

**Clearwater County Access Management Ordinance**  
**September, 2007**

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# **Clearwater County Access Management Ordinance**

## **Section 1 Title**

This Ordinance will be known and referred to as the Clearwater County Access Management Ordinance. When referred to hereafter, it will be known as “this Ordinance” or the “Access Management Ordinance”.

## **Section 2 Purpose and Relationship to Other Ordinances**

### **Section 2.1 Purpose**

The purpose of this Ordinance is to regulate the location and general design of public and private access to Clearwater County Roads in order to:

1. Promote the safety and mobility of the traveling public;
2. Promote efficient and safe access to abutting land;
3. Ensure that all property is provided reasonably convenient and suitable access;
4. Support orderly economic development/redevelopment of the surrounding area;  
and
5. Support the development of a coordinated state and local road network.

### **Section 2.2 Conformance with Zoning and Subdivision Control Ordinances**

This ordinance implements the goals and policies of the Clearwater County Subdivision Controls Ordinance and Clearwater County Frame Work Plan. This ordinance shall also take into consideration current or future County/City/Town zoning or subdivision controls ordinances. In addition, this Ordinance supports the policies and guidelines of the Clearwater County Highway Department.

### **Section 2.3 Access Management Area**

The requirements of this Ordinance apply within Clearwater County along all County Roads. It supplements the requirements of the County Subdivision Controls Ordinance that governs the development of property within the Clearwater County and other City/Town/County zoning ordinances. Therefore, all standards and requirements of this Ordinance are in addition to the requirements of the Clearwater County Subdivision Controls Ordinance or City/Town/County zoning ordinances.

1. Any parcel of land located adjacent or within 500 feet of a Clearwater County Road is subject to all requirements of this ordinance.

2. If there is a conflict between any provision of this Ordinance and any provision of other subdivision ordinances, zoning ordinances, or other regulation from any of Clearwater County's local government agencies, the more restrictive provision will apply.

### **Section 3 Definitions**

For the purposes of this Ordinance, certain phrases, terms and words are defined as follows:

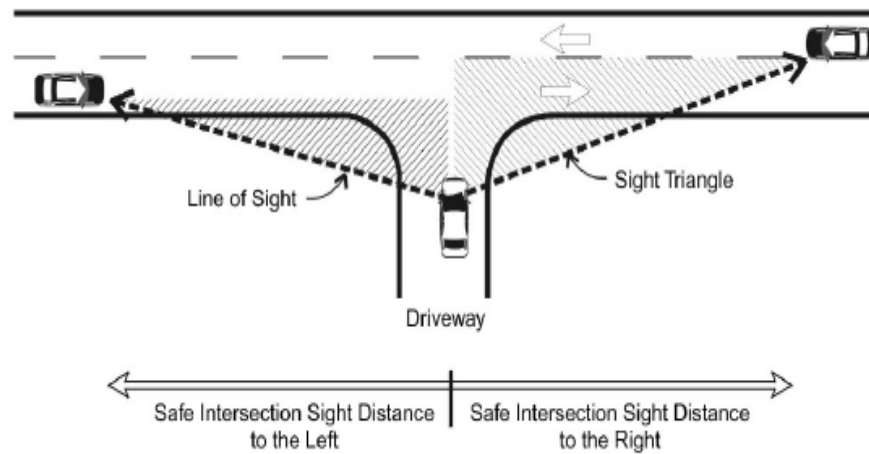
Access:	An entrance, driveway, street, road, or other way or means of approach that provides a vehicular entrance or exit to a property from an abutting property or public road.
Access, commercial:	A private access serving more than three residential units; one or more commercial, industrial, institutional or multiple family uses; or an agricultural feedlot.
Access, field:	An access to an agricultural field used for the movement of farm vehicles and equipment. However, an access to a farmstead, feedlot, or farm-related structure is not a field access.
Access, residential:	A private access serving three or fewer residential units, which may be either individual detached units or attached units within a single structure, a farmstead, or farm-related structures, but not including an agricultural feedlot.
Access connection:	Any entrance, driveway, street road, turnout, or other means of providing for the movement of vehicles to or from the public road system.
Permitting Authority	The Permitting Authority shall be the Clearwater County Engineer or his designee for all County Roads. The Permitting Authority shall administer this ordinance.
Access Permit:	A permit issued by the Permitting Authority authorizing construction of the access to a County Road.
Build-out plan:	A plan or concept that depicts full development of property in accordance with the requirements of the Clearwater County Subdivision Controls Ordinance or other City/Town/County zoning ordinances.
Corner Clearance:	The distance from an intersection to the nearest access connection measured along the edge of the traveled way, from the nearest pavement edge of the primary roadway to the nearest pavement edge of the access on the connecting street.

County Road:	Roads or highways including right-of-way that is under the jurisdiction of Clearwater County. It includes all County Aid Roads and all County State Aid Highways.
County Aid Roads (CAR):	Roads under the jurisdiction of Clearwater County which are primarily funded by local property taxes and are classified as local roads. These are roads designed to provide direct access to properties at slower speeds.
County State Aid Highways (CSAH):	Roads under the jurisdiction Clearwater County which are primarily funded by state aids. Most CSAH are currently classified as collector roads. These roads are designed or will be designed in the future for larger traffic volumes and faster speeds.
Driveway, shared:	A single driveway or other entrance that is shared by two or more uses on one or more properties.
Modification of Access Standards:	A procedure used to consider approval of an Access Plan or Permit that would not otherwise meet standards of this Ordinance when deemed necessary to allow reasonable economic use of the property as permitted by the underlying zoning/subdivision control ordinance and to ensure reasonably convenient and suitable access to a legal lot or parcel of record.
Related Application:	An application for a subdivision approval that also requires approval of an access management plan under the provisions of this Ordinance or an application for a new access or modification to an existing access or parcel.
Restricted Turning Movement:	A restricted turning movement occurs when a physical barrier (such as a median), signage, or pavement markings prevent a vehicle from making a specific maneuver when entering or exiting an access. This may include restrictions on right turns, left turns, or through movement across a street.
State Trunk Highways (TH):	Are roads under the jurisdiction of MnDOT. All State Trunk Highways are currently classified as collector, minor arterial or principal arterial roads. These roads are designed for larger traffic volumes, faster speeds, and primarily function for through traffic.

Sight Distance,  
Intersection:

The distance visible to the driver of a stopped vehicle, as measured along the normal path of the roadway. This ensures that a driver can see far enough down the roadway to safely cross or pull out into traffic. In some cases, there may be another access within intersection sight distance. Intersection sight distance is illustrated in **Figure 2**.

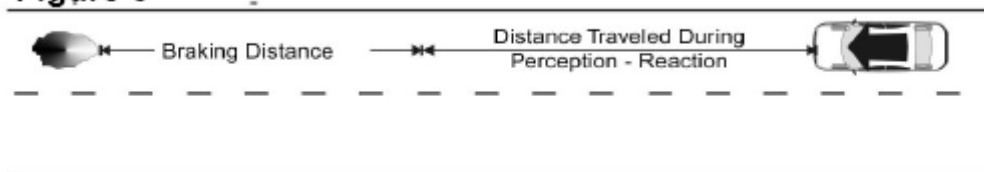
**Figure 2**



Sight Distance,  
Stopping:

The distance required by the driver of a vehicle, traveling at a given speed, to bring their vehicle to a stop once an object on the roadway becomes visible. Stopping sight distances is measured from the nearest edges of two adjacent entrances. Stopping Sight Distance is illustrated in **Figure 3**.

**Figure 3**

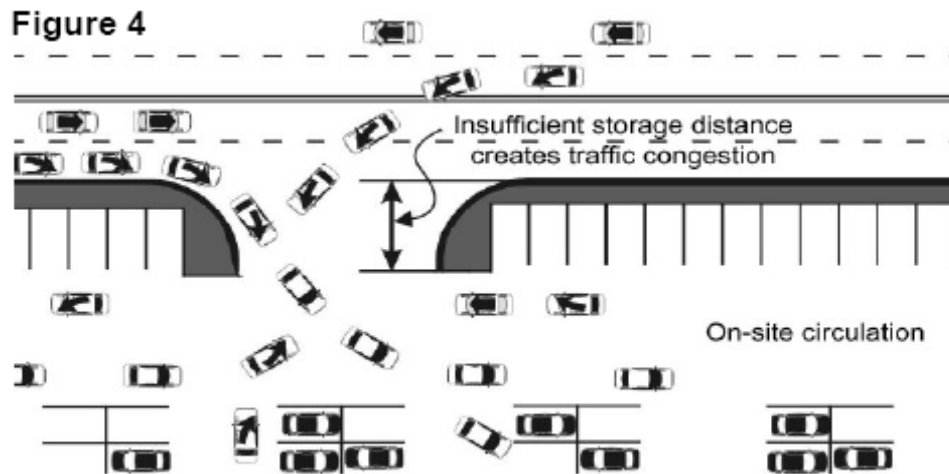


Subdivision Regulations:

Clearwater County Subdivision Controls Ordinance or other City/Town subdivision ordinances, as may be amended from time to time.

Throat Length:

The distance from the shoulder of the roadway to the first on-site location where a driver can make a right or left turn. Throat length is illustrated in **Figure 4**.



## Section 4 Applicability

### Section 4.1 Scope

From the effective date of this Ordinance, the provisions of this Ordinance apply to the general location and design of the public street network and access to property within the Access Management Zone. Any access that was legally established, but is not in conformance with the standards of this Ordinance, is considered a non-conforming access and may continue under the conditions established in Section 4.2 below.

### Section 4.2 Non-conforming Access

#### 4.2.1 Purpose

The purpose of this section is to recognize the existence of access connections which were lawful when established, but do not meet the requirements of this Ordinance; discourage the expansion and/or intensification in the use of such access; and encourage the elimination of non-conforming accesses or reduce their negative impacts on County Roads and the surrounding area.

#### 4.2.2 Continuation of Non-conforming Access

Any access connection in place as of the date of adoption of this Ordinance that does not conform with the standards herein is a non-conforming feature that will be allowed to continue as long as the access or the land use it serves is not expanded or discontinued.



### **4.2.3 Expansion of Non-conforming Access or Use**

If there is an expansion of a non-conforming access or the land use served by a non-conforming access, the non-conforming access must either be eliminated or brought into conformance with the standards of this Ordinance.

## **Section 5 Administration and Enforcement**

### **Section 5.1 Authority**

The Permitting Authority or his/her designee(s) shall administer and enforce the provisions of this ordinance. The Permitting Authority shall be the Clearwater County Engineer or his/her designee for all County Roads.

### **Section 5.2 Removal of Un-permitted Access**

The removal of an un-permitted access, at the discretion of the Permitting Authority, may be removed by the respective road authority.

### **Section 5.3 Violations and Penalties**

Any person who violates or fails to comply with any provisions of this ordinance shall be guilty of a misdemeanor and, upon conviction thereof, may be punished to the maximum extent allowed by law. For each day the violation continues, a separate offence shall be declared.

### **Section 5.4 Reimbursement for Expenses**

In addition to other civil or criminal sanctions, any person who violates this ordinance shall reimburse the County for the cost of any work or other expenses for removal of an un-permitted access, issuing a permit after construction has been initiated, or other related enforcement costs. The expense to be reimbursed including issuing a permit after construction has been initiated shall apply as a penalty even if the County normally does not charge for a permit. This ordinance may also be enforced by civil court action taken by the County Attorney after resolution by the County Board of Commissioners' authorizing civil court action.

### **Section 5.5 Amendments**

The Clearwater County Board of Commissioners may amend, supplement, or repeal provisions of this ordinance after a public hearing has been held. A notice of time, place, and purpose of the hearing shall be posted and published in the official newspaper of the County at least 10 days prior to the day of the hearing.

### **Section 5.6 Date of Effect**

This ordinance shall be in full force and effect after its approval and publication as provided by law.

## **Section 6.0 Access Plan Approval and Permit Requirements**

An approval of an access plan is required to aid in the planning stages prior to subdivision of land or for redevelopments of land as described below. An access permit is required prior to actual construction of the access. A property split does not necessarily create a right for a new access for contiguous parcels. Access permits are granted for a specific use. If the land owner proposes to change the current use of an access point, a new access plan and permit is required since the location of a particular drive may be suited for one use but not for another.

### **Section 6.1 Access Plan and Permit Requirements**

Approval of an Access Plan or Permit issued by the appropriate Permitting Authority is required prior to any one of the following events:

- 1) Plan approval for any land subdivision, conditional use permit, interim use permit, site plan, or zoning-related permit for any property located within the Access Management Zone;
- 2) Permit issued prior to the construction of any new public or private access to County Roads or to a public street that intersects directly with County Roads;
- 3) Plan approved and permit issued for the reconstruction or relocation of any existing public or private access to County Roads or a public street that intersects directly with County Roads;
- 4) Plan approved for a change in the primary use of land (which may include, but is not limited to, a change from agricultural to industrial, residential to commercial, or office to retail) that may change the amount of traffic using any existing private access;
- 5) Plan approved for a change in the intensity of the land use served by a commercial access defined as either a.) An increase in the gross floor area of a primary or accessory structure by 25 percent or 500 square feet, whichever is greater, or b.) An increase in the number of parking stalls by 25 percent or 5 stalls, whichever is greater.

### **Section 6.2 Access Plan Application Requirements**

An Access Plan consisting of a sketch of the property and the surrounding area must be submitted to the Permitting Authority. The Access Plan must provide the following information:

- 1) The dimensions of the property and the location of property lines;
- 2) The existing and proposed land use. For residential uses, indicate the number of units. For all other uses, indicate the specific type of use, square footage of existing and proposed structures, number of employees, and number of parking spaces;
- 3) The location and dimensions of existing and proposed structures, accesses, parking, drive aisles, and internal circulation;

- 4) The location of local streets and roads serving the surrounding area, the land use on adjacent parcels, and the location of and distance to public or private access serving adjacent parcels;
- 5) If the property is planned to be developed in phases or could be further subdivided, a build-out plan specifying location, size, and timing of additional parcels and/or structures and parking;
- 6) Any other information reasonably required by the County.

## **Section 6.3 Review and Approval**

### **6.3.1 Approving Authority**

The Permitting Authority shall have authority to approve access plans and issue access permits. If the proposed development requires any additional approval according to the Subdivision Controls Ordinance, the Access Plan must be reviewed and acted upon as a supplement to those requirements and according to the procedures established for the related application.

### **6.3.2 General Considerations**

To determine whether the proposed Access Plan meets the standards of this Ordinance, the Permitting Authority must consider all of the following factors:

- 1) The relationship to the existing and proposed land use for the City/County/Town; the transportation and road network plans of the City, County, and State; and the Trunk Highways;
- 2) The potential for future subdivision and development of the property and other properties in the vicinity of the proposed access;
- 3) The adequacy of existing or planned roadways to accommodate the proposed development in a safe and cost effective manner;
- 4) Environmental conditions affecting the area such as wetlands, floodplains, shore lands, slopes, and cultural resources;
- 5) Existing, planned, and potential future access to and circulation on adjacent properties;
- 6) Comments from any other affected road authority;

### **6.3.3 Measurements**

The spacing between accesses will be measured as follows:

- 1) Public intersections must be measured from the centerline of the intersection under review to the centerline of the next intersection or the nearest edge of the next driveway.
- 2) Private driveways must be measured from the nearest edge of the driveway under review to the nearest edge of the next driveway or the centerline of the next intersection.
- 3) An access will be considered in compliance with spacing requirements if it does not deviate more than 5% from the spacing standards established in this Ordinance.

### **6.3.4 Findings of Approval**

An Access Plan must be approved and Permit issued for construction by the Permitting Authority as provided in Section 6.3.1 if the plan complies with the standards and conditions set forth in Sections 8 and 9 of this Ordinance and the road authority's rules, policies, and specifications.

### **6.3.5 Conditions of Approval**

The Permitting Authority or other designated authority may add conditions to the approval of the Access Plan and Permit to ensure compliance with the spirit and intent of this Ordinance.

## **Section 6.4 Construction Responsibilities and Security Deposit**

### **6.4.1 Responsibilities**

The applicant is responsible for all costs associated with implementation of the Access Plan, including the construction of improvements required to meet any conditions of approval. Improvements may include the construction of the access or intersection, turn lanes, medians, connecting roadways or driveways, drainage devices and structures, associated grading and site restoration, and the acquisition and/or dedication of necessary right-of-way as permitted by law. The road authority may provide culvert materials in accordance with their policy.

### **6.4.2 Security Deposit and Construction Compliance**

The applicant must provide a security deposit or bond in the amount determined by the Permitting Authority as a performance guarantee to cover reasonable potential impacts to the public road right-of-way that could result from the construction work. The security deposit or bond will be returned if work is performed to the satisfaction of the Permitting

Authority, the Access Plan, road authority's policies, rules, and specifications. If the applicant fails to meet any requirements, the security deposit or bond may be used by the road authority to cover their cost to make the corrections. The applicant will be responsible for any cost over and above the security deposit or bond to make any corrections.

## **Section 6.5 Duration of Approval**

If the access has not been constructed or utilized within one year after approval of the Access Plan or Permit, the approval expires unless a time extension is granted. To request an extension, a written request explaining the need for the extension must be submitted to the Permitting Authority at least 30 days before the expiration of the original approval. The Permitting Authority will determine whether to grant the extension or require a new application.

## **Section 7 Access Management Districts**

All property within the Access Management Zone is classified to an Access Management District in accordance with the criteria in Section 7.1 and as established in the appropriate road authorities' policies or transportation plans. The Permitting Authority ordinance shall keep a current listing or map identifying the location of each Access Management District and Functional Road Classification.

### **Section 7.1 Districts Established**

The separate Access Management Districts are established within the Management Zone to recognize variations in the existing and planned land use of the surrounding area.

#### **7.1.1 City Access Management District**

The City Access Management District starts at the city limits or planned city expansion area of each city or town and shall extend through the city. The road network is characterized by short blocks and a grid system of intersecting streets. Individual lots are typically small and buildings may be located close to streets. Sidewalks, pedestrian traffic, and on-street parking are common. Roads are posted or planned to operate at lower speeds typically 30 mph but no more than 40 mph.

#### **7.1.2 Rural Access Management District**

The Rural Access Management District covers any area outside the city limits or planned city expansion. The Rural District is established to guide access location and rural subdivision design decisions along County Roads. The highway is planned to operate at higher speeds through this district, typically 50 mph or more.

## Section 8 District Standards

All access to County Roads must conform to the spacing and design standards provided in Table 1 and as follows.

**Table 1**  
**Access Spacing and Allowance Standards**

Functional Class	Existing and Proposed Land Use	Typical Posted Speed (mph)	Spacing Between Connections (ft) <sup>a</sup>
Collector	Rural	50 mph and over	500
	City Limits	40 mph and over	360
	City Limits	Below 40 mph	250
Local	Rural	50 mph and over	300
	City Limits	Below 50 mph	150

<sup>a</sup> Distances are based upon spacing between connections (major roads, local and public streets and private driveways). Distances are minimum and greater spacing is beneficial.

### Section 8.1 Standards for All Street Intersections

- 1) A street intersection must not be located within a turn lane to another public street or a private driveway;
- 2) Whenever possible the intersection should be located on a local road or road of lower classification when a parcel is located on two separate road systems.
- 3) The intersection must be located to provide adequate intersection sight distance, as provided in Table 2 below:

**Table 2**  
**Stopping and Intersection Sight Distances**

Posted Speed (mph)	Stopping Sight Distance (ft) *	Intersection Sight Distance (ft) **	
		Right-turning vehicles	Left-turning vehicles
25	155	240	280
30	200	290	335
35	250	335	390
40	305	385	445
45	360	430	500
50	425	480	555
55	495	530	610

Source: AASHTO *Green Book 2001*

\*Stopping sight distance is based on a level roadway without horizontal curvature. It is measured from the nearest edges of two adjacent entrances.

\*\*The intersection sight distance shown is for a stopped passenger car to cross or turn onto a two-lane highway with no median and a grade of 3% or less.

- 4) The minimum spacing between a street intersection and the next street intersection must conform to the spacing distance shown on Table1;
- 5) Turn lanes must be provided in accordance with Mn/DOT guidelines and as recommended by Permitting Authority;
- 6) To ensure adequate corner clearance, any public or private access to a street that intersects with a County Road must be located away from the edge of the travel lane by the minimum distance indicated in Table 1 for local roads.

## **Section 8.2 Private Access**

Private Access to County Roads is subject to the standards below. If any of these standards cannot be met, the access may only be approved as a Modification of Access Standards as set forth in Section 10 of this Ordinance.

- 1) An existing parcel will be permitted one private access, if property access rights are retained. Additional accesses will be permitted if the location of the new access meets the spacing criteria and all other standards; however one access is encouraged. A parcel created by subdivision does not guarantee an access. A parcel created by subdivision must meet the requirements of this section prior to approval in accordance with the Subdivision Controls Ordinance;
- 2) A private access connection must not be located within a turn lane to a public street or another private driveway;
- 3) A private access must be located on the property to provide adequate intersection sight distance as provided in Table 2;
- 4) Whenever possible the private access should be located on a local road or road of lower classification when a parcel is located on two separate road systems.
- 5) The minimum spacing between access connections or between an access and a public street connection must conform to the distance requirements in Table 1;
  - a. If the frontage is inadequate to provide the required minimum spacing, access must be provided via a shared entrance or cross access easement with an adjacent property, unless a Modification of Access Standards is granted under Section 10;
  - b. To maintain minimum safe spacing between commercial accesses as future development occurs, a commercial access may be required to serve adjacent property via a shared entrance located on the common property line or a cross access easement; and
  - c. When required to provide a shared entrance or cross access easement, the property owners must record an easement allowing cross access to and from

the properties served by the shared driveway or cross access. The easement must include a joint maintenance agreement defining the responsibilities of the property owners;

- 6) Turn lanes must be provided if recommended by Permitting Authority; and

## **Section 9 Design Standards**

### **Section 9.1 Subdivision Standards**

All subdivisions within the Access Management Zone must meet all of the following design standards:

- 1) The street system of a proposed subdivision shall be designed to meet the public street spacing provided in Section 8 of this Ordinance and to coordinate with existing, proposed, and planned streets serving the surrounding area.
- 2) All access to individual lots shall be provided from the internal street system or meet the access spacing standards per Table 1.

### **Section 9.2 Commercial Site Design Standards**

To ensure safe vehicular movement, property with commercial access must meet all of the following design standards:

- 1) Sites must be designed to promote internal access between parking areas, buildings, and future development areas on the property and on adjacent properties;
- 2) Backing, loading, unloading, or other maneuvers must be accommodated on the site without blocking or backing onto the road;
- 3) The design of any access including the width, grade, and radii shall conform with Mn/DOT guidelines and standards and other appropriate road authority standards.
- 4) The driveways throat length must be sufficient to prevent vehicles using the access from interfering with traffic movement on the road.

### **Section 9.3 Residential Access**

Residential access must be designed to provide adequate space on the property for vehicles to turn around without backing on to the road.

### **Section 9.4 Access Construction Standards**

The access width, slope, culvert size, radius and other features of the approach shall be in accordance with the road authority policies and standards.



## **Section 10 Modification of Access Standards**

### **Section 10.1 Purpose**

It is recognized that the complete and interconnected supporting local street network necessary for full compliance with this Ordinance may not be available due to conditions beyond the control of the individual property owner. The following procedure has been established to consider modifications of the access standards when necessary to allow reasonable economic use of property to provide reasonably convenient and suitable access to every legal lot or parcel of record.

### **Section 10.2 Application Requirements**

An application for a Modification of Access Standards shall include:

- 1) A complete Access Plan as required in Section 6 of this Ordinance;
- 2) Additional information may be required by the Permitting Authority, such as documentation of attempts to obtain a cross access easement or a traffic impact study.

### **Section 10.3 Procedures for Review and Approval**

The procedures for the review and approval of a Modification of Access Standards shall be the same as for an Access Plan and Permit as specified in Section 6 of this Ordinance.

### **Section 10.4 Findings for Approval of Modification of Access Standards**

#### **10.4.1 Public Street Connections**

The Permitting Authority may approve a public street connection as a Modification of Access Standards when the proposed street connection meets all of the following findings:

- 1) The proposed street connection is necessary to provide reasonable connectivity to the supporting road network or to provide access to an area that is otherwise isolated due to topography, unique natural features, or existing land use and street patterns;
- 2) The proposed street connection is necessary for the property to be put to reasonable economic use as permitted by the underlying zoning; and
- 3) The proposed street connection conforms to the greatest extent practicable with the access spacing, location, and design standards in Sections 8 and 9 of this Ordinance.

## 10.4.2 Private Access

The Permitting Authority may approve a private access as a Modification of Access Standards when the proposed access meets all of the following:

- 1) The property retains access rights;
- 2) Reasonably convenient and suitable alternative access is not available or attainable from the local road network or by shared access and/or cross access to adjacent properties due to one or more of the following circumstances:
  - a. Use of the alternative access would disrupt a protected wetland under the Wetland Conservation Act, a protected shore land under the Shoreland Management regulations, or a steep slope (greater than 12%);
  - b. The affected road authority will not authorize the necessary extension of the connecting road system;
  - c. The adjacent property owner will not authorize the necessary shared access or cross-access agreement; or
  - d. The affected road authority will not authorize use of the local connecting road system due to the projected impacts of anticipated traffic on the structural or geometric capacity of the roadway or the safety and livability of the surrounding area;
- 3) The proposed private access connection is necessary for the property to be put to reasonable economic use as permitted by the underlying zoning; and
- 4) The proposed private access conforms to the greatest extent practicable with the access spacing, location and design standards in Sections 8 and 9 of this Ordinance;

## Section 11 Appeals

### Section 11.1 Applicant may Appeal Decision

An applicant whose Access Plan or Permit is not approved, or is approved with conditions not agreeable by the applicant, shall have 30 days to appeal the decision in writing, stating the reasons for which an appeal should be considered. Appeals of decisions by the Permitting Authority will be considered according to the procedures set forth below. The Permitting Authority will bring the appeal to the Clearwater County Board of Commissioners. The County Board will hear the appeal and make a decision to deny the appeal, modify the appeal to best meet the intent of the ordinance, or approve the appeal. Such appeal shall be heard by the County Board within sixty (60) days of the date that such application is submitted to the Permitting Authority.

1. The County Board may consider a modification of access standards in accordance with Section 10 of this Ordinance where it is found that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be serviced to a greater extent by an alternative proposal.

### Section 11.2 Notice to Road Authorities

The Permitting Authority must notify any affected road authority a minimum of 10 days prior to the scheduled public hearing for the appeal.

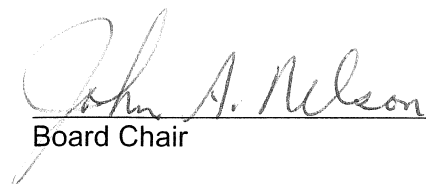
### Section 11.3 Conditions

The City/County/Town may impose conditions on the approval of any appeal as necessary to effect compliance with the spirit and intent of this ordinance.

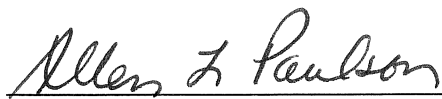
## Section 12 Effective Date

This Ordinance shall be in full force and effect on October 9, 2007, after its passage and publication according to law.

Approved and adopted this 9<sup>th</sup> day of October, 2007.

  
Board Chair

ATTEST:

  
County Auditor