



**EL PASO COUNTY  
RIGHT-OF-WAY ACCESS MANAGEMENT  
POLICIES & PROCEDURES ORDER**

**Article I  
Scope, Purpose & Authority**

**WHEREAS**, the El Paso County Commissioners Court “Court” recognizes that physical obstructions and the influence on traffic caused by the presence and use of access driveways to private property along El Paso County “County” roadways make it necessary that they be controlled for the safe movement of normal traffic; and

**WHEREAS**, the Court is authorized under Chapter 251 of the Texas Transportation Code “TTC” to exercise general control over roadways under the County’s jurisdiction for the purposes of constructing and maintaining these rights-of-way; and

**WHEREAS**, the County is authorized under Chapter 240 of the Texas Local Government Code “LGC” to establish a fund for the future inspection, repair and maintenance of a cut road through the establishment of a fee for each cut made to County rights-of-way; and

**WHEREAS**, the Court adopts the formal definition of a public road as provided in §251.002 of the TTC, as a road or highway that has been laid out and established according to law and that has not been discontinued, to include all amenities within the entire right-of-way width, including, but not limited to, sidewalks, curb, gutter, shoulders, and parkways; and

**WHEREAS**, the Court finds that the Proposed Order Establishing the County Right-of-Way Access Management Policies & Procedures Order (“Order”) is necessary to 1) promote the public health, safety and welfare of county residents and 2) provide for the ongoing maintenance of various rights-of-way within the County road system network;

**NOW, THEREFORE**, the El Paso County Commissioners Court has ordered the establishment of the Order to be administered in accordance as contained herein.

**Article II  
County Authority to Manage Access Along County Right-of-Way**

The County may utilize Transportation Code sections 251.003 and 251.016 to make and enforce all necessary rules and orders for the construction and maintenance of public roads, and exercise general control over all roads, highways and bridges in the county; and:

- A. This Order applies only to public roads located throughout the unincorporated area of the County.

- B. The Court directs the Department of Public Works to make and enforce all rules and orders necessary for the construction and maintenance of public roads pursuant to §251.003(1) of the TTC.
- C. The Court directs the Department of Public Works to use all necessary material and equipment most convenient to build, repair or maintain public roads, regardless of the location or extent of the material pursuant to §251.003(3) of the TTC.
- D. The Court directs the Department of Public Works to exercise general control over all roads, highways and bridges in the county pursuant to §251.016 of the TTC.
- E. The Court directs the Department of Public Works to impose a reasonable fee, in accordance with its existing fee schedule, on a person or other entity for each cut of a county road during or as an incident to the installation, maintenance, or repair of any facilities or properties of the person or entity pursuant to §240.907 of the LGC.

**Article III  
Right-of-Way Access Permit**

- A. A person requesting access to a county right-of-way must follow the permit process, forms and rules as prescribed by the County Planning & Development Department “Department.”
- B. Driveways shall be constructed in accordance with the County Subdivision Design Standards for commercial or residential driveways. If the requested driveway is located within a municipal extraterritorial jurisdiction and there is a conflicting design standard for construction of the driveway, the more stringent of the two standards shall prevail.
- C. The construction of the driveway will be subject to all applicable fees, rules and regulations set forth in the most recently adopted version of the County Right-of-Way Cut & Entry Regulations for both the Road Inspection & Maintenance Fund (RIM) and Road Entry & Access Permit (REAP).
- D. The Department shall be responsible for the tracking, recording and issuance of all permits and associated inspections necessary for the construction of the driveway access point.

**Article IV  
Unauthorized Right-of-Way Access**

- A. It is a violation of this Order to construct, permit, or allow an unauthorized access point “Access” from private property onto a county right-of-way without a permit issued by the Department.
- B. The County retains the authority to restrict the continued use of Access along County rights-of-way if the use of that Access:
  - 1. Is a threat to the health, safety and welfare of the community given traffic patterns and other obstructions along the public road; or
  - 2. Has created an undue hardship for County maintenance of the roadway by:
    - a) introducing large amounts of debris onto the public road; or

- b) disturbing, damaging or destroying any section of the public right of way, or
  - c) undermining the structural integrity of any section of the right-of-way.
- C. Complaints regarding Access shall be accepted by the Department from the public, county departments or from any law enforcement agency. They may be submitted via phone, mail or email at:
  - 1. Phone: 915-855-9664; or
  - 2. E-Mail: Nuisance@EPCounty.com
  - 3. Mail: Planning & Development – Inspections Division, 14612 Greg Drive, El Paso, Texas 79938

**Article V**  
**Unauthorized Access Investigation**

- A. Access along County rights-of-way that are alleged to be in violation of this Order shall be investigated by the Department.
- B. The owner, lessee, occupant, or person in control of the premises that is the subject of the complaint shall be identified during the investigation using the Official Records of the Department’s Geographic Information Systems Database, El Paso County Clerk’s Office, and the El Paso County Central Appraisal District.
- C. A field investigation shall be conducted to gather information necessary to determine if a violation condition exists. Photographic documentation of the conditions found at the property shall be captured.
- D. The findings of all field investigations shall be reported back to the Director of the Planning and Development Department or the Director’s designee.

**Article VI**  
**Unauthorized Access Restriction Procedures**

- A. After receiving the findings of the field investigation, the Director and the Director’s staff shall make a determination as to whether the Access should be restricted based on the criteria described in Article IV, Sec. B. If the Director determines that the findings of the field investigation show that Access should not be restricted, the complaint shall be closed.
- B. If the Director determines that the findings of the investigation show that the Access should be restricted, the Director shall issue a Notice to Abandon the Unauthorized Access Point “Notice” to the following:
  - 1. the owner, lessee, occupant, agent, or person in charge of the premises; and
  - 2. the person primarily responsible for the use of the authorized access point in the event that they are not the owner, lessee, occupant, agent, or person in charge of the premises when the person responsible can be identified.

C. The Notice described above shall:

1. be provided to the persons identified in Article VI, Sec. B:
  - a) by service in person or registered or certified mail, return receipt requested, or
  - b) if personal service cannot be obtained or the address of the person to be notified is unknown, by posting a copy of the notice on the premises on which the nuisance exists.
2. describe the finding made by the Department.
3. provide the persons identified in Article VI, Sec. B with fifteen (15) calendar days after the notice is properly served to abandon use of the Access.
4. provide notice that the County retains the right to remove, demolish or obstruct the Access to prevent any of the conditions or hazards requiring restriction of the Access.

D. If the findings of the investigation show that a nuisance condition does exist, and:

1. The Access is abandoned, removed or demolished as provided above within fifteen (15) calendar days after the notice was properly served, the complaint shall be closed upon confirmation by the Director that the Access has been abandoned.
2. The Access is not abandoned, removed or demolished as provided above within fifteen (15) calendar days after the notice was properly served, the Director shall proceed with abating the Access according to the procedures set forth in Article VII of this Order.
3. A person receiving notice submits a written request for a hearing before the fifteenth (15th) calendar day after receiving notice for the first notice, the Director shall proceed with the complaint according to the appellate procedures set forth in Article VIII of this Order.

**Article VII**  
**Unauthorized Access Abatement Procedures**

A. If an Access is not abandoned, removed or demolished as provided above within fifteen (15) calendar days after the notice was properly served, on behalf of the County, the Director may:

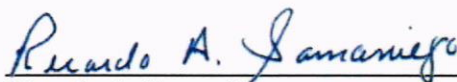
1. make a determination that the Access be removed, destroyed or obstructed to provide for the public health, safety and welfare of the community by promoting responsible and safe traffic access throughout the county right-of-way; and
2. provide notice to the property owner, lessee, occupant, agent, or person in charge of the premises that the County may pursue these abatement procedures as outlined in Article VI, Sec. C.1. within five business days after the notice has been provided.

- B. The Director shall coordinate with the Executive Director of Public Works, Director of Infrastructure Services, and any other appropriate County personnel to take necessary means to proceed with abatement of the Access.

**Article VIII  
Hearing Procedure**

- A. If a request for a hearing is received pursuant to Article VI, Sec. D.3, the Director shall:
1. set a hearing date within sixty (60) calendar days of receipt of a written request for hearing before the Court; and
  2. send a Notice of Hearing stating the date, time, and place of the hearing to all persons receiving the Notice of Abatement of Public Nuisance.
  3. stay any abatement actions authorized under this Order until the outcome of the hearing.
  4. Hearings shall be conducted by the Commissioners Court in an open meeting.
- B. In conducting a hearing under this Order, the Commissioners Court shall make a determination if a nuisance condition exists by weighing the evidence contained in the field investigation report and any other evidence submitted by the Director against evidence submitted by the person contesting the nuisance complaint.
- C. Upon determination by the Director that an unauthorized Access does not exist as defined by this Order, the complaint shall be closed.
- D. Upon determination by the Court that an unauthorized Access does exist as defined by this Order, the Administrator shall proceed with the complaint according to the Order set out in Article VII.

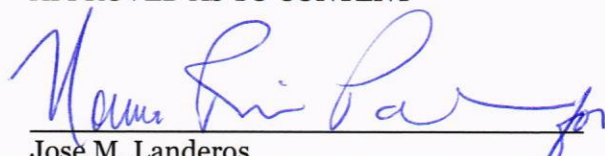
**APPROVED AND ADOPTED BY THE HONORABLE EL PASO COUNTY  
COMMISSIONERS COURT THIS 20<sup>TH</sup> DAY OF DECEMBER 2021**

  
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Ricardo A. Samaniego  
El Paso County Judge

APPROVED AS TO FORM

  
\_\_\_\_\_  
Kevin McCary  
Assistant County Attorney

APPROVED AS TO CONTENT

  
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Jose M. Landeros  
Director of Planning & Development