

RENVILLE COUNTY LAND USE ORDINANCE

CHAPTER TEN

ESSENTIAL SERVICE FACILITY REGULATIONS

This chapter of the Renville County Land Use Ordinance shall be known as the Renville County Essential Service Facility Regulations except as referred to herein where it shall be known as “this chapter.”

SECTION 1. INTENT AND PURPOSE

These regulations are established to regulate the installation of essential service facilities within Renville County not otherwise subject to oversight by the state or federal government. This chapter shall be construed to provide the County with the maximum regulatory authority consistent with such other laws. These regulations encourage the creative and efficient development of essential service facilities so as to assure they will not have an undue or adverse impact on the preservation of agricultural land, natural environmental areas, lakes, streams, rivers, park and recreation areas, and so as not to impair existing and future transportation routes and drainage systems.

SECTION 2. EXEMPT FROM REGULATION

Required maintenance of any major or minor essential service facility that does not change or expand the capacity, change the capability, or change the location of the existing facility shall be exempt from the regulation of this section.

SECTION 3. ADOPTION BY REFERENCE OF STATE STATUTES GOVERNING THE PLACEMENT OF PIPELINES

Pursuant to Minnesota Statutes, Chapter 394.25, Subd. 8, the Renville County Board of County Commissioners hereby adopts by reference Minnesota Statutes, Chapter 216G (Pipelines). Whenever the provisions of this Ordinance and the state law are inconsistent or different, the more restrictive controls shall prevail.

SECTION 4. PERMIT APPLICATION – MAJOR ESSENTIAL SERVICE FACILITIES

Essential services are conditional uses in all zoning districts and shall follow the following requirements:

1. General Requirements. An applicant shall make an application for a conditional use permit following the procedural steps as set forth in Chapter One (Administration), Section 7, of the Renville County Land Use Ordinance. The applicant shall reimburse the County for all extraordinary costs and expenses paid

or to be paid in connection with the application including all costs of providing public notice of the application and public hearing on the application; all legal, engineering, and other professional costs; and all costs paid or incurred in assuring that the terms of the conditional use permit are met by the applicant.

2. In addition to the criteria and standards for the granting of conditional use permits, the following additional findings shall be made before approval of an essential service facility:
 - A. The proposed essential service facility is designed to protect and restore cultivated agricultural land and to mitigate the impact of the proposed use on the productive use of land.
 - B. The proposed essential service facility is designed for the protection and restoration of drainage and drain patterns, soil compaction, and for the removal of rocks and debris after construction.
 - C. The proposed essential service facility is designed to protect and restore roadway crossings, roadway services, road rights-of-way, and all other County and other governmental property.
 - D. All necessary state, federal, and other governmental permits have been granted or will be granted for the applicant to commence construction.
3. Permit Application Requirements. In addition to submittal requirements required for a conditional use permit elsewhere in this Ordinance, all proposed essential service facility permit applications shall include the following information:
 - A. The names and addresses of the project applicant, project owner, and owners of all land crossed by the service.
 - B. Engineered design plans and specifications of all proposed essential service structures to be constructed as part of the essential service facility project including an engineering certification from the manufacturer's engineer or another qualified engineer registered in the State of Minnesota.
 - C. Evidence of land ownership or legal control in the form of a deed, easement, or other legal instrument for all land crossed by the proposed service.
 - D. A list of all property owners within 1,320 feet of the outer boundaries of each property crossed by the service.
 - E. A map indicating the location, alignment, and type of service proposed for each property crossed by the service.

- F. Construction plans, soil erosion and sediment control plans, wetland mitigation plans, and road, ditch, and water body crossing plans.
- G. A complete description of all phases of construction to include an estimate of duration of each phase, location and approximate acreage of each staging area, and project time schedule.
- H. A scaled site plan detailing the location of the project area boundaries, property lines, road rights-of-way, essential service structures, other ancillary facilities or structures, and location and distance to residential dwellings/structures; other structures; wetlands; rivers and streams; lakes; scenic and natural areas; significant historic sites; all federal, state, or County parks; and any municipalities.
- I. A map identifying all haul routes to be utilized for material transportation and construction activities and the locations of all construction sites and staging areas within Renville County.
- J. A statement of proposed financing.
- K. A copy of all permits, studies, or any applications made or required to be made under state or federal law to any state or federal agency indicating that the proposed essential service facility is in compliance with all federal and state standards.
- L. Natural features map or maps of the property and areas crossed by the service showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, and soil and subsoil conditions.
- M. Certificate of need, if required.
- N. Environmental review documentation that may be required under mandatory, discretionary, or special rules of the Environmental Quality Board.
- O. The name, address, and telephone number of a contact person to which post-construction inquiries related to exact location and depth of essential service facilities may be addressed.
- P. For a pipeline transporting gas, oil, petroleum, or other fuels, a contingency plan including steps to be taken in the event of a failure, leak, or explosion occurring during operation.
- Q. An application fee as established by the County Board.

- R. Any additional information as requested by the Zoning Administrator or the Planning Commission.

**SECTION 5. PERMIT APPLICATION –
MINOR ESSENTIAL SERVICE FACILITIES**

Minor essential service facilities located in any township or County easement or right-of-way shall be governed by the following procedures:

- 1. Permit Application Requirements.
 - A. The applicant shall file with the County Engineer, on forms supplied by the County, an application for such permit accompanied by maps and construction plans indicating the locations, alignment, and type of service proposed.
 - B. The application and accompanying data shall be reviewed by the County Engineer. The County Engineer shall issue a report of his/her findings and recommendation together with any supporting information to the County Board for final action.
 - C. Upon receipt of the report of the County Engineer of the planned minor essential service facility, the County Board shall consider the maps, construction plans, and accompanying data and shall indicate to the applicant its approval, denial, or modifications considered desirable under the Ordinance.
 - D. The County Board may require in conjunction with issuance of such permit that:
 - i. The applicant submits as-built drawings of the essential service facility after construction.
 - ii. The applicant constructs the essential service to take into consideration contemplated widening, re-grading, or relocation of a County or township road.

SECTION 6. PERFORMANCE STANDARDS

All major essential service facilities shall comply with the following performance standards:

- 1. Construction standards for major essential service facilities shall comply with the standards for construction as outlined in Figure 1 that is hereby made a part of this chapter.

2. All drainage facilities and patterns shall be repaired to pre-construction condition as soon as possible after construction.
3. Rocks, slash, and other construction debris shall be removed from each individual section of land where construction takes place within 90 working days of the commencement of essential service construction of that individual section of land. For purposes of this subsection, working days are defined as: all days except days between November 15 and April 15 (winter), or any day when more than one-quarter inch of precipitation has fallen. For purposes of this subsection, section of land is defined as numbered section as defined by the Government Land Survey, or a portion of thereof.
4. Shelterbelts, windbreaks, fences, and vegetation shall be restored to pre-construction condition with the following exceptions:
 - A. Shelterbelts and windbreak replacement shall be to pre-construction density and may allow for operation maintenance of essential service facility.
 - B. Critical areas (slopes greater than 12 percent, drainage ditch banks, and areas subject to severe erosion) shall be seeded and mulched as soon as possible after construction. Drainage ditch banks shall be seeded and mulched to a minimum width as predetermined by the Renville County Ditch Inspector prior to construction from the top of the ditch soil banks on each side of the ditch.
 - C. The County Engineer may require ditch bottoms to be sodded when slopes are over three percent. Existing lawns shall also be re-sodded.
5. If preliminary engineering, surveys, or other documentation is provided, modifications to accommodate future drainage or roadway construction activities may be required.
6. Essential service facility construction activities shall be conducted in such a manner as to minimize impacts on livestock movements and access to agricultural fields.
7. All public and private roads in use and being maintained shall be bored unless the Road Authority approves an alternate procedure. Unpaved roads that are infrequently used and not regularly maintained may be cut, backfilled, and compacted with material to the Road Authority's specifications.
8. Any installation of an essential service facility under a public road shall be approved by the Road Authority. The Road Authority may require additional permits and bonding requirements for highways and roads under its authority.

9. If at any time Renville County, acting through its Board of County Commissioners, shall deem it necessary or desirable to make any improvements or changes on all or any parts of the right-of-way of the County highway including changes made for purposes of providing drainage within 100 feet of the highway right-of-way which affect the essential service facility, then and in such event the applicant shall within 45 calendar days after written notice from the County Board proceed to alter, change, vacate, or remove said essential service facility from the County highway right-of-way so as to conform to said County highway changes and as directed by the Board. In the event of relocation of a road or road right-of-way, all costs associated with the required relocation or other change in the essential service facility shall be paid by the applicant (essential service facility owner/operator).

The Board of County Commissioners, in its sole discretion, may provide the applicant with the choice of relocating the essential service facility or paying the additional costs associated with an alternative design which avoids or minimizes the conflict with the essential service and which is otherwise acceptable to the County. Within 30 calendar days after receipt of such an option, the applicant shall notify the Board of County Commissioners in writing of its election to: (a) relocate the essential service facility, at the applicant's cost, as may be required to avoid or minimize any conflict or interference; or (b) pay the County in advance for all additional costs to be incurred in altering the proposed changes to avoid or minimize such conflict or interference. In the event the applicant fails to notify the Board of County Commissioners in writing of its election within a 30-day period, the applicant shall be deemed to have elected to relocate the essential service facility as provided above. In the event the applicant elects to pay for the additional costs to be incurred by the County, the applicant shall make the required payment within 30 calendar days of its election.

10. The applicant shall file as-built drawings of the essential service facility after construction, which shall include a surveyor's description of the course of the essential service facility as it traverses Renville County, with the Renville County Highway Engineer, the Renville County Division of Environment and Community Development, and the Clerk of the Township Board of all townships crossed by the essential service facility.
11. If in the construction of the essential service facility an open drainage ditch is traversed, the applicant shall lay its essential service facility a minimum of five feet below the original bottom of the drainage ditch as designed, and the method of construction shall not impede the normal flow of water.
12. If the essential service facility shall need to be moved, relocated, or improvements otherwise made thereon as a result of the establishment, improvement, or repair of any County or judicial ditch, the expense thereof shall be the expense of the applicant notwithstanding the fact that the essential service facility is located on private property and more than 100 feet from highway right-of-way.

13. All public or private tile lines or other drainage systems which are cut or disturbed in the construction of the essential service facility shall be restored and repaired to the previous condition and operable state without cost to the landowner or Ditch Authority.
14. In the event the essential service facility is located parallel to a judicial or County drainage tile, the applicant shall provide a minimum of 10 feet horizontal separation between the essential service facility and the drainage tile. The essential service facility, if located parallel or adjacent of a private tile, shall be constructed and maintained so as not to interfere with the drainage tile.
15. When an existing tile line is cut, the tile shall be repaired by the applicant using a method that will prevent settling of any portion of the tile system. When tile lines are cut and before repairs are made, tile openings shall be protected to prevent dirt, silt, or animals from entering the tile system.
16. A pipe shall be installed to accommodate future installations of drain tile at locations and depths as shown on tile plans given to the essential service facility by the landowner if a private tile or by the Ditch Authority if a County or judicial tile. If a County or judicial or private drainage system shall later be established, improved, or repaired or additional lines installed to effect proper drainage, the essential service facility shall reimburse the Ditch Authority or landowner for any necessary additional installation expenses incurred that are directly attributed to the presence of a essential service facility.
17. If settling of public or private tile repaired during construction occurs within five years following completion of construction of the essential service facility, the applicant shall repair the tile line without expense to the landowner or the Ditch Authority and shall pay all losses caused by the settling.
18. During construction, the applicant shall provide suitable crossovers installed at such places over the essential service facility trench as needed by the landowner.
19. An essential service facility transporting gas, oil, petroleum, or other fuel shall be installed at least 150 feet from all existing dwellings and buildings except those considered essential service structures. Any new structures or buildings, except for essential service buildings, shall be constructed 150 feet from an existing essential service facility. The measurement shall be made from the center of the essential service facility to the nearest corner of a structure.
20. The applicant shall comply with all provisions of the approved soil erosion and sediment control plan to control erosion within public lands, rights-of-way, and public drainage systems.

21. The applicant shall indemnify, keep, and hold the County of Renville, each township crossed by the essential service facility, and every public ditch system free and harmless from all claims resulting from injury or damage to persons or property caused by the construction, maintenance, repair, or operation of the essential service facility system except where the acts or omissions of the said County, township, or ditch system have caused the injury or damage.
22. The applicant shall indemnify and hold harmless the landowner, his/her family, tenants, and employees from and against all claims resulting from the presence of the essential service facility and caused by the ordinary negligence of the landowner, his/her family, tenants, and employees while engaged in normal farming operations excluding drainage, improvements, drilling, or blasting activities. In addition, where the landowner gives the applicant two weeks' certified or registered mailed notice of intent to engage in any specified excluded farming activity in the easement right-of-way or adjacent thereto, the applicant will indemnify and hold harmless the landowner, his/her family, tenants, and employees from all claims for damages resulting from the preservation of the essential service facility and caused by the specified activity for which notice was given.

In the event the landowner notified the applicant of the need for emergency repairs to drainage ditches or tile, such indemnification shall be provided by the applicant upon 48 hours' notice. Emergency repairs shall include repairs necessary to avoid delays in preparation of the soil and planting and harvesting of crops where the need for emergency repairs are specified in the notification.

23. The applicant shall be responsible for providing a baseline condition of all haul routes, including analysis of all bridges by a registered engineer, to determine their capacity to support oversized vehicles prior to construction of the essential service facility. The applicant shall be responsible for extraordinary maintenance and restoration of all County/township roads and bridges that may be damaged due to activities involving construction of the essential service facility. A financial guarantee in the form of a performance bond, letter of credit, cash deposit, or other security shall be submitted to ensure all haul routes and bridges have been repaired/restored to the Road Authority's approval and satisfaction.
24. All essential service facility operations shall be in compliance with applicable federal, state, and County regulatory permits, rules, regulations, and ordinances.
25. The applicant shall provide proof of bodily injury, property damage, and public liability insurance in the amount of \$1,500,000 for any occurrence or as provided in Minnesota Statutes.
26. The essential service contractor shall erect and maintain traffic control devices leading to and from all staging sites to ensure the safety of area residents and must comply with all Minnesota Department of Transportation requirements for

signage and safety issues. Access to and hauling of materials from the staging sites shall be limited to a project-specific haul route. All vehicles hauling materials to and from the staging sites shall not exceed legal gross weight limitations.

27. All transmission and distribution lines located in a Rural Residential District or Shoreland Residential Overlay District shall be placed underground.
28. All essential service facilities and accessory structures shall be set back a minimum of 1,320 feet from a protected lake or river and any federal, state, or County park.
29. No business or advertising signs shall be installed on an essential service facility.
30. Whenever practical, essential service facility pipes, lines, towers, and accessory structures shall be placed in existing rights-of-way or easements and shall be placed adjacent to and parallel with existing property boundary lines or agricultural field boundaries. All use of rights-of-way shall be approved by the Road Authority.
31. All essential service facilities shall be designed and constructed to avoid the loss in use of agricultural land for the growing and/or production of crops and livestock production.
32. Selective clearing techniques shall be used throughout the length and width of any utility easement or corridor. Existing native vegetation shall be maintained when and wherever possible.

SECTION 7. CONSTRUCTION STANDARDS ALTERNATIVES

1. In any easement granting right-of-way for an essential service facility over agricultural land, the grantor of the easement may waive the minimum depth of cover established in Figure 1 with respect to all or part of the essential service facility to be buried under that land. A waiver of the minimum depth of cover established in Figure 1 shall be effective only if the waiver:
 - A. Is separately and expressly stated in the easement agreement and includes an express statement by the grantor acknowledging that he/she has read and understood the waiver.
 - B. Is printed in capital letters and in language understandable to an average person not learned in law.
 - C. Is separately signed or initialed by the grantor.
2. Alternatives to the construction standards established in Figure 1 may be granted by the Renville County Board of County Commissioners upon showing that:

- A. A depth or height less than that required in Figure 1 is reasonably necessary to allow transition from Renville County to a bordering county.
 - B. The request is reasonably necessary to allow for a transition in depth from agricultural land and adjoining parcels of land.
 - C. The request is reasonably necessary for the installation of necessary essential service structures including associated equipment.
3. No construction alternative shall be granted from the construction standards so as to allow any essential service line to be placed at a depth less than the depth established in Figure 1 beneath the authorized depth of drainage facilities or the right-of-way of roads.

SECTION 8. INSPECTIONS

The County Board may require that a qualified inspector be on the site of installation of essential service facilities. The County Board will establish a fee schedule for inspections consistent with applicable state laws and County policies. With respect to pipelines, the fee shall be the minimum amount allowed by Minnesota Statutes for each mile or fraction of a mile of pipeline that will be constructed in the County. The inspection fee shall be paid to the Renville County Auditor/Treasurer prior to construction of the essential service facility.

The County Board shall designate an inspector who shall conduct on-site inspections of the construction to determine whether the essential service is constructed in compliance with the provisions of this chapter. The inspector shall promptly report to the County Board any failure or refusal to comply with the provisions of this chapter and shall issue written notice to the person constructing the essential service specifying the violations and the action to be taken in order to comply. During on-site inspection, the inspector shall maintain a written log that shall include a record of comments and complaints concerning the essential service construction made by owners and lessees of land crossed by the essential service and by local officials. The log shall note in particular any complaints concerning failure to settle damage claims filed by any owner or lessee or failure to comply with the terms of an easement agreement. The log reports and other records of the inspector shall be preserved by the County Board.

SECTION 9. DEVELOPER'S AGREEMENT

Prior to the installation of any approved essential service, the developer shall be required to enter into a developer's agreement with Renville County requiring that:

1. All improvements be constructed at the developer's expense in accordance with the plans and specifications as engineered.
2. All improvements comply with Renville County right-of-way management standards for the placement and maintenance of facilities and equipment.
3. The developer shall submit a financial guarantee and proof of liability insurance.

SECTION 10. ENFORCEMENT

Enforcement of the Essential Service Facility Regulations shall be done in accordance with process and procedures established in Chapter One (Administration), Section 14, of the Renville County Land Use Ordinance.

SECTION 11. INTERPRETATION, SEPARABILITY, AND COMPLIANCE

Administration of the Essential Service Facility Regulations with regard to interpretation, separability, and compliance shall be done in accordance with policies established in Chapter One (Administration), Section 3, of the Renville County Land Use Ordinance.

SECTION 12. EFFECTIVE DATE

The regulations contained in this chapter shall become effective from and after their publication according to law.

Essential Services: Figure 1

Figure 1	Drainage Tile Replacement Standards	Required Compaction Around Drainage Lines	Soil Restoration
Pipelines – Natural Gas	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Pipelines – Petroleum-Hydro Carbons	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Pipelines – Water	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Pipeline – Other	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Power lines Underground	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Power lines Overhead	NA	NA	Restore to Pre-Construction Productivity
Telephone Underground	To Pre-Construction Condition	To Ensure Proper Functioning	Restore to Pre-Construction Productivity
Telephone Overhead	NA	NA	NA

Essential Services: Figure 1

Figure 1	Minimum Depth under Agricultural Land	Minimum Depth Under Public Road Right-of-Way	Minimum Depth Under Public Road Surfaces	Minimum Clearance for Drainage Tile	Minimum Depth Beneath Authorized Depth of Open Drainage Ditch	Minimum Height Over Agricultural Land	Minimum Topsoil Segregation (Double Ditch)
Pipelines – Natural Gas	(Federal Law) 30 in.	4 ft.	4 ft.	(Federal Law) 12 in. over or under	5 ft.	NA	2 ft.
Pipelines – Petroleum-Hydro Carbons	4½ ft.	4 ft.	4 ft.	12 in. over or under	5 ft.	NA	2 ft.
Pipelines – Water	6 ft.	6 ft.	6 ft.	12 in. over or under	5 ft.	NA	2 ft.
Pipelines – Other	4½ ft.	4 ft.	4 ft.	12 in. over or under	5 ft.	NA	2 ft.
Power lines Underground	3 ft.	3 ft.	3 ft.	12 in. over or under	5 ft.	NA	NA
Power lines Overhead	NA	NA	NA	NA	NA	20 ft.	NA
Telephone Underground	3 ft.	3 ft.	3 ft.	12 in. over or under	5 ft.	NA	NA
Telephone Overhead	NA	NA	NA	NA	NA	20 ft.	NA