issued to persons not in compliance with the terms of this Ordinance.

**Section 5. Conditions of Permit.**

- A. No work under this Provision is to be started until the Street Maintenance Supervisor approves the access driveway or entrance permit application and all applicable fees and escrow deposits have been received by the City.
- B. No driveway shall cross a wetland unless the wetland permit has first been obtained.
- C. No obstructions shall be constructed or planted in the City right of way. Obstructions include, but are not limited to, retaining structures, rip rap, posts, trees, shrubs and other such items. Mailboxes and support posts may be located within the City right of way, however, the City is not responsible for damage to mailboxes or posts during maintenance or snowplowing of the right of way. All mailbox supports must comply with Federal Highway Administration and Postal Service guidelines. Stone, masonry or other non-breakaway mailbox supports are not allowed within the City right of way.
- D. The applicant shall allow persons, such as the Street Maintenance Supervisor onto their property to inspect prior to the issuance of the permit, during the progress of the work and the finished work.
- E. Unless a written extension of time has been granted by the City or its designate, if work is not completed within 1 year of the date of issuance of the permit, any ROW permit, which has been granted under this ordinance, is void and the permit fee and escrow deposit are forfeited and applicant must reapply for a permit should they wish to continue with work covered under this ordinance.

- F. If required by the City or its designate, the applicant shall provide and install the necessary pipe and aprons for the driveway or entrance pursuant to the City's specifications.
- G. The following materials are acceptable driveway culvert materials:
  - 1. Corrugated metal pipe (CMP).
  - 2. Reinforced concrete pipe (RCP).
  - 3. Dual wall corrugated high density polyethylene pipe (Dual Wall CPE).
- H. The applicant shall furnish and place all soils needed in the construction or reconstruction of the driveway and/or entrance embankment.
- I. Unless otherwise agreed to by the City or its designate, the applicant will surface with gravel that portion of the driveway or entrance within the road right of way.
- J. The applicant may surface that portion of the driveway within the road right of way using materials other than gravel provided the applicant has obtained the approval of the City or its designee prior to the start of the work.
- K. Where work on the traveled roadway is necessary, traffic must be protected, and signing and proper barricades must be utilized pursuant to the Minnesota Manual of Uniform Traffic Control Devices.
- L. Dirt or debris from driveway/access construction activities are NOT ALLOWED on City roads and shall be removed within 24 hours of placement or within 3 hours notice to do so by the City or its designee, whichever is earlier. If an applicant fails to comply with this section, the City may remove the dirt or debris itself and charge the cost of clean up against the deposited escrow money. Costs incurred by the City to clean up the street in excess of the deposited escrow money may be assessed to the offending property owner pursuant to Minnesota Statutes §429.101.
- M. The roadside must be cleaned after work is completed and restored to a condition similar to that prior to construction.
- N. The applicant must place stakes in exact location of the proposed driveway prior to review by City or its designee, and again prior to culvert delivery.
- O. Applicant shall be responsible for cleaning and maintenance of any culvert installed under this ordinance. Should applicant fail to comply with this requirement, the City may assess the cost of any maintenance to the applicant pursuant to Minnesota Statutes §429.101.

- P. If any excavation is to take place “Gopher State One Call” is to be notified at (800) 252-1166 prior to start of construction.
- Q. After construction is completed, the driveway shall remain clean and free of debris at all times. Any debris deposited on the driveway or roadway shall be removed immediately.

**Section 6. Inspection of the work, escrow amount and fees.**

- A. Prior to construction of the driveway and installation of the culvert, the applicant shall meet with a Street Maintenance Supervisor or their designate at the site to inspect the site, to determine the location of the driveway or field approach, and to determine the scope of the work to be performed. Every new driveway or field approach shall also be required to have an inspection after the work is completed.
- B. Applicant shall establish with the City an escrow fund for any costs incurred by the City relating to the construction of the driveway or installation of the culvert including, but not limited to, repairing damage to any roadways as a result of the construction of the driveway and the installation of the culvert, turf establishment and removing an unacceptable driveway. The escrow amount shall be collected even if there is an existing driveway on the property. The amount of the initial escrow shall be established by a resolution of the City Council. If additional escrow is required or bills incurred beyond the escrow amount, applicant shall be billed directly for such costs and applicant agrees to furnish additional monies as requested by the City. Any amounts not utilized from this escrow fund shall be returned to the applicant, without interest, when all improvements have been completed, all financial obligations to the City have been satisfied, and the Street Maintenance Supervisor has approved the final inspection.
- C. Applicant shall provide to the City a nonrefundable permit application fee (in addition to the escrow deposit) to cover the City’s inspection costs. The amount of the permit application fee shall be established by a resolution of the City Council. However, an additional fee as determined by a resolution of the City Council shall be required, if the applicant installs the driveway prior to scheduling an inspection by the City. This additional nonrefundable permit application fee is to cover the City’s additional inspection and administrative costs.
- D. After construction is completed the applicant shall notify the City that the work has been completed and is ready for final inspection and approval by the Street Maintenance Supervisor or its designee.
- E. No changes or alterations in the approved construction may be made at anytime without the written consent of the City or its designee.

- F. If at the time of final inspection, the driveway and related grading and turf establishment is found to be acceptable, any remaining escrow deposit shall be refunded, without interest, at the next City Council meeting.
- G. Unless a written extension of time has been granted by the City, if the City is not notified within one year of the permit being issued that the work has been completed and is ready for inspection, the permit will be deemed null and void and any escrow deposit will be forfeited to the City.

**Section 7. Indemnification.**

- A. The applicant, his successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to release the City of St. Augusta, its officers and agents, from any and all liability and claims concerning the herein above described permit request, construction of the subject work, and the finished driveway or entrance.
- B. The applicant, applicant's successors and assigns, as a condition precedent to obtaining permit approval, hereby agree to hold harmless, indemnify and defend the City of St. Augusta, its officers and agents, from any and all liability and claims concerning the herein above described permit request, the construction of the subject driveway or entrance work, and the finished driveway or entrance, and further shall be deemed to have consented to the assessment of clean-up costs as set forth in this ordinance.
- C. The City shall have no responsibility to repair a driveway which encroaches upon a public right-of-way that is damaged during the course of City maintenance of the roadway.

**Section 8. Violation.**

- A. In the event of a violation of this ordinance, the City Council may institute appropriate actions or proceedings, including requesting injunctive relief to prevent, restrain, correct or abate such violations.
- B. Further, violation of this ordinance shall be grounds for the immediate revocation of the access driveway or entrance permit and/or imposition of a civil fine not to exceed \$500 at the discretion of the City Council.
- C. Each day of violation of this ordinance shall be deemed a misdemeanor for which the City may bring prosecution. In the event of a successful prosecution, then the prosecution costs may be added to any fines or penalties imposed by the Court, all as provided by statute. The maximum

penalty shall be the same as the maximum penalty provided by Minnesota law for misdemeanor violations.

**Section 9. Separability.**

It is hereby declared to be the intention that the several provisions of this ordinance are separable in accordance with the following: If any court of competent jurisdiction shall adjudge any provision of this ordinance to be invalid, such judgment shall not affect any other provisions of this ordinance not specifically included in said judgment.

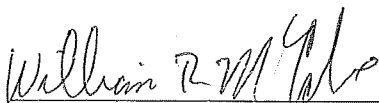
**Section 10. Effective date.**

This ordinance shall be in full force and effect from and after its passage and publication.

Adopted by the City Council of the City of St. Augusta, this 21<sup>st</sup> day of July, 2009.

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B.J. Kroll, Mayor



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William R. McCabe, Clerk