

**RESOLUTION NO. 11-2023**

0061100659

**A RESOLUTION BY THE CHEROKEE COUNTY, KANSAS BOARD OF COMMISSIONERS ESTABLISHING A COUNTY ROAD ENTRANCE POLICY**

**WHEREAS** the County is responsible for constructing and maintaining a system of County Roads. K.S.A. 68-1701.

**WHEREAS** the County is responsible for managing and approving the installation, construction, and maintenance of Entrances between County Roads and adjacent Properties. K.S.A. 68-543.

**NOW THEREFORE** on this 11<sup>th</sup> day of December 2023, be it resolved by the Cherokee County Board of Commissioners:

**Section 1. Definitions**

- (a) **Additional Entrance.** As used herein, "Additional Entrance" means an Entrance to be installed or constructed between a County Road and Property which has at least one (1) Existing Entrance.
- (b) **County.** As used herein, "County" means Cherokee County, Kansas.
- (c) **County Road.** As used herein, "County Roads" means all roads designated as such by the Board of County Commissioners.
- (d) **Department.** As used herein, "Department" means the Cherokee County Road and Bridge Department.
- (e) **Drainage Structure.** As used herein, "Drainage Structure" means any culvert, pipe, whistle, or similar item installed in any Entrance to provide for the free flow of water through ditches adjacent to County Roads.
- (f) **Entrance.** As used herein, "Entrance" means a man-made structure installed or constructed to facilitated vehicle ingress or egress between a County Road and a Property.
- (g) **Existing Entrance.** As used herein, "Existing Entrance" means an Entrance previously installed or constructed between a County Road and a Property.
- (h) **Property.** As used herein, "Property" means real property immediately adjacent to any County Road.
- (i) **Landowner.** As used herein, "Landowner" means the person or entity listed as the owner of record for a Property and shall also include any agent acting on behalf of a such owner.

- (j) **New Entrance.** As used herein, "New Entrance" means an Entrance to be installed or constructed between a County Road and a Property having no Entrance.

## **Section 2. General Provisions**

The following provisions apply to all Entrances:

- (a) Prior to installing, constructing, modifying, or removing any Entrance, the Landowner shall obtain written approval of the Department. Landowners shall seek approval by submitting an Entrance Application Form to the Department. Such application shall be on a form prepared and provided by the Department, identifying the Property, the Landowner, the location or proposed location of the Entrance, the specifications of the proposed installation, construction, or modification, and the reason for the same.
- (b) Following the installation, construction, modification, or removal of any Entrance by the Landowner, the Landowner shall notify the Department within three (3) business days. Upon completion of such installation, construction, modification, or removal, the Department shall inspect the Entrance to ensure the same was installed, constructed modified, or removed in compliance with the approved specifications.
- (c) In the event any Entrance is installed, constructed, modified, or removed without prior approval, or in violation of the provisions of this resolution, or in violation of the specification contained in a written approval, the Landowner shall have thirty (30) days to correct such violation. In the event the Landowner fails to correct all violation, the County may correct such violation or remove any non-compliant Entrance. Any cost incurred by the County to correct or remove an Entrance shall be charged to the Landowner.
- (d) The Landowner, their successors, and assigns, shall assume all risk and liability for accidents, damage, or harm to person or property and shall indemnify and hold the County harmless from any and all costs, liabilities, expenses, suits, judgements, or claims of any nature arising from installation, construction, modification, or removal of any Entrance.
- (e) The County reserves the right to make exemptions or exceptions to any provision of this Resolution as the Board of County Commissioners deems appropriate to serve the best interest of the County.

### **Section 3. New Entrances**

The following provisions apply to all New Entrances:

- (a) No New Entrances or Additional Entrance shall be installed or constructed within 125 feet of any intersection unless, in the opinion of the Department, there is no reasonable alternative for providing a means of ingress or egress between to the Property.
- (b) No New Entrance shall be installed or constructed in any location where, in the opinion of the Department, such Entrance would create a safety risk due to visibility, obstruction of traffic flow, or any other reason.
- (c) All New Entrances shall be installed or constructed using material approved by the Department as stated in the approval portion of the Entrance Application Form. Unless the Department approves otherwise, all entrances requiring a Drainage Structure shall require of a polyethylene pipe Drainage Structure.
- (d) In the event a New Entrance requires a Drainage Structure larger than four (4) feet in diameter, the Landowner shall have such structure designed by a duly licensed professional engineer and constructed by a contractor approved by the Department. Plans for such structure shall be approved by the Department prior to construction or installation. All costs associated with the design, construction, materials, and incidentals thereto shall be paid for by the Landowner.
- (e) If an existing right-of-way is insufficient to install, construct, or modify an Entrance, the Landowner shall grant to Cherokee County any right-of-way reasonably necessary, as determined by the Department, to facilitate the installation, construction, or modification.

### **Section 4. Maintenance.**

- (a) All Entrances shall be maintained to provide safe ingress or egress between County Roads and the Property and allow the free flow of water through any ditch or Drainage Structure.
- (b) The County shall be responsible for maintaining any Entrance when the County was required to install or construct such Entrance pursuant to K.S.A. 68-543(a). Such maintenance is limited to maintaining any Drainage Structure and fill material. The Landowner shall be responsible for maintaining Entrance surface materials.
- (c) In the event the County is responsible for maintenance of an Entrance and such Entrance is damaged by the Landowner, the cost of labor and materials required to repair such damage and any modification required to prevent future damage shall be paid by the Landowner.

- (d) Except as provided in paragraph (b) of this Section, the Landowner shall be responsible for maintaining any Existing Entrance, whether constructed or installed by the County or otherwise. At the Landowner's request, the County may provide labor or materials necessary for maintenance with all cost to be paid by the Landowner.

### **Section 5. Cost.**

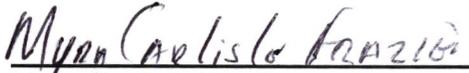
Any cost associated with the installation, construction, or maintenance of an Entrance shall be paid as follows:

- (a) Pursuant to K.S.A. 68-543(a), in the event it is necessary for the County to make a ditch along a County Road adjacent to any Property at such depth as will, in the opinion of the Department, obstruct access to such property, the County shall install or construct and maintain an appropriate Entrance over such ditch and pay the cost of the same.
- (b) Except as provided by paragraph (d) of this Section, and in accordance with K.S.A. 68-543(a), the Landowner shall pay any cost associated with the installation or construction of a New Entrance or Additional Entrance or modification of an Existing Entrance installed, constructed, or modified at the Landowner's request. In the event such installation, construction, or modification is to be performed by the County, the Department shall require the Landowner to deposit the estimated cost in the County Road and Bridge Fund prior to commencing work.
- (c) In the event a Landowner has obtained approval for the installation, construction, or modification of any Entrance, but does not seek to have the County perform the installation, construction, or modification, the same may be performed by the Landowner at the Landowner's expense in accordance with the approved plans and subject to the direction and supervision of Department.
- (d) Subject to approval by the County, the County shall cause to be installed or constructed, at the County's expense, one New Entrance, provided:
- a. the proposed entrance does not exceed twenty (20) feet;
  - b. the proposed entrance would not require a Drainage Structure greater than thirty-six (36) inches in diameter;
  - c. the applicable A Property does not have an Existing Entrance; and
  - d. the New Entrance is sought to facilitate construction of a new residential structure.

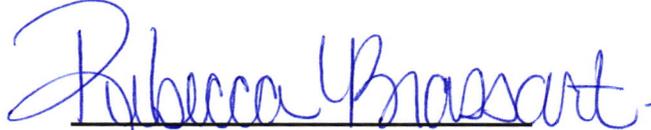
**BE IT RESOLVED** this 11<sup>th</sup> day of December 2023 by the Cherokee County Board of Commissioners.

Approved:

Attest



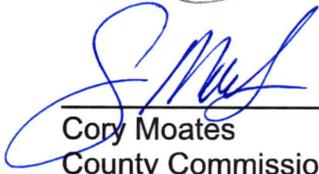
Myra Carlisle-Frazier  
County Commissioner



Rebecca Brassart  
County Clerk



Lorie Johnson  
County Commissioner



Cory Moates  
County Commissioner