

Exhibit A

ARTICLE XV. NEIGHBORHOOD TRAFFIC MANAGEMENT PROGRAM

DIVISION 1. GENERALLY

Sec. 45-361. Definitions.

As used in this article, the following words and terms shall have the meanings ascribed to them in this section unless the context of their usage clearly indicates a different meaning:

Applicant means one or more property owners or residents within a neighborhood area, a duly authorized representative of a neighborhood association or the director who makes a request for the construction of a project.

Designated street means that portion of a particular street within the right-of-way of which a device is proposed to be constructed under this article. Designated streets may include the rights-of-way of local or minor collector streets, but may not include any portion of a major collector street or a major thoroughfare.

Device means a traffic calming device, consisting of the physical structure or other improvement constructed, placed or located, whether on a temporary or a permanent basis, upon a designated street pursuant to this article.

Director means the Director of Houston Public Works or the traffic engineer or any other person designated by the said director to perform the director's duties under this article.

Interdepartmental review committee means a committee consisting of one representative each of the fire department, police department, department of planning and development, solid waste management department, and Houston Public Works.

Install or *installation* means the permanent placement of a device following approval by final action of city council as required pursuant to section 45-377 or 45-396 of this Code. Install or installation does not include the temporary placement of a device for test or evaluation purposes.

Local street has the meaning ascribed in section 42-1 of this Code.

Major collector street means a public street that accumulates traffic from local streets and minor collector streets for distribution to a major thoroughfare.

Major thoroughfare has the meaning ascribed in section 42-1 of this Code.

Minor collector street means a public street that accumulates traffic from local streets for distribution into a major thoroughfare or a major collector street.

Neighborhood area means any contiguous area within the city that generally has as its boundaries: (i) the interior right-of-way line of any major thoroughfare or major collector street; (ii) the interior boundary or right-of-way line of any railroad line, utility or pipeline corridor, river or waterway (not including drainage or flood control ditches not being traversed by other streets within the general locale); (iii) the corporate limits of the city; or (iv) any combination of one or more of the foregoing boundaries. A neighborhood area may consist of one or more subdivisions and shall include only those properties within and fronting on or taking their only access from a street within the bounded area. ~~The director may adjust the boundaries of a neighborhood area at any stage of the neighborhood traffic management process upon the consideration of additional information including, but not limited to, public input from residents or property owners in the neighborhood area or findings made by the director as a result of the presence of special conditions affecting the neighborhood area.~~

Neighborhood association means any homeowners' association, property owners' group or civic association, whether incorporated or not, whose membership includes property owners and/or residents of a neighborhood area.

Neighborhood traffic committee means a committee, consisting of not more than five members drawn from the residents or property owners within a neighborhood area, selected as provided in section 45-371 of this Code, to assist in the processing of a request for a project.

Neighborhood traffic management program means the entirety of the processes and procedures as described in this article whereby one or more devices may be placed upon a designated street in a neighborhood area.

Project means the construction of one or more devices upon a designated street(s) in the neighborhood area, as may be amended.

Property owner means the owner(s) of any tract or parcel of real property within a neighborhood area.

Resident means any person who resides in or owns or operates a home or business upon any tract or parcel of real property within a neighborhood area.

Applicant's priority area means the specific location(s) or street(s) within the neighborhood area designated by the applicant.

Speed control program means one or more projects intended to address speeding problems by installation of speed cushions within a neighborhood area.

Volume control program means one or more projects intended to address cut-through traffic and speeding problems within a neighborhood area.

Sec. 45-362. Purpose; regulations.

- (a) The purpose of this article is to establish the procedures governing the application for and review, approval, financing and construction of projects to minimize or eliminate traffic congestion, cut-through traffic, speeding or other traffic-related problems in a neighborhood area. In accordance with the provisions of this article, the director shall prepare and make available to the public appropriate forms to request a project.
- (b) Consistent with the other provisions of this article and state law, the director may promulgate request forms and may promulgate rules and regulations for the implementation of this article, including without limitation rules, policies, procedures and regulations establishing the criteria for the modification and partial approval/denial of projects, the neighborhood area and concept plans, resubmittal of projects, phased implementation of concept plans that the Director approved but were not implemented in their entirety due to funding availability, and notice requirements for amended concept plans and projects completed in phases due to funding availability. A copy of the rules and regulations shall be maintained for public inspection in the offices of the said director, and copies may be purchased at the fees prescribed by law be published on the city web site.

Sec. 45-363. Construction.

The director shall be responsible for the construction, or shall direct and oversee the construction by a private contractor or contractors, of approved projects. Approval under this article shall not excuse the applicant from obtaining any other permit or authorization required by law to perform the work.

Sec. 45-364. Removal.

- (a) Nothing contained in this article shall be construed to prohibit the city from removing any device or portion thereof. If, and only if, the device to be removed is a gate, then the removal must first be authorized by the city council.

- (b) The director shall maintain an accurate record of each approved project.

Sec. 45-365. Limitation on action of city.

The approval, installation and maintenance of a project and associated devices, as provided for by this article, shall never be construed to cause an abandonment or relinquishment of any street or public property or to authorize the installation of a device upon any right-of-way not under the control of the city. The installation of a project and associated devices that involves the closure of a street to vehicular traffic shall require a public hearing by city council and approval by a majority vote.

Sec. 45-366. Coordination with city council offices.

Notice of the progress of the request under this article shall be given to each district council member whose district includes any part of the neighborhood area and to any other city council member who so requests, including, but not limited to, notice of each public meeting, the concept plan, the traffic study and the proposed placement of any device.

Sec. 45-367. Request for projects.

- (a) A request for a project must be initiated by an applicant. Multiple requests from the same or similar neighborhood areas may be consolidated into and considered as a single request, at the director's option.
- (b) The director may, from time to time, prepare and submit for approval by motion of the city council revisions to the schedule of fees that shall be paid by an applicant for a project. Payment of any applicable fees stated for this provision in the city fee schedule when due is a condition of the processing of a request under this article.
- (c) The director may adjust the boundaries of a neighborhood area at any stage of the neighborhood traffic management process upon the consideration of information including, but not limited to, public input from residents or property owners in the neighborhood area, amount and availability of public assistance or funding (including Council District Service Funds) or funding from private funding sources, or findings made by the director as a result of the presence of special conditions affecting the neighborhood area.

Sec. 45-368. Preliminary review process.

- (a) Each request for a project shall be made or forwarded by the applicant to the director upon a form promulgated for that purpose by the director and shall include, at a minimum, the following:
- (1) A description or definition of the proposed neighborhood area;
 - (2) A list containing the names, addresses and telephone numbers of the individuals comprising the applicant or, in the case of a request from a neighborhood association, the name, address and telephone number of the duly authorized representative of the neighborhood association.
 - (3) A general description of the traffic problem or condition to be remedied;
 - (4) The type of program, speed control or volume control, being sought;
 - (5) The applicant's priority area where the speed control or volume control is being sought;
 - ~~(5)~~(6) Special conditions concerning the proposed neighborhood area, including, but not limited to, such factors as the location and nature of businesses, schools, parks, churches or other non-residential traffic generators within or in close proximity to the neighborhood area;
 - ~~(6)~~(7) Written evidence of neighborhood or community support for the project from residents and property owners within the affected neighborhood area;

~~(7)~~(8) Whether public funding or assistance is requested for the project; and

~~(8)~~(9) Any other information reasonably required by rule or regulation of the director in order to make any determination specified under this article.

- (b) Each request shall initially be reviewed for completeness. If determined to be complete, the request shall be considered to have been filed when received in the director's offices and shall be acted upon as further provided in this article. If determined to be incomplete, the request shall be returned to the applicant with written notice of the deficiencies.
- (c) Each request that is properly filed shall be reviewed and evaluated in accordance with section 45-369 of this Code. If the director determines that the request does not merit further consideration, based upon the criteria set forth in section 45-369(1) through (5) of this Code, then the director shall so notify the applicant in writing and, wherever practicable to do so, shall provide any suggested modifications to the request that might cause it to receive more favorable consideration if resubmitted. For requests that the director determines merit further consideration under the criteria of section 45-369(1) through (5) of this Code, the applicant shall be so advised in writing and shall also be advised:
 - (1) If no public funding or assistance has been requested, that the project is eligible to proceed under division 2 or division 3 of this article, as applicable; or
 - (2) If public funding or assistance has been requested, whether or not the director has given preliminary approval for consideration of the project on a publicly funded basis under the criteria of section 45-369(6) of this Code, and:
 - a. If so, that the project is eligible to proceed under division 2 or division 3 of this article, as applicable; or
 - b. If not, that the project will not be further considered under division 2 or division 3 of this article, as applicable, unless the applicant withdraws the request for public assistance or funding.

Sec. 45-369. Review criteria.

The director shall evaluate and prioritize all requests pursuant to the following criteria:

- (1) Whether the request identifies a problem that could be remedied under this article;
- (2) Whether the request identifies a problem that could readily be addressed through the installation of a type of traffic control device that may be installed without approval under this article;
- (3) Whether special conditions concerning the neighborhood area, including, but not limited to, the location and nature of businesses, schools, parks, churches or other non-residential traffic generators within or in close proximity to the neighborhood area, may support approval of the project;
- (4) Whether there is public support for the project as evidencing that the project will enhance and promote the public health, safety and welfare;
- (5) Whether existing evidence, studies, data or reports regarding the severity of the existing problem, if any, merit the project; ~~and~~
- (6) For requests that include a public funding component, the amount of public funds available for planning of projects, the number of outstanding requests for publicly funded projects ~~s-planning, the amount of public funds available for the project,~~ and the apparent merit of the request as compared to that of other requests and established city priorities; ~~and-~~

(7) For requests that include a private funding component, the amount of private funds available for the planning of the project and the project.

Sec. 45-370. Reserved.

DIVISION 2. VOLUME CONTROL PROGRAM

Sec. 45-371. Initial public meeting; neighborhood traffic committee; citizen comments.

- (a) Not later than 180 days following the receipt of notification by the director that a project has received preliminary approval for further consideration, the applicant shall notify the director of a suitable location for the holding of a public meeting within the neighborhood area for the purpose of receiving public comments on the project. If the applicant fails to provide notice of a suitable location for the holding of a public meeting within the prescribed time, the applicant shall be notified that the request for a project has been closed. Any applicant who desires to renew a request for a project that has been closed due to the applicant's failure to notify the director of a suitable location for the holding of an initial public meeting shall be required to provide the director with a new application containing the minimum requisites pursuant to section 45-368(a) of this Code.
- (b) Following receipt by the director of the information required by subsection (a) above, a written notice, in a form approved by the director, shall be mailed to all property owners and residents within one-half mile of the proposed device setting forth the date, time and location of a public meeting to receive public input on a proposed project. The notice shall specify the location and general nature of the proposed project and shall solicit public comments on the project. The director shall select the method(s) utilized to identify the property owners and residents to be notified, with due regard to the cost, time and accuracy of the method(s) to be utilized.
- (c) Each notice shall be effective when deposited in the U.S. mail, postage prepaid, addressed to the property owner, resident or representative of a neighborhood association. Failure of any person to receive actual notice of the hearing required by this section shall not affect the validity of any action taken by the city in connection with the project.
- (d) At the initial public meeting:
 - (1) A neighborhood traffic committee shall be selected by those present;
 - (2) Public comments shall be received on the proposed project; and
 - (3) The director shall ensure that necessary provisions are made for the receipt of written comments and public input on the proposed project. Written comments concerning the project shall not be considered in evaluating any project unless received in the offices of the director or such other place as the director may specify within 14 days after the meeting.
- (e) Persons in attendance may register, and the names and addresses of those who do register shall be delivered to the director and added to the notification list for any future meetings held in connection with a project.
- (f) The initial public meeting shall be conducted by the director, and all requirements and expenses relating to its being conducted shall be borne by the city for requests that receive preliminary approval for further consideration as a publicly funded project pursuant to section 45-368(c)(2) of this Code. For all other requests, the initial public meeting shall be conducted in all respects at the expense of the applicant, and the director may delegate to the applicant the accomplishment of any one or more of the requirements of this section in accordance with rules and regulations promulgated for that purpose by the director. The applicant shall provide to the director evidence that any requirements so delegated have been fully and properly carried out.

Sec. 45-372. Traffic studies.

Upon receipt of all public comments and information required by section 45-371, the director shall cause or authorize to be conducted a traffic study to complete the preliminary eligibility review of a proposed project. Unless the director has given preliminary approval for consideration of the project on a publicly funded basis, the

director shall determine, and notify the applicant concerning, the scope and type of traffic study to be conducted by the applicant and indicate any additional information required by the director to facilitate review of the proposed project.

Sec. 45-373. Completion of staff review.

The director shall determine, based upon all available information regarding a project, including, without limitation, any traffic study prepared in accordance with section 45-372 of this Code, whether the project is eligible for further consideration and processing in accordance with section 45-374 of this Code. The director shall consider the impact of the following on selected streets within the neighborhood area in making a determination whether a project is eligible for further consideration and processing in accordance with section 45-374 of this Code:

- (1) Whether the estimated percentage of cut-through traffic on a street is equal to or greater than 20% of the observed daily traffic volume, or the observed daily volume is equal to or greater than 750 vehicles per day;
- (2) Whether at least 15% of observed vehicle speeds on a street are equal to or in excess of the posted speed limit plus three miles per hour or, where there is no posted speed limit, the authorized speed limit pursuant to section 45-91(a)(1) of this Code plus three miles per hour;
- (3) Whether at least 8% of the total daily traffic volume on a street consists of trucks having more than two axles; and
- (4) The presence of any additional special conditions or safety concerns within the approved neighborhood area as determined by the director.

Written notice of the director's determination shall be given to the applicant. Absent demonstrable evidence of a significant change in traffic volume or traffic patterns in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, any project declared ineligible for further consideration pursuant to this section shall not be eligible for reconsideration for the same or a similar project for a period of three years.

Sec. 45-374. Concept plan.

The director shall prepare a concept plan for each project approved pursuant to section 45-373, taking into account all traffic studies, public comments and other data and factors developed in accordance with the requirements of this article. Each concept plan shall be reviewed by the neighborhood traffic committee and approved by the interdepartmental review committee and the city attorney before being submitted for public comments, as hereinafter provided. No concept plan or project shall be approved by the interdepartmental review committee if it is found that:

- (1) Pedestrian traffic or access to a neighborhood area would be denied or materially impeded;
- (2) General mobility of traffic in the neighborhood area, the surrounding community, or both, as determined by the city's traffic engineer, would be unreasonably adversely affected to a material extent;
- (3) Based upon review of any reasonably suitable alternative methods identified by the interdepartmental review committee to resolve the problem, that the proposed resolution is not the least restrictive device that could reasonably be expected to substantially mitigate or resolve the problem;
- (4) The project would prevent any owner of property from having direct vehicular access to at least one abutting street in the city; or

- (5) The project would be likely to significantly delay ingress to or egress from neighborhoods by emergency service vehicles.

The city attorney shall approve the concept plan unless he determines that its implementation would be contrary to local, state or federal laws or regulations. Written notice of the interdepartmental review committee and the city attorney's determination shall be given to the applicant. If either the city attorney or interdepartmental review committee deny the concept plan, the director may, in the director's reasonable professional judgment, develop a new concept plan(s), and the provisions of this subsection 45-374 shall be applicable to the new concept plan(s). Written notice of the interdepartmental review committee and the city attorney's determination regarding the subsequent concept plan(s) shall be given to the applicant. ~~either declines to approve a concept plan, the applicant shall be so notified.~~ Absent demonstrable evidence of a significant change in traffic volume or traffic patterns in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, the same or a similar project that was denied by the city attorney or interdepartmental review committee shall not be eligible for reconsideration for a period of three years.

Sec. 45-375. Second public meeting.

- (a) Upon approval of the concept plan, a second public meeting shall be held to gather public comments. Notice of the meeting shall be given in the same manner and to the same parties notified of the initial public meeting, plus those persons who registered their names and addresses at the initial public meeting, and shall contain a description of the concept plan and a comment card for use by members of the public to address public safety, convenience and traffic issues and to express either support for or opposition to the concept plan. Unless the director has given preliminary approval for consideration of the project on a publicly funded basis, the director shall require that all expenses of conducting the second public meeting shall be borne by the applicant, and the provisions of section 45-371(f) shall also be applicable to the second public meeting.
- (b) At the second public meeting, comments regarding the concept plan may be made by any interested party. Written comments concerning the plan shall not be considered unless received in the offices of the director or such other place as the director may specify within 14 days after the meeting.

Sec. 45-376. Final review and ranking; recommendation by director.

- (a) Following the close of the public comment period provided in section 45-375(b) above, the director shall evaluate each concept plan, and shall compare it to all other unimplemented concept plans that have reached the same level in the approval process. The director shall either (i) disapprove the concept plan and its underlying request and so notify the applicant in writing; or (ii) approve the concept plan, as may have been modified by the director, in whole or in part, for further consideration and so notify the applicant in writing. The director shall give those concept plans receiving approval a priority ranking that shall be used to establish the order in which the various approved projects will be considered for implementation. If the director disapproves the concept plan, and absent demonstrable evidence of a significant change in traffic volume or traffic patterns in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, the same or a similar project shall not be eligible for reconsideration for a period of three years.
- (b) Each concept plan must be tested with a temporary device and receive a recommendation of approval from the director before being submitted to city council for final approval. Unless the project has been approved by the director for public funding assistance, the temporary device shall be placed at the applicant's sole expense. Each concept plan whose priority ranking is sufficient to indicate that public funding will be available to complete the project, if approved, during the current or next succeeding fiscal year and each concept plan for a project to be financed from private funding sources shall receive approval from the director for the construction of a temporary device, in accordance with its priority ranking, provided that the director may approve a temporary device for any ranked project without regard to its priority ranking in order to reflect special or changed circumstances, availability of Council District Service Funds, or in order to

avoid delay in implementing worthy projects that have not been approved for public funding. No temporary device may be placed without the approval of the director. Temporary devices shall be in place for a testing period of not less than 90 days, provided that the director shall immediately remove a temporary device that is determined to be a threat to public health, safety or welfare.

- (c) Upon authorization of placement of a temporary device:
- (1) The device, with appropriate signs, shall be constructed within the neighborhood area in accordance with the ~~published~~ concept plan;
 - (2) City staff, the neighborhood traffic committee and the interdepartmental review committee shall monitor and review traffic impact and any comments received regarding the temporary device during the testing period; and
 - (3) At least 90 but no more than 210 days following the placement of the temporary device, to receive public comments regarding the temporary device, a third public meeting shall be called and conducted, in the same manner as for the second public meeting with written notice to: the same parties notified as for the second public meeting, ~~and to~~ those additional persons who registered their names and addresses at the second public meeting, and all property owners and residents within one-half mile of the location where the temporary device was placed, to receive public comments regarding the temporary device. The provisions of section 45-371(f) of this Code shall also be applicable to the third public meeting. Written notice shall also specify how public comments may be received by city council prior to its consideration of the project and shall contain a description of the concept plan if the director has materially modified the concept plan since the second public meeting or if the temporary device was placed at a location materially different from the location described in the concept plan published with the notice for the second public meeting.
- (d) Upon the conclusion of the public meeting and expiration of the 14 day comment period following the third public meeting, the director shall review all of the available information regarding the temporary device, including timely received public comments, and either (i) remove or cause to be removed the temporary device and deny all or part of the concept plan or (ii) forward his recommendation for final approval of all or part of the concept plan to city council, during which time the temporary device may remain in place. Written notice of the director's action shall be given to the applicant. If the director disapproves the concept plan, in whole or in part, and absent demonstrable evidence of a significant change in traffic volume or traffic patterns in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, the concept plan or disapproved portions thereof may not be resubmitted as any part of a new request for the same or a similar project for a period of three years. Notwithstanding anything to the contrary herein, the three-year prohibition on resubmitting a new request for the same or similar project shall not apply to a project or concept plan, including any portion thereof, for which the director modified, approved (in whole or in part), or disapproved solely due to funding availability.
- (e) If a project is proposed to be constructed by the city or a city contractor, the director shall prepare and present to city council as part of his recommendation under subsection (d) above a preliminary cost estimate and time line for the project, which shall identify the source of funds to be used to finance the project and the time and priority in which the city would construct the project if the project is approved by city council.

Sec. 45-377. Final action by city council.

- (a) All projects recommended for approval by the director as provided in section 45-376(d) of this Code shall be forwarded to city council accompanied by a summary setting forth in relevant detail the information relied upon in formulating the recommendation, including copies of all timely received written public comments provided as a result of a request for a project.

On the request of affected residents and property owners within one-half mile of the proposed device, city council shall hold a public meeting to consider the implementation of a device.

- (b) The city council shall, by motion, approve or deny the request for the project.

- (c) A decision by city council to approve or deny a request shall be final and shall not be subject to further appeal or rehearing. If the city council denies the request, the applicant shall not be permitted to file a new request for the same or a similar project for a period of three years.

Secs. 45-378—45-390. Reserved.

DIVISION 3. SPEED CONTROL PROGRAM

Sec. 45-391. Traffic studies.

The director shall cause or authorize to be conducted a traffic study to complete the preliminary eligibility review of a proposed project on a minor collector street. Unless the director has given preliminary approval for consideration of the project on a publicly funded basis, the director shall determine, and notify the applicant concerning, the scope and type of traffic study to be conducted by the applicant and indicate any additional information required by the director to facilitate review of the proposed project.

Sec. 45-392. Completion of staff review.

- (a) All proposed projects on local streets shall be eligible for further consideration and processing in accordance with section 45-393 of this Code.
- (b) The director shall determine, based upon all available information regarding a project on a minor collector street, including, without limitation, any traffic study prepared in accordance with section 45-391 of this Code, whether the project is eligible for further consideration and processing in accordance with section 45-393 of this Code. The director shall consider the impact of the following on selected minor collector streets within the neighborhood area in making a determination whether a project is eligible for further consideration and processing in accordance with section 45-393 of this Code:
 - (1) Whether at least 15% of observed vehicle speeds on a street are equal to or in excess of the posted speed limit plus three miles per hour or, where there is no posted speed limit, the authorized speed limit pursuant to section 45-91(a)(1) of this Code plus three miles per hour; and
 - (2) The presence of any additional special conditions or safety concerns within the approved neighborhood area as determined by the director.

Written notice of the director's determination shall be given to the applicant. Absent demonstrable evidence of a significant change in traffic speeds in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, any project declared ineligible for further consideration pursuant to this section shall not be eligible for reconsideration for the same or a similar project for a period of three years.

Sec. 45-393. Concept plan.

The director shall prepare a concept plan for each project deemed eligible pursuant to section 45-392 of this Code, taking into account all traffic studies and other data and factors developed in accordance with the requirements of this article. Each concept plan shall be reviewed and approved by the fire department before being submitted for public comments.

In the director's reasonable professional judgment or due to the availability of funding, the director may modify a concept plan or project at any stage of the neighborhood traffic management process prior to the submission of an agenda item for the project to City Council provided: (i) the fire department reviews and approves the materially modified concept plan, (ii) residents within one-half mile of the proposed device as described in the materially modified concept plan receive sufficient notice to enable City Council to receive and

consider public comments, and (iii) the materially modified plan is tested with a temporary device in accordance with section 45-395(b).

Sec. 45-394. Public notice.

- (a) Upon approval of the concept plan, written notice, in a form approved by the director, shall be mailed to all property owners and residents within one-half mile of the proposed device. Written notice shall contain a description of the concept plan and a comment card for use by members of the public to address public safety, convenience and traffic issues and to express either support for or opposition to the concept plan. Written notice shall also specify how public comments may be received by city council prior to its consideration of the project.
- (b) Each notice shall be effective when deposited in the U.S. mail, postage prepaid, addressed to the property owner, resident or representative of a neighborhood association. Failure of any person to receive actual notice of the concept plan shall not affect the validity of any action taken by the city in connection with the project.
- (c) On the request of affected residents and property owners within one-half mile of the proposed device, the director shall hold a public meeting to consider implementation of a device.
- (d) Each district council member whose district includes any part of the neighborhood area and any other city council member who so requests shall be notified pursuant to section 45-366 of this Code upon approval of the concept plan.

Sec. 45-395. Final review and ranking; recommendation by director.

- (a) The director shall evaluate the comments received and modify the concept plan as needed. The Director shall have the discretion to approve the concept plan in part, in the director's reasonable professional judgment, such as approving only the portion of the concept plan for which funding, whether public funding (including Council District Service Funds) or private funding, is available. The director shall either (i) disapprove the concept plan and its underlying request and so notify the applicant in writing; or (ii) approve the concept plan, as may have been modified by the director, in whole or in part, for implementation and so notify the applicant in writing. The director shall give the approved concept plan a priority ranking that shall be used to establish the order in which the various approved projects will be considered for implementation. If the director disapproves the concept plan, and absent demonstrable evidence of a significant change in traffic speeds in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, the same or a similar project shall not be eligible for reconsideration for a period of three years.
- (b) Each concept plan must be tested with a temporary device and receive a recommendation of approval from the director before being submitted to city council for final approval. Unless the project has been approved by the director for public funding assistance, the temporary device shall be placed at the applicant's sole expense. Each concept plan whose priority ranking is sufficient to indicate that public funding will be available to complete the project, if approved, during the current or next succeeding fiscal year and each concept plan for a project to be financed from private funding sources shall receive approval from the director for the construction of a temporary device, in accordance with its priority ranking, provided that the director may approve a temporary device for any ranked project without regard to its priority ranking in order to reflect special or changed circumstances, availability of Council District Service Funds, or in order to avoid delay in implementing worthy projects that have not been approved for public funding. No temporary device may be placed without the approval of the director. Temporary devices shall be in place for a testing period of not less than 90 days, provided that the director shall immediately remove a temporary device that is determined to be a threat to public health, safety or welfare. Upon authorization of placement of a temporary device, the device, with appropriate signs, shall be constructed within the neighborhood area in accordance with the approved concept plan.

The director shall review all of the available information regarding the temporary device, including public comments, and either (i) remove or cause to be removed the temporary device and deny all or part of the concept plan or (ii) forward his recommendation for final approval of all or part of the concept plan to city council, during which time the temporary device may remain in place. Written notice of the director's action shall be given to the applicant. If the director disapproves the concept plan, in whole or in part, and absent demonstrable evidence of a significant change in traffic volume or traffic patterns in the intervening period which would in the director's reasonable professional judgment prompt an earlier review, the concept plan or disapproved portions thereof may not be resubmitted as any part of a new request for the same or a similar project for a period of three years. Notwithstanding anything to the contrary herein, the three-year prohibition on resubmitting a new request for the same or similar project shall not apply to a project or concept plan, including any portion thereof, for which the director modified, approved (in whole or in part), or disapproved solely due to funding availability.

Sec. 45-396. Final action by city council.

- (a) All projects recommended for approval by the director as provided in section 45-395 of this Code shall be forwarded to city council accompanied by a summary setting forth in relevant detail the information relied upon in formulating the recommendation, including copies of all timely received written public comments provided as a result of a request for a project.
- (b) The city council shall, by motion, approve or deny the request for the project.
- (c) A decision by city council to approve or deny a request shall be final and shall not be subject to further appeal or rehearing. If the city council denies the request, the applicant shall not be permitted to file a new request for the same or a similar project for a period of three years.