

CITY OF LUMBERTON, TEXAS
ORDINANCE NO. 22-1266

AN ORDINANCE OF THE CITY OF LUMBERTON, TEXAS AMENDING CHAPTER 48 (TRAFFIC AND VEHICLES), ARTICLE IV. – EXTENSION OF TRAFFIC REGULATIONS TO PRIVATE SUBDIVISIONS, TO PROVIDE FOR THE EXTENSION OF STATE AND LOCAL TRAFFIC LAWS TO PRIVATE ROADS LOCATED WITHIN THE WOODS SUBDIVISION AS SPECIFIED HEREIN; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED (\$200.00) DOLLARS FOR EACH OFFENSE; AND PROVIDING A SEVERANCE CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Lumberton has received a Resolution of the Board of Directors of The Woods (“Association”) seeking the extension of the city’s traffic regulations to the private streets and rights-of-ways within The Woods Subdivision (“Subdivision”) for the purpose of application and enforcement, attached hereto as Exhibit “A”.

WHEREAS, Section 542.008 of the Transportation Code authorizes the City of Lumberton to extend by ordinance any traffic rules that apply to roads owned by the City to the roads in a private subdivision so that the subdivision's roads are governed by the same traffic rules as other roads within the City's jurisdiction upon the request of the governing body of the entity that maintains the subdivision's roads or 25% of the residents that reside in the subdivision if the City Council finds that extending such rules are in the best interest of the City generally; and

WHEREAS, the City Council finds that the Resolution complies with Texas Transportation Code §542.008 and by the virtue of the authority contained therein, it is in the best interest of the City of Lumberton to extend the traffic rules that apply to all other public streets and rights-of-ways governed by the City to the private roads located within The Woods subdivision, including all future streets and rights-of-ways and extensions thereof within the subdivision.

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

Section One. The above and foregoing recitals are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section Two. That from and after the effective date of this ordinance, all traffic rules and regulations enforced and applied by the municipality to streets, roadways, and rights-of-ways within the City that govern the operation and movement of vehicles be and are hereby extended to all streets, roadways, and rights-of-ways within The Woods subdivision as referenced on Exhibit “B” attached hereto and incorporated herein. All such streets, roadways, and rights-of-ways, and all future roadways and extensions of roadways within The Woods subdivision, as each may be completed and opened to public use, shall henceforth be governed and controlled by all traffic laws set forth in state law and City ordinance.

Section Three. The extension of such application and enforcement of traffic rules by the City within the subdivision shall be conditioned on the provisions of Chapter 48, Sections 48-77 and 48-78, as may be amended.

Section Four. The City of Lumberton Code of Ordinances, Chapter 48 – Traffic and Vehicles, Article IV. - Extension of Traffic Regulations to Private Subdivisions, Section 48-77 shall be amended to include The Woods under subsection (b), as follows:

Sec. 48-77. Extension of Traffic Regulations.

By ordinance adopted by the City Council of the City of Lumberton pursuant to Texas Transportation Code §542.008, the City's traffic regulations and enforcement that apply to a public road owned by the City are extended to the private streets within the following subdivision(s) subject to the provisions set forth in this Section 48-77:

(A) Gracelake Estates (Ord. No. 21-1260)

(B) The Woods (Ord. No. 22-1266)

(1) All streets, improvements and appurtenances in the subdivisions shall continue to be maintained solely by its association. No street located within the subdivisions shall be restricted from access or through traffic to the public without the express written consent of the City. The City may remove any obstructions from the roadway or at the request of the Police Chief or City Manager, the association shall immediately remove obstructions within the roadway.

(2) The City shall have the sole discretion to determine the necessity of traffic control and maximum prima facie speed limit for the streets of the subdivision.

(3) The City may remove any existing traffic control signs, signals and devices or may erect and place such traffic control signs, signals and devices that may be necessary or appropriate in the application and extension of traffic rules and regulations to the subdivision at the discretion of the City.

(4) The association shall ensure and maintain the applicable easements and rights-of-ways within the subdivision to allow the City to erect and place necessary traffic-control signs, signals and devices. The City may trim vegetation or remove obstructions within the easements and rights-of-ways to provide visibility of traffic control signs, signals or devices or at the request of the Police Chief or City Manager, the association shall immediately trim vegetation or remove obstructions within the easements and rights-of-ways.

(5) Pursuant to Texas Transportation Code 542.008, as a condition of extending traffic rules, the City may require the association to pay all or part of the costs of extending and enforcing the traffic rules in the subdivision, including the reimbursement of expenses incurred by the City and cost associated with the placement of necessary official traffic control devices. The City shall bear no cost of providing, installing or maintaining signs, or removing vegetation or other obstructions around signs, signals and devices, rather the

association shall be responsible for those costs. The City will submit an invoice of any costs to be paid by the association which shall be promptly paid by the association.

(6) The private roads in the subdivision shall be considered public streets for the purposes of application and enforcement of traffic rules and regulations.

(7) Special Exceptions.

(a) *Gracelake Estates.*

1) The City of Lumberton hereby declares that the maximum prima facie speed limit on the streets in the Gracelake Estates subdivision shall be twenty (20) miles per hour, except when a special hazard exists that requires slower speeds, and the speed limit stated herein for the operation of motor vehicles shall be lawful, but any speed in excess of the limits specified in this section shall be prima facie evidence that the speed is not reasonable or prudent and is unlawful.

2) The City of Lumberton hereby consents to the closure of the subdivision's entrance gates restricting unauthorized access to the subdivision from the hours of 7:00 p.m. to 5:00 a.m. each day. Law enforcement shall be provided uninterrupted access to all streets in the Gracelake Estates subdivision during the permitted gate closure period for the purpose of traffic regulation and as otherwise authorized by law.

(8) A violation of any of the traffic rules extended to the subdivision is hereby declared a criminal offense and the violator is subject the same penalties as if such violation had occurred on a public road, highway or street located elsewhere throughout the City.

(9) The City reserves the right to repeal this ordinance in full or in part or as it is applied to any particular street or location, or otherwise.

Sec. 48-78. Enforcement of Traffic Laws.

(A) Traffic laws to be enforced by the City under this ordinance shall be effective immediately upon the passage and approval of an ordinance extending traffic regulations in a subdivision. Amendments to state or local traffic laws shall become effective and automatically extended and enforceable by the City upon the adoption of such amendments without further notice.

(B) Without waiving the City's right to remove or erect traffic control signs, signals or devices pursuant to Section 48-77(3), the location of existing traffic control signs, signals or devices regulating traffic in the subdivision at the time an ordinance extending the City's traffic laws is adopted are authorized and may be immediately enforced by the City. Traffic control signs, signals or devices erected after the approval of an ordinance extending the City's traffic regulations shall become effective immediately upon the proper placement and City authorization of such traffic control.

Section Five. 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 found in Chapter 48 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 Six. 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 Seven. 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 Eight. Any person, firm or corporation violating any of the provisions or terms of this ordinance shall, upon conviction, be punished by a fine not to exceed the sum of two hundred dollars (\$200.00) for each offense, except where the state law or City ordinance imposes a greater fine, in which case the greater fine shall apply.

Section Nine. This ordinance shall take effect immediately upon passage 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 28th day of March, 2022 for a first reading and again on the 11th day of April, 2022 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 _____ day of _____, 2022.

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

ATTEST:

Susan Collins, City Secretary

EXHIBIT A

RESOLUTION OF THE BOARD OF DIRECTORS OF The Woods

RESOLUTION TO REQUEST CITY OF LUMBERTON, TEXAS EXTEND TRAFFIC REGULATIONS IN SUBDIVISION PURSUANT TO TEXAS TRANSPORTATION CODE §542.008

WHEREAS, the governing body of the The woods Home owners association Lumberton Tx (the "Association") maintains all private roads within the The Woods subdivision ("Subdivision"), namely:

Evergreen Way, Balsam Bend,
Sycamore Ct, Oakwood Dr

WHEREAS, the Association's Board of Directors, being qualified to serve the Association in accordance with the Association's Bylaws and state statutes, have determined that in the best interest of the Association and with the authority granted by Texas Transportation Code §542.008, an appeal shall be presented to the City of Lumberton ("City") by the adoption of this Resolution seeking the extension of the City's traffic regulations upon the private roads of the Subdivision.

WHEREAS, the governing body of the Association desires for the roads of the subdivision to be regulated under the same traffic rules that would apply to a road owned by the municipality and upon such order by the City, the private roads within the Subdivision will be considered public for the purpose of application and enforcement of the City's traffic rules.

WHEREAS, this Resolution was adopted at a meeting of the Board of Directors of the Association held on the day of March 2, 2022, at which a quorum was present and acting throughout. The Association's meeting and the actions taken at the meeting were duly authorized by the governing documents of the Association and were done in full compliance with the governing documents of the Association and Texas Property Code.

IT IS HEREBY RESOLVED BY THE BOARD OF DIRECTORS OF THE ASSOCIATION:

SECTION 1: The above and foregoing recitals are found to be true and correct and are incorporated herein as a finding of fact.

SECTION 2: The Association requests the City extend its traffic regulations and the enforcement upon the private roads of the Subdivision pursuant to Texas Transportation Code §542.008, as follows:

- A. It is requested that all traffic rules and regulations enforced and applied by the City of Lumberton, Texas as promulgated by Texas Transportation Code and/or local ordinance to be extended to all private streets within the Subdivision.

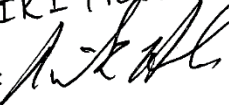
- B. The streets, improvements and appurtenances in the Subdivision shall continue to be maintained solely by the Association. No street located within the Subdivision shall be restricted from access or through traffic to the public without the express written consent of the City. The City may remove any obstructions from the roadway or at the request of the Police Chief or City Manager, the Association shall immediately remove obstructions within the roadway.
- C. The City shall have the sole discretion to determine the necessity of traffic control and maximum prima facie speed limit for the streets of the Subdivision.
- D. The City may remove any existing traffic control signs, signals and devices or may erect and place such traffic control signs, signals and devices that may be necessary or appropriate in the application and extension of traffic rules and regulations to the Subdivision at the discretion of the City.
- E. The Association shall ensure and maintain the applicable easements and rights-of-ways within the Subdivision to allow the City to erect and place necessary traffic-control signs, signals and devices. The City may trim vegetation or remove obstructions within the easements and rights-of-ways to provide visibility of traffic control signs, signals or devices or at the request of the Police Chief or City Manager, the Association shall immediately trim vegetation or remove obstructions within the easements and rights-of-ways.
- F. Pursuant to Texas Transportation Code 542.008, as a condition of extending traffic rules, the City may require the Association to pay all or part of the costs of extending and enforcing the traffic rules in the subdivision, including the reimbursement of expenses incurred by the City and cost associated with the placement of necessary official traffic control devices. The City shall bear no cost of providing, installing or maintaining signs, or removing vegetation or other obstructions around signs, signals and devices, rather the Association shall be responsible for those costs. The City will submit an invoice of any costs to be paid by the Association which shall be promptly paid by the Association.
- G. Upon approval from the City to extend some or all traffic rules and regulations in the Subdivision, the private roads in the subdivision shall be considered public streets for the purposes of application and enforcement of traffic rules and regulations.

SECTION 3: The governing body of the Association hereby approves this Resolution and directs the signatory named thereon to deliver the original of this Resolution to the City for consideration.

SECTION 4: Said resolution is now in full force and effect and has not been modified or amended.

I hereby further certify that the persons named below have been duly elected to the offices set opposite their respective names, that they continue to hold these offices at this time, and that the signatures appearing hereon are the genuine, original signatures of each, respectively.

BY OUR SIGNATURES HEREON, WE JOIN IN THIS RESOLUTION AND CERTIFICATION.

Director: MIKE Hawkins
Director Signature: 

The Secretary of the Association certifies that the above is a true and correct copy of the resolution that was duly adopted at a meeting of the dated meeting of the board of directors.


Printed Name of Secretary : Shawna Hawkins
Signature of secretary: 
Date: March 2, 2022

EXHIBIT B

All existing and proposed streets, roadways and rights-of-ways of The Woods subdivision, namely:

- Evergreen Way
- Balsam Bend
- Sycamore Ct.
- Oakwood Dr.

This ordinance applies to all streets, roadways and rights-of-way of The Woods subdivision, whether public or private, in all sections, phases and parts of the subdivision, including any extensions thereof and future development of streets, roadways and rights-of-ways of the subdivision as may be constructed and opened to public use.