

**CITY OF ROSE CREEK
MOWER COUNTY, MINNESOTA
Ordinance No. 2024-4-1**

AN ORDINANCE REGULATING DRIVEWAYS AND DRIVEWAY ACCESSSES

The City Council of the City of Rose Creek ordains:

Section 1. Title. This Ordinance shall be known and cited as the City of Rose Creek Driveway Ordinance, and referred to herein as “this Ordinance.”

Section 2. Purpose. It is the purpose of this Ordinance is to establish reasonable regulations, requirements, and restrictions regarding the construction, reconstruction or resurfacing of driveway access onto streets within the City of Rose Creek (“City”) streets in order to protect the health, safety and welfare of City residents, those traveling on City streets, and the general public. It is also the purpose of this ordinance to protect the cumulative investment the public has made to construct, maintain, and improve the City’s streets by requiring those undertaking construction, reconstruction, or resurfacing projects in and near City streets to obtain a permit from the City and to be responsible for constructing, reconstructing or resurfacing such accesses to certain minimum specifications. Finally, this Ordinance provides for the recovery by the City of its actual expenses incurred related to such projects where reimbursement is required by this Ordinance.

Section 3. Driveway Access Permits. The construction, reconstruction, or resurfacing of a driveway access onto a City street shall require a driveway access permit from the City. All driveway accesses constructed, reconstructed or resurfaced within a City right-of-way shall comply with the standards and requirements in this Ordinance and comply with all other applicable laws, rules, regulations and ordinances. Specifically, the driveway accesses shall comply with the City’s Fencing Ordinance.

Section 4. Scope. The City requires a property owner to apply for and obtain a driveway access permit from the City before constructing a new driveway access, or reconstructing or resurfacing an existing driveway access, that provides access to or from a City street. A driveway access permit is required regardless of the intended use of the driveway. The owner shall pay the application/inspection fee, reimburse the City for costs of an engineering review if required, and is responsible for all costs associated with constructing the driveway access and obtaining and installing a culvert, or other drainage structures, as may be required. For the purposes of this Ordinance, the reconstruction or resurfacing of a driveway access requiring a driveway access permit includes any alteration that increases or decreases the vertical profile or width of the driveway access, any alteration to drainage by raising, lowering, changing the diameter, removing, or blocking an existing culvert, or a change in the use of the land that results in a significant change in the use of the driveway access such as if the land is converted from a residential to commercial use. The restrictions contained in this Ordinance that may occur within a City street right-of-way are in addition to the prohibition contained in Minnesota Statutes, section 609.74 and such other law as may apply. A failure to install a driveway access in

accordance with this Ordinance or the permit issued for the project, shall constitute a violation of this Ordinance.

Section 5. Application Procedures. A request for a driveway access permit to access a City street must be on the application form approved by the City and submitted with the required permit fees in accordance with the following:

- (a) The applicant shall provide all information required in the application form including, but not limited to, whether the driveway access is intended for primarily a residential, commercial, or industrial use, and a sketch of the driveway access showing its proposed location, width, and describing any proposed culverts or other drainage structures.
- (b) The applicant shall place stakes at each end and at each corner of the desired access showing its proposed location and width.
- (c) An inspection will be conducted of the proposed driveway access. If the inspector determines that review by an engineer is required, the applicant shall be required to reimburse the City the actual costs it incurs related to the engineer's review. The requirement to reimburse the City for its costs for the engineer's review is a condition of issuing the permit and failure to fully reimburse the City is a violation of the permit and of this Ordinance. Any specific requirements, conditions, or restrictions identified by the engineer during the review shall be incorporated in and made part of the driveway access permit.
- (d) No work on the driveway access shall occur until the driveway access permit has been issued. The driveway access and associated drainage structures must be constructed in accordance with the standards contained in this Ordinance and any specific requirements, conditions, or restrictions set out in the permit and in the engineer's report (if issued). The engineer's report is automatically incorporated in and made part of the driveway access permit issued by the City.
- (e) A change, or proposed change, in use of a property that results in a significant increase in the use, or intensity of the use, of an existing driveway access requires a new driveway access permit from the City. The permit may require reconstruction of the driveway access in order to adequately accommodate the increased use.

Section 6. Standards. The construction or modification of a driveway access shall comply with this Ordinance, including the following standards and any specific requirements imposed by the City Council for the driveway access.

- (a) Width Requirements. The hard surface of the driveway access shall be no less than 12 feet and not more than 24 feet in width. The permitted width of a driveway access shall be established in the permit issued for the driveway access. The driveway access must be able to reasonably accommodate the type of vehicles

anticipated to use the particular driveway access based on the primary use of the property.

- (b) Vertical Clearance. The area above the driveway access shall be clear of tree branches and other obstructions in order to achieve a vertical clearance of at least 14 feet and such vertical clearance shall be maintained in order to allow access by emergency vehicles.
- (c) Setbacks. No driveway access shall be placed within any of the following setback distances. Additional corner clearance may be required in the sole discretion of the City based on the presence of a bus stop, turning lane(s), a skew or complex intersection, atypically wide intersection, heavily traveled streets or other conditions that reasonably require a further setback distance. Common or shared driveway accesses are exempt from the side lot line setback requirement. The setback from an intersection shall be measured from the closest edge of the intersection right-of-way. The City Council may waive the requirements of this section if it determines that one or more may not reasonably be complied with by an application for a driveway permit.

Setback From:	Setback Distance
Another Driveway access	60 feet
Right-of-Way Intersection	60 feet
Side Lot Line	10 feet

- (d) Driveway Access Angle. All driveway accesses shall enter the right-of-way and connect to the surface of the street at 90 degree angles. The driveway access angle is measured as the angle between the driveway centerline and the edge of the surface of the street.
- (e) Driveway Headwalls. The sides of a driveway access used to support its surface, which are also referred to as headwalls, must be constructed in a manner so as not to create an unreasonable hazard for recreational vehicles and vehicles that may leave the travelled surface of the street. Furthermore, placing rocks, fences, pillars, posts, and other materials or structures that extend above the level of the driveway access can also pose a safety hazard and interfere with maintenance of the right-of-way. In order to avoid or reduce such hazards and interferences, a driveway headwall erected or reconstructed within the right-of-way of a City street shall have a slope of no steeper than 3 to 1 (horizontal to vertical). No materials or structures shall be placed on or along a driveway access that interfere with the maintenance of the right-of-way or that extend more than one foot above the surface of the access drive. This prohibition does not apply to mailboxes and newspaper boxes.
- (f) Drainage. Drainage along the City street shall be maintained at all times. No driveway access shall be constructed, expanded, altered, or maintained such that it interferes with the drainage of water within a ditch or along a curb and gutter. A culvert shall be required for a driveway approach when determined to be necessary

by the City Council. A culvert installed within a driveway access shall be a corrugated metal pipe (CMP), dual wall high density polyethylene, dual wall polypropylene, reinforced concrete pipe (RCP), or other material approved by the City Council that is designed for such use, and shall extend at least 2 feet beyond the edges of the driveway. Culverts shall have a minimum of 12 inches of cover, excluding aggregate base and surfacing materials, and shall have adequate length to achieve a 4:1 slope or flatter. Installation shall be in accordance with standards established by the Minnesota Department of Transportation.

- (g) **Maintenance of Drainage Structures.** The owner or occupant of land is responsible for maintaining the drainage structures installed in or associated with a driveway access including, but not limited to, keeping culverts free of dirt and debris, repairing, and replacing drainage structures as needed so as not to interfere with or obstruct the drainage of water along the right-of-way. If an owner or occupant fails to maintain, clean, repair, or replace a culvert or other drainage structure as needed to avoid obstructing drainage, the City may undertake such work as may be needed and the owner of the property shall be responsible for fully reimbursing the City for its costs. If the owner of the property fails to fully reimburse the City for any of the City's costs, the unreimbursed amount, together with collection costs, constitute a service charge that may be collected on the taxes of the owner's property as provided in Minnesota Statutes, section 366.012 (and pursuant to Minnesota Statutes, section 415.01, subdivision 1), or collected in accordance with any other legal authority available to the City, including Minnesota Statutes, Chapter 429.

Section 7. Multiple Driveway Accesses. No more than one driveway access to a lot shall be permitted, except upon approval of the City Council. A request for an additional driveway approach shall not be approved unless the owner demonstrates, to the City Council's satisfaction, a specific need for an additional driveway access and that the additional driveway approach can be placed and constructed in such a way as to not unreasonably interfere with the safe use or maintenance of the right-of-way or with access to any adjacent properties.

Section 8. Unsafe Driveway Accesses. Any driveway access within a City street right-of-way that creates a safety hazard for the traveling public, or unreasonably interferes with the use, maintenance, or drainage of the street, is hereby declared a public nuisance and is prohibited. The City may issue one or more written orders requiring the owner or occupant of the property, or both, to take such actions as the City determines are needed to eliminate or otherwise correct the nuisance condition. If the owner or occupant fails to promptly correct the condition as directed, or if the condition creates an eminent safety hazard requiring immediate action, the City may take action to eliminate the nuisance condition. The owner shall be required to fully reimburse the City for all costs it incurs to correct the condition.

Section 9. Surfacing. Driveway access hard surfacing shall extend from the driveway approach within the right-of-way onto the driveway within the private property as set forth in Attachment 1 and as needed to prevent eroded materials from running into the right-of-way. Gravel surfaced driveway accesses shall be a minimum of six (6) inches class 5 aggregate. Bituminous surfaced

driveway accesses shall be a minimum of three (3) inches bituminous over six (6) inches class 5 aggregate base. Concrete and brick pavers are subject to City approval.

Section 10. Construction. The construction, reconstruction or resurfacing of a driveway access must not interfere with the maintenance or safe use of the street. No materials shall be dumped or stockpiled on the surface of the street, on the shoulder, or within the right-of-way outside of the permitted location for the driveway access. Upon the completion of construction, the right-of-way must be cleared of any excess materials and any dirt or other materials shall be removed from the surface of the street. Unless stated otherwise, all construction activities, right-of-way restoration, and clean up shall be completed within one year from issuance of the driveway access permit.

Section 11. Restoration. Any part of the right-of-way disturbed during construction of a driveway access, or the installation of drainage facilities, shall be restored by the applicant to its pre-construction or pre-installation condition. Such restoration shall include, but not be limited to, grading, seeding, and landscaping as needed to fully restore the right-of-way and prevent erosion. Only natural netting blanket is allowed within the City right-of-way and both temporary seed and perennial ditch grass mix shall be used in accordance with supplier application rates. Slope shall be no flatter than 4 to 1 (horizontal to vertical).

Section 12. Waivers. An applicant for a driveway access may request the City Council grant a waiver of one or more of the standards or requirements of this ordinance. No waiver will be granted unless the applicant can demonstrate, to the satisfaction of the City Council, that there are extenuating circumstances necessitating the deviation and that granting the waiver will facilitate the safe and efficient use of the property and will not interfere with the construction, maintenance, and safe use of the street and its appurtenances. A waiver must be in writing and approved by the City Council at a meeting.

Section 13. Recovering Costs. If the owner or applicant fails to fully reimburse the City for any of the City's costs required to be reimbursed in this ordinance, the unreimbursed amount, together with collection costs, constitute a service charge that may be collected on the taxes of the owner's property as provided in Minnesota Statutes, section 366.012, or collected in accordance with any other legal authority available to the City.

Section 14. Definitions. For the purposes of this ordinance, the following terms shall have the meaning given them in this section.

- (a) **Applicant.** A person who requests or installs an access in accordance with this ordinance.
- (b) **Driveway.** A private street, drive, or way constructed for use by motor vehicles to provide access from a public street to a parking area on private property. The term includes the entire length of the drive on the property including, but not limited to, the portion of the drive located within the public right-of-way and which is referred to herein as the driveway access.

- (c) Driveway Access. The portion of a driveway located within a public right-of-way and which serves to connect the portion of the driveway located on private property to the surface of the public street. A driveway access is sometimes referred to as, and the term includes, a driveway approach or an access drive.
- (d) Right-of-Way. The entire area of a City street in which the City has an interest including, but not limited to, the street surface, shoulders, ditches, backslopes, and all areas beyond such improvements out to the edges of the City's easement or other ownership interest.
- (e) City. City of Rose Creek, Mower County, Minnesota.
- (f) City Council. The City Council of the City of Rose Creek, Mower County, Minnesota.
- (g) City Street. A public right-of-way that is regularly maintained by the City as part of its system of regularly maintained streets. The term includes, but is not limited to, platted streets and cartways that have been taken over by the City for public maintenance.

Section 15. Delegation. The City Council may delegate authority to administer and enforce all or any aspect of this Ordinance to one or more officers, employees, contractors or agents as it deems appropriate.

Section 16. Repealer. Any previous ordinance or regulation adopted by the City Council regarding the same matters are hereby repealed and replaced by this Ordinance and are hereby repealed as of the effective date of this Ordinance.

Section 17. Severability. If any portion of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 18. Violation and Penalty. Any person who violates, or fails to comply with, a provision of this ordinance, knowingly makes a false statement in any document required to be submitted under the provision hereof, or that violates a condition of a permit issued, shall be guilty of a misdemeanor. Upon conviction thereof, such person shall be punished by a fine and/or imprisonment as authorized by law for the punishment of a misdemeanor. Each day that a violation continues shall constitute a separate offense. In the event of a violation of this Ordinance, the City Council, in addition to the other remedies, may institute appropriate criminal and/or civil actions or proceedings to prevent, restrain, correct or abate such violations. Criminal prosecution of a violation shall not bar the City from also pursuing a civil remedy, just as pursuit of a civil remedy does not bar criminal prosecution of a violation.

This ordinance is hereby adopted this 1st day of April, 2024 and shall be effective upon the first day of publication.

BY THE CITY COUNCIL

Barry J. Deenlee
Mayor

Attest: Kristine M. Allen
City Clerk-Treasurer



