

ORDINANCE NO. UCC2011-001

AN ORDINANCE OF UNION COUNTY, SD, ADOPTING AN ACCESS MANAGEMENT ORDINANCE FOR UNION COUNTY.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF UNION COUNTY, SD:

**SECTION 1: GENERAL PROVISIONS**

1.01 Title

This ordinance shall be known as the "Union County Access Management Ordinance," except as referred to herein as "this ordinance."

1.02 Purpose

The Board of County Commissioners recognizes the need for regulation of entrances from adjoining lands to the traveled way of the County Road Systems under their supervision in order to promote the public safety, the esthetic values and engineering integrity of said road systems.

The intent of this ordinance is to permit a reasonable access to the road from abutting lands as is compatible with the principals as set forth in the following.

1.03 Interpretation

The provisions of this ordinance shall be interpreted to be the minimum requirements necessary to promote and protect the public health, safety and general welfare.

1.04 Statutory Authorization

Statutory Authorization is pursuant to South Dakota Codified Laws which includes SDCL § 7-8-20 and SDCL § 7-18. This is not intended as an exclusive list of the authority in which the commissioners are acting upon.

**SECTION 2: DEFINITIONS**

2.01 For the purpose of this ordinance, certain words contained in this section shall have the following meaning. Other words not contained in this section shall have the meaning defined in South Dakota State Statutes. Other words not defined in this ordinance shall have the meaning customarily associated with them.

A. Average Daily Traffic (ADT): The average volume of traffic for a 24-hour period.

- B. County Highway Superintendent: The individual charged by the Board of County Commissioners to construct and maintain roads under the jurisdiction of Union County.
- C. Department: The Union County Highway Department.
- D. Engineering Study: An evaluation of the operational and safety characteristics of a transportation facility using techniques, standards, and guidelines presented in the **Manual on Uniform Traffic Control Devices**, 2009 edition, **A Policy on Geometric Design of Streets and Highways**, 1994 edition, the **Traffic Engineering Handbook**, fifth edition, the **Manual of Transportation Engineering Studies**, 1994 edition, and **Trip Generation**, 6<sup>th</sup> edition.
- E. Permittee: Any land owner or land owner's agent possessing an access permit approved by the department.
- F. Traffic Impact Study: An evaluation of the traffic effects related to a particular land use, using techniques, standards, and guidelines common among traffic engineering professionals, including those published in the reference for the definition of engineering study.

### SECTION 3: APPLICATION AND PROCESS

#### 3.01 Permits Required

No person may construct any access providing direct vehicle movement between any county highway and any property adjoining a county highway without an access permit issued by the department. The property owner shall remove and pay for removal of an access point installed without a valid permit. Access permits shall be issued in compliance with this ordinance. Permit fee shall be set by resolution by the Board of County Commissioners. Permits issued after the fact will be at twice the cost normally associated with the permit.

#### 3.02 Applications

An applicant shall submit one application for each access location on county highways to the County Highway Superintendent.

#### 3.03 Contents of Application

An applicant shall submit an access application on a form approved by the department. The application shall include the following:

- (1) The name and address of the applicant;
- (2) The name and address of the property owner (if different from the applicant);
- (3) The legal description of the property to be served by the access;
- (4) The county highway and location on the highway to be accessed;

- (5) The land use of the property to be served by the access;
- (6) The type of access requested;
- (7) The estimated date of access construction;
- (8) The signature of the applicant and, if different from the applicant; of the property owner; and
- (9) The signature of any local government official with jurisdiction over the proposed access site attesting to review of the access, unless the need for the signature is waived by the County Highway Superintendent.

### 3.04 Additional Application Information

The department may also require the application to contain the following information:

- (1) A proposed access approach design;
- (2) A vicinity map indicating access location;
- (3) The estimated daily traffic volumes to and from the site;
- (4) The estimated daily traffic volumes to and from the access;
- (5) Three copies of a site plan showing the design details of the proposed access;
- (6) A construction traffic control plan;
- (7) Proof of liability insurance;
- (8) A detailed development plan;
- (9) A drainage plan;
- (10) A traffic impact study; and
- (11) A revegetation plan.

### 3.05 Completed Application

An application is complete when the County Highway Superintendent has received all documents required pursuant to Sections 3.03 and any additional information requested by the County Highway Superintendent under section 3.04 and or section 3.07.

### 3.06 Traffic Impact Study Requirement

- A. The County Highway Superintendent may require a traffic impact study at the expense of the applicant with any application that exceeds the traffic generation thresholds below. A professional engineer with specific experience in traffic operations analysis shall perform the study. The study shall be sealed by a South Dakota registered professional engineer. The study shall examine the functional relationships among existing, planned, and potential access points and shall use policies and design manual standards and guidance jointly determined by the department and the applicant. A traffic impact study shall be provided for the following developments unless waived by the County Highway Superintendent:
  1. For any residential development of more than twenty (20) dwelling units, or any office, commercial, industrial or mixed use development, with a building over 50,000 square feet, or

2. An application for access to a property that is expected to generate an average daily traffic of one hundred (100) or more vehicles.
3. Such other development that may pose traffic problems in the opinion of the County Highway Superintendent.

### 3.07 Local Government Consultation

The department shall provide a copy of any completed access permit to any local unit of government affected by the proposed access. The County Highway Superintendent may require the applicant to obtain signatures of officials of any affected local government documenting their review of the access point proposed in the access application. The affected local government may provide comments for consideration by the department.

### 3.08 Time Period for Application Review

The department shall advise an applicant of the status of the application within 30 days of receipt of a complete application. Any access application not acted upon by the department within 60 days is denied.

### 3.09 Conditional Application Approval

The department may attach reasonable and prudent stipulations as a condition of application approval. The stipulations shall indicate any access improvement or operating condition necessary to protect public health, safety, and welfare, including reference to applicable design standards.

### 3.10 Appeals

Any person aggrieved by a decision of the department on an access permit application may appeal in writing to the Board of County Commissioners within 20 days after the date of the decision. Within 15 days after receipt of the appeal, the Board of County Commissioners shall set a time and place for hearing the appeal. The hearing may not be later than 60 days after the filing of the appeal. The notice of the time and place of the hearing shall be sent by first-class mail to the appellant at least 20 days prior to the date set for hearing.

## **SECTION 4: ACCESS-LOCATION CRITERIA**

### 4.01 Access-Location Criteria

The highway classifications and access location criteria displayed in the table in Section 6, Union County Access-Location Criteria, shall be used to determine whether or not an access permit is granted, and if granted, the location of the access. The County Highway Superintendent shall determine the access classification for each highway using Section 6. An engineering study of sight distance, corner clearance, operational efficiency, safety and adjacent land use may also

be conducted by the county prior to granting access and may alter the criteria shown in the table. A traffic impact study, if required, shall be conducted pursuant to Section 3.06. Coordinated access planning, when conducted under Section 4.03, shall supersede any determination that may be applied by following Section 6. The department may choose to adopt and defer to local criteria on any county highway facility located within the local jurisdiction if the access location criteria promulgated by the local unit of government are more stringent than those contained in Section 6.

#### 4.02 Variance from Access-Location Criteria

The County Highway Superintendent may grant a variance from the access-location criteria in Section 4.01. The granting of the variance shall be in harmony with the purpose and intent of this ordinance. No variance may be considered until other feasible options for meeting access-location criteria are explored. Any applicant for a variance from these criteria shall provide proof of unique or special conditions that make strict application of the provisions impractical.

This shall include proof that:

- (1) Reasonably convenient access cannot otherwise be obtained;
- (2) No feasible engineering or construction solutions can be applied to mitigate the condition; and
- (3) No alternative access is available from a street other than the primary roadway.

No variance may be granted, unless a strict application of access-location criteria would deny reasonably convenient access or would endanger public health, welfare, and safety. A variance from local access-location criteria must be granted by the local jurisdiction prior to the department's consideration of the variance if the department has deferred to more stringent local criteria.

#### 4.03 Access Planning

Any access point on a county highway in or adjacent to an urban area may be determined by access planning. The department or any unit of local government may initiate an access plan. A local government shall obtain the participation of the department on any access plan that includes a county highway. Any access plan shall be in harmony with the purpose and intent of this ordinance. Any plan jointly developed by a local agency and the department shall be approved by the local entity and the department prior to taking effect. If a local jurisdiction declines to participate in access planning, the department may complete an access plan primarily considering the safety and efficiency of the county highway system. Nothing in any access plan prepared solely by the department shall be deemed to interfere with any local land use planning and zoning authority. The original approving agency must ratify any amendment to an approved access plan.

### **SECTION 5: ACCESS PERMITS**

#### 5.01 Permit Expiration and Extension

A permit is expired if the access is not under construction within one year of the permit issue date or before the expiration of any authorized extension. The permittee may request a one-year extension from the department if the permittee is unable to commence construction within one year after the permit issue date. Only one extension may be granted. Any request for an extension must be in writing and submitted to the department before the permit expires. The request shall state the reasons why the extension is necessary and when construction is anticipated. The request shall include a copy of the first page of the access permit. Any extension approval shall be in writing. Any person wishing to reestablish an access permit that has expired shall submit a new permit application.

#### 5.02 Permit Continuity

The landowner and the landowner's heirs, successors-in-interest, and assigns of property shall be responsible for meeting the terms and conditions of an approved access permit.

#### 5.03 Permittee to Notify the Department of Changes in Traffic Characteristics

The permittee shall contact the department to determine if a new access permit and modifications to the access are required if:

- (1) The land use served by the access changes;
- (2) The traffic volume using the access increases by at least 25%; or
- (3) The truck percentage of total vehicular volume using the access increases by at least 10%.

The department may, without receiving notice from the permittee, initiate such a review and determination, with notice to the permittee.

#### 5.04 Nonconforming Approach

The department may find an access not in conformance with these rules if:

- (1) The access was not authorized in accordance with Section 3.01;
- (2) The permittee did not notify the department of changes in traffic characteristics in accordance with Section 5.03;
- (3) The access is used in violation of the permit; or
- (4) The property served by the access has been platted without the approval of the department.

If such a finding, the department may order correction of the nonconformity, require the permittee to submit a new access application, or suspend or revoke the access permit and order the closure and removal of the access.

#### 5.05 Permittee is Responsible for Certain Costs

The permittee is responsible for the costs of construction, maintenance, and removal (if necessary) of the access. The permittee is also responsible for any risk and liability for any accident and damage that may occur to a person or property from the work performed under an access permit. The department may bring action to recover any cost incurred to correct any deficiency, as specified in Section 5.08. The permittee is also responsible for the cost of designing and constructing any turn lane, traffic signal, and other roadway improvement recommended by either the department or in a traffic impact study as necessary to mitigate any impact of development. The department may participate in funding any improvements at any local street intersection. Any improvement must be approved by the department and comply with department design standards.

#### 5.06 Notification of Construction Work and Time Period to Complete Construction

The permittee shall notify the department at least two working days prior to any construction within county highway right-of-way. Construction of the access may not proceed until the access permit is issued. The access shall be completed in an expeditious and safe manner and shall be finished within the time stated in the permit, not to exceed 45 days, from initiation of construction within the highway right-of-way. One construction time extension may be requested from the County Highway Superintendent to accommodate any unforeseen construction delay. The County Highway Superintendent shall determine the length of the construction time extension. The applicant shall notify the County Highway Superintendent at least two days prior to substantial completion of the access construction.

#### 5.07 Inspection of Access Construction

The department shall inspect the access to verify that all terms and conditions of the permit are met.

#### 5.08 Permittee Responsible for Maintenance of the Access

The permittee is responsible for the repair and maintenance of the access beyond the edge of the roadway including:

- (1) Surfacing;
- (2) Curb and gutter;
- (3) Cattle guard and gate;
- (4) Vegetation control;
- (5) Removal or clearance of snow or ice upon the access even though deposited on the access in the course of department snow removal operations;
- (6) Repair and replacement of any access-related culverts of 36-inch diameter or smaller within the right-of-way in unincorporated areas;
- (7) Obtaining department approval for all culvert repairs, drainage repairs, resurfacing, and changes in access design or configuration; and
- (8) Any other maintenance required for continued safe and satisfactory operation of the access point.

## 5.09 Department Role in Access Maintenance

The department may not maintain any access permitted under this chapter unless:

- (1) The department determines that modification of the access point is necessary to meet adjacent highway reconstruction;
- (2) The department performs similar type maintenance on the highway at the access;
- (3) The maintenance of a new approach is required for construction under SDCL 31-24-1 and 31-24-2;
- (4) The maintenance consists of culvert cleaning in an unincorporated area; or
- (5) The maintenance consists of repair and replacement of culverts larger than 36" diameter in an unincorporated area.

If the permittee fails to maintain an access point, the department, upon notice to the permittee, may correct any maintenance deficiency at cost to the permittee.

## SECTION 6: UNION COUNTY ACCESS-LOCATION CRITERIA

### 6.01 Union County Access-Location Criteria

Access Class	Signal Spacing Distance (mile)	Median Opening Spacing (mile)	Minimum Unsignalized Access Spacing (feet)	Access Density	Denial of Direct Access When Other Available
Urban Fringe	¼	½ F, ¼ D	1000	5 accesses/side/mile	Yes
Rural	N/A	N/A	1000	5 accesses/side/mile	Yes

#### NOTES:

1. Access to the Interstate system is governed by SDDOT interchange policy. No new access shall be provided on non-interstate routes within 1/8 mile of interstate ramp terminals.
2. N/A = Not Applicable, F = Full Movement – all turns and through movements provided, D = Directional Only – certain turning and through movements not provided.
3. The County may defer to stricter local standards.
4. The County will seek opportunities to reduce access density wherever possible.
5. Rural class minimum unsignalized access spacing may be reduced to 660' by the County Highway Superintendent, based on results of an engineering study as described Section 4.01.

### 6.02 Access Class Definitions

Interstate – the designated Interstate highway system as it is located in Union County, including I-29.

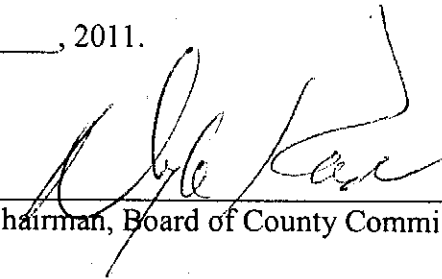
Urban Fringe – rural highway serving developing area immediately adjacent to a city or town. Access regulated to provide future through-traffic priority. County rural highway roads under the jurisdiction of the County that are within the platting jurisdiction of a municipality are required to maintain or establish a right-of-way of one hundred feet along the entirety of the



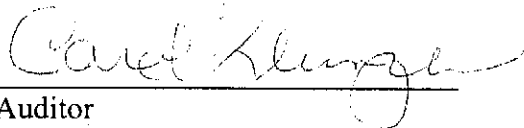
adjacent property with the "Urban Fringe" highway as a condition of receiving a valid access permit.

Rural – low volume, high-speed facility. Access points are spaced for safety and operations efficiency. The county rural highway roads are considered to be classified as a "Rural" unless otherwise classified as "Urban Fringe". All county jurisdiction roads classified as Rural are required to maintain or establish a right-of-way of sixty-six feet along the entirety of the adjacent property with the "Rural" highway as a condition of receiving a valid access permit.

Adopted this 19 day of April, 2011.

  
\_\_\_\_\_  
Chairman, Board of County Commissioners

ATTEST:

  
\_\_\_\_\_  
Auditor

(SEAL)

First Reading: April 5, 2011  
Second Reading: April 19, 2011  
Publication: April 28, 2011  
Effective Date: May 18, 2011