

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Public Hearing: Safe and Efficient Streets through Access Management
An Ordinance Concerning Access Connection Design and Construction
Requirements, Amending Sections 7.010, 7.085, 7.290, 7.297, 7.308, 7.360, 7.375,
7.385, 7.407, 7.410, 7.430 and 7.445 of the Eugene Code, 1971; Repealing Sections
7.405, 7.415, 7.425 and 7.435 of that code; and Adding Sections 7.408 and 7.435 of
that Code

Meeting Date: February 16, 2010
Department: Public Works Engineering
www.eugene-or.gov

Agenda Item Number: 5
Staff Contact: Peggy Keppler
Contact Telephone Number: 541-682-2869

ISSUE STATEMENT

The purpose of this public hearing is to solicit testimony on the proposed access management code amendments to Chapter 7 (Access Connection Design and Construction Requirements Ordinance).

BACKGROUND

The ordinance for Access Connection Design and Construction Requirements is the access management implementation related code amendments for construction and use of the public right of way in Chapter 7 of the Eugene Code. Implementing access management code revisions will reduce and separate the conflict points along the arterial and major collector streets by managing access connections and protecting intersection influence areas.

Conflict Point. The point of potential collision where vehicle paths cross, merge into or diverge with one another, pedestrians or bicycles.

Intersection Influence Area. That area beyond the physical intersection of two rights of way that comprises the upstream decision and maneuver distance, plus any required vehicle storage length, and the downstream recovery distance of the primary street, and the protected corner clearance distance of the secondary street.

Proposed Ordinance and Implementation

EC 7.010 Definitions. Adds and/or modifies definitions for “access connection,” “access connection spacing,” “conflict point,” “controlled intersection,” “development site,” “driveway,” “easement,” “intersection influence area,” “partially controlled intersection,” “primary street,” “restricted movement access connection” and “secondary street.”

EC 7.085; 7.290; 7.297; 7.308; 7.360; 7.375; 7.385; 7.407; 7.445. Renames codes sections; replaces curb cut terms with access connection; and modifies code language for code consistency in the implementation of access management.

EC 7.405; 7.408; 7.410, 7.415, 7.425, 7.430, and 7.435. Deletes existing code sections; establishes purpose and applicability managing access connections; restructures access connection code sections into design, construction, and regulatory management; moves existing code language into the appropriate code sections; incorporates new access connection requirements for arterial and major collector streets into the appropriate code sections.

EC 7.410 Access Connections – Number, Width and Shared. Clarifies all development sites will be allowed at least one access connection and provides authority to approve additional connection(s) when it doesn't negatively impact the public way.

EC 7.435 Access Connections – Permit Alteration and Revocation; Connection Closure. Clarifies code authority and appeal process for closing access connections.

EC 7.445 Use of Public Right-of-Way. Clarifies private use of public right-of-way requires a permit and that the private use cannot interfere with the use of the public-way.

These code provisions will be implemented by the Public Works Department in conjunction with building permit application reviews. These code provisions are design and construction related activities and applicable to construction and use of the public rights-of-way.

RELATED CITY POLICIES

Implementation of proposed access management code revisions described in the AIS are supportive of the 2009 Council Transportation, Sustainability, and Neighborhood Empowerment goals. Utilizing access management on the City's transportation system provides for the safe and efficient movement of automobiles, pedestrians, bicycles, and emergency vehicles in public rights-of-way; demonstrates responsible stewardship of physical assets and protects the natural environment because use of the existing right-of-way is maximized before expanding rights-of-way; and neighborhood livability is increased as driver satisfaction on the higher classified streets increases and fewer drivers cut through neighborhoods.

COUNCIL OPTIONS

Not applicable, this is a public hearing only. On March 8, 2010, the council will have options related to the adoption of the ordinance to implement access management standards.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the Mayor and City Council convene the public hearing and schedule the ordinance for adoption on March 8, 2010.

SUGGESTED MOTION

Not applicable, this is a public hearing only. Council action is tentatively scheduled for March 8, 2010.

ATTACHMENTS

A. Ordinance

(As of February 8, 2010, no testimony has been received.)

FOR MORE INFORMATION

Staff Contact: Peggy Keppler

Telephone: 541-682-2869

Staff E-Mail: peggy.a.keppler@ci.eugene.or.us

Staff Contact: Gary McNeel

Telephone: 541-682-8451

Staff E-Mail: gary.a.mcneel@ci.eugene.or.us

ORDINANCE NO. _____

AN ORDINANCE CONCERNING ACCESS CONNECTION DESIGN AND CONSTRUCTION REQUIREMENTS, AMENDING SECTIONS 7.010, 7.085, 7.290, 7.297, 7.308, 7.360, 7.375, 7.385, 7.407, 7.410, 7.430 AND 7.445 OF THE EUGENE CODE, 1971; REPEALING SECTIONS 7.405, 7.415, 7.425 AND 7.435 OF THAT CODE; AND ADDING SECTIONS 7.408 AND 7.435 OF THAT CODE.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 7.010 of the Eugene Code, 1971, is amended by adding the following definitions in alphabetical order: “Access connection,” “Access connection spacing,” “Conflict point,” “Controlled intersection,” “Development site,” “Easement,” “Intersection influence area,” “Partially controlled intersection,” “Primary street,” “Restricted movement access connection,” and “Secondary street;” removing the definition of “Curb cut;” and amending the definition of “Driveway” to provide as follows:

7.010 **Definitions.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section:

Access connection. *The area located within the public right-of-way that provides for the movement of vehicles to or from a development site onto and from the vehicular travel way of the public transportation system.*

Access connection spacing. *The distance between connections, measured from the closest edge of pavement of the first connection to the closest edge of pavement of the second connection along the edge of the traveled way.*

Conflict point. *The point of potential collision where vehicle paths cross, merge into or diverge with one another, pedestrians or bicycles.*

Controlled Intersection. *An intersection that has a traffic signal.*

[Curb cut. *The curb opening for the apron and lying between the end slopes of the driveway approach.]*

Development site. *A tract of land under common ownership or control, either undivided or consisting of two or more contiguous lots of record.*

Driveway. *[An] The area [on real property where automobiles and other vehicles are operated or allowed to stand] located outside of the public right-of-way that abuts the access connection and allows for vehicles to move to or from a*

development site. For purposes of the S-JW Jefferson Westside Special Area Zone provisions at EC 9.3600 through 9.3640, a surface area that is intended, prepared, or used for vehicle access to and about a lot.

Easement. A grant of one or more property rights by a property owner to or for use by the public, or another person or entity.

Intersection influence area. That area beyond the physical intersection of two rights of way that comprises the upstream decision and maneuver distance, plus any required vehicle storage length, and the downstream recovery distance of the primary street, and the protected corner clearance distance of the secondary street.

Partially controlled intersection. An intersection that has one or more stop signs or yield signs.

Primary street. The street with the higher street classification of two intersecting streets.

Restricted movement access connection. An access connection that is designed to prevent certain turning movements of vehicles traveling to or from the public right of way.

Secondary street. The street with the lower street classification of two intersecting streets.

Section 2. Section 7.085 of the Eugene Code, 1971, is amended to provide as follows:

- 7.085** **Standard Specifications, Drawings and Design Standards.**
- (1) The city engineer shall prepare [design] standard[s-and-standard] specifications, ***drawings and design standards*** for construction, reconstruction or repair of public improvements to be constructed within areas under the city's jurisdiction to be kept on file in the city engineer's office.
 - (2) All public improvements and city maintained stormwater facilities shall be consistent with sound engineering principles and constructed in accordance with ***drawings and*** design standards and standard specifications and plans adopted by the city, including but not limited to the Public Improvement Design Standards Manual.
 - (3) All engineering and inspections on public improvements and private stormwater facilities to be accepted by the city for maintenance shall be done by the city unless otherwise specified by this code.

Section 3. The heading of Section 7.290 of the Eugene Code, 1971, and subsection (3) of that Section are amended to provide as follows:

- 7.290** **[Construction and Use of] Public Way Construction and Use - Permit Required; Standard Specifications, Drawings and Design Standards.**
- (3) Work affecting a public way shall be performed in accordance with this code,

the standard specifications, **drawings** and design standards adopted pursuant to section 7.085, administrative rules issued by the city manager pursuant to section 2.019 of this code, sound engineering and design practices and such other reasonable conditions required by the city engineer to protect the public health, safety and welfare, including proof that the contractor performing the work is licensed and bonded for the work being performed.

Section 4. The headings of Sections 7.297 and 7.308 of the Eugene Code, 1971, are amended to provide as follows:

7.297 **Public Way Construction and Use [Permit] - Insurance Requirement; Safety.**

7.308 **Public Way Construction and Use - Opening Public Ways; [-]Restoration and Maintenance.**

Section 5. Section 7.360 of the Eugene Code, 1971, and the title above that Section, are amended to provide as follows:

Sidewalk, Curb and [Driveway] Access Connection Requirements

7.360 **Sidewalks, Curbs, Access Connections - Standards.** All sidewalks, **curbs and access connections** shall be built in accordance with [~~city specifications~~] **this chapter 7, adopted standard specifications, drawings and design standards** and built to grades and alignments approved by the city engineer.

Section 6. Sections 7.375 and 7.385 of the Eugene Code, 1971, are amended to provide as follows:

7.375 **Sidewalks, Curbs and Access Connections [~~and Driveway Approaches~~] - Owner's Responsibility to Maintain.**

- (1) The owner of land abutting a sidewalk shall maintain the sidewalk and [~~driveway approaches~~] **curb** in good repair and safe condition. **Access connection(s) shall be maintained in good repair and safe condition by the owner of land served by the access connection(s).**
- (2) The owner shall be liable for injury, damage or loss to person or property caused by the owner's negligent failure to comply with subsection (1) of this section.
- (3) The city shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, **curb** or [~~driveway approach~~] **access connection.**
- (4) The city engineer may serve notice on the owner to reconstruct or repair the abutting or adjoining sidewalk, **curb** or [~~driveway approach~~] **access connection** as conditions may require. A notice to reconstruct or repair and the owner's duty to repair shall be governed by sections 7.152 to 7.154 of this code.

- (5) Neither the duty of the owner to maintain the sidewalk, **curb** and [~~driveway approach~~] **access connection** in good repair and safe condition, nor liability for owner's failure to do so is dependent upon the notice from the city to reconstruct or repair.
- (6) The owner shall defend and hold harmless the city from all claims for loss or damage arising from the owner's failure to comply with subsection 7.375(1).

7.385

~~[Building Construction –]Sidewalk, Curb and [Driveway Approach]Access Connection Construction - Permit Required.~~

- (1) *Unless the construction, reconstruction or alteration is included in a publicly or privately engineered public improvement, an owner, builder or contractor shall obtain a construction permit from the city engineer prior to constructing, reconstructing or altering any sidewalk, curb or access connection. Applications for construction permits shall be submitted on the forms adopted by the city engineer.*
- (2) *Construction permit applications shall be reviewed and approved in accordance with this chapter 7 and the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways.*
- (13) *When constructing a structure or an addition to a structure, [C]concurrent with the issuance of **the** [a] building permit for the construction of a structure or an addition to a structure, the owner, builder or contractor to whom the building permit is issued shall:*
 - (a) *[e]Obtain a sidewalk [and driveway approach] construction permit for the construction of a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk **is not** in good repair **or** does not exist; and,*
 - (b) *Obtain an access connection construction permit for the construction of **any new access connection(s)**; and, [driveway approaches at approved curb cuts.]*
 - (c) *[The sidewalk construction shall be c]Complete[d] **construction of the sidewalk and/or access connection** within the building construction period or within one year after the sidewalk and [driveway approach] **access connection** construction permit is issued, whichever is the lesser.*
- (24) Sidewalk construction shall be exempted from the requirements of this section for building permits for:
 - (a) Construction adjacent to streets that have not been improved to city street standards.
 - (b) Additions or alterations of single-family dwelling units and duplexes.
 - (c) All other structures, additions or alterations in which sidewalk construction costs would exceed 10% of the value of the proposed construction.
- (35) The city manager or designee may waive the requirement for sidewalk construction within rights-of-way where future street or public utility improvements are planned, where there is insufficient right-of-way, or where topographical and other physical constraints exist.
- (46) If a sidewalk, **curb** or [~~driveway approach~~] **access connection** is not constructed within the time required by this section, then the city may construct it for the full street frontage in front of the property and proceed with the construction, assessment and collections of costs as provided in section 7.154 **of this code.**

~~[(5) Any person aggrieved by administrative action of the city manager or designee taken under the provisions of this section may appeal the action as provided in section 2.021 of this code. When rendering a decision the hearings official shall consider the provisions of subsections 7.385(1) and (2) of this code as well as the criteria in section 5.055 of this code.]~~

Section 7. Section 7.405 of the Eugene Code, 1971, is repealed.

~~[7.405 **Driveways - Prohibited Locations, Special Requirements and Revocation.**~~

- ~~(1) No driveway approach shall be permitted to encompass a municipal facility. Under the permit, the applicant may be authorized to relocate a municipal facility, including any within the limits of a curb return which may be encroached upon as allowed under subsection 7.405(3).~~
- ~~(2) Properties at intersections shall have the driveway apron begin no less than 20 feet from the end of the radius of the curb, or 20 feet from the property corner if there is no curb.~~
- ~~(3) The Public Works Department shall maintain a street classification map or other map showing major streets that require special regulation of driveway approaches. The map and subsequent changes thereto shall be approved by the planning commission. All applications for driveway approaches on streets shown on the map and all commercial and industrial land uses shall be reviewed by the city manager or the manager's designee who may alter driveway approach requirements from standards provided in this code, based on the following:
 - ~~(a) To maximize safety for vehicular traffic, or~~
 - ~~(b) To provide adequate protection for pedestrians and bicyclists; or~~
 - ~~(c) To provide protection for establishments using streets for their service facilities. —~~~~
- ~~(4) If a parcel has frontage on two or more streets of different street classifications, where practical, the driveway shall access only the street with the lowest classification.~~
- ~~(5) The city manager or the manager's designee shall have the right, after due notice to affected property owners and tenants, to alter and to revoke curb cut permits when curb cuts are not constructed according to specification, are not maintained in a safe manner, or become hazardous due to traffic congestion.~~
- ~~(6) Any person aggrieved by administrative action of the city manager or the manager's designee taken under the provisions of this section may appeal the action to a hearings official in the same manner as provided in section 5.045. When rendering a decision the hearings official shall consider the criteria in subsection 7.405(3) as well as the criteria in section 5.055 of this code.]~~

Section 8. Subsection (1) of Section 7.407 of the Eugene Code, 1971, is amended to

provide as follows:

7.407 Equivalent Street Assessment.

- (1)** In addition to any application or permit fee required by section [7.405] **7.385**, when the owner of real property is required to obtain an **access connection** [curb-cut] permit to take access onto a street for which the city has given a

credit under subsections 7.730(3) and 7.730(4) based upon the size of the street improvements that would be assessable under subsection 7.175(2)(b), the owner shall pay to the finance officer an equivalent assessment and any other fees required by the city before taking access to the street. If the property has delinquent local improvement assessments against it, before issuing the **access connection** [curb-cut] permit, all delinquent assessments shall be brought current. The equivalent assessment shall be determined by the city engineer, taking into account the city policies regarding size of streets assessed to benefitted property, based on the greater of the credit given under subsection 7.730(3) or (4) for the street to which access is proposed or the cost at the time of taking access of local improvement assessments for similar streets. As used in this subsection "cost" includes the expenses identified in section 7.170. Any person aggrieved by the city engineer's determination of the equivalent assessment may seek its review before a hearings official by following the procedures in section 2.021 of this code. The petitioner shall have the burden of proof in such review.

Section 9. Section 7.408 of the Eugene Code, 1971, is added to provide as follows:

7.408 **Access Connections – Purpose and Applicability**

- (1) *The purpose of the access connection requirements set forth in sections 7.410, 7.420 and 7.430 of this code is to:*
 - (a) *Balance the need for a safe and efficient roadway system against the need to provide ingress and egress to developed land adjacent to the street.*
 - (b) *Reduce conflict points in the transportation system by managing, the number, spacing, location and design of access connections.*
 - (c) *Preserve intersection influence areas to allow drivers to focus on traffic operational tasks, weaving, speed changes, traffic signal indications, etc.*
 - (d) *Reduce interference with through movement, caused by slower vehicles exiting, entering or turning across the roadway, by providing turning lanes or tapers and restricting certain movements.*
- (2) *Unless otherwise provided in this chapter 7 or in chapter 9 of this code, the requirements set forth in sections 7.410, 7.420, and 7.430 of this code apply to the design, construction, reconstruction or alteration of any access connection.*

Section 10. Section 7.410 of the Eugene Code, 1971, is amended to provide as follows:

7.410 ~~[Driveways – Curb Cut]~~ **Access Connections – Number, Width and Shared.**

- (1) ~~[Driveway curb cuts shall not exceed the following dimensions:~~
 - (a) ~~—~~ *Unless there is an access agreement between [properties,] **development sites, a development site** [properties under single ownership] shall be entitled to one [curb-cut per] **access connection.***
- (2) ~~[lot or parcel up to a width of 20 feet, if that is consistent with the requirements of section 7.405 and requirements for]~~ ***Unless provided otherwise by this***

chapter 7 or by the vision clearance [and] or maximum driveway width [allowed] requirements in chapter 9 of this code, an access connection shall be no wider than 20 feet.

- ~~(b) Multiple curb cuts may be approved provided the applicant provides a Traffic Impact Analysis or alternative traffic safety study to:~~
- ~~1. Weigh additional conflicts and congestion for pedestrian, bicycle and vehicular traffic; and~~
 - ~~2. Substantiate compelling evidence of the safety and operational benefits.~~
- ~~(c) Where a shared driveway curb cut or curb cuts in excess of 20 feet are requested, the maximum combined lengths per single ownership which the city manager or the manager's designee may approve are as follows:~~

<u>Frontage</u>	<u>Number of Curb Cuts</u>	<u>Total Length of Curb Cuts</u>
40 ft. or less	1	20 feet
Over 40 ft. to 100 ft.	2	20 ft. + 50% of frontage — over 40 ft.
Over 100 ft. to 200 ft.	3	50 ft. + 30% of frontage — over 100 ft.
Over 200 ft. to 300 ft.	4	80 ft. + 20% of frontage — over 200 ft.
Over 300 ft. to 500 ft.	5	100 ft. + 10% of frontage — over 300 ft.
Over 500 ft.	6	120 ft. + 5% of frontage — over 500 ft.]

- (3) The city engineer or engineer's designee may approve a request for an exception to subsections (1) and/or (2) of this section.**
- (a) An applicant requesting more than one access connection for a single development site and/or requesting that an access connection be wider than 20 feet shall submit an Alternative Traffic Safety Study on the form adopted by the city engineer.**
 - (b) An exception to subsections (1) and/or (2) of this section may be approved only when the Alternative Traffic Safety Study demonstrates that the access connection(s) will:**
 - 1. Provide safe ingress and egress to the development site;**
 - 2. Not negatively impact the efficiency of the public right-of-way; and,**
 - 3. Will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.**
 - (c) In no event shall the width of a single access connection, including a shared access connection, exceed 35 feet.**
 - (d) In no event shall the total number of access connections and, for multiple access connections, the total combined width of the access connections exceed the following:**

<u>Single Street Frontage</u>	<u>Number of Access Connections</u>	<u>Total Combined Width of Access Connections</u>
40 ft. or less	1	20 feet
Over 40 ft. to 100 ft.	2	20 ft. +50% of frontage over 40 ft.
Over 100 ft.	3	50 ft. +30% of frontage over 100 ft.

- (4) [(d)] The [curb-cut] width **of an access connection** for single family dwelling or duplex shall be no less than 12 feet.
- (5) [(e)] The [curb-cut] width **of an access connection** for multi-family, commercial and industrial developments shall be no less than 20 feet.
- ~~[(2)] A safety island of not less than 22 feet of full height curb shall in all cases be provided between driveway approaches under one ownership or where practicable under separate ownership.~~
- ~~(3) The maximum length of a single curb cut, including a shared curb cut, shall not exceed 35 feet unless authorized by the city manager or the manager's designee as provided in section 7.445.~~
- ~~(4) In no event shall the curb cut extend beyond the property line or rights of the owner requesting the curb cut, except in those cases where:~~
- ~~(a) The adjacent property owner gives written approval, or~~
- ~~(b) In the opinion of the city manager or the manager's designee such a decision is necessary for safe ingress and egress for the traveling public; or~~
- ~~(c) Two attached single-family dwellings face the same street with side by side parking, in which event, a single curb cut shall be required, and the property owners shall execute a recordable agreement providing for the joint use of the curb cut. Upon finding that a single curb cut would be impractical or unsafe, the city manager or the manager's designee may grant an exception to this requirement.]~~
- (56) Upon application of the involved property owners, more than one [industrial] development site may share a single [curb-cut in I-1, I-2 and I-3 zones,] **access connection. The city engineer or engineer's designee may approve a shared access connection** upon a finding [by the city manager or the manager's designee] that it will result in safe ingress and egress for users thereof and the general public **and will not negatively impact the efficiency of the public right-of-way.**
- (7) **Two attached single-family dwellings that have side-by-side parking and that face the same streets shall share a single access connection. The city engineer or engineer's designee may grant an exception to this requirement if a single access connection would be unsafe, or negatively impact the efficiency of the public right-of-way, or result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.**
- (8) **Property owners of shared access connections shall execute a recordable agreement providing for the shared use of the access connection.**

- (9) ***Any person aggrieved by administrative action of the city engineer or the engineer's designee taken under the provisions of this section 7.410 may appeal the action in the same manner as provided in section 5.045 of this code.***

Section 11. Section 7.415 of the Eugene Code, 1971, is repealed.

~~[7.415 — **Driveways – Existing Driveways.** All curb cuts deemed by the city manager or manager's designee to exceed a reasonable length shall be reconstructed by the owners of the property served by such curb cuts to conform to the provisions of this Code on or before three months after notice is given. Should the change not be made within the above mentioned time, the street adjacent to the curb cuts shall be appropriately marked for parking by the city engineer, so as to conform to the provisions of this Code regulating the length and number of curb cuts. In reconstructing and remodeling the curb cuts to conform to the provisions of this chapter, curbs shall be replaced in accordance with the specifications given by the city engineer.]~~

Section 12. Section 7.425 of the Eugene Code, 1971, is repealed.

~~[7.425 — **Driveways – Near Alleys.** Driveway access connections located within five feet of an existing alley access connection may be merged with the alley pavement. The total curb cut width shall not exceed 35 feet. A public access easement shall be recorded and submitted to the city upon issuance of a permit to construct the driveway.]~~

Section 13. Section 7.430 of the Eugene Code, 1971, is amended to provide as follows:

- 7.430 **[~~Driveways – Areas of Limited Street Improvements~~Access Connections – General Design and Construction.**
- (1) ***Access connections shall be designed and constructed in accordance with the Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways.***
 - (2) ***Access connections shall be designed and constructed so that vehicles served by the access connection can be parked entirely within the private property lines of the property served by the access connection.***
 - (3) ***Access connections can be designed and constructed to extend beyond a private property line in the following circumstances:***
 - (a) ***The adjacent property owner gives written approval, or,***
 - (b) ***In the opinion of the city engineer or the engineer's designee, such an extension is necessary for safe ingress and egress for the traveling public.***
 - (4) ***Access connections shall be designed and constructed perpendicular to the public way. If existing physical conditions, such as, but not limited to, topography, trees, and parking bays, preclude constructing the access connection perpendicular to the public way, the access connection shall be designed as warranted by the traffic conditions and existing conditions.***

- (5) ***Unless explicitly authorized by the construction permit, the access connection paving shall not extend beyond the property line into a street right-of-way at an intersection or crossroad. Construction permit authorization for such an extension can be conditioned on construction of a traffic island or curb to provide for the protection of municipal facilities.***
- (16) Where standard gutters and curbs have not been installed, the width of [driveway approach] ***the access connection*** shall be measured along the property line and shall comply with the same requirements as specified in section 7.410 for curb cuts. Permits shall not be issued for a surface improvement or paving on the street right-of-way between [driveway approaches] ***access connection*** unless a concrete curb or other physical obstruction, of a design satisfactory to the city engineer, is constructed and maintained by the applicant along his or her property line, so that the entrance and exit of vehicles to and from the applicant's property will be restricted to the established [driveway approaches]***access connection***.
- (27) Where standard curbs and gutters have not been installed, the applicant shall pave the [driveway approaches] ***access connections*** or other areas within the right-of-way with asphaltic concrete or other material approved by the city engineer ***or engineer's designee*** so that it merges with the street pavement; the paving shall be adequate and suitable for the traffic to be carried as determined by the city engineer. The extended paving between the property line and the street pavement shall be to the established grade or other slope fixed by the city engineer to provide for proper runoff. [The paving between the property line and the street pavement may be wider than the driveway approach at the property line in order to provide for safe deceleration of vehicles turning into the applicant's premises.] If the applicant's paving is extended beyond the property line into a street right-of-way at an intersection or crossroad, the city engineer may require the applicant to construct a suitable traffic island or curb to provide for the protection of such municipal facilities as may be necessary.
- (8) ***All access connections between the curb line and the back edge of the sidewalk shall be constructed of Portland cement concrete. The concrete of the access connection including the sidewalk section shall be constructed in accordance with construction specifications and standard drawings adopted by the city engineer.***

Section 14. Section 7.435 of the Eugene Code, 1971, is repealed and a new Section

7.435 is added to provide as follows:

~~[7.435 — **Driveways – Use of Public Property.** City street rights-of-way may not be used for private commercial purposes except under provisions of a revocable permit. A permit for the construction of driveway approaches shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines.]~~

7.435 Access Connections – Permit Alteration and Revocation; Connection Closure.

- (1) ***The city manager or manger's designee may, after providing notice to affected property owners and tenants, alter or revoke an access***

- connection permit issued pursuant to section 7.385 of this code if:*
- (a) The access connection is not constructed according to specification; or*
 - (b) The access connection is not maintained in a safe manner; or*
 - (c) The access connection becomes hazardous due to traffic congestion. The determination that an access connection is hazardous to the public's use of the right-of-way shall be based on traffic engineering principles and traffic investigations.*
- (2) Any person aggrieved by administrative action of the city manager or the manager's designee taken under the provisions of section (1) may appeal the action in the same manner as provided in section 5.045 of this code.*
 - (3) If an access connection not permitted pursuant to section 7.385 of this code is deemed by the city manager or manager's designee to be hazardous to the public's use of the right-of-way, the access connection shall be relocated and/or reconstructed by the owner(s) of the property served by the subject access connection. The determination that an access connection is hazardous to the public's use of the right-of-way shall be based on traffic engineering principles and traffic investigations.*
 - (a) Upon determination by the city manager or manager's designee that an existing access connection is a hazard to the public's use of the right-of-way, the city shall send the owner(s) of the property served by the subject access connection notice of the determination.*
 - (b) The owner(s) of the property served by the subject access connection may appeal the determination in accordance with section 5.045 of this code.*
 - (c) If no appeal is filed within the time specified in section 5.045 of this code, the owner(s) of the property served by the subject access connection shall have 90 days from the date of the notice to relocate and/or reconstruct the access connection to conform to the provisions of this code and adopted design standards.*
 - (d) If the owner fails to relocate and/or reconstruct the access connection to conform to the notice within 90 days, the city manager or manager's designee will cause the relocation and/or reconstruction to be completed and all expenses will be assessed against the property owner.*

Section 15. Section 7.445 of the Eugene Code, 1971, is amended to provide as follows:

7.445 **[Construction in] Use of Public Right-of-Way.**

- (1) Public right-of-way shall not be used for private commercial purposes except pursuant to a revocable permits issued by the city manager or manager's designee.*
- (12) The city manager is authorized to issue [a permit for an oversized curb cut or] a revocable permit for construction or location of a retaining wall, steps, terracing, plantings, planters, walkways, projecting building features, and other appurtenances to be installed within a public [street] right-of-way at the property owner's risk and subject to the following conditions and requirements.*

- (a) Adequate plans and specifications for the proposed installation are submitted to the city engineer.
 - (b) Conditions approved by the city engineer shall be attached to and made a part of the application and plans.
 - (c) That the structures comply with the applicable codes or ordinances of the city with regard to structural safety, sanitation, setback, and fire safety requirements.
 - (d) That the requests be evaluated by the city engineer in regard to any adverse effect on adjoining properties.
 - (e) That there be no interference with the use of the public [street] **way** for [~~roadway, walkway,~~] **vehicle, bicycle, pedestrian**, existing or proposed utilities and other authorized uses.
 - (f) That said permit shall be revocable by the city on demand [~~except in the case of oversize curb cuts~~].
 - (g) All plantings shall be first approved by the city manager or designee.
 - ~~[(h) The form of permit shall be approved by the city attorney.]~~
 - (*ih*) A fee for the permit shall be charged to the applicant as set by the city manager under section 2.020 of this code.
 - (*ji*) The applicant shall agree to the foregoing conditions for the approval of said permit.
- (23) The city manager is authorized to permit special sidewalk surfaces over and above those allowed in the standard specifications **and drawings** for paving; provided, however:
- (a) The surfacing has been approved by the city engineer from the standpoint of non-skid requirements.
 - (b) Blocks, bricks, and other sidewalk materials are imbedded to prevent rocking or differential settlement.
 - (c) The surfacing will be maintained by and at the expense of the abutting property owner.
 - (d) If the surfacing proves hazardous in the opinion of the city engineer, the surfacing will be replaced with material either meeting city specifications or approval.

Section 16. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this
 ___ day of _____, 2010

Approved by the Mayor this
 ___ day of _____, 2010

 City Recorder

 Mayor