

CITY OF LUMBERTON, TEXAS
ORDINANCE NO. 21-1249

AN ORDINANCE OF THE CITY OF LUMBERTON, TEXAS AMENDING CHAPTER 40 (STREETS, SIDEWALKS AND OTHER PUBLIC PLACES) OF THE CITY’S CODE OF ORDINANCES TO BE HEREAFTER ENTITLED “STREETS, SIDEWALKS, DRIVEWAYS, AND OTHER PUBLIC PLACES”; PROVIDING AMENDMENTS TO ARTICLE V (DRIVEWAYS AND CULVERTS) FOR CLARIFICATION AND COMPLIANCE WITH THE CITY’S STANDARDS AND SPECIFICATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THE ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Lumberton, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the provisions of this ordinance will provide clarity to the design regulations and assure that all driveways and culverts are in accordance with the city’s standards and specifications; and

WHEREAS, amendments to Chapter 40 will provide safe and efficient vehicular access to or from the public street systems, maintain street and right-of-way drainage and maintain and enhance a positive image for the attraction of new, high quality, residential and nonresidential development in the City; and

WHEREAS, the City Council of the City of Lumberton has determined that the amendments to Chapter 40 are necessary to adequately protect the public health, safety and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LUMBERTON, TEXAS:

Section 1. Findings of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact.

Section 2. Title Amendment. That the City of Lumberton Code of Ordinances, Chapter 40 shall be entitled “Streets, Sidewalks, Driveways and Other Public Places”.

Section 3. Code Amendment. That the City of Lumberton Code of Ordinances, Chapter 40, Article V- Driveways and Culverts, is hereby amended to read as follows:

Chapter 40 - STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE V. - DRIVEWAYS AND CULVERTS

Sec. 40-111. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Whenever any term used herein is not defined, but is defined in any other ordinance or state law, such definition shall be deemed to apply to such term used herein.

Commercial driveway means any passageway designed or intended for vehicular movements between the roadway and any point outside the street right-of-way, when such passageway leads to any public or private area outside the street which is designed or intended for the parking of any commercial vehicle, or for the parking of any vehicles to serve land other than a single-family residence.

Curb return or *curb radius* means that part of the curbing at an intersection or at a driveway which is curved to form the connection between intersecting curblines.

Driveway culvert means any drainage structure that transmits water under a driveway that intersects a ditch within the street right-of-way.

Frontage means that portion of adjacent property contiguous to a single street property line. For the purpose of this article, frontage shall be measured as the total distance over which the street right-of-way line and the lot or property lines are congruent, and shall include all lots or properties under the legal control of the applicant.

Landscape culvert means any drainage structure installed to enable the property owner to aesthetically close an open ditch within the street right-of-way.

Multi-family dwelling driveway means any passageway designed or intended for vehicular movements between the roadway and any point outside the street right-of-way, when such passageway leads to any public or private area designed or intended for parking to serve land used for a multi-family dwelling.

Residential driveway means any passageway designed or intended for vehicular movements between the roadway and any point outside the street right-of-way, when such passageway leads to any public or private area designed or intended for parking to serve land used for a single-family residence.

Roadway means that section of street lying between the face of curbs or edge of driving surface if not ~~ac~~curbed.

Safety zone means that portion of the frontage right-of-way between any two driveways.

(Ord. No. 98-1140, § 1, 2-9-1998)

Sec. 40-112. - Permit required; voiding of permit.

- (a) Before constructing, reconstructing, repairing or altering any driveway, driveway culvert or landscape culvert, a permit shall be obtained from the ~~building inspections~~city's permit department; provided, however, no such permit shall be required for the construction of any driveways, driveway culverts or landscape culverts installed as a part of the paving or widening of any street in accordance with plans approved by the city and installed as a part of a contract of the city.
- (b) If the driveway, driveway culvert or landscape culvert is not constructed within six months of date of issuance of the permit, said permit becomes null and void.
- (c) Where work for which a permit is required in this section is started or proceeded prior to obtaining a permit, the permit fees specified in Sec. 40-114 shall be charged at 2.5 times the original permit fee, but the payment of such fee shall not relieve any persons from fully complying with the requirements

of the adopted codes, standards, specifications and requirements of this Chapter nor from any other penalties and remedies available to the city.

(Ord. No. 98-1140, § 2, 2-9-1998)

Sec. 40-113. - Application; requests to establish pipe sizes, grades and surface grate inlet spacing.

- (a) Application for such permit shall be made to the ~~building inspection~~city's permit department on forms prescribed by the city. Each such application shall be submitted with a scaled drawing showing the address and lot and block number, if platted, of the property where the driveway, driveway culvert or landscape culvert is to be located, the width of the driveway requested, the location of the driveway, driveway culvert or landscape culvert requested with respect to private property lines, the location of existing driveways on either side of the proposed driveway serving same property or adjacent property, if any, and such other information as may be requested by the city. Before the permit is issued, it shall be approved as to location, design and construction by the city.
- (b) After the issuance of a permit, the applicant shall request the public works department to establish pipe sizes, grades and surface grate inlet spacing for all driveway culvert and landscape culvert installations prior to the beginning of construction. Such request should be made 48 hours in advance to allow proper scheduling.
- (c) Applications for driveway, driveway culvert or landscape culvert permits shall be made by the owner or lessee of the ~~abutting~~ property, or by a contractor representing the owner or lessee.

(Ord. No. 98-1140, § 3, 2-9-1998)

Sec. 40-114. - Fees.

The fees associated with obtaining a permit for a driveway, driveway culvert, or landscape culvert shall be as shown on the ~~construction permit City of Lumberton Fee~~fee schedule-Schedule as is currently established or as hereafter adopted by resolution of the city council from time to time.

(Ord. No. 98-1140, § 4, 2-9-1998)

Sec. 40-115. - Indemnification.

The grantee of any driveway, driveway culvert or landscape culvert permit shall hold harmless the city and its agents and employees against any action for personal injury or property damage sustained by reason of the exercise of his permit.

(Ord. No. 98-1140, § 5, 2-9-1998)

Sec. 40-116. - Right to inspect driveways, driveway culverts or landscape culverts and require conformance with standards and specifications reserved; costs of repair or maintenance.

~~(a) (a)-~~ Driveways, driveway culverts and landscape culverts shall comply with the specifications of the City of Lumberton's Driveway Design and Paving Detail Standards in addition to the requirements of this chapter.

~~(a)(b)~~ The city reserves the right to inspect driveways, driveway culverts or landscape culverts at any time during construction and to require such changes as may be necessary to make the construction conform to ~~city street~~the city's standards and specifications.

- (cb) At any time after the construction of any driveway, driveway culvert or landscape culvert, the city reserves the right to inspect such facility and require such repairs or maintenance as may be necessary to protect the public.
- (ed) The cost of any such repair or maintenance to a landscape culvert shall be borne by the owner or lessee of ~~abutting~~ property. The city retains the right to remove any existing landscape culverts which are causing a drainage problem.
- (ed) The cost of any such repair to an existing ~~driveway or~~ driveway culvert shall be borne by the city. If the city does repair an existing driveway culvert, which results in damage to an existing driveway, the city will also repair that same driveway to a same or similar condition provided that the existing driveway did not extend into the city's right-of-way. In the event the existing driveway extends into the city's right-of-way, at least as good as it was. The exception is that the existing concrete driveways will not be repaired with concrete, but will be repaired with cold-mix asphalt by the city. Nevertheless, if the homeowner desires to replace the concrete, it will be the homeowner's responsibility to do so.

(Ord. No. 98-1140, § 6, 2-9-1998)

Sec. 40-117. - Driveway construction required; curb cuts.

It is the duty of all persons owning property abutting on paved streets in the city to construct or cause to be constructed, at their own cost and expense, driveways leading from the curblin or edge of pavement to the property line on such lots as may be necessary to enter with any vehicle from the street, and in doing such work, property owners shall have the right to cut down the curb wall, but only as may be directed by the public works department and as set forth in the City's Driveway Designs and Paving Detail Standards.

(Ord. No. 98-1140, § 7, 2-9-1998)

Sec. 40-118. - Materials and labor for construction of ~~new~~ driveways, driveway culverts and landscape culverts.

- (a) *Materials and labor.* All materials and labor necessary for the construction of ~~new~~ driveways, driveway culverts, and ~~new~~ landscape culverts authorized in the permit shall be furnished by the owner.
- (b) *Culvert construction and installation.* All culverts ~~for the construction of new driveway culverts~~ authorized in the permit shall be furnished by the owner. The labor necessary for laying the ~~new driveway~~ culverts may be furnished by either of two methods; installation by the city, or installation by the owner, with inspection by the city.
- (c) *Minimum specifications.* All construction, reconstruction, alteration or repair of driveways, driveways culverts and landscape culverts, including installation and materials shall meet the following minimum standards and specifications with reference to city's manual of driveway regulations City of Lumberton's Driveway Design and Paving Detail Standards for appropriate sketches to be followed:
 - (1) *Driveway construction material.*
 - a. Residential driveway: All residential driveways, with the exception of residential driveways located within R-3 Zoning District (Manufactured Housing Dwelling District), shall consist of concrete. If a driveway exceeds 75 ft in length, the first 75 ft of the driveway from the street shall consist of concrete and the remaining driveway exceeding the first 75 ft from the street may be of either concrete or asphalt. All residential driveways shall comply with the standards and specifications of the City of Lumberton's Driveway Designs and Paving Detail Standards.
 - b. Residential driveway located in R-3 Zoning District: A residential driveway upon property zoned R-3 (Manufactured Housing Dwelling District) shall consist of either concrete or

asphalt and comply with the standards and specifications of the City of Lumberton's Driveway Designs and Paving Detail Standards.

c. **Multi-family dwelling driveway:** A multi-family dwelling driveway shall consist of concrete and comply with the standards and specifications of the City of Lumberton's Driveway Designs and Paving Detail Standards.

d. **Commercial driveway.** Commercial driveways shall consist of either concrete or asphalt and comply with the standards and specifications of the City of Lumberton's Driveway Designs and Paving Detail Standards.

~~Eight inch flexible base or six inch concrete for commercial drive or four inch concrete for residential drive, reinforced with minimum 6x6 no. 6 welded wire fabric. If concrete is used, full depth expansion joints must be installed on both sides of the driveway culvert.~~

- (2) *Driveway culverts.* Driveway culverts may be constructed from reinforced concrete pipe or smooth interior corrugated polyethylene pipe. Culvert material must be either new material or undamaged used material. If reinforced concrete pipe is used, all joints must be sealed with Ram-Nek, Quik-Seal, or equivalent. Pipe size will be determined by the public works department on a case-by-case basis.
- (3) *Landscape culverts.* Landscape culverts may be constructed only from smooth interior corrugated polyethylene pipe. Culvert material must be either new material or undamaged used material. Pipe size will be determined by the public works department on a case-by-case basis and will normally be 18 inches minimum. Landscape culvert surface grate inlets shall have a minimum of 2.25 square feet of opening and shall have a maximum spacing of 35 feet. Landscape culvert backfill and adjacent property shall be sloped to drain to the surface grate inlets. All landscape culvert backfill shall be covered completely with block sod to prevent erosion.

(Ord. No. 98-1140, § 8, 2-9-1998)

Sec. 40-119. - Driveway approaches.

- (a) *Intent.* It is the intent of this section that the location and angle of a driveway approach in relation to the street or intersection shall be such that a vehicle leaving the abutting property may turn into the lane of traffic moving in the desired direction and be channeled within such lane before crossing the intersection or proceeding along the street, and that a vehicle entering the abutting property may turn out of the nearest lane of traffic without interfering with other traffic.
- (b) *Location and angle of intersection.*
 - (1) No driveway approach shall be permitted to encroach upon any municipal facility. However, the relocation of municipal facilities may be authorized by the city engineer if it is in the public's interest and provided that such relocation shall be completed and at the expense of the applicant and in accordance with specifications provided by the city engineer in the permit issued therefor.
 - (2) At street intersections, no curb cut for a driveway approach shall be permitted within 30 feet of the extended curbline or the edge of pavement.
 - (3) The interior angle formed by the extension of the axis of the driveway approach and the centerline of the street shall fall between 45 degrees and 90 degrees.
 - (4) On interior lots, the tangent point of the driveway curb at the street curbline shall not extend beyond a property line on any commercial driveway.
 - (5) A residential driveway shall not be located nearer than two feet to an interior property line. The minimum width of the driveway shall be ten feet.

(Ord. No. 98-1140, § 9, 2-9-1998)

Sec. 40-120. - Exceptions to requirements.

It is the intent of this article that exceptions to the above provisions are granted only for extreme circumstances and only in those cases where the public interest would be served by such exceptions.
~~The city manager is authorized to permit those exceptions which meet the above requirements.~~

(Ord. No. 98-1140, § 10, 2-9-1998)

Sec. 40-121. - ~~Appeals.~~

~~If the applicant is dissatisfied with the decision of the building inspection department or public works department, he may appeal such decision to the city manager. All such appeals shall be made in writing to the city manager. The city manager shall consider all evidence submitted by the applicant and the building inspection department or public works department and shall make a final decision as to whether or not an exception shall be granted.~~

~~(Ord. No. 98-1140, § 11, 2-9-1998) Noncompliance Penalty.~~

A person is in violation of this chapter if the person fails to make an application for permit or fails to comply with the permit as required by this chapter and constructs, reconstructs, repairs or alters any driveway, driveway culvert or landscape culvert which does not comply with this chapter. Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be fined in an amount not to exceed five hundred dollars (\$500.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative to other remedies provided by state law and the power of injunction as provided in V.T.C.A. Local Government Code Section 54.016, and as may be amended, may be exercised in enforcing this chapter whether or not there has been a complaint filed.

Section 4. This ordinance shall be cumulative of all provisions of ordinances of the City of Lumberton, except where the provisions of this ordinance are in direct conflict therewith, in which case the prior ordinance or parts thereof are hereby repealed to the extent of the conflict.

Section 5. All rights and remedies of the City of Lumberton are expressly saved as to any and all violations of the provisions of any ordinances affecting the regulations for driveways and culverts which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

Section 6. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared void, ineffective, or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness, or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective, or unconstitutional phrase, clause, sentence, paragraph or section.

Section 7. It is the intention for the City Council that this ordinance shall become a part of the Lumberton City Code of Ordinances and it may be renumbered and codified therein accordingly.

Section 8. It is hereby found and determined that the meeting at which this ordinance was passed was open to the public, as required by Chapter 551.001, *et seq.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meeting was given.

Section 9. This ordinance shall go into effect immediately after approval and publication as required by law.

CERTIFICATE

I hereby certify that the foregoing was presented to the City Council for the City of Lumberton, Texas during a meeting on the 12th day of April, 2021 for a first reading and again on the 26th day of April, 2021 for a second reading. A quorum of the City Council being then present at both readings, it was then duly moved and seconded that the resolution be adopted, and such resolution was then adopted.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL FOR THE CITY OF LUMBERTON, TEXAS, on the 26th day of April, 2021.

By: _____
Don Surratt, Mayor
City of Lumberton, Texas

ATTEST:

Susan Collins, City Secretary

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