

## CITY OF DESTIN



# AGENDA ITEM

**COUNCIL MEETING DATE:** May 6, 2024  
**TYPE OF AGENDA ITEM:** Public Hearing  
**AGENDA OUTLINE NUMBER:** 5.B.

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**TO:** City Council

**THRU:** Louis Zunguze, Interim City Manager  
Kimberly Kopp, City Attorney

**FROM:** Noell Bell, Chief Building Official

**DATE:** April 23, 2024

**SUBJECT:** First reading of Ordinance 24-02-CC creating Section 18-21 of the Code of Ordinances, "Protection of Public Right-of-Way During Permitted Construction Activity."

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**I. BACKGROUND:** During the July 17, 2023, City Council meeting, Council directed Staff to bring back suggestions for construction parking plans for residential developments. This is a result of citizen concerns about recent construction sites regarding the storage of materials, equipment, and parking of vehicles in and around these sites, which spill onto to the Rights-of-Ways (ROW), and block sidewalks and roadways.

To address these concerns, the Public Works and Safety Committee was presented with 3 recommended options during the meeting held on Sept. 9, 2023, which included **Construction Parking Exhibit Plans** for revisions to the **Land Development Code, Article 8.01.00, A – Protection of Right-of-Way**. The options were:

**OPTION 1: (Refer to Attachment 1)**

- Maintain and uphold the current LDC code as written for ROW protection. (Refer to Exhibit Option 1)

**OPTION 2: (Refer to Attachment 2)**

- Use of part of the ROW is acceptable but must maintain 5' off roadway.
- Do not block any sidewalk.
- No overnight storage in ROW.
- Allow loading and unloading, only in the roadway part of the ROW at the project site but must provide proper FDOT traffic standards.

**OPTION 3: (Refer to Attachment 3)**

- Allow loading and unloading only in the roadway part of the ROW at the project site but must provide proper FDOT traffic standards.
- No public access is allowed between the roadway and the upland project site. Clearly mark the area as “Construction Zone Ahead” on each end of the ROW construction site.
- Close any adjacent sidewalks within the ROW of the project site and re-route according to FDOT standards.
- Maintain 5’ clearance off of the roadway at all times at the project site, for any materials, equipment, parking, etc.

The Committee's recommendation to the Council was **Option 3** including the **Construction Parking Exhibit Plan**.

On October 2, 2023, Staff brought forth to the City Council the recommended changes to the **Land Development Code (LDC)** pertaining to protection of Rights-of-Ways and Construction Projects, as presented to the **Public Works and Safety Committee** and their recommendation of **Option 3**.

Council moved to approve **Option 3** as recommended by the **Public Works and Safety Committee** and directed Staff to amend the LDC ac

**II. DISCUSSION: Option 3** contained the following recommended revisions to the **LDC, Section 8.01.00 A,3. Right-of -Way (ROW) protection**:

- Allow active loading and unloading only in the roadway part of the ROW at the project site but must provide proper FDOT traffic standards.
- No public access is allowed between the roadway and the upland project site. Clearly mark the area as “**Construction Zone Ahead**” on each end of the ROW construction site.
- Close any adjacent sidewalks within the ROW of the project site and re-route according to FDOT standards.
- Maintain 5’ clearance off of the roadway at all times at the project site, for any materials, equipment, parking, etc.
- A parking/staging plan is required upon submittal of any permit for construction activity.

An exhibit plan (Exhibit A) has been incorporated into the changes proposed which clearly defines the boundaries as stated above and as recommended by the Public Work and Safety Committee and approved by City Council.

**The LDC Section 8.01.00 A, 3. Right-of -Way (ROW) protection** is slated to be removed from the LDC during the current rewrite and therefore, staff is modifying the current language under **Section 8.01.00 A, 3** slightly and all the above bullet points will be incorporated into the Code of Ordinance under proposed **Ordinance 24-02-CC** and the LDC will be updated to reflect language modification to **Section A, 3** and removal of subsection a.- d. under this proposed **Ordinance 24-01-LC**.

During the LPA meeting held on March 7, 2024, the following were recommended changes to the proposed Ordinance:

- Adjust title to refer to permitted construction activities.
- Clarify 5 foot to be measured from edge of pavement versus roadway.
- Add prohibition of parking on or near immediate adjacent properties.
- Clarify sidewalk closure.
- A staging plan shall be submitted, reviewed, and approved by staff which clearly identifies the area location for parking, staging of construction equipment and materials.
- Add language regarding graduated penalties.

The changes were incorporated in the revised ordinance and brought back to the LPA for their recommendation of approval to Council on April 4, 2023. The LPA preceded with final recommendation to City Council for approval with one additional item, "**portable toilets must be anchored**", which has been incorporated into the Proposed Ordinance.

- A. **Link to Strategic Goals / Objectives:** II. Enhanced Quality of life and safety for families
- B. **Effect on Budget (EOB):** N/A
- C. **Level of Service (LOS):** N/A
- D. **Legislative Sponsor:**

**III. CONCLUSION:** The changes to the proposed Ordinances are intended to provide a clear understanding of allowable or non-allowable use of the ROW during construction, and regulatory criteria that can be easily enforced by the **City's Code Compliance Department**. It is the intent that these standards, which outline the parameters of the ROW use during construction and require a parking/staging plan for Staff review for compliance, will serve to protect the Public Health and Welfare of the Community and the Construction Industry.

**IV. RECOMMENDED MOTION:** I move that the City Council approve Ordinance 24-02-CC on first reading and direct the City Clerk to advertise for second reading.

Attachments:

1. Ordinance 24-02-CC Construction Parking.Final.v4

**ORDINANCE NO. 24-02-CC**

**AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA; CREATING SECTION 18-21 OF THE CODE OF ORDINANCES “PROTECTION OF PUBLIC RIGHT OF WAY DURING PERMITTED CONSTRUCTION ACTIVITY”, PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE CITY CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**SECTION 1. AUTHORITY.**

The authority for enactment of this Ordinance is Article 1, Section 1.01 (b) of the City Charter and Section 166.021, Florida Statutes.

**SECTION 2. FINDINGS OF FACT.**

**WHEREAS**, the City Council in providing for the health, safety and welfare of its citizens finds that the City should modify the regulations for protection of right-of-way; and

**WHEREAS**, the City Council desires amend the Code of Ordinances relating to right-of-way protection, to require parking and staging plans, and to ensure the health and safety of the public during construction activity; and

**WHEREAS**, City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens; and

**WHEREAS**, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; and

**WHEREAS**, a public hearing has been conducted by the City Council after due public notice.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:**

**NOTE: Language in all sections of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol \*\*\* represents sections of the Code of Ordinances that have been skipped and remain unchanged.**

**SECTION 3. AMENDMENTS TO CHAPTER 18, CITY CODE OF ORDINANCES.**

Chapter 18 of the Code of Ordinances is hereby amended as follows:

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**Chapter 18 - UTILITIES, STREETS AND PUBLIC PLACES**

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## ARTICLE II. RIGHTS-OF-WAY (RESERVED)

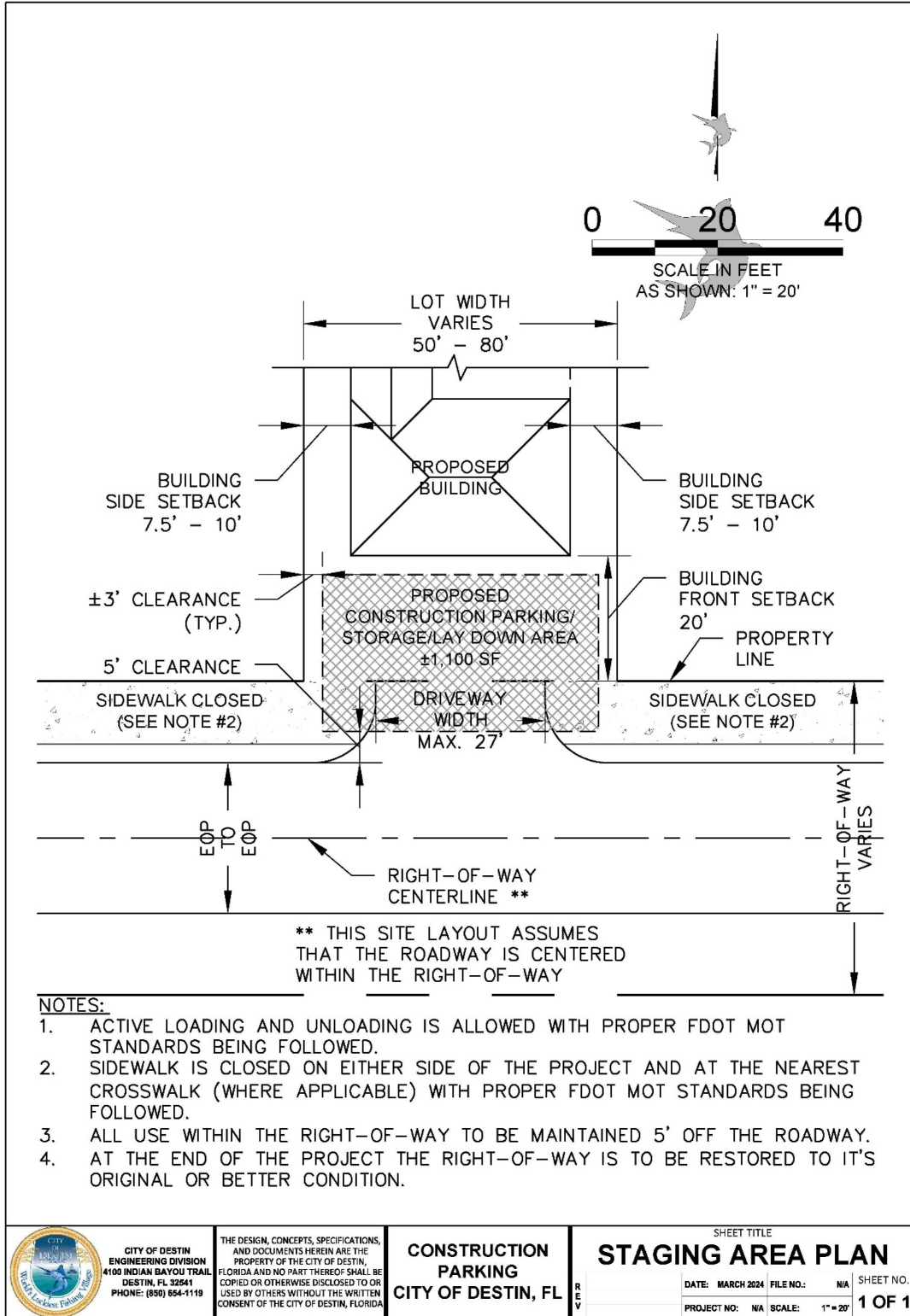
### Sec. 18-21 – Protection of Public Right of Way during permitted construction activity.

Any person or entity performing construction activity upon any parcel of real property abutting a Public Right of Way or doing work within the Public Right of Way shall provide a general parking and staging plan upon submittal of any permit applications for construction activity for staff review and approval/denial. Such parking and construction plan shall provide sufficient evidence that the construction project adheres to all applicable safety standards outlined by the Florida Department of Transportation and complies with the following additional requirements:

- a. Active loading and unloading is permitted within a roadway or City right of way that is immediately adjacent to a construction project site if sufficient evidence of adherence to FDOT traffic standards is provided to the City.
- b. Sidewalks within the right of way adjacent to the construction project site must be safely rerouted according to FDOT standards. The sidewalk must be identified as closed at each linear end of the project properties ROW area and at the nearest applicable crosswalk.
- c. A five-foot (5') clearance off of the roadway (measured from the edge of pavement (EOP)) and from adjacent side yard property lines, shall be maintained at all times at the construction project site.
- d. Staging of materials, parking, and any equipment for such project shall adhere to the approved staging plan and must not encroach any adjacent properties or area parcels around the project site.
- e. Portable restrooms used on the construction site must be properly anchored to the ground and contain within the allowable approved staging area.
- f. The right of way area must be clearly marked "Construction Zone Ahead" on each linear end of the ROW construction site and must prohibit public access through or between the roadway and construction project.
- g. Accessways must be constructed in such a way as to minimize sediment tracked for discharged onto the roadways.
- h. Existing infrastructure, including, but not limited to, concrete curbing, driveways or sidewalks in the right of way, which were damaged during construction must be replaced within ten working days or prior to the completion of construction in the area, whichever is earlier, except that damage to road paving or stormwater facilities shall be repaired within five working days of such damage. Such replacement shall be made to the nearest joint. No pedestrian or vehicle hazard shall be allowed.
- i. Right of way must be restored to its original or better condition.
- j. Any violation of this ordinance shall be subject to penalties set forth in Chapter 14, Articles III and IV, Code of Ordinances.

EXHIBIT

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**SECTION 4. INCORPORATION INTO CODE OF ORDINANCES.** This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

**SECTION 5. CONFLICTING PROVISIONS.** City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**SECTION 6. SEVERABILITY.** If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 7. EFFECTIVE DATE.** This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

**ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2024.**

By: \_\_\_\_\_  
Bobby Wagner, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Attorney, for the City of Destin, only.

\_\_\_\_\_  
Rey Bailey, City Clerk

\_\_\_\_\_  
Kimberly Romano Kopp, City Attorney

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_