



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-1

Date: August 9, 2006

Subject: Request that the City Council consider adopting an Ordinance amending Tyler City Code Chapter 10 to adopt regulations related to driveway permits for access to state highways within the City of Tyler.

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Item Reference: Tyler City Code Chapter 10, Article III., Division G., "Private Drives"; Texas Local Government Code Chapter 51; Texas Department of Transportation (TxDOT) administrative rules regarding access management, 43 TAC 11.50- 11.55

On January 5, 2006, the first quarterly developers' roundtable meeting was held. At this meeting, it was requested that the City consider the possibility of assuming driveway permitting authority on state highways within the city limits. The City agreed to work with the Texas Department of Transportation and the developers' roundtable to prepare a draft ordinance for consideration by the City's Planning and Zoning Commission and the City Council. On June 6, 2006, the Planning and Zoning Commission met for their regularly scheduled work session. The Commissioners were presented with and discussed Staff's suggested changes to Chapter 10, Article III., Division G. Staff recommended the following changes to Division G. regarding the review and approval process for driveways on state highways within the City:

- Authority for driveway permits transferred from the Engineering Department to the Development Services Department.
- Adopt the Texas Department of Transportation Access Management Manual to govern driveway access to state highways within the City.
- Provide for a process to appeal permits that are denied by the City on state highways within the City.

The benefit that will result from this proposed ordinance change will be a reduced review time for driveway permits on state highways that comply with the Texas Department of Transportation Access Management Manual.

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On June 20, 2006, the Planning and Zoning Commission held a public hearing on this Ordinance amendment. No one spoke in opposition to the Ordinance.

RECOMMENDATION:

The Planning and Zoning Commission, by a vote of 7-0, recommends that the City Council adopt the attached ordinance.



**Drafted/Recommended By:
Department Leader**

Michael F. Wilson

**Edited/Submitted By:
City Manager**

ORDINANCE NO. O-2006-70

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, CHAPTER 10, "PLANNING AND ZONING", ARTICLE III., "DEVELOPMENT", DIVISION G., "PRIVATE DRIVES", TO ADOPT REGULATIONS RELATED TO DRIVEWAY PERMITS FOR ACCESS TO STATE HIGHWAYS WITHIN THE CITY OF TYLER; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Tyler City Code Chapter 10, "Planning and Zoning", Article III., governs development; and

WHEREAS, Tyler City Code Chapter 10, Article III., Division G., contains regulations governing private drives; and

WHEREAS, the Texas Department of Transportation (TxDOT) has adopted administrative rules regarding access management, 43 TAC 11.50- 11.55, for state highways within the City of Tyler; and

WHEREAS, it is important for the City of Tyler to amend current driveway provisions to address the review of driveway permits for State maintained facilities according to the State Access Management administrative rules and the process for appeals to the Texas Department of Transportation (TxDOT); and

WHEREAS, on 6/20/06, the Planning and Zoning Commission voted to recommend adoption of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 10, "Planning and Zoning", Article III., "Development", is hereby amended by amending Division G., "Private Drives", to read as follows:

DIVISION G. PRIVATE DRIVES

Sec. 10-170. Definitions.

As used in this Division, the following terms are defined as follows:

Curbline: A raised ledge adjacent to the paved portion of a roadway which delineates that portion of the roadway maintained for vehicular travel. In the absence of a raised curb, the edge of the paved portion of the roadway is considered to be the curbline.

Driveway: Any area constructed within the public street right-of-way, connecting the public roadway with private property for the purpose of providing access to private property, for motor vehicles.

Major driveway: A driveway providing access to property used for any purpose other than one- or two- family residential dwellings.

Major street: Any street designated as an "arterial street" on the Master Street Plan, or streets serving as collectors for such thoroughfares. All other streets are "minor".

Minor driveway: Any driveway providing access to property used for one- or two- family dwellings.

Property line: The line dividing two (2) adjacent properties, or a property and a public alley.

Right-of-way line: The line dividing a property and the public right-of-way set aside for street purposes.

State highway: Any street maintained by the Texas Department of Transportation pursuant to agreement with the City of Tyler. The term also includes city streets that intersect state highways and includes features that support traffic flow of the state highway. The length of city street included under this definition shall be measured from the curb line of the state highway to the furthestmost end of turn lanes, acceleration lanes, deceleration lanes, and related improvements that are in place solely to support traffic ingress and egress onto the state highway. This length shall include, as a minimum, the street surfacing maintained by the Texas Department of Transportation. (Ord. No. 0-2006-70; 8/9/06)

Texas Department of Transportation Access Management Manual: The Access Management Manual adopted by the Texas Department of Transportation, including any amendments thereto, and any additional or successor rules, regulations or standards adopted by the Texas Department of Transportation governing driveway access to state highways. (Ord. No. 0-2006-70; 8/9/06)

(Ord. of 8-19-75, § 1) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

Sec. 10-171. Permit Required; approval of plans; obtaining building permit where required.

a. No driveway may be constructed, reconstructed, altered or repaired, until a permit is issued therefore by the Development Services Department. Unless otherwise expressly stated herein, the provisions of this Division shall apply to state highways. It shall be the responsibility of Development Services Engineer to provide the Texas Department of Transportation with a copy of driveway permits issued on state highways no later than ten (10) business days following issuance of same.

b. No driveway permit for a major driveway may be issued by the Development Services Department for commercial driveways until the Traffic Engineer has approved the driveway location and design of the off street parking plan.

c. Each application for a major driveway permit shall include a driveway design and an off-street parking plan. The Plan shall be drawn to scale, showing all parking spaces, all existing and proposed curb inlets, landscaping, fences, barriers, utilities, driveway dimensions, existing driveways on the property located within fifty (50) feet of the proposed driveway, the street address, and any additional information required by Development Services.

d. If the proposed driveway plan is part of a new building construction or remodeling plan requiring a building permit, the driveway permit may not be issued until the building permit has been issued. (Ord. of 8-19-75, § 2(A)(1), (2), (3)) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-172. Revocation; denial; removal of unauthorized driveway.

a. Any permit granted by the Development Services Department pursuant to this Division may be revoked by the Development Services Engineer any time the terms of this Division are violated, or when the continued exercise of the privilege constitutes a menace to the public safety or is an unreasonable use of the public streets or ways. Repeated and suspected intentional violations shall be deemed sufficient reason to deny issuance of permits in future applications by the individual violators.

b. If a driveway is constructed, altered or modified without the issuance of a driveway permit, in violation of the conditions of the permit, or in violation of this Division, the Development Services Engineer may require the violator, at violator's expense, to remove the driveway and restore the street and right-of-way to its original condition.

c. Denial or revocation under this section may be appealed in accordance with Chapter 1, Article IV.

d. Appeals to Texas Department of Transportation. This subsection applies only to an appeal of the Development Services Engineer's decision to deny or revoke a driveway permit based upon a rule or regulation of the Texas Department of Transportation Access Management Manual. Appeals to the decisions of the Development Services Engineer to deny or revoke a driveway permit made under this subsection shall be made to the Texas Department of

Transportation Area Engineer responsible for the respective state highway. The appellant shall file with the Development Services Engineer such information as the Development Services Engineer may require, and the Development Services Engineer shall forward such information to the appropriate Texas Department of Transportation Area Engineer. Said Texas Department of Transportation Area Engineer shall decide the appeal, and said decision shall be final. (Ord. of 8-19-75, § 2(A) (7)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-173. Compliance of driveway and parking improvements with plans and permit; subject to inspection during construction.

The actual construction of driveway and parking improvements shall comply with the approved plan and permit terms and is subject to inspection during construction. (Ord. of 8-19-75, § 2(A) (4)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

Sec. 10-174. Interference of entrances with other facilities.

No driveway entrance shall interfere with City facilities such as street light poles, traffic signal standards or detectors, signs, catch basins, hydrants, crosswalks, bus stop areas, utility poles, fire alarm supports, underground pipes or ducts or other necessary street structures. Arrangements shall be made with the proper authority for the adjustment or relocation of the facility affected and/or adjustments made in the driveway design, before a permit will be issued. Driveway entrances on state highways shall comply with the Texas Department of Transportation Access Management Manual and other state or federal laws, as applicable. (Ord. of 8-19-75, § 2(A) (6)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-175. Unduly hazardous location denials.

a. Where in the opinion of the Development Services Engineer or Traffic Engineer, a driveway is proposed that meets all requirements of this Division, yet will, by its location or design or other element, be unduly hazardous, the Development Services Engineer or Traffic Engineer may deny such driveway location and/or design. The Development Services Engineer's or Traffic Engineer's decision may be appealed pursuant to Chapter 1, Article IV.

b. If the decision for denial due to an unduly hazardous location relates to a state highway, the Development Services Engineer's or Traffic Engineer's decision may be appealed to the Texas Department of Transportation Area Engineer responsible for the respective state highway. The appellant of a denial related to a state highway shall file with the Development Services Engineer or Traffic Engineer such information as the Development Services Engineer or Traffic Engineer shall require, and the Development Services Engineer or Traffic Engineer shall forward such information to the appropriate Texas Department of Transportation Area Engineer. Said Texas Department of Transportation Area Engineer shall decide the appeal, and said decision shall be final. (Ord. of 8-19-75, § 2 (A) (8)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4/15/98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-176. Construction to comply with standards and specifications.

The construction of all driveways shall conform to the standards and specifications published by the Development Services Department, and with the Texas Department of Transportation Access Management Manual where applicable. (Ord. of 8-19-75, § 2 (B)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-177. Modifications to standards; appeals.

a. Modifications. The Development Services Engineer, with the concurrence of the Traffic Engineer, may grant variances to the requirements of this Division to the extent deemed necessary and proper so as to relieve undue difficulty or hardship, if the granting of the variance would not adversely affect the public safety and welfare and would not impair the interest of this Division and the Master Street Plan.

b. Appeals. Appeals to the decisions of the Development Services Engineer and/or Traffic Engineer in the application of this Division shall be made in accordance with Chapter 1, Article IV.

c. Appeals to Texas Department of Transportation. This subsection applies only to an appeal of the Development Services Engineer and/or Traffic Engineer that involves a rule or regulation of the Texas Department of Transportation Access Management Manual. Appeals to the decisions of the Development Services Engineer and/or Traffic Engineer in the application of this Division to state highways shall be made to the Texas Department of Transportation Area Engineer responsible for the respective state highway. The appellant shall file with the Development Services Engineer and/or Traffic Engineer such information as each shall require, and the Development Services Engineer or Traffic Engineer shall forward such information to the appropriate Texas Department of Transportation engineer. Said Texas Department of Transportation Area Engineer shall decide the appeal, and said decision shall be final. (Ord. of 8-19-75, § 2 (C)) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000) (Ord. No. 0-2006-70; 8/9/06)

Sec. 10-178. Minor driveways.

Minor driveways shall comply with the following requirements. In addition to the following requirements, minor driveways on state highways shall comply with the Texas Department of Transportation Access Management Manual and any other applicable state and federal laws. (Ord. No. 0-2006-70; 8/9/06)

a. Width. The minimum driveway width shall be ten (10) feet and the maximum driveway width shall be twenty-five (25) feet, measured at right angles to the center line of the driveway, except as increased by permissible radii. The minimum ramp radii for minor driveways shall be five (5) feet. The maximum ramp radii for minor driveways shall be ten (10) feet.

b. Angular placement. The center line of a minor driveway shall meet the curblines as close as practicable to a right angle. An angle of less than seventy (70) degrees shall not be permitted.

c. Location:

1. If a property used for single-family or two-family dwellings has frontage on both a major and minor street, no driveway access will be permitted to the major street.

2. On a minor street, a curb length of at least fifteen (15) feet shall be left undisturbed from the near edge of the driveway curb opening to the point of curvature of the nearest intersection curb return radius. On major streets a curb length of at least seventy-five (75) feet shall be left undisturbed.

3. A common driveway for two (2) adjacent residential properties may be allowed with the written agreement of the property owners. In such cases, the combined width shall not exceed thirty (30) feet measured at the right-of-way line.

d. Sketch: For example of the foregoing, see the Standard Driveway Detail, available in the Engineering Department, which is made a part hereof for all purposes. (Ord. of 8-19-75, § 3) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

Sec. 10-179. Major driveways.

Major driveways shall comply with the following requirements. In addition to the following requirements, major driveways on state highways shall comply with the Texas Department of Transportation Access Management Manual and any other applicable state and federal laws. (Ord. No. 0-2006-70; 8/9/06)

a. Width:

1. A two-way driveway shall have a minimum width of twenty-five (25) feet and a maximum width of forty (40) feet, and a one-way driveway shall have a minimum width of fifteen (15) feet and a maximum width of twenty-five (25) feet, both to be measured along the right-of-way line, except as increased by permissible radii.

2. The minimum ramp radii for a major driveway on a major street shall be twenty (20) feet. The minimum ramp radii for a major driveway on a minor street shall be ten (10) feet.

b. Angular placement. A two-way major driveway shall have a minimum width of twenty-five (25) feet and a maximum width of thirty-five (35) feet measured at right angles to the center line of the driveway at the right-of-way line. A one-way major driveway shall have a minimum width of fifteen (15) feet and a maximum width of twenty-five (25) feet measured at right angles, to the centerline of the driveway at the right-of-way line.

c. Location:

1. At a property line, with an adjacent property or alley, a curb length of not less than one (1) foot shall be left undisturbed between the near edge of the driveway and the property line projected to the curblines, except upon submission of a letter from adjoining residential property owner stating that there is no objection to the radius extending in front of such property and that eight (8) feet shall separate existing or future driveways. Between major driveways, said letter shall state that at least twelve (12) feet shall separate driveways at the property line, and the radii of the two driveways shall not conflict.

2. Driveway curb openings shall not be located within the confines of any intersection curb return radius.
 3. At the intersection of two (2) minor streets, a curb length of at least fifteen (15) feet shall be left undisturbed between the near edge of the driveway curb opening and the point of curvature of the intersection curb return radius.
 4. At the intersection of a major street with either another major street or a minor street, no driveway curb opening shall be located less than one hundred (100) feet from the intersection of the extended curb lines of the two streets.
 5. A curb length of at least twenty (20) feet shall be left undisturbed between curb openings adjacent to major driveways on the same property.
 6. A minimum island width of ten (10) feet measured at the right-of-way line and the nose of the island nearest the curb line, may be permitted between adjacent one-driveways serving as a combined entrance/exit facility.
- d. Number of driveways. Each property shall be limited to the following:
1. For the first one hundred fifty (150) feet of property frontage along a right-of-way, a maximum of two (2) driveways.
 2. For each additional one hundred (100) feet of property frontage along a right-of-way, a maximum of one additional driveway.
- In no case shall more than sixty (60) percent of the property frontage along a right-of-way be used for driveway purposes.
- e. Special requirements:
1. Barriers. On property used for purposes other than one- or two-family dwelling units, a continuous, six (6)-inch, raised concrete curb shall be constructed on all portions of the property adjacent to the right-of-way except at points of driveway access. Such curbs shall be constructed so as to prevent driving over the sidewalk area except at points of driveway access. Where vehicles are to be parked other than parallel to the right-of-way or property line, curbs shall be installed at least thirty (30) inches from the right-of-way line or property line or located so as to prevent any part of a parked vehicle from extending over the right-of-way line or property line.
 2. Street access. All major driveways shall be designed such that all vehicles will enter the adjacent street moving in a forward direction.
 3. Common driveway use over property lines. Joint use driveways may be allowed on adjoining properties when the driveway meets all of the requirements of this Division, provided that both property owners agree to such joint use either by joint application for a permit or by submission of a letter agreeing to such joint use by the property owner not making the application.

4. Existing driveways and new improvements. Any existing driveways may be allowed to be used with new improvements to buildings shall conform to this Division.

(Ord. of 8-19-75, § 4) (Ord. No. 0-96-61, 7-17-96) (0-98-31, 4-15-98) (Ord. No. O-2000-76, 10-4-2000)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be August 11, 2006.

PASSED AND APPROVED this 9th day of August, A. D., 2006.

JOSEPH O. SEEBER, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY