

## Memorandum



DATE December 6, 2007

TO The Honorable Linda Koop, Chair, and Members of the Transportation and Environment Committee

SUBJECT Repeal of Ordinance No. 4080

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### Summary

This memorandum provides background for consideration of an ordinance repealing Ordinance No. 4080, which establishes setbacks from various streets. Ordinance No. 4080 was never codified. Ordinance No. 4080 came to the attention of Building Inspection staff when a title company inquired about it. Ordinance No. 4080 was probably intended as either a thoroughfare plan or zoning ordinance. The ordinance is no longer needed because the city has both a thoroughfare plan that establishes right-of-way widths for streets and a development code that establishes building setbacks.

### Background

Ordinance No. 4080 was passed on July 8, 1947 and established the following setbacks:

1. Cedar Springs Road: 30 feet from the property line on the southwest side of Cedar Springs Road through the Cherrywood Addition No. 2. (Deleted by Ordinance No. 4533, discussed below.)
2. Clinton Street: 44 feet from the property line on both sides of Clinton Street between Fort Worth Avenue and Kessler Boulevard.
3. Edgefield Avenue: 25 feet from the property line on both sides of Edgefield Avenue between Commerce Street Cut-Off and Kessler Boulevard.
4. Ervay Street: 7 feet from the property line on the east side of Ervay Street between Marilla Street and Canton Street.
5. Hall Street: 30 feet from the center line on both sides of Hall Street between Bryan Street and the H&TC Railroad.

6. McKinney Avenue: 40 feet from the center line on both sides of McKinney Avenue between Field Street and Oak Grove Avenue.
7. Oakland Avenue: 30 feet from the center line on both sides of Oakland Avenue between Gaston Avenue and the south city limits.
8. Oak Lawn Avenue: 35 feet from the center line on both sides from Oak Lawn Avenue between Maple Avenue and Cedar Springs Road. (Amended by Ordinance No. 18641, discussed below.)
9. Ross Avenue: 50 feet from the center line on both sides of Ross Avenue between Hall Street and Peak Street.
10. Ross Avenue: 50 feet from the center line on both sides of Ross Avenue between Peak Street and Greenville Avenue.
11. Shorecrest Drive: 50 feet from the center line on both sides of Shorecrest Drive between Lemmon Avenue and Midway Road.
12. St. Paul Street: 8.39 feet to 18.56 feet from the property line on the west side of St. Paul Street between Jackson Street and Wood Street, as shown on a plan on file with the Public Works Department.
13. Walton Street: 16 feet from the property line on the east side of Walton Street between Main Street and Elm Street.
14. Washington Avenue: 30 feet from the center line on both sides of Washington Avenue between Howell Street and Worth Street.

Since the adoption of Ordinance No. 4080, there have been two ordinances amending it:

1. Ordinance No. 4533, passed on August 9, 1949, amended Ordinance No. 4080 by deleting Cedar Springs Road from the listed streets because “the City of Dallas now has title to the property necessary to control and maintain a proper building line on the southwest side of Cedar Springs Road, through Cherrywood Addition No. 2, and that the building line established by Ordinance No. 4080 is unnecessary and misleading and is no longer required for the preservation of the public health, safety, peace, comfort and general welfare.”
2. Ordinance No. 18641, passed on March 20, 1985, amended Ordinance No. 4080 by increasing the setback from the centerline of Oak Lawn Avenue from 35 feet to 55. Ordinance No. 18641 states that “right-of-way reserved hereby be used for site specific traffic congestion mitigation measures such as protected left-turn pockets, free right-turns, and bus pullout areas.” A memorandum attached to Ordinance No. 18641 stated:

Oak Lawn Avenue was recently downgraded from a six-lane major thoroughfare to a four-lane divided secondary thoroughfare. Staff supported the downgrading contingent upon the establishment of 55 foot building setback lines along both sides of Oak Lawn Avenue. These setbacks will allow for the implementation of various Transportation System Management (TSM) activities, such as additional left-turn/right-turn lanes and bus turn-out lanes, in order to reduce potential traffic congestion.”

If Ordinance No. 4080 was intended as a thoroughfare plan, it has been superseded by later thoroughfare plans. Ordinance No. 10961, passed March 29, 1965, adopted a thoroughfare plan for the city. Ordinance No. 15277, passed September 27, 1976, and Ordinance No. 20860, passed January 23, 1991, incorporated all previous amendments to and provided for the reorganization of the thoroughfare plan. These three ordinances did not, however, expressly repeal Ordinance No. 4080. Except for Clinton Street, Edgefield Avenue, Shorecrest Avenue, Walton Street, and Washington Avenue, all of the streets listed in Ordinance No. 4080 are included in the current thoroughfare plan.

If, on the other hand, Ordinance No. 4080 was intended as a zoning ordinance, it has been superseded by later zoning ordinances. Further, the setbacks established by Ordinance No. 4080 conflict with the setbacks established by the zoning.

Because Ordinance No. 4080 was never codified, most staff members are unaware of the ordinance. The ordinance may not have always been enforced. Instead, setbacks are controlled by the Dallas Development Code or the thoroughfare plan rather than Ordinance No. 4080. *See* Dallas Development Code §51A-4.401(a)(2), which states:

The front yard setback is measured from the front lot line of the building site or the required right-of-way as determined by the thoroughfare plan for all thoroughfares, whichever creates the greater setback. On minor streets, the front yard setback is measured from the front lot line of the building site or the existing right-of-way, whichever creates the greater setback. When the city council by ordinance establishes a specific right-of-way line for a street, the front yard setback is measured from that right-of-way line.

Ordinance No. 4080 is attached. A draft ordinance to repeal Ordinance No. 4080 is also attached.

JOHN ROGERS  
Assistant City Attorney

Attachments (2)  
Ordinance No. 4080  
Draft ordinance to repeal Ordinance No. 4080.

c: A.C. Gonzalez, Assistant City Manager  
Ramon F. Miguez, Assistant City Manager  
Theresa O'Donnell, Director, Development Services  
David Cossum, Assistant Director, Development Services  
Liz Fernandez, Director, Public Works and Transportation  
John Brunk, Assistant Director, Public Works and Transportation  
Keith Manoy, Program Manager, Public Works and Transportation

12-6-07

ORDINANCE NO. \_\_\_\_\_

An ordinance repealing Ordinance No. 4080, which established setbacks for various streets; and providing an effective date.

WHEREAS, Ordinance No. 4080, passed by the Dallas City Council on July 8, 1947, and attached as Exhibit A, established setbacks from 14 listed streets; and

WHEREAS, Ordinance No. 4533, passed by the Dallas City Council on August 9, 1949, amended Ordinance No. 4080 by deleting Cedar Springs Road from the listed streets; and

WHEREAS, Ordinance No. 18641, passed by the Dallas City Council on March 20, 1985, amended Ordinance No. 4080 by increasing the setback from the centerline of Oak Lawn Avenue from 35 feet to 55 feet; and

WHEREAS, Ordinance No. 4080 is no longer necessary because setbacks are established by either the thoroughfare plan or the zoning; and

WHEREAS, the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this ordinance; Now, Therefore,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:**

SECTION 1. That Ordinance No. 4080, passed by the Dallas City Council on July 8, 1947, as amended, is repealed.

SECTION 2. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

THOMAS P. PERKINS, JR., City Attorney

**DRAFT**

By \_\_\_\_\_  
Assistant City Attorney

Passed \_\_\_\_\_