

# COUNCIL COMMUNICATION

<b>Meeting Date:</b> August 13, 2019	<b>Agenda Item:</b>	<b>Agenda Location:</b> Public Hearings	<b>Goal(s):</b>	<b>Legal Review:</b>	<input checked="" type="checkbox"/> 1 <sup>st</sup> Reading <input type="checkbox"/> 2 <sup>nd</sup> Reading
<b>Subject:</b> An ordinance amending Section 18-17 of the Thornton City Code to incorporate dangerous major surface distress as a blighting factor and amending Section 18-601 of the Thornton City Code to clarify maintenance standards for off-street parking and private streets, private accesses, private drives, access drives, and other vehicle access easements.					
<b>Recommended by:</b> Jeff Coder			<b>Approved by:</b> Kevin S. Woods		<b>Ordinance previously introduced by:</b>  _____
<b>Presenter(s):</b> Robin Brown, Senior City Development Analyst					

**SYNOPSIS:**

Driveway and parking area maintenance expectations are not clearly defined in the Thornton City Code (City Code), and there currently is no process by which the City can timely address dangerous situations and recover the associated costs. The proposed amendments include the following:

- Clarification of maintenance requirements for parking areas, private streets, private accesses, private drives, access drives, and other vehicle access easements.
- Declaration of “dangerous major surface distress” to be a cause of blight, thus providing an option for the City to correct (abate) the situation and recover associated costs.

A related Action Item on the agenda includes additional proposed amendments to Chapter 38 of the City Code that define “major surface distress” and “dangerous major surface distress,” and also declares dangerous major surface distress to be a nuisance.

**RECOMMENDATION:**

Staff recommends Alternative No. 1, approve the City Code amendments as drafted. This option would clarify driveway and parking area maintenance expectations and create a process to correct dangerous situations and recover the associated costs.

**BUDGET/STAFF IMPLICATIONS:**

Staff anticipates using the abatement option approximately three times per year at a cost of \$5,000 each. Using this assumption, the budgetary impact would be \$15,000. Staff would attempt to collect any costs incurred from the property owner, but if not paid, would file a lien against the property and recover costs in that manner.

**ALTERNATIVES:**

1. Approve the City Code amendments as drafted to clarify driveway and parking area maintenance expectations and create a process to correct dangerous situations and recover the associated costs.
2. Amend the proposed amendments in a manner directed by Council.
3. Do not approve the amendments.

**BACKGROUND (ANALYSIS/NEXT STEPS/HISTORY):** (includes previous City Council action)

At the July 2, 2019 Planning Session, City Council discussed this item and directed staff to bring forward the City Code Amendments.

City staff recently addressed a situation where potholes in an access drive had created a dangerous driving situation. Because the property owner was unresponsive, the City repaired the damage and subsequently recovered costs from the property owner via the Municipal Court process.

This situation illuminated the need for clearer parking area/drive maintenance expectations and for a process by which the City could, in a timely manner, correct a dangerous situation and recover the associated costs.

The proposed City Code changes would not apply to single-family or two-family dwellings.

**PUBLIC NOTIFICATION:**

A public notice of the hearing was published on the City's official website on July 25, 2019 and at City Hall, the Margaret W. Carpenter Recreation Center, and the Thornton Active Adult Center on July 26, 2019.

INTRODUCED BY: \_\_\_\_\_

AN ORDINANCE AMENDING SECTION 18-17 OF THE THORNTON CITY CODE TO INCORPORATE DANGEROUS MAJOR SURFACE DISTRESS AS A BLIGHTING FACTOR AND AMENDING SECTION 18-601 OF THE THORNTON CITY CODE TO CLARIFY MAINTENANCE STANDARDS FOR OFF-STREET PARKING AND PRIVATE STREETS, PRIVATE ACCESSES, PRIVATE DRIVES, ACCESS DRIVES, AND OTHER VEHICLE ACCESS EASEMENTS.

WHEREAS, Chapter 18 of the Thornton City Code (City Code), also known as the Development Code, is a compilation of the requirements, standards, and performance expectations for permitted land uses in the City; and

WHEREAS, the Development Code does not clearly specify maintenance expectations and standards for private streets, private accesses, private drives, access drives, and other vehicle access easements; and

WHEREAS, off-street parking areas, private streets, private accesses, private drives, access drives, and other vehicle access easements are utilized to access facilities and areas generally open to the public, and therefore maintenance standards for these areas are necessary to ensure the public safety; and

WHEREAS, the City Council desires to update and clarify Section 18-601 of the Development Code to specify maintenance standards and associated penalties; and

WHEREAS, the Development Code includes the Blighted Property Rehabilitation Code, which provides a process for abating certain blighting factors in recognition of the potential effect on public health, safety, and welfare and on the economic welfare of the City; and

WHEREAS, the City Code currently does not provide for the abatement of dangerous major surface distress, thereby allowing such conditions to remain for an extended time period; and

WHEREAS, the City Council desires to establish a process for abating dangerous major surface distress, and therefore amendments to the Blighted Property Rehabilitation Code are necessary; and

WHEREAS, the City Council finds these City Code amendments are necessary to promote the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Subsections 18-17(7) and(8) of the Thornton City Code are hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

**Sec. 18-17. - Causes of blight or blighting factors.**

It is hereby determined that the following uses, activities, structures and items of personal property are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable communities. It shall be unlawful for any person, occupant or owner of real property to maintain or permit to be maintained on any real property within the city, any of the following causes of blight or blighting factors:

(7) ~~Dangerous major surface distress. Failure to maintain, free of dangerous major surface distress, as defined in Section 38-386, the surface of off-street parking or a private street, private access, private drive, access drive, or other vehicle access easement. By enacting this subsection 18-17(7), the city manager or designee has the authority to order the repair of dangerous major surface distress in accordance with industry standards and the requirements of this article. This subsection does not apply to single-family or two-family use off-street parking or driveways.~~

~~(7)(8)~~ (8) ~~Exceptions.~~ The causes of blight or blighting factors set forth in subsections (1)-(67) above, as applicable to areas zoned for residential and/or commercial uses, are hereby determined to be causes of blight or blighting factors and subject to the prohibitions of this division. Provided, however, in areas zoned for commercial uses, if such uses of the property are incidental to and necessary for the carrying out of any business or occupation lawfully being carried on upon the property in question and are expressly permitted in the applicable zoning district, the prohibitions in subsection (1), (2), or (5) above shall not apply.

2. Subsection 18-601(f) of the Thornton City Code is hereby amended by the addition of the words double-underlined and the deletion of the words stricken to read as follows:

**Sec. 18-601. Construction and maintenance standards.**

(f) Maintenance required.

(1) The owner of off-street parking for a use other than single-family or two-family ~~use~~ shall:

~~(1)~~a. Keep the parking surface free of potholes and major surface distress, as defined in Section 38-386;

~~(2)~~b. Maintain wheel guards and barriers; and

~~(3)~~c. Maintain ~~nonpermanent~~ parking space markings, ~~such as paint,~~ so that clear identification of each parking space is apparent.

(2) The owner of a private street, private access, private drive, access drive, or other vehicle access easement shall:

a. Maintain the surface free of potholes and major surface distress, as defined in Section 38-386; and

b. Maintain pavement markings that designate fire lanes, safety zones, and required accessible parking spaces and aisles, and those intended to expedite traffic movement in drive aisles, approach lanes, and maneuvering areas, as specified in the approved plans for such areas.

(3) It shall be unlawful for an owner to fail to maintain off-street parking or a private street, private access, private drive, access drive, or other vehicle access easement in accordance with the requirements of this subsection (f).

(4) Any owner in violation of this subsection (f) shall, upon conviction, be fined up to the maximum fine authorized by Section 1-8(a). If the court finds that the violation constitutes dangerous major surface distress, as defined in Section 38-386, the court shall order the repair of such distress in accordance with industry standards. The court shall also order reimbursement for any reasonable costs incurred by the city to repair the dangerous major surface distress.

3. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.
4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.
5. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.
6. This ordinance shall take effect upon final passage.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on \_\_\_\_\_, 2019.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2019.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Heidi K. Williams, Mayor

ATTEST:

\_\_\_\_\_  
Kristen N. Rosenbaum, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Luis A. Corchado, City Attorney

PUBLICATION:

Posted at City Hall, Margaret W. Carpenter Recreation Center, and Thornton Active Adult Center after first and second readings.

Published on the City's official website after first reading on \_\_\_\_\_, 2019, and after second and final reading on \_\_\_\_\_, 2019.