



<b>Case number:</b>	10000B-10
<b>Address:</b>	
<b>Application type:</b>	City Code Amendment – Driveway Approaches
<b>Applicant:</b>	City of Bloomington

**This file will contain the following items as they become available:**

1. Agenda information
2. Staff report
3. Location map

**Additional information**

To receive copies of submitted development applications, supplemental documents, and (in some cases) building and site plans please contact the Planning Division at 952-563-8920 or [planning@ci.bloomington.mn.us](mailto:planning@ci.bloomington.mn.us).

**Your comments are important!**

If you wish to communicate to the Planning Commission about this agenda item, please include:

- Your name
- E-mail address
- Full mailing address (number, street name, city, state, ZIP)
- Daytime telephone number
- Case file number
- Date of hearing

You may not receive a detailed response to your e-mail, but your comments, if received in time, will be presented to the Planning Commission.

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Originator <b>Public Works</b>	Item <b>City Code Amendment- Modify Driveway Approach Standards</b>	#
Agenda Section <b>HEARINGS/PUBLIC INPUT Ordinances</b>	By <b>JCD</b>	Approved  Date <b>March 11, 2010</b>

Item 2

Case 10000B-10

## GENERAL INFORMATION

Applicant: City of Bloomington

Location: Citywide

Request: Consider an ordinance to make multiple miscellaneous amendments to Chapters 15, 17, 19 and 21 of the City Code pertaining to driveway approaches and recommends ordinance language pertaining to driveway approach materials

## PROPOSAL

The City Council has requested that staff revise the Driveway Approach Ordinance in respect to decorative driveway materials, with the goal of allowing property owners freedom to choose materials for their driveway approach, while limiting the City's liability when a City construction project is required. In addition to driveway approach materials, there are several miscellaneous updates and clean up items addressed at this time.

Staff prepared three options to address decorative driveway approaches:

Option 1: The code language for decorative driveways remains essentially the same. The existing code requires that all driveway approaches are constructed of either concrete or asphalt. When a property owner requests that their driveway approach is of a different material, than the code requires that a 3-foot concrete apron is constructed adjacent to the curb and then the decorative material is placed after the concrete apron. The current code also requires an encroachment agreement which states that the liability, responsibility and cost of replacing the decorative material is the property owners. The encroachment agreement is to be filed with the property for all non-concrete or asphalt driveway approaches.

Option 2: The code language is changed to allow decorative driveway materials to be used right up to the curb or edge of pavement. This change does not require the 3-foot concrete apron. Option 2 requires the property owner to bear the cost of removing and replacing the decorative driveway approach in the event a City construction project requires it. In sub-option 2A, the City would still require an encroachment agreement be filed with the property for all non-concrete or asphalt driveway approaches. In sub-option 2B, the City would

**Council Action**

Motion by \_\_\_\_\_ Second by \_\_\_\_\_ to \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

do away with requiring an encroachment agreement, but the liability/cost of removing and replacing the driveway approach with decorative materials would still fall to the property owner, per the code language.

Option 3: The code language is changed to allow any decorative material as the driveway approach. In this option, the full cost of removing and replacing any type of driveway approach for a City construction project would be at the cost of the City.

Additional topics include the following:

- Section 15.13(b): Adding reference to Chapter 17, Article I of the City Code.
- Section 17.01: Clarifying the definitions of business driveway approach and residential driveway approach and adding definitions for off-drive parking area and off-drive turnaround area (hammerhead).
- Section 17.03: Clarifying that constructing an off-drive parking or turnaround area in the right-of-way is prohibited.
- Section 17.05: Changing responsible staff person for driveway approach permits from City Traffic Engineer to City Engineer, adding reference to Section 14.03 for fee information, adding bonding and insurance requirements and noting that driveway approaches in Hennepin County right-of-way require a permit from Hennepin County.
- Section 17.06: Changing responsible staff person for driveway approach permits from City Traffic Engineer to City Engineer.
- Section 17.07: Deleting all text because reference to fees will be included in Section 17.05.
- Section 17.09: Changing responsible staff person for driveway approach permits from City Traffic Engineer to City Engineer.
- Section 17.10: Clarifying the divisions and staff persons responsible for reviewing driveway approach permits.
- Section 17.11: Reformatting to match the rest of Chapter 17, Article I.
- Section 17.12: Moving all text out of Section 17.12 and into Section 17.13, under a new subsection Widths and Locations
- Section 17.13: Including one of the options described above under a new subsection (a) Materials, moving text from 17.12 to 17.13 under a new subsection (b) Widths and Locations, adding a new subsection (c) Slope and clarifying subsection (b) Widths and Locations to read more clearly.
- Section 17.14: Adding reference to Section 21.301.06 of the City Code, changing the maximum business driveway approach from 25-feet to a width, number and location to be approved by the City Engineer and adding slope requirements.
- Section 17.16: Changing the section to Exceptions rather than Variances.
- Section 19.61: Changing the driveway approach standards for Service Stations to refer to Section 17.14 of the City Code.
- Section 21.301.06: Adding various references to Chapter 17, Article I.
- Section 21.301.06(i)(8): Deleting text pertaining to driveway approach materials and referencing Chapter 17.13 of the City Code instead.

The proposed ordinance is attached.

## **APPLICABLE REGULATIONS**

Chapter 15 – Buildings and Structures  
Chapter 17 – Streets and Rights-of-Way  
Chapter 19 – Zoning  
Chapter 21 – Zoning and Land Development

## **CHRONOLOGY**

Planning Commission Agenda: 03/11/10 – Public hearing scheduled.

City Council Agenda: 03/22/10 – Public hearing scheduled.

## **DEADLINE FOR AGENCY ACTION**

Application Date: 02/03/10  
Deadline: Waived by applicant.

## **RECOMMENDED CITY COUNCIL ACTION**

The Engineering Division Staff recommends approval of the proposed driveway approach amendments to Chapters 15, 17, 19 and 21 of the City Code and including Option 2b text in Section 17.13.

**Option 1: leave code language almost as is (move width to another section, add some clean up language to clarify)**

**SEC. 17.13. RESIDENTIAL DRIVEWAY APPROACHES.**

- (a) **Materials.** ~~[The width of the driveway approach at the property line for a single or two-family residential site must not exceed the width of the driveway it connects to. Turning tapers may be added to the driveway approach between the property line and the street that add up to six additional feet to the width of the driveway approach at its intersection with the street provided that the driveway approach at no point exceeds a maximum width of 30 feet. Curb cuts and turning tapers must not extend beyond the projected side property line, except when consented to in writing by the adjoining property owner and prior approval is granted by the Issuing Authority.]~~ For newly constructed residential driveway approaches ~~[econstructed]~~, existing reconstructed driveway approaches and driveway approaches disturbed by construction, the driveway approach must be paved with Portland cement concrete, plant bituminous surface (i.e. asphalt), ~~[or]~~ stone, brick or concrete pavers that are placed with gaps not exceeding one quarter inch, or other material as approved by the City Engineer. When a material other than non-decorative Portland cement concrete or plant bituminous ~~[decorative concrete, stone, brick, or concrete pavers]~~ are used in a driveway approach, a three foot concrete apron meeting the appropriate City standard detail must be installed adjacent to the street. Before constructing a driveway approach using a material other than non-decorative Portland cement concrete or plant bituminous ~~[with pavers, stone, brick or decorative concrete]~~, the property owner must provide the City with a legal description and an executed agreement in a form acceptable to the City, along with proof that the agreement has been filed with the records for the property in the office of the Hennepin County Recorder or Registrar of Titles agreeing that the landowner and all of the landowner's successor and assigns will, in the event that City work within its right-of-way results in damage to, or the removal of, the driveway approach:
- (1) Bear sole responsibility for all of the additional costs incurred by the City for the removal of the driveway approach attributable to the use of these materials;
  - (2) Hold the City harmless for any and all claims for damage or loss of use occurring to the driveway approach or its construction materials; and
  - (3) Assume sole responsibility for the reconstruction of the driveway approach if the desired reconstruction material is something other than Portland cement concrete or plant bituminous surface, as approved by the Issuing Authority.

**Option 2A: Property owner is liable going forward (driveway approaches constructed before 2007 are not included) – Continue with requiring an Encroachment Agreement**

**SEC. 17.13. RESIDENTIAL DRIVEWAY APPROACHES.**

- (a) **Materials.** ~~[The width of the driveway approach at the property line for a single or two-family residential site must not exceed the width of the driveway it connects to. Turning tapers may be added to the driveway approach between the property line and the street that add up to six additional feet to the width of the driveway approach at its intersection with the street provided that the driveway approach at no point exceeds a maximum width of 30 feet. Curb cuts and turning tapers must not extend beyond the projected side property line, except when consented to in writing by the adjoining property owner and prior approval is granted by the Issuing Authority.]~~ For newly constructed residential driveway approaches [econstructed], existing reconstructed driveway approaches and driveway approaches disturbed by construction, the driveway approach must be paved with Portland cement concrete, plant bituminous surface (i.e. asphalt), [or] stone, brick or concrete pavers that are placed with gaps not exceeding one quarter inch, or other material as approved by the City Engineer. [When decorative concrete, stone, brick, or concrete pavers are used in a driveway approach, a three foot concrete apron meeting the appropriate City standard detail must be installed adjacent to the street]. Before constructing a driveway approach using a material other than non-decorative Portland cement concrete or plant bituminous, [with pavers, stone, brick or decorative concrete], the property owner must provide the City with a legal description and an executed agreement in a form acceptable to the City, along with proof that the agreement has been filed with the records for the property in the office of the Hennepin County Recorder or Registrar of Titles agreeing that the landowner and all of the landowner's successor and assigns will, in the event that City work within its right-of-way results in damage to, or the removal of, the driveway approach:
- (1) Bear sole responsibility for all of the additional costs incurred by the City for the removal of the driveway approach attributable to the use of these materials;
  - (2) Hold the City harmless for any and all claims for damage or loss of use occurring to the driveway approach or its construction materials; and
  - (3) Assume sole responsibility for the reconstruction of the driveway approach if the desired reconstruction material is something other than Portland cement concrete or plant bituminous surface, as approved by the Issuing Authority.

For City initiated projects, the City will offer the following options for paver or decorative driveway approach disturbance:

- (1) The City will remove necessary portions of the driveway approach and reinstall a three foot concrete apron at the curb line. The property owner will be responsible for the remainder of the paver or decorative driveway approach reinstallation. The cost of removal and concrete apron reinstallation will be funded by the approved project specifications.
- (2) The City will remove necessary portions of the driveway approach and will reinstall concrete in the entire disturbed area. The cost of removal and concrete driveway approach reinstallation will be funded by the approved project specifications.
- (3) If the property owner prefers to have paver or decorative driveway materials within the right-of-way from the property line to the curb, without a concrete apron, the City will remove necessary portions of the driveway approach and the property owner will be responsible for the reinstallation of the paver or decorative driveway approach. The cost of removal will be funded by the approved project specifications.

## Option 2B: Property owner is liable (including past construction) – No Encroachment Agreement

### SEC. 17.13. RESIDENTIAL DRIVEWAY APPROACHES.

- (a) **Materials.** ~~[The width of the driveway approach at the property line for a single or two-family residential site must not exceed the width of the driveway it connects to. Turning tapers may be added to the driveway approach between the property line and the street that add up to six additional feet to the width of the driveway approach at its intersection with the street provided that the driveway approach at no point exceeds a maximum width of 30 feet. Curb cuts and turning tapers must not extend beyond the projected side property line, except when consented to in writing by the adjoining property owner and prior approval is granted by the Issuing Authority.] For newly constructed residential driveway approaches [econstructed], existing reconstructed driveway approaches and driveway approaches disturbed by construction, the driveway approach must be paved with Portland cement concrete, plant bituminous surface (i.e. asphalt), [or] stone, brick or concrete pavers that are placed with gaps not exceeding one quarter inch, or another material as approved by the City Engineer. [When decorative concrete, stone, brick, or concrete pavers are used in a driveway approach, a three foot concrete apron meeting the appropriate City standard detail must be installed adjacent to the street. Before constructing a driveway approach, with pavers, stone, brick or decorative concrete, the property owner must provide the City with a legal description and an executed agreement in a form acceptable to the City, along with proof that the agreement has been filed with the records for the property in the office of the Hennepin County Recorder or Registrar of Titles agreeing that the landowner and all of the landowner's successor and assigns will,] In the event that City work within its right-of-way results in damage to, or the removal of, [the] driveway approaches constructed of any material that is not non-decorative Portland cement concrete or plant bituminous, the landowner will:~~

- (1) Bear sole responsibility for all of the additional costs incurred by the City for the removal of the driveway approach attributable to the use of these materials;
- (2) Hold the City harmless for any and all claims for damage or loss of use occurring to the driveway approach or its construction materials; and
- (3) Assume sole responsibility for the reconstruction of the driveway approach if the desired reconstruction material is something other than Portland cement concrete or plant bituminous surface, as approved by the Issuing Authority.

For City initiated projects, the City will offer the following options for paver or decorative driveway approach disturbance:

- (1) The City will remove necessary portions of the driveway approach and reinstall a three foot concrete apron at the curb line. The property owner will be responsible for the remainder of the paver or decorative driveway approach reinstallation. The cost of removal and concrete apron reinstallation will be funded by the approved project specifications.
- (2) The City will remove necessary portions of the driveway approach and will reinstall concrete in the entire disturbed area. The cost of removal and concrete driveway approach reinstallation will be funded by the approved project specifications.
- (3) If the property owner prefers to have paver or decorative driveway materials within the right-of-way from the property line to the curb, without a concrete apron, the City will remove necessary portions of the driveway approach and the property owner will be responsible for the reinstallation of the paver or decorative driveway approach. The cost of removal will be funded by the approved project specifications.

**Option 3: City treats all driveway approach materials the same and bears the cost (City takes liability)**

**SEC. 17.13. RESIDENTIAL DRIVEWAY APPROACHES.**

- (a) **Materials.** ~~The width of the driveway approach at the property line for a single or two-family residential site must not exceed the width of the driveway it connects to. Turning tapers may be added to the driveway approach between the property line and the street that add up to six additional feet to the width of the driveway approach at its intersection with the street provided that the driveway approach at no point exceeds a maximum width of 30 feet. Curb cuts and turning tapers must not extend beyond the projected side property line, except when consented to in writing by the adjoining property owner and prior approval is granted by the Issuing Authority.] For newly constructed residential driveway approaches ~~[e]nstructed~~, existing reconstructed driveway approaches and driveway approaches disturbed by construction, the driveway approach must be paved with Portland cement concrete, plant bituminous surface (i.e. asphalt), ~~[or]~~ stone, brick or concrete pavers that are placed with gaps not exceeding one quarter inch, or other material as approved by the City Engineer. ~~[When decorative concrete, stone, brick, or concrete pavers are used in a driveway approach, a three foot concrete apron meeting the appropriate City standard detail must be installed adjacent to the street. Before constructing a driveway approach with pavers, stone, brick or decorative concrete, the property owner must provide the City with a legal description and an executed agreement in a form acceptable to the City, along with proof that the agreement has been filed with the records for the property in the office of the Hennepin County Recorder or Registrar of Titles agreeing that the landowner and all of the landowner's successor and assigns will, in the event that City work within its right-of-way results in damage to, or the removal of, the driveway approach:~~~~
- ~~(1) — Bear sole responsibility for all of the additional costs incurred by the City for the removal of the driveway approach attributable to the use of these materials;~~
  - ~~(2) — Hold the City harmless for any and all claims for damage or loss of use occurring to the driveway approach or its construction materials; and~~
  - ~~(3) — Assume sole responsibility for the reconstruction of the driveway approach if the desired reconstruction material is something other than Portland cement concrete or plant bituminous surface, as approved by the Issuing Authority.]~~

**ORDINANCE NO. 2010-**

**AN ORDINANCE UPDATING VARIOUS STANDARDS PERTAINING TO DRIVEWAY APPROACHES, THEREBY AMENDING CHAPTERS 15, 17, 19 AND 21 OF THE CITY CODE**

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 17 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

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**CHAPTER 15**

**BUILDINGS AND STRUCTURES**

**ARTICLE I. BUILDING CODE**

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**SEC. 15.13. CONSTRUCTION OR MODIFICATION OF PARKING AREAS.**

- (a) A parking lot permit is required prior to constructing, enlarging, replacing or resurfacing a parking area or changing the parking space or drive aisle dimensions of a parking area, except that patching of up to 20 percent of a parking surface does not require a parking lot permit. All patching within a two year period is considered one project for the purposes of determining compliance with the 20 percent limit. The proposed parking lot will be reviewed for compliance with city, state and federal requirements including but not limited to stormwater management, wetlands protection (see City Code Section 16.58), accessibility to the physically disabled, parking space and drive aisle dimensions and lighting. Modifications to any parking space and drive aisle dimensions requires approval by the City Engineer. Modification in the public right of way requires a separate right of way permit. Removal or replacement of less than 50 percent of the parking lot surface on a site within a two year period requires that portion of the parking area to be brought into compliance with lighting standards (see City Code Section 21.301.07). Removal or replacement of 50 percent or more of the parking lot surface on a site within a two year time period requires all parking lot surface on the site to be brought into compliance with lighting standards. Removing parking lot surface material down to the stone base constitutes removal.
- (b) **Surfacing.** The requirements for off-street parking areas and driveways are set forth in Section 21.301.06 of this Code. The requirements for driveway approaches are set forth in Chapter 17, Article I of this Code.

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**CHAPTER 17**

**STREETS AND RIGHTS-OF-WAY**

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**ARTICLE I. DRIVEWAYS, APPROACHES AND ENTRANCES**

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**SEC. 17.01. DEFINITIONS.**

The following words and terms, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

**Business driveway approach** - A driveway approach providing ingress and egress to any property other than single or two-family residential property. The approach is the area between the curb

or pavement edge of a public street and the private property line intended to provide access for vehicles from a roadway or a public street to a driveway on private property.

**Off-drive parking area** – An off-street area connected to a driveway intended for the parking of vehicles.

**Off-drive turnaround area (hammerhead)** – An off-street area connected to a driveway intended to allow vehicles to turn around on site and exit on to roadways in a forward facing position.

**Resident driveway approach** - A driveway approach providing ingress and egress to single or two-family residential property. The approach is the area between the curb or pavement edge of a public street and the private property line intended to provide access for vehicles from a roadway or a public street to a driveway on private property.

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#### **SEC. 17.03. PROHIBITED CONSTRUCTION.**

It shall be unlawful for any person to construct, alter or extend, or permit or cause to be constructed, altered or extended any driveway approach which can be used as an off-drive parking area or off-drive turnaround area. [used only as a parking space or area between the curb and private property.] Off-drive parking and turnaround areas are allowed outside of the right-of-way, provided they meet the requirements in Sec. 21.301.06(i)(5-6).

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#### **SEC. 17.05. APPLICATION FOR PERMIT.**

- (a) Any person desiring to construct a driveway approach within the public right-of-way [across any curbing, parking, sidewalk or sidewalk space], shall first make application to the City [Traffic] Engineer or designee for a permit there for. Such application shall be in writing upon a form provided by the City, and made available at the office of the City [Traffic] Engineer. Such application shall contain information showing the type of construction, the width of the proposed driveway approach, the location of such driveway approach by lot and block number, as well as by street and house number, and such other information as may be required. The application shall be filed by the property owner desiring to construct such driveway approach or by his/her duly authorized agent.
- (b) The fees for permits for the construction of driveway approaches provided herein shall be as outlined in Sec. 14.03.
- (c) Before a permit is issued to construct a driveway approach within the public right-of-way, the applicant shall deposit with the City Clerk a surety bond in the amount of \$5,000 in favor of the City. The required surety bond must be:
- (1) With good and sufficient surety by a surety company authorized to do business in the State of Minnesota.
  - (2) Satisfactory to the City Attorney in form and substance.
  - (3) Conditioned that the applicant will faithfully comply with all the terms and conditions of this Article; all rules, regulations and requirements pursuant thereto and as required by the City Engineer and all reasonable requirements of the City Engineer including payment of the charge for street or other restoration work as set forth in the rules and regulations.
  - (4) Conditioned that the applicant will secure and hold the City and its officers harmless against any and all claims, judgments, or other costs arising from the driveway approach permit or for which the City, the City Council or any City officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee.
- (d) Recovery on such surety bond for any injury or accident shall not exhaust the bond but shall in its entirety cover any or all future accidents or injuries during the driveway approach work for which it is given.
- (e) In the event of any suit or claim against the City by reason of the negligence or default of the permittee, upon the City giving written notice to the permittee of such suit or claim, any final judgment against the City requiring it to pay for such damage shall be conclusive upon the permittee and his/her surety.
- (f) An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified herein and in other respects as specified herein but

applicable as to all excavation work in public ways or public grounds by the permittee during the term of one year from said date.

- (g) A permittee, prior to the commencement of driveway approach work hereunder, shall furnish the City Engineer or designee satisfactory evidence in writing that the permittee has in force, and will maintain in force during the performance of the driveway approach work and the period of the driveway approach permit, public liability insurance of not less than \$100,000 for any one person and \$300,000 for any one accident and property damage insurance of not less than \$100,000 duly issued by an insurance company authorized to do business in the State of Minnesota and on which policy the City is named as a co-insured.
- (h) The permittee shall indemnify, keep and hold the City free and harmless from liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in constructing any driveway approach. In the event that suit shall be brought against the City, either independently or jointly with the permittee on account thereof, the permittee, upon notice to it by the City shall defend the City in any suit at the cost of the permittee, and in the event of a final judgment being obtained against the City, either independently or jointly with the permittee, the permittee shall pay such judgment with all costs and hold the City harmless there from.
- (i) In locations where the driveway approach is to a Hennepin County road, a permit is required from Hennepin County.

#### **SEC. 17.06. ISSUANCE OF PERMIT.**

Such permit shall be issued by the City [~~Traffic~~] Engineer or designee if it [~~he~~] has been determined that the applicant has complied with the terms of this Article [~~and paid the permit fee hereinafter specified~~].

#### **SEC. 17.07. RESERVED [PERMIT FEES].**

~~(a) The fees for permits for the construction of driveway approaches provided for herein shall be \$25.00.~~

~~(b) If an excavation permit fee has been paid by the applicant for the same work pursuant to the provisions of Article IV of Chapter 16 of the City Code ("Excavations and Construction on Public Lands and Easements"), no additional fee shall be required under this Section.~~

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#### **SEC. 17.09. AUTHORITY OF CITY [TRAFFIC] ENGINEER.**

All work done under a permit issued in compliance with this Article shall be under the direction and supervision of the City [~~Traffic~~] Engineer, who is hereby authorized to make the necessary rules, regulations and specifications with respect to materials for and method of construction of such driveway approaches. A permit issued under the provisions of this Article may be revoked by the City [~~Traffic~~] Engineer at any time he/she is not satisfied that the work is [~~not~~] being [~~begin~~] performed according to the provisions hereof.

#### **SEC. 17.10. SUBMISSION OF PLANS TO CITY [TRAFFIC] ENGINEER.**

Any plans submitted to the Building and Inspections Division [~~Building Inspector~~] for approval which include or involve driveway approaches shall be referred [~~by the Building Inspector~~] to the City Engineer or designee for [~~his~~] approval before a [~~building~~] permit shall be issued from the Building and Inspections Division.

#### **SEC. 17.11. GENERAL CONSTRUCTION REQUIREMENTS [GENERALLY].**

In addition to the rules, regulations and specifications promulgated by the City Engineer with respect to driveway approaches, the following requirements shall be complied with [~~in the work done under the provisions of this Article~~]:

- (a)[4] No curb cuts normal to the right-of-way shall be made beyond any property line as projected, except when given consent[~~ed to~~] in writing by the adjoining property owner involved.
- (b)[2] The top of the paving of the driveway slab at the curblines shall be 1-5/8 inches above the flowline of the gutter, and shall not extend into the gutter beyond the face of the curb, and shall not be constructed in a manner that will in any way interfere with or obstruct the drainage of the street, or interfere with the use of the street for the purpose of travel.

- (c[3]) The owner and contractor shall protect the public from injury or damage during the construction of driveway approaches and it is herein stipulated, as an essential condition of the issuance of a permit, that the City shall not be liable for damage which may arise from the prosecution of work.

#### **SEC. 17.12. RESERVED. [WIDTHS AND LOCATIONS.]**

~~[In addition to the width restrictions relative to driveway approaches set out in Sections 17.13 and 17.14 of this Code, the following limitations on the width and locations of driveway approaches for each parcel of land must also be complied with:~~

- ~~(a) Where the frontage of the parcel of land does not exceed 50 feet in width, there may be constructed only one driveway approach.~~
- ~~(b) Where the frontage of the parcel of land exceeds 50 feet in width, the curb cuts for driveway approaches must not exceed 60 percent of the frontage of such parcel of land, provided however, that at least one parallel (18 feet) curb parking space must separate each driveway approach.~~
- ~~(c) No portion of a driveway approach except the curb return may be constructed within 20 feet of a corner and in no case closer than two feet from the property line extended to the approach curb cut.~~
- ~~(d) Second Curb Cut and Connecting Driveway. A permit for a second curb cut to a single family site must not be issued unless the site has at least 120 feet of frontage along a single public street or is a corner lot and complies with the standards of Section 17 of this Code. For corner lots, when two curb cuts are present, each curb cut must be to a separate street unless the site has at least 120 feet of frontage along a single public street. More than two curb cuts are prohibited for single or two-family residential sites. In the event a second driveway is installed to serve a second garage, the second driveway must meet all driveway standards. In the event a second driveway is installed to serve as a circular driveway, the secondary driveway is limited to 12 feet in width and must meet all other driveway standards.]~~

#### **SEC. 17.13. RESIDENTIAL DRIVEWAY APPROACHES.**

Additional requirements for single family and two family residential driveways and off-street parking areas are set forth in Section 21.301.06 of this Code.

- (a) **SEE OPTIONS 1, 2 AND 3 AS SEPARATE DOCUMENTS.**
- (b) **Widths and Locations.** Residential driveway approach dimensions must comply with the applicable City construction detail for driveway approaches and the following:
- (1) The width of the driveway approach at the property line for a single or two-family residential site must not exceed the driveway of which it connects. Turning tapers may be added to the driveway approach between the property line and the street that add up to six additional feet to the width of the driveway approach at its intersection with the street provided that the driveway approach at no point exceeds a maximum width of 30 feet. Curb cuts and turning tapers must not extend beyond the projected side property line, except when consent is provided in writing by the adjoining property owner and prior approval is granted by the Issuing Authority.
  - (2) Where the frontage of the parcel of land does not exceed 50 feet in width, there may be constructed only one driveway approach.
  - (3) No portion of a driveway approach except the curb tapers may be constructed within 20 feet of a corner and in no case closer than two feet from the property line extended to the approach curb cut.
  - (4) Second Curb Cut and Connecting Driveway. A permit for a second curb cut to a single family site must not be issued unless the site has at least 120 feet of frontage along a single public street or is a corner lot and complies with the standards of Section 17 of this Code. For corner lots, when two curb cuts are present, each curb cut must be to a separate street unless the site has at least 120 feet of frontage along a single public street. More than two curb cuts are prohibited for single or two-family residential sites. In the event a second driveway is installed to serve a second garage, the second driveway must meet all driveway standards. In the event a second driveway is installed to serve as a circular driveway, the secondary driveway is limited to 12 feet in width and must meet all other driveway standards. A minimum of 18' (one parallel parking space) must separate each driveway approach.

- (c) Slope. The driveway approach slope must not exceed ten percent. Slopes through sidewalks must not exceed ADA requirements of 1:50 or two percent.

**SEC. 17.14. BUSINESS DRIVEWAY APPROACHES.**

Additional requirements for business driveways and off-street parking areas are set forth in Section 21.301.06 of this Code.

- (a) Business driveway approaches shall be limited to the maximum width necessary to safely and efficiently accommodate the expected traffic demand and vehicle type, consistent with the intended use. The number of curb cuts shall be limited to those necessary to provide adequate access, as supported by the expected traffic demand for the site. The number width and location of all business driveway approaches shall be approved by the City Engineer or designee [must not exceed 25 feet in width at the property line, must have at least one curb parking space (18 feet) between driveway approaches, and the curb cut must not exceed the width of the driveway approach at the property line by more than ten feet].
- (b) All business driveway and/or parking lot approaches must be paved with Portland cement concrete or equivalent paving material such as approved by the Issuing Authority.
- (c) Loading docks, ramps, and vehicular entrances must be located in such a manner that backing onto and maneuvering within the street right-of-way is avoided or eliminated [and in such a manner that driveways greater in width than that specified by this Article shall not be required].
- (d) The driveway approach slope, measured at the centerline of the driveway, must not exceed six percent within 20-feet of the approach to a public street. Slopes across sidewalks must not exceed ADA requirements of 1:50 or two percent.

\*\*\*

**SEC. 17.16. EXCEPTIONS. [VARIANCES.]**

The City [~~Traffic~~] Engineer is hereby authorized to grant in writing exceptions to [variances from] the strict application of the provisions of this Article provided he/she first determines that the following conditions are present:

- (1) The desired exception [~~or variance desired~~] arises from peculiar physical conditions not ordinarily existing in similar districts in the city or is due to the nature of the business or operation on the abutting property.
- (2) The desired exception [~~or variance desired~~] is not against the public interest, particularly safety, convenience and general welfare.
- (3) The granting of the permit for the exception [~~or variance~~] will not adversely affect the rights of adjacent property owners or tenants.
- (4) The strict application of the terms of this Article will work unnecessary hardship on the property owner or tenant.

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**CHAPTER 19**

**ZONING**

\*\*\*

**ARTICLE IV. DISTRICT REGULATIONS**

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**SEC. 19.61. SERVICE STATION PERFORMANCE STANDARDS.**

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- (f) **Access – Driveway Approach(es)** [~~Access driveways~~] shall be approved by the City Engineer pursuant to Section 17.14 of this Code [:-
- (1) —Distance of driveway from street      Not less than 50 feet, however, if in the

intersection	<del>opinion of the City Council present or future traffic conditions warrant a greater distance, such greater distance shall be required.</del>
(2) <del>Maximum driveway width at curb line</del>	35 feet
(3) <del>Minimum distance between driveways</del>	20 feet at curb
(4) <del>Minimum driveway angle to street</del>	30 degrees when street is one-way or divided; otherwise 60 degrees]

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## CHAPTER 21

### ZONING AND LAND DEVELOPMENT

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#### ARTICLE III. DEVELOPMENT STANDARDS

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##### SEC. 21.301.06. Parking and Loading.

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(b) **Location -**

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(2) **Accessory off-street parking is prohibited in the following locations:**

- (A) Where the building is 40 feet or less from the planned widened right-of-way line, parking is prohibited between the building and the street. This requirement does not apply to single-family and two-family residences.
- (B) On grass or landscaped areas pursuant to Section 19.52 of this Code, in addition to the restrictions set out in Chapter 8 of the City Code.
- (C) Within the public right-of-way pursuant to Section 17.03 of this Code.

(c) **Design -**

- (1) **Single family and two family land uses.** See requirements set forth in Section 17, Article I and Section 21.301.06(i) of this Code.
- (2) **Other land uses.**
  - (F) **Access.**
    - (i) Vehicular access and circulation. All off-street parking spaces must have access off driveways and not directly off the public street.
    - (ii) Fire and public safety access and circulation. Turnarounds and fire lane areas for Fire and other Public Safety vehicles must be provided in accordance with requirements set forth in Section 6.20 of this Code, and are subject to approval of the City Issuing Authority.
    - (iii) Driveway approaches shall be designed pursuant to Section 17, Article I of this Code.

\*\*\*

- (g) **Permit.** A parking lot permit is required prior to constructing or enlarging a parking area, or removing parking lot surface material down to the aggregate base and replacing it. The proposed parking lot will be reviewed for compliance with city, state and federal requirements including but not limited to stormwater management, wetlands protection (see City Code Section 16.58), accessibility to the physically disabled, parking space and drive aisle dimensions and lighting. Modifications to any parking space and drive aisle dimensions may require approval by the City

Engineer. Modification in the public right of way requires a separate right of way permit in accordance with Section 17, Article I of this Code. Removal or replacement of less than 50 percent of the parking lot surface on a site within a two year period requires that portion of the parking area to be brought into compliance with lighting standards (see City Code Section 21.301.07). Removal or replacement of 50 percent or more of the parking lot surface on a site within a two year period requires all parking lot surfaces on the site to be brought into compliance with lighting standards. All new striping, restriping, accessibility elements, and signage shall meet the requirements of the Bloomington City Code and the Minnesota State Building Code.

\*\*\*

(i) **Single Family and Two Family Residential Driveways and Off-Street Parking.**

- (1) **Driveway location.** New driveways may not be constructed and existing driveways may not be expanded unless they lead directly to and connect with a garage. If there is no garage present on a site, a maximum of one driveway may be constructed provided it leads to a location where a garage could legally be constructed and the length of the driveway does not exceed 50 feet or the maximum distance of the front façade of the principal building from the property line, whichever is greater.
- (2) **Driveway approach dimensions.** Driveway approach dimensions must comply with the applicable City construction detail for driveway approaches and Section 17.13 of this Code.

\*\*\*

- (5) **Off-drive parking areas.** The construction of new or the expansion of existing off-drive parking area must comply with the following standards and is allowed only when the cumulative total width of all driveways on site is 26 feet or less. See Figure 21.301.06(i)(12)(A).
  - (A) One off-drive parking area of up to 12 feet in width and accessible by a standard vehicle from the driveway is permitted. The off-drive parking area may be located on either side of the driveway provided all setback and other standards are met;
  - (B) The off-drive parking area may extend adjacent to the side of the garage but may not extend farther from the street than the rear of the garage. When adjacent to a garage, the off-drive parking area must be at least nine feet in width;
  - (C) The off-drive parking area must meet the setbacks as set forth in Section 21.301.06(i)(9) of this Code except that a portion of an off-drive parking area may encroach into the required 20 foot front setback area as it transitions to full width. For sites with a principal building setback of less than 36 feet, off-drive parking area may begin to transition to full width at a 45 degree angle between 5 feet and 17 feet back from the property line adjacent to the street. For sites with a principal building setback of 36 feet or greater, off-drive parking area may begin to transition to full width at a 45 degree angle between 10 feet and 22 feet back from the property line adjacent to the street.
  - (D) The off-drive parking area must be an approved surface as set forth in Section 21.301.06(i)(7) of this Code;
  - (E) The 35 percent maximum impervious surface coverage requirement must be met for all single family sites as specified in Sections 19.27(f)(2) and 19.27.01(f)(1)(B) of this Code;
  - (F) In the event a site has a second driveway, second garage or a circular driveway, off-drive parking area is allowed only adjacent to one driveway/garage; and
  - (G) For two-family dwellings with a common driveway, each unit may have an off-drive parking area subject to the standards of this Section provided the driveway width does not exceed the maximum driveway widths set forth in Section 21.301.06(i)(3)(D) of this Code.
  - (H) Off-drive parking areas are prohibited within the public right-of-way as set forth in Section 17.03 of this Code.
- (6) **Off-drive turnaround areas.** The construction of new or the expansion of existing off-drive turnaround (hammerhead) area must comply with the following standards and is allowed

only when the total width of the driveway and any adjacent off-drive parking area at a given point does not exceed 36 feet. See Figure 21.301.06(i)(12)(A).

- (A) In order to allow vehicles to turn around on-site and exit onto roadways in a forward facing position, one off-drive turnaround area up to 12 feet in width and 18 feet in depth is allowed abutting a driveway. The maximum width of driveway plus off-drive parking area plus off-drive turnaround area must not exceed 36 feet at any point. The off-drive turnaround area may be located on either side of the driveway provided all setback and other standards are met;
- (B) The off-drive turnaround area must be an approved surface as set forth below in Section 21.301.06(i)(7) of this Code;
- (C) The 35 percent maximum impervious surface coverage requirement must be met for all single family sites as specified in Sections 19.27(f)(2) and 19.27.01(f)(1)(B) of this Code;
- (D) In the event a site has a circular driveway, off-drive turnaround area is not allowed. In the event a site has a second but unconnected driveway, off-drive turnaround area is allowed only adjacent to one driveway.
- (E) Off-drive turnaround areas are prohibited within the public right-of-way as set forth in Section 17.03 of this Code.

\*\*\*

(8) **Driveway and off-drive parking area surface.**

- (A) Driveways and off-drive parking and turnaround areas, not to include driveway approaches, must be paved for the entire length and width of the surface with Portland cement concrete, plant bituminous surface (i.e. asphalt), brick, stone, or concrete driveway pavers that are placed with gaps not exceeding one quarter inch, or equivalent material as approved by the Issuing Authority. Gravel is not permitted.
- (B) ~~Driveway approaches materials must conform to the requirements set forth in Section 17.13 of this Code. must be paved with Portland cement concrete, a plant bituminous surface (i.e. asphalt) or stone, brick or concrete pavers that are placed with gaps not exceeding one quarter inch. When decorative concrete, stone, brick or concrete pavers are used in a driveway approach, a three foot concrete apron meeting the appropriate City standard detail must be installed adjacent to the street. Before constructing a driveway approach with pavers, stone, brick or decorative concrete, the property owner must provide the City with a legal description and an executed agreement in a form acceptable to the City, along with proof that the agreement has been filed with the records for the property in the office of the Hennepin County Recorder or Registrar of Titles agreeing that the landowner and all of the landowner's successors and assigns will, in the event that City work within its right of way results in damage to, or the removal of, the driveway approach:~~
  - ~~(i) Bear sole responsibility for all of the additional costs incurred by the City for the removal of the driveway approach attributable to the use of these materials;~~
  - ~~(ii) Hold the City harmless for any and all claims for damage or loss of use occurring to the driveway approach or its construction materials; and~~
  - ~~(iii) Assume sole responsibility for the reconstruction of the driveway approach if the desired reconstruction material is something other than Portland cement concrete or plant bituminous surface, as approved by the Issuing Authority.~~

- (9) **Driveway approach and driveway slope.** The driveway approach slope must not exceed ten percent pursuant to Section 17.13 of this Code. Where there is a public easement adjacent to the property line, the driveway slope through the easement must not exceed ten percent. The driveway through the private property area may transition to a slope steeper than ten percent with prior approval of the City Engineer. Slopes through sidewalks must not exceed ADA requirements of 1:50 or two percent.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Secretary to the Council

APPROVED:

\_\_\_\_\_  
City Attorney

Item 2

**GENERAL INFORMATION**

Applicant: City of Bloomington

Request: Consider an ordinance to make multiple miscellaneous amendments to Chapters 15, 17, 19, and 21 of the City Code pertaining to driveway approaches and recommend ordinance language pertaining to driveway approach materials.

**PROPOSAL**

The City Council has requested that staff revise the Driveway Approach Ordinance in respect to decorative driveway materials, with the goal of allowing property owners freedom to choose materials for their driveway approach, while limiting the City's liability when a City construction project is required. In addition to driveway approach materials, there are several miscellaneous updates and clean up items addressed at this time.

Staff prepared three options to address decorative driveway approaches:

Option 1: The code language for decorative driveways remains essentially the same. The existing code requires that all driveway approaches are constructed of either concrete or asphalt. When a property owner requests that their driveway approach is of a different material, than the code requires that a 3-foot concrete apron is constructed adjacent to the curb and then the decorative material is placed after the concrete apron. The current code also requires an encroachment agreement which states that the liability, responsibility and cost of replacing the decorative material is the property owners. The encroachment agreement is to be filed with the property for all non-concrete or asphalt driveway approaches.

Option 2: The code language is changed to allow decorative driveway materials to be used right up to the curb or edge of pavement. This change does not require the 3-foot concrete apron. Option 2 requires the property owner to bear the cost of replacing the decorative driveway approach in the event a City construction project requires it. In sub-option 2A, the City would still require an encroachment agreement be filed with the property for all non-concrete or asphalt driveway approaches. In sub-option 2B, the City would do away with requiring an encroachment agreement, but the liability/cost of removing and replacing the driveway approach with decorative materials would still fall to the property owner, per the code language.

Option 3: The code language is changed to allow any decorative material as the driveway approach. In this option, the full cost of removing and replacing any type of driveway approach for a City construction project would be at the cost of the City.

## ANALYSIS

The following changes are included in the draft ordinance.

### Chapter 15

#### *Section 15.13(b). Construction or Modification of Parking Areas.*

- Reference to Chapter 17, Article I of the City Code added.

### Chapter 17

#### *Section 17.01. Definitions.*

- Added text to make the definition of business driveway approach consistent with other definitions in the City Code.
- Added definition for off-drive parking area that is consistent with other definitions in the City Code.
- Added definition for off-drive turnaround area (hammerhead) that is consistent with other definitions in the City Code.
- Added text to make the definition of residential driveway approach consistent with other definitions in the City Code.

#### *Section 17.03. Prohibited Construction.*

- Revised text to use the terms off-drive parking area and off-drive turnaround area.
- Added reference to Section 21.301.06(i)(5-6).

#### *Section 17.05. Application for Permit.*

- Revised text to use the term within the public right-of-way.
- Changed the responsible staff person to the City Engineer or designee instead of the City Traffic Engineer
- Removed male references to the City Engineer
- Added reference to permit fees listed in Section 14.03.
- Added surety bond requirements of the permit.
- Added liability insurance requirements of the permit.
- Added indemnification and hold harmless language
- Added text that driveway approaches adjacent to Hennepin County roads require a separate Hennepin County permit.

#### *Section 17.06. Issuance of Permit.*

- Changed the responsible staff person to the City Engineer or designee instead of the City Traffic Engineer.
- Eliminated references to gender.
- Removed text pertaining to fees, as that is included in Section 17.05.

#### *Section 17.07. Reserved [~~Permit Fees~~].*

- Removed all text because permit fees are included in Section 17.05.

#### *Section 17.09. Authority of City [~~Traffic~~] Engineer.*

- Changed the responsible staff person to the City Engineer or designee instead of the City Traffic Engineer.
- Removed male references to the City Engineer.

*Section 17.10. Submission of Plans to City [~~Traffic~~] Engineer.*

- Changed the responsible staff person to the City Engineer or designee instead of the City Traffic Engineer.
- Revised text to use the term Building and Inspections Division instead of Building Inspector.
- Eliminated references to gender.

*Section 17.11. General Construction Requirements [~~Generally~~].*

- Formatted the sub-paragraphs to be listed by letters instead of numbers to be consistent with the rest of City Code Chapter 17, Article I.

*Section 17.12. Reserved [~~Widths and Locations~~].*

- Moved to Section 17.13. Residential Driveway Approaches.

*Section 17.13. Residential Driveway Approaches.*

- Divided the section into three sub-sections, a) Materials; b) Widths and Locations; and c) Slope
- See above for options 1, 2a, 2b and 3 under sub-section a) Materials.
- Moved text from Section 17.12.
- Combined all text related to second curb cuts into one paragraph.
- Added text pertaining to driveway approach slopes to be consistent with Chapter 21.

*Section 17.14. Business Driveway Approaches.*

- Added reference to Section 21.301.06 of the City Code.
- Changed the maximum driveway approach width from 25 feet to the maximum width necessary to safely and efficiently accommodate the expected traffic demand and vehicle type for the intended use, as approved by the City Engineer or designee.
- Added text pertaining to driveway approach slopes for business driveway approaches.

*Section 17.16. Exceptions [~~Variations~~].*

- Removed references to variances and changed to exceptions.
- Changed the responsible staff person to the City Engineer or designee instead of the City Traffic Engineer.
- Removed male references to the City Engineer.

## Chapter 19

*Section 19.61. Service Station Performance Standards.*

- Removed text pertaining to access characteristics and added reference to Section 17.14 of the City Code.

## Chapter 21

*Section 21.301.06. Parking and Loading.*

- Added reference to Section 17, Article I of the City Code in multiple sub-sections.
- Removed text pertaining to driveway approach materials because this is included in Section 17.13.

*Section 21.301.07. Exterior Lighting.*

- To improve readability, a new graphic regarding canopy lighting is proposed to replace the existing graphic.

Driveway Approach Options

*Section 17.13. Residential Driveway Approaches.*

Option 1: The code language for decorative driveways remains essentially the same. This option is not recommended because it is the most restrictive of the three options. Staff and the Council have received complaints from contractors and homeowners that requiring a 3-foot concrete apron add to the costs and deters from the aesthetic.

Option 2: The code language is changed to allow decorative driveway materials to be used right up to the curb or edge of pavement, with the property owner to bearing the cost of replacement in the event a City construction project requires it. Sub-option A requires a filed encroachment agreement, while sub-option B does not.

Staff recommends Option 2B because it allows flexibility of materials but requires the property owner to bear the cost of replacing their more expensive, decorative driveway. Staff also recommends that the requirement for a filed agreement be removed from the code because the City Code is the official governing document of the City of Bloomington. An extra agreement requires an additional, unnecessary cost to the property owner.

Option 3: The code language is changed to allow any decorative material as the driveway approach. In this option, the full cost of removing and replacing any type of driveway approach for a City construction project would be at the cost of the City. This option is not recommended because the cost of replacing a decorative driveway is significantly more expensive than replacing a driveway paved with standard concrete or bituminous (asphalt). If a property owner chooses to have a more expensive, decorative driveway in the public right-of-way, the taxpayers should not bear the cost to replace the decorative driveway in the event of a public improvement project.

**RECOMMENDATION**

In Case 10000B-10, Engineering Division staff recommends approval of the attached ordinance to amend Chapters 15, 17, 19, and 21 of the City Code and including Option 2B text in Section 17.13.

# Residential driveway and driveway approach

