

ORDER OF THE TRAVIS COUNTY COMMISSIONERS COURT

WHEREAS, Travis County desires to maintain public streets and roads in the unincorporated area of the county in as safe a condition as is reasonably possible;

WHEREAS, increasing urbanization in the unincorporated area of Travis County has led to construction or placement of many objects in public right-of-way that substantially threaten public safety because motor vehicles may collide with them, they may obstruct drivers' sight distances, they may render sidewalks unsafe for persons with disabilities, they may divert stormwater onto streets and roads, etc.;

WHEREAS, the owner of property encumbered by a public right-of-way easement must use that property in a manner consistent with that easement;

WHEREAS, Section 251.003, Transportation Code, authorizes Travis County to make and enforce all reasonable rules and orders for the maintenance of public roads; and

WHEREAS, adopting county rules restricting placement or construction of objects in public rights-of-way would significantly advance public safety and impose no greater burden than is necessary on owners of property encumbered by right-of-way easements;

NOW, THEREFORE, the Commissioners Court hereby amends Chapter 82, Travis County Code, by adopting new Section 82.210, as attached, to be effectively immediately.

ORDERED this 11th day of April, 2006.

Samuel T. Biscoe
County Judge

Ron Davis
County Commissioner, Precinct 1

Karen Sonleitner
County Commissioner, Precinct 2

Gerald Daugherty
County Commissioner, Precinct 3

Margaret Gómez
County Commissioner, Precinct 4

§ 82.210. Objects Within County Right-of-way.

(a) In this section:

- (1) "county road" means any road accepted for maintenance by the county before March 14, 2006, and any road dedicated to the public after March 14, 2006, with the intent that it be accepted by the county for maintenance;
- (2) "object" means an object affixed to or installed in right-of-way including mailboxes, signs, utility poles, guy wires, fire hydrants, retaining walls, stockpiles of materials, dumpsters, landscaping, and trees and bushes, provided that functional elements of roadways, sidewalks, driveways, and traffic control devices are not objects subject to this section if otherwise constructed in accordance with the Travis County Code; and
- (3) "responsible person" means the person owning or controlling an object and is presumed to be the owner of fee simple title to land underlying or abutting the right-of-way where the object is located.

(b) No object may be placed or constructed within the right-of-way of a county road unless the person responsible for the object demonstrates that it does not make the roadway impassible, hazardous, or otherwise inconvenient to the public in the use of the roadway.

(c) An object makes the roadway impassible, hazardous, or otherwise inconvenient to the public in the use of the roadway if it:

- (1) is located within a clear recovery area setback defined in Exhibit 82.210, except for mailboxes placed or constructed as provided in Subsection (d),;
- (2) restricts sight distance to below minimum stopping sight distances based on *American Association of State Highway and Transportation Officials* (AASHTO) guidelines;
- (3) renders a pedestrian way non-compliant with applicable federal or state standards for accessibility under Title II of the Americans With Disabilities Act or Chapter 469, Government Code;
- (4) restricts, redirects, or blocks drainage, or interferes with the maintenance of drainage ways; or
- (5) prevents reasonable access for utilities.

(d) A mailbox may be permitted within a clear recovery area setback only if it complies with the following criteria.

- (1) The mailbox structure shall not consist of masonry or concrete.
 - (2) Mailbox structures shall comply with AASHTO's *Roadside Design Guide*, Section 4.6.5 Mailbox Supports, and Federal Highway Administration (FHWA) standards.
 - (3) Mailbox supports shall:
 - (i) if wood, be no greater than either 4-inches by 4-inches if square or 4-inches in diameter if round;
 - (ii) if metal, have a strength no greater than a 2-inch diameter standard strength steel pipe; and
 - (iii) not be embedded more than 24 inches into the ground nor set in concrete, unless the support design has been shown to be safe by crash tests.
 - (4) Mailbox-to-post attachments shall be designed and constructed to prevent mailboxes from separating from their supports under vehicle impacts.
- (e) The Executive Manager may grant an exception to the clear recovery area setbacks for an object if the Executive Manager determines it will be adequately shielded by guardrails, barriers, or other devices so as not to be a hazard to public safety.
- (f) An object otherwise permissible under this section may be prohibited if the County owns full fee simple title to the right-of-way and the Executive Manager determines that permitting the object is not in the best interests of the County.
- (g) Objects not conforming to the requirements of this section that were located within county right-of-way before the effective date of this section are permitted subject to the following conditions.
- (1) No structural alteration of or addition to a non-conforming object is permitted except in conformity with all applicable provisions of the Travis County Code.
 - (2) If any non-conforming object is damaged or destroyed by any means, repair or reconstruction is not permitted except in conformity with all applicable provisions of the Travis County Code.
 - (3) If the county determines that the non-conforming object renders the roadway impassible or unreasonably inconvenient or hazardous to the public, it is subject to removal at the expense of the person responsible for the object.

(h) Upon identifying a non-conforming object, the Executive Manager shall notify the responsible person by posting a notice on site or delivering it by certified mail and shall record the notice in the Official Public Records of Travis County.

(i) If necessary to accommodate public safety or roadway improvements, all objects within county right-of-way are subject to removal at the expense of the responsible person. When issuing a permit under Section 82.901 for an object under this section, the Executive Manager shall include a notice informing the permittee that the county reserves superior rights over the right-of-way and shall record the notice in the Official Public Records of Travis County.

(j) As a condition of issuing a permit under Section 82.901 for an object under this section, the County may in its discretion require the responsible person to execute a license agreement under Section 82.701 containing terms acceptable to the County regarding liability for and maintenance and removal of the object or other matters the county deems necessary. If the responsible person does not execute the license, the county may deny the permit.

EXHIBIT 82.210

Horizontal setbacks for roads with barrier curbs are measured from behind the face of curb and setbacks for roads with shoulders are measured from the edge of the travel lane. Where side slopes are 1V:6H or flatter and for all cut sections, horizontal setbacks are measured from edge of travel lane for all fill sections, but where fill slopes are steeper than 1V:6H the setback is measured from the toe of slope.

Clear Recovery Area Setbacks for Objects Other Than Plants

Table 1 contains setbacks for objects other than plants.

TABLE 1

Cross Section	Design Speed (mph)	Average Daily Traffic	Horizontal Setback
Barrier Curb	≤45	All	1.5'
Barrier Curb	≥50	All	10'
No Barrier Curb	≤45	≤16,000	10'
No Barrier Curb	≤45	>16,000	20'
No Barrier Curb	≥50	All	20'

Clear Recovery Area Setbacks for Plants

Table 2 contains minimum setbacks for plants.

TABLE 2

Design Speed (mph)	Plant Diameter at Maturity	Barrier Curb Horizontal Setback		No Barrier Curb Horizontal Setback	
		Existing Plant	New Plant	Existing Plant	New Plant
≤45	≤6"	1.5'	3'	8'	10'
≤45	>6"	4'	6'	18'	25'
≥50	≤6"	2'	4'	10'	18'
≥50	>6"	6'	6'	30'	30'

Vertical Setback

Plants may overhang the curb line or edge of travel lane of a road or street only if a minimum clearance height of fourteen (14) feet is provided for and maintained. Plants may overhang a sidewalk only if a minimum clearance height of eight (8) feet above the street level is provided for and maintained.