

ORDINANCE NUMBER 82A

CITY OF TOWER, MINNESOTA

An ordinance regulating a driveway approach to a private residence and/or abutting properties, a business or other commercial enterprise that provides egress or ingress from a public right-of-way in the City of Tower including shore lands, the City airport and any future developed areas.

The City of Tower Ordains:

Section I. For the interpretation of this ordinance, the following terms shall have the meanings as written:

1. "Business driveway approach" means a driveway approach; any public right-of-way providing ingress and egress from the public right-of-way for motor vehicles to any property other than a single family detached property dwelling.
2. "Curb cut" means the opening along a street curb line or pavement edge where vehicles may enter and leave the roadway. Its width shall include the width of the driveway approach and of the curb returns, if any.
3. "Curb return" means that portion of a curb next to a driveway approach which includes the radius or curvature of the ramp-type lug on commercial or industrial type pavements and which connects the driveway approach to the street curb.
4. "Driveway" means a paved or otherwise delineated area on private property for the operation of automobiles and other vehicles.
5. "Driveway approach" means a paved or otherwise delineated area, construction or facility on the public right-of-way between the roadway of a public street and private property intended to provide access for vehicles from a roadway or a public street to private property. A driveway approach must provide access to something definite or private property, to a parking area, a driveway, or a door intended and used for the entrance of vehicles, or other similar structure or facility.
6. "Driveway turnaround" means a paved or otherwise clearly delineated area part of or connected to a driveway or driveway approach on private property, sufficient in size for an automobile or other vehicle to turn 180 degrees without leaving the paved or delineated area.
7. "Frontage" means the lot line bordering a public street, the area between the lot line and road surface even if in road right-of-way and if the lot owner wants any improvements or changes it shall be the responsibility of lot owner to cover all costs involved.
8. "Parcel of land" means a lot or contiguous lots or a tract officially registered under one ownership.
9. "Resident driveway approach" means a driveway approach from any public right-of-way providing ingress and egress for motor vehicles from the public right-of-way to a single family detached residential dwelling.

Section II. CONSTRUCTION PERMIT REQUIRED. It shall be unlawful for any person to cut, break out or remove any curb or make other provisions for a driveway approach along a street

or alley without first obtaining a permit. Any person desiring to construct a driveway approach shall first make application to the City Zoning Administrator. Such application shall be in writing and contain information showing the type of construction, the width of the proposed driveway approach, the location of such driveway approach on the lot and the lot and block number or the parcel number and the street and house number and a profile of the proposed driveway, drainage plan, if necessary, and such other information as may be required.

1. Issuance of Permit. Such permit shall be issued by the City Zoning Administrator if he or she has determined that the applicant has complied with the terms of this ordinance. The City Zoning Administrator shall have the authority to refuse to issue a permit when, in the Administrator's judgment, the requested construction would pose an unreasonable hazard to the public. Such decision may be appealed in writing by the applicant to the Board of Adjustment.
2. Permit Fees. Fees charged for permits issued for the construction of driveways shall be established from time to time by the City Council by resolution.

Section III. REVOCATION OF PERMIT. A driveway permit may be revoked by the City Council and the City shall have the right to revise, relocate, or close any driveway approach as the result of the reconstruction of any street, a change in land use, or a major change in the traffic pattern of an existing land use.

1. A permit issued under the provision of the Ordinance may be revoked by the City Zoning Administrator when the construction or activity authorized by the permit is not being performed according to the terms of the permit or this Ordinance.
2. Notice of such revocation, with a description of the facts supporting such revocation, shall be mailed or delivered to the person named in the permit at the address listed in the permit.
3. All work shall cease upon receipt of the notice of revocation.
4. Any person whose permit is revoked as set forth herein may appeal that revocation to the Board of Adjustment.

Section IV. CONSTRUCTION REQUIREMENTS. The following requirements shall be compiled within the work done under the provisions of this ordinance.

1. All driveway approaches shall intersect the street pavement at an angle to be approved by the City Zoning Administrator based upon the physical characteristics of the street, driveway approach and the lot being accessed. Such angle shall be as close as is reasonable practical, in the judgment of the City Zoning Administrator, to a right angle to tangent of the curve of the street pavement.
2. Any portion of the existing pavement structure disturbed during the curb cut work shall be repaired with similar materials of equal or greater structural capacity. Repair limits shall be defined by right angle saw cuts so orientated to provide the least noticeable surface patch.
3. Where the proposed driveway is to be constructed so that it opens onto any street designated as either a State of Minnesota, Saint Louis County or U.S. Trunk Highway, all additional specifications of the appropriate highway departments will apply, and the required permits shall be obtained from the appropriate departments.
4. The constructed street shall not be excavated in the process of constructing the driveway unless previous approval, in writing, has been given.

5. Driveway culverts shall be provided and installed by the owner as required by the City Zoning Administrator.
6. The owner and contractor shall protect the public from injury or damage during the construction of the driveway approaches and any permit issued pursuant to this ordinance shall contain the agreement of the applicant that the City shall not be liable for damage which may arise from the prosecution of work, and that the applicant will hold the City harmless for any liability incurred by the City as a result of such activity.
7. Trees or shrubs shall not be placed adjacent to the driveway so as to constitute a sight distance problem.

Section V. RESIDENT DRIVEWAYS. One driveway approach shall be allowed from a single residential lot to the same street, except that two driveway approaches to the same street may be allowed when the lot frontage on that street is at least 110 feet. Lots having frontage on more than one street shall be allowed drive approaches to each street consistent with the standards of this paragraph.

1. All driveways shall be subject to inspection by the City Zoning Administrator. The City Zoning Administrator shall serve notice upon any property owner who fails to comply with the provisions of this ordinance. The notice shall notify the owner of the provisions of this ordinance and direct that the property owner bring his property into compliance or face a fine per day in violation of this ordinance.
2. Upon the issuance of such a notice to the property owner, all driveways on his property shall be brought into compliance within 30 days or a day set by the City Zoning Administrator. Where it has been determined by the City Zoning Administrator that a driveway is causing a maintenance problem on the public street, including, but not limited to, the washing of dirt and gravel into the public street, the City Zoning Administrator shall order that the property owner correct as necessary to remove the maintenance problem.
3. A variance may be granted where compliance would cause undue hardship or it is determined that a driveway may be partially paved or unpaved if it abuts an unpaved street or alley and yet achieves the purposes of this ordinance.

Section VI. MAINTENANCE AND REMOVAL. Every driveway approach or entrance to abutting property shall be maintained and kept in a safe condition by the owner of the abutting property and any such approach which shall not be so maintained and kept in a safe condition or which shall interfere with or obstruct the drainage carried by the adjoining street or interfere with or obstruct the use of the adjoining street for purposed of travel shall be repaired to conform with the specifications of this ordinance or it shall be removed by the owner of the abutting property.

Upon the removal of such driveway approach, that portion of the street or right-of-way occupied by the same shall be restored to its former condition and all curbing shall be replaced to its former condition by the owner of the abutting property at his /her expense.

Section VII. BUSINESS DRIVEWAYS. Only one business driveway shall be allowed per development unless a greater number of driveways are approved by the City Zoning Administrator or an authorized representative or approved as part of the site plan review. The business driveway approach shall not exceed the width of the access road. The curb cut shall not exceed the width of the driveway approach at the property line by more than 20 feet, unless

approved as part of a site plan. In a residential district the curb shall not exceed the width of the driveway approach at the property line by more than 18 feet, unless approved as part of a site plan.

1. All business driveways and driveway approaches shall be paved with asphaltic concrete or equivalent material.
2. Loading docks, ramps, and vehicular entrances shall be located in such a manner that backing onto and maneuvering within the street right-of-way does not cause a safety hazard, unless approved as part of a site plan.

Section VIII. VARIANCES. The Board of Adjustment is hereby authorized to grant variances from the strict application of the provisions of this ordinance upon a determination that the following conditions are present:

1. The exception or variance desired arises from a peculiar physical condition not ordinarily in similar districts in the City or is due to the nature of the business or operation on the abutting property.
2. The 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 ordinance will work unnecessary hardships on the property owner or tenant.
5. A variance may be granted where compliance would cause undo hardship or it is determined that a driveway may be partially paved or unpaved if it abuts an unpaved street or alley and yet achieve the purposes of this ordinance.

Section IX. COMPLIANCE EXCEPTIONS. All driveway construction subsequent to the effective date of this ordinance shall be in compliance with the terms of this ordinance. This ordinance shall be effective 30 days from and after its passage and publication by law.

Introduced and given first reading on the 13th day of January, 1997, by Alderperson Mollers.

Given second reading on the 10th day of February, 1997 by Alderperson Mollers. Motion by Hiltunen supported by Leppala to adopt and publish said ordinance. All yes. Motion carried.

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Herbert R. Lamppa, Mayor

Timothy L. Kotzian City Clerk-Treasurer