

DENMARK TOWNSHIP
WASHINGTON COUNTY, MINNESOTA
Ordinance No. 2014-__

**AN ORDINANCE AMENDING THE DENMARK DEVELOPMENT
CODE REGARDING DRIVEWAYS AND DRIVEWAY ACCESSES AND REGARDING
OTHER CLARIFYING CLERICAL AMENDMENTS**

The Board of Supervisors of the Town of Denmark ordains:

Article I. *Unreimbursed Costs.* Chapter One, Section 1.7 of the Denmark Township Development Code is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- 1.7 Applications and Cost Reimbursement. All applications submitted pursuant to this Ordinance must be on the appropriate Township application form. Notwithstanding anything to the contrary in this Ordinance, all required copies of an application and related documentation, except the copies to be submitted directly to the Zoning Administrator and Town Attorney, shall be submitted to the Township Clerk/Treasurer together with the application fee, escrow payment, and escrow agreement. The Zoning Administrator is authorized to determine if the application is complete, to notify the applicant of what information is needed in order to make an application complete, and to take all other steps as are necessary or deemed advisable to manage the application process. The Zoning Administrator may, on a case-by-case basis, waive certain application requirements in writing or may require an applicant to submit additional information in order to allow the Township to more fully understand the request or the potential impacts. No application for a permit or permission required by this Ordinance shall be considered complete, and no application will be processed, unless there are no delinquent property taxes, special assessment, service charges, penalties, or interest on any property the applicant owns within the Township, and the applicant has no unpaid zoning related application fees, administrative fees, fines, or penalties due to the Township. Applicants required to submit an escrow shall be responsible for fully reimbursing the Township for all professional costs it incurs related to the request. The costs to reimburse the Township in full for the professional costs it incurs related to processing an application constitute a service charge, imposed pursuant to the Township's authority under Minn. Stat. § 462.353, subd. 4., the applicant is required to pay regardless of whether the application is approved, denied, or withdrawn. If the escrowed amount is not sufficient to fully reimburse the Township for its costs, the applicant shall be billed for the additional amounts, which must be paid within 30 days of the billing. Any amount not paid in full within the 30 day period shall be certified to the County Auditor and collected as a service charge on the applicant's property in the same manner as property taxes as provided in Minn. Stat. § 366.012, or collected pursuant to any other authority available to the Township under law.

Article II. Definitions. Chapter One, Section 2 of the Denmark Township Development Code is hereby amended by adding the following definitions:

Driveway: A private road, drive, or way constructed for use by motor vehicles to provide access from a public road to a parking structure or 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.

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 road. A driveway access is sometimes referred to as, and the term includes, a driveway approach or an access drive.

Article III. Driveway Accesses. Chapter One, Section 13.4 of the Denmark Township Development Code is hereby amended by deleting the existing text in its entirety and replacing it with the following:

13.4 Driveway Access Permits. The construction or reconstruction of a driveway access onto County roads shall require a driveway access permit from the Washington County Department of Public Works, which must be obtained prior to the issuance of any building permits by the Township. The County Engineer shall determine the appropriate location, size and design of such driveway accesses and may limit the number of driveway accesses in the interest of public safety and efficient traffic flow. The construction or reconstruction of a driveway access onto a town road shall require a driveway access permit from the Township, which must be obtained prior to the issuance of a building permit from the Township. All driveway accesses constructed or reconstructed within a town road right-of-way shall comply with the standards and requirements in this Section and comply with all other applicable laws, rules, regulations and ordinances:

- (1) Authority and Scope. Pursuant to Minnesota Statutes, sections 160.18 and 160.2715, a permit is required from the road authority before constructing an approach to a public right-of-way and constructing a driveway headwall. The Township requires an owner to apply for and obtain a driveway access permit from the Township before constructing a new driveway access, or reconstructing an existing driveway access, that provides access to or from a town road. A driveway access permit is required regardless of the intended use of the driveway including, but not limited to, driveway accesses used for agricultural purposes. The owner shall pay the applicable application fee, reimburse the Township 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 Section, the reconstruction 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 Section that may occur within a town road right-of-way are in addition to the prohibitions contained in Minnesota Statutes, sections 160.2715; 609.74; and such other law as may apply.

- (2) Application Procedures. A request for an driveway access permit to access a town road must be on the application form approved by the Township and submitted with the required permit fee 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, a sketch of the driveway access showing its proposed location, width, and describing any proposed culverts or other drainage structures. The application shall be submitted to the entity designated by the Township to process such applications and issue driveway access permits on its behalf.
 - (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 the Township's engineer is required, the applicant shall be required to reimburse the Township the actual costs it incurs related to the engineer's review. The requirement to reimburse the Township for its costs for the engineer's review is a condition of issuing the permit and failure to fully reimburse the Township 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 within this Section 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 Township.
 - (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 Township. The permit may require reconstruction of the driveway access in order to adequately accommodate the increased use. If the proposed change in use of the property requires an interim use permit or a conditional use permit from the Township, a separate driveway access permit is not required if the

permit issued by the Township for the use addresses any required reconstruction of the driveway access and indicates a separate driveway access permit is not required.

(3) Standards. The construction or modification of a driveway access shall comply with the following standards as well as any specific requirements imposed on the permit issued for the driveway access. For the purposes of these standards, “urban” refers to situations in which the driveway access is connecting to a section of town road constructed with a curb and gutter, and “rural” refers to all other town road sections. Rural road sections typically have a ditch and require installation of a culvert, while urban road sections typically do not.

(a) Width Requirements. The driveway access shall comply with the following minimum and maximum widths based on whether the property being served is used primarily for residential or commercial (including industrial) purposes. 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. The entire portion of the driveway access within the right-of-way shall comply with the width standards, except that the driveway access may be flared as it approaches the surface of the road. The total width of the flared portion shall not exceed the permitted width of the driveway access by more than five feet and the flare shall be limited to the area within five feet from the edge of the surface of the road.

	Residential	Commercial
Minimum Width	12 feet	24 feet
Recommended Width	20 feet	32 feet
Maximum Width	24 feet	50 feet

(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 Township based on the presence of a bus stop, turning lane(s), a skew or complex intersection, atypically wide intersection, heavily traveled roadways or other conditions that reasonably require a further setback distance. The setback from an intersection shall be measured from the closest edge of the intersection right-of-way.

Setback From:	Rural Residential	Urban Residential	Rural Commercial	Urban Commercial
Another Driveway access	30 feet	20 feet	30 feet	20 feet
Right-of-Way Intersection	60 feet	30 feet	30 feet	60 feet
Side Lot Line*	20 feet	20 feet	20 feet	20 feet

* Common or shared driveway accesses are exempt from this setback requirement.

- (d) Driveway access Angle. All driveway accesses shall enter the right-of-way and connect to the surface of the road 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 road.
- (e) Driveway Access Profile. The constructed profile of the driveway access shall be such that it facilitates drainage and shall not exceed an 8% gradient for a driveway accesses used primarily for commercial purposes and a 10% gradient for all other driveway accesses.
- (f) 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 road. 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 town road shall have a slope of no greater than 4 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 provided, however, that any mailbox placed or replaced within a town road right-of-way shall comply with the standards in Minnesota Rules, Chapter 8818 regardless of the speed limit on the road.
- (g) Drainage. Drainage along the road 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 constructed to a rural section of road unless the permit issued for the particular driveway approach indicates a culvert is not required. A culvert shall not be required

for a driveway approach constructed to an urban section of road unless the permit issued for the particular driveway approach indicates a culvert is required. A permit issued for a driveway access may impose specific requirements for the installation of a culvert or other drainage structure to properly accommodate drainage. A culvert installed within a driveway access shall, at a minimum, have a size of 15 inches in diameter, be a corrugated metal pipe (CMP) or reinforced concrete pipe (RCP), be at least 20 feet in length, and shall extend at least 2 feet beyond the edges of the driveway. Culvert aprons made of the same or similar material as the culvert shall be installed on each end of the culvert.

- (h) 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 not 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 Township may undertake such work as may be needed and the owner of the property shall be responsible for fully reimbursing the Township for its costs.
- (4) Multiple Driveway Accesses. No more than two driveway accesses to a lot shall be permitted, except upon approval of the Town Board. A request for an additional driveway approach shall not be approved unless the owner demonstrates, to the Town Board's satisfaction, a specific need for an additional driveway access and that 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.
- (5) Unsafe Driveway Accesses. Any driveway access within a Township road right-of-way that creates a safety hazard for the traveling public, or unreasonably interferes with the use, maintenance, or drainage of the road, is hereby declared a public nuisance and is prohibited. The Township may issue one or more written orders requiring the owner or occupant of the property, or both, to take such actions as the Township 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 Township may take action to eliminate the nuisance condition. The owner shall be required to fully reimburse the Township for all costs it incurs to correct the condition.
- (6) Surfacing. Driveway accesses constructed or reconstructed to provide access from a town road with a bituminous surface to property used primarily for a commercial purpose shall be hard surfaced with bituminous or concrete. Farming is not considered a commercial use for the purposes of this requirement. A

driveway approach with a slope of 10% or greater shall be hard surfaced to prevent erosion of materials onto the road surface and to ensure proper maintenance of the right-of-way. The hard surfacing shall extend from the driveway approach within the right-of-way onto the driveway within the private property as needed to prevent eroded materials from running into the right-of-way.

- (7) Construction. The construction or reconstruction of a driveway access must not interfere with the maintenance or safe use of the town road. No materials shall be dumped or stockpiled on the surface of the road, 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 road.
- (8) Restoration. Any part of the right-of-way disturbed during construction of an driveway access, or the installation of drainage facilities, shall be restored by the permittee 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.
- (9) Waivers. An applicant for a driveway access permit may request the Town Board grant a waiver of one or more of the standards or requirements of this Section. No waiver will be granted unless the applicant can demonstrate, to the satisfaction of the Town Board, 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 road and its appurtenances. A waiver must be in writing and approved by the Town Board at a meeting.
- (10) Recovering Costs. If the owner fails to fully reimburse the Township for any of the Township's costs required to be reimbursed in this Section, the unreimbursed amount, together with collection costs, may be collected as a service charge on the taxes of the property as provided in Minnesota Statutes, section 366.012, or collected in accordance with any other legal authority available to the Township.

Article IV. Enforcement Costs. Chapter Two, Part 3, Section 1.6(4)(D) of the Denmark Township Development Code is hereby amended by deleting the stricken material and adding the double underlined material as follows:

- D) Stop Work Order. The Town Board, or its designee, may issue a written stop work order if the requirements of the permit of this section are violated. All work under the permit, except corrective work, must cease until the deficiencies identified in the order are corrected to the satisfaction of the Township. If the violations are not corrected within the period designated in the order, the Township may take action to correct the deficiencies at the applicant's expense. All such costs constitute a service charge.

imposed pursuant to Minn. Stat. § 462.353, subd. 4., which the Township may collect pursuant to ~~and collect its costs as a service charge under~~ Minn. Stat. § 366.012 if the applicant fails to promptly reimburse the Township in full for all such costs it incurs.

Article V. *Driveways.* Chapter Two, Part 3, Section 1.12 of the Denmark Township Development Code is hereby amended by deleting the existing text in its entirety and replacing it with the following:

1.12 Driveways.

- (1) Driveway Standards. The construction or reconstruction of a driveway on private property shall comply with the following standards and requirements:
 - (A) No portion of the driveway shall be located within the side yard setback area applicable to the property, except upon approval of the Town Board.
 - (B) The surface area of the driveway and any related parking areas shall not cause the property to exceed the impervious surface limitations applicable to the property.
- (2) Driveway Access. A driveway access permit shall be obtained from the Township in accordance with Chapter One, Section 13.4 of this Ordinance before any driveway access is constructed or reconstructed within the right-of-way of a town road.

Article VI. *General Standards.* Chapter Two, Part 3, Section 1.1(19) of the Denmark Township Development Code, is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- (19) No structure shall exceed the maximum height permitted for the zoning district in which it is located, except for church spires, chimneys, grain elevators, silos and flagpoles up to 45 feet in height, and wind generators. Wireless Communication Facilities are regulated in accordance to Chapter Two, Part 3, Section 2.492.48, Wireless Communication Antennas and Towers, of this Development Code.

Article VII. *Essential Services – Utility Substation.* Chapter Two, Part 3, Section 2.16(E) of the Denmark Township Development Code, is hereby amended by deleting the ~~stricken~~ material and adding the double underlined material as follows:

- (E) Utility Substations or any other essential service as defined above containing antennas and towers greater than 45' in height must comply with Chapter Two, Part 3, Section 2.492.48, Wireless Communication Antennas and Towers, of this Development Code.

Article VIII. *Performance Standards.* Chapter Two, Part 3, Section 4.10(2)(D) of the Denmark Township Development Code, is amended to clarify that the percentage of maximum impervious

surface lot coverage is thirty-five (35%) percent and not thirty-five hundredths (.35%) of a percent as follows:

- (D) Maximum Impervious Surface Lot Coverage. 35%

Article IX. *Watershed District.* Chapter Two, Part 3, Section 7.1 of the Denmark Township Development Code, including the language noted with an “*”, is hereby amended by deleting the existing text in its entirety and replacing it with the following:

7.1 Incorporation by Reference. The rules and regulations of the South Washington Watershed District, adopted on December 13, 2011 and including any subsequent amendments thereto, are hereby incorporated in and made part of this Ordinance as if fully set forth herein. Such rules and regulations of the Watershed District shall prevail over any contrary provisions of this Development Code.

Article X. *WMO References.* All references within the Denmark Township Development Code to a “Watershed Management Organization” or “WMO” shall be changed to the “South Washington Watershed District”, “Watershed District”, or “SWWD” as is appropriate.

Article XI. *Incorporation of Amendments.* The Town Attorney and Town Clerk/Treasurer are hereby authorized and directed to incorporate the amendments made by this Ordinance into the Denmark Township Development Code and such updated version shall constitute the official Denmark Township Development Code.

Article XII. *Effective Date.* This Ordinance shall be effective upon the first day of publication after adoption.

Adopted this ____ day of November, 2014.

BY THE TOWN BOARD

Kathleen A. Higgins, Chairperson

Attest: _____
Becky Herman, Clerk-Treasurer