

ORDINANCE NO. O-04-32

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING THE CODE OF ORDINANCES OF THE CITY OF MISSOURI CITY, TEXAS, BY DELETING CHAPTER 46 THEREOF AND SUBSTITUTING THEREFOR A NEW CHAPTER 46; PROVIDING RULES AND REGULATIONS RELATING TO THE CONSTRUCTION AND REPAIR OF INFRASTRUCTURE IN THE CITY; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The Code of Ordinances of the City of Missouri City, Texas, is hereby amended by deleting Chapter 46 thereof and substituting therefor a new Chapter 46 to provide as follows:

“CHAPTER 46

INFRASTRUCTURE STANDARDS

ARTICLE I. IN GENERAL

Sec. 46-1. Designation and citation of chapter.

The ordinances embraced in this chapter, including all sections now or hereafter amended, added or altered shall constitute and be designated the "City Infrastructure Code," and may be so cited.

Sec. 46-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official means the chief building official of the city or his designee.

Collector streets means street routes that have short travel distances and collect traffic from intracity streets and funnel it into major thoroughfares or other collector streets.

Commercial/industrial developments means any land area zoned or devoted primarily to commercial or industrial use, including areas zoned as LC-O, LC, LC-1, LC-2, LC-3, LC-4, I, BP or any PD and SUP devoted primarily to commercial or industrial use.

Director of public works means the city director of public works or his designee.

Driveway means an entrance to and exit from premises where it is possible to park completely off the street, and which is not open for vehicular traffic except by permission of the owner of such private property.

Driveway approach means a way or place including paving and curb returns between the street travel lanes and private property that provides vehicular access between the roadway and such private property.

Dwelling unit means a building or portion thereof designed exclusively for residential occupancy.

Highway, street or roadway means a general term denoting a public or private way for the purpose of vehicular travel.

Infrastructure means any facility or structure proposed to be constructed, reconstructed, repaired, or regraded wholly or partially within right-of-way public easements or connecting to right-of-way, including, but not limited to, streets, driveways, sidewalks, curbs, gutters, culverts, open ditches, storm drains, and irrigation facilities owned or maintained by a public entity.

Major thoroughfare means highways, streets, and roadways devoted to moving large volumes of traffic over long distances. Major thoroughfares shall be set forth in the Major Thoroughfare Plan adopted by the City Council, and may from time to time be amended.

Residential developments means all areas zoned as R, R-1, R-1-A, R-2, R-3, R-4, R-5, R-6, MF-1, MF-2, MH, or otherwise zoned or devoted primarily to residential use, and shall include all other areas not zoned or used primarily for commercial or industrial use.

Right-of-way means property that is publicly owned or upon which a governmental entity has an express or implied property interest (e.g. fee title, easement, etc.) held for a public purpose. Examples of such public purpose include, by way of example and not limitation, highways, streets, sidewalks, drainage facilities, sewerage and water facilities.

Sidewalk means the section of pavement between the curb lines of a roadway and the adjacent property lines intended for the use of pedestrians.

Soils means dirt, sand and other similar earth matter, and shall also mean rocks and other solid or semisolid mass material, whether produced by man or nature, but shall not include the matter composing the infrastructure or appurtenances thereto.

Utility means any privately or publicly owned entity which uses public rights-of-way to furnish to the public any general public service, including, without limitation, water, sanitary sewer, gas, electricity, telephone, petroleum products, telegraph, heat, steam or chilled water, together with the equipment, structures, and appurtenances belonging to such entity and located within and near the right-of-way.

Sec. 46-3. Penalty.

Any person who causes, allows or permits another to violate any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction shall be punishable as provided in section 1-13 of the Missouri City Code of Ordinances. Each day such violation shall be permitted to exist shall constitute a separate offense. The permittee, owner, occupant or resident of the premises or part thereof where anything in violation of this chapter shall be placed or shall exist, or any lessee, tenant, employee, agent or corporation employed in connection therewith who may have assisted in the commission of such violation, shall be guilty of a separate offense, and upon conviction shall be subject to the penalties stated in this section.

Sec. 46-4. Duty of abutting property owners to construct or repair improvements.

- (a) It shall be the duty of every owner of real estate in the city, abutting on any public street or alley in the city in front of which real estate or along which street the building official may order the construction, reconstruction, repair or bringing to grade of driveways, driveway approaches, sidewalks, culvert pipes, gutters or other infrastructure, to cause such improvement to be constructed, reconstructed or repaired, or bring such improvement to grade as the case may be, in accordance with the terms of such order and the specifications set out in this chapter and on the line and grade as established by the building official for the particular block, street or community in which the real estate may be situated. The order of the building official shall direct the owner to take action within a time certain. The order shall also state that the owner has a right to appeal to the city manager or his designee within ten days of the issuance of the notice. Review of such order shall be made by the city manager or his designee and a decision will be issued promptly.

- (b) The order of the building official shall be given
 - (1) Personally to the owner in writing; or
 - (2) By certified mail, return receipt requested, addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located.
- (c) If personal service cannot be obtained:
 - (1) By publication at least once;
 - (2) By posting the notice on or near the front door of each building on the property to which the order relates; or
 - (3) By posting the notice on a placard attached to a stake driven into the ground on the property to which the order relates, if the property contains no buildings.
- (d) If the city mails a notice to a property owner in accordance with subsection (b), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
- (e) Such property owners shall cause to be constructed such improvement in front of their property after the giving of notice as prescribed in this chapter within the necessary timeframe fixed by the building official.
- (f) If the owner fails or refuses to comply with the order of the building official within the timeframe specified by his order, or fails to appeal the order to the city manager as provided in subsection (a), then the city shall have the right to construct the improvement in accordance with the order for the improvements, this chapter and the city design manual, and may assess its expenses as provided in subsections (f) and (g).
- (g) The city manager shall file a lien statement containing a statement of expenses incurred pursuant to subsection (e), giving the amount of such expense, the date on which such work was done, and a description of the premises upon which such work was done or improvements made, with the county clerk of the county in which the premises are located.

- (h) The lien statement must state the name of the owner, if known, and the legal description of the property and abutting property if relevant. The lien attaches upon the filing of the lien statement with the county clerk. The city shall have a privileged lien on such lot or real estate upon which such work was done or improvements made, to secure the expenditures so made. Such amount shall bear ten percent interest from the date of payment or occurrence of such expenditure by the city. For any such expense and interest, suit may be instituted and recovery and foreclosure of such lien may be had in the name of the city, and the statement of expenses so made as provided in the section, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvements.

Sec. 46-5. Applicability of chapter to utilities and transportation network.

- (a) The provisions of this chapter shall apply to all persons, and political subdivisions of the state, designing or installing or causing to be designed or installed utilities or transportation facilities within the corporate limits of the city or within the city's extraterritorial jurisdiction, as that term is defined by the Municipal Annexation Act, compiled as V.T.C.A., Local Government Code § 42.001 et seq. The installation of any utility system or portion thereof not in accordance with this chapter or the city design manual shall constitute a violation subject to the penalty provision set forth in section 1-13 of the Missouri City Code of Ordinances.
- (b) The city shall not be responsible for damage to any utility system or component thereof when such system or component is not installed in accordance with the provisions of this chapter and the city design manual.

Sec. 46-6. Duties incurred when vehicular transportation network is disrupted.

In the event any excavation, building operation or similar activity on or adjacent to the right-of-way causes a deviation in the vehicular transportation network, the person responsible for such activity shall be responsible for installing traffic control devices to manage such deviation. All such traffic control devices shall comply with the requirements set forth in the Texas Manual on Uniform Traffic Control Devices. All such devices shall be detailed in a plan, and such traffic control device plan shall be approved as part of the permitting process.

ARTICLE II. RIGHT-OF-WAY MANAGEMENT

Sec. 46-20. Insurance and Bonding Requirements

- (a) A ROW user shall obtain and maintain insurance in the amounts reasonably prescribed by the city with an insurance company licensed to do business in the State of Texas. A person shall furnish the city with proof of insurance at the time of the request for permits. The city reserves the right to review the insurance requirements and to reasonably adjust insurance coverage and limits when the city manager determines that changes in statutory law, court decisions, or the claims history of the industry or the person require adjustment of the coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the State of Texas or letters written by the person in those instances where the State does not issue such letters, which provide the same coverage as required herein. However, for the city to accept such letters the ROW user must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city. The city's current insurance requirements are described below. If a certificate of insurance is on file from a previous application and has not expired, the valid certificate may be referenced on subsequent applications.
- (b) The ROW user shall furnish, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this chapter to the city. A ROW user shall immediately advise the city attorney of actual or potential litigation that may develop may affect an existing carrier's obligation to defend and indemnify.
- (c) An insurance certificate shall contain the following required provisions:
1. Name the City of Missouri City and its officers, employees, board members and elected representatives as additional insured for all applicable coverage;
 2. Provide for 30 days notice to the city for cancellation, non-renewal, or material change; and
 3. Provide that notice of claims shall be provided to the city manager by certified mail or other means approved by the city.
 4. The policy clause "Other Insurance" shall not apply to the city if the city is an insured under the policy.

5. The permit applicant shall pay premiums and assessments. A company that issues an insurance policy has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a permit applicant must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.

(d) The following insurance requirements shall be the minimum required for work within the public rights-of-way of Missouri City.

TYPE	AMOUNT
1. Worker's Compensation and Employer's Liability	Statutory \$100,000/500,000/100,000
2. Commercial General (public) Liability insurance including coverage for the following:	
a. Premises operations	Combined single limit for bodily injury and property damage of \$500,000 per occurrence or its equivalent.
b. Independent contractors	
c. Products/completed operations	
d. Personal injury	
e. Advertising injury	
f. Contractual liability	
g. Medical payments	
h. Underground hazard*	
i. Explosion and collapse hazard*	
k. Fire legal liability*	
l. City's property in Contractor's* care, custody, or control	

* Optional, depending on the exposure of the contracted work.

3. Comprehensive Automobile Liability insurance, including coverage for loading and unloading hazards, for:	Combined single limit for bodily injury and property damage of \$500,000 per occurrence or its equivalent
a. Owned/leased vehicles	
b. Non-owned vehicles	
c. Hired vehicles	

(e) Before a permit shall be issued, the applicant shall execute and deliver to the city, to be kept on file with the city, a good and sufficient bond of performance or assurance, to be approved by the

city and conditioned that the person making the application shall promptly adjust, pay and settle all legitimate claims for damages that may result by reason of carelessness or negligence in the manner of performing such work or by reason of any defects therein caused or arising from careless, negligent or imperfect construction thereof, and to hold the city, its council members, officers, employees, volunteers, agents, and representatives, free and harmless from liability on all such claims for damages to the performance or assurance bond which shall cover the cost of repairs in or upon the street, sidewalk or other public place where the work is to be done that may become necessary by reason of such cut or excavation having been made. The bond shall be maintained until the city accepts the work after the expiration of the one (1) year maintenance period. With respect to the ROW user's obligation to comply with the requirements for a performance/assurance bond, the city may allow the ROW user to self-insure such obligation upon production of evidence that is satisfactory to the city.

- (f) The amount of the required performance/assurance bond shall be as follows:
 - (1) Work requiring street/sidewalk or pavement excavation or excavation within 5 feet (5') of pavement – 120% of the original construction cost
 - (2) Residential driveways, street tree planting or other work - \$2,000.00

Sec. 46-21. City's right to change lines or grades.

- (a) The city hereby expressly reserves the right when constructing, reconstructing, repairing, or regrading infrastructure, to change or alter the lines or grades or both of any currently existing infrastructure, such as the pavement of the driveway, pavement of the sidewalk, culvert pipes, curbs or gutters when, in the opinion of the director of public works, such change is necessary to ensure the safety or overall quality of the infrastructure. This includes ensuring the proper paving or drainage of a roadway. Any change or alteration deemed necessary by the city shall be without liability on the part of the city. If a driveway or sidewalk or other currently existing infrastructure, the line or grade of which is changed, is in good condition and does not, in the opinion of the director of public works, require entire reconstruction, the person responsible therefor shall be given notice to break only a portion of such driveway or sidewalk back to a point fixed by the director of public

works, remove the broken portion, and reconstruct such portion on the line and grade determined by the director of public works, at the cost of such person. If such person fails or refuses to obey the order of the director of public works, he shall be subject to all the penalties of this chapter; and, if located within the right-of-way, the director of public works may make such changes to the currently existing infrastructure, such as the breaking or reconstructing to grade of such driveway or sidewalk, done by a paving contractor or other person at the city's request and at the expense of the abutting owner.

- (b) Except where expressly prohibited by law, the city may determine the location of infrastructure as set forth in the chapter and the city design manual.

Sec. 46-22. Soils, equipment, or materials within right-of-way.

- (a) *Requirement to keep right-of-way free from soils, equipment and materials.* It shall be unlawful for persons subject to the requirements of this chapter and of the city design manual and for abutting owners to the right-of-way or any other person or entity performing work in or near the right-of-way to cause or permit the accumulation of soils or the storage of equipment or materials within the right-of-way without prior written approval from the director of public works to temporarily occupy such right-of-way and the submittal to the city of a bond in accordance with Section 46-20. Such bond shall provide that the principal therein will discharge all claims of every character arising from or occasioned by such occupancy of such right-of-way, or by reason of damages or injuries sustained by persons or property because of such occupancy of right-of-way, or the construction or repair of such building to which the soils or materials relate or the making of such excavation and discharge all judgments obtained, together with all costs attached thereto against the city by reason of any such claim, injury or damage sustained. Every person carrying on excavation, building operations or similar activity within or near the right-of-way shall keep all such right-of-way in a clean and orderly condition, and unobstructed except as provided in this section, during such operation, and at the expiration of the time stipulated in the written approval from the director of public works, shall restore all such right-of-way to as good condition as they were before the beginning of such operations.
- (b) *Failure to keep the right-of-way free from soils, equipment and materials.* A violation of this section shall constitute a forfeiture of all

rights and privileges granted by this section and by the written approval from the director of public works.

- (c) *Abatement of soils, equipment and materials within the right-of-way.* The city has the right to remove any and all unlawful accumulation of soils, equipment and materials from the right-of-way and to take all other measures available to it under law to abate the same, including the declaration of unlawful accumulation of soils, equipment and materials within the right-of-way as a public nuisance when the same constitutes a serious hazard to the safety of persons or property; and to order the removal thereof. Any costs incurred in the removal of accumulation of soils, material or equipment shall be billed to the person or entity causing such accumulation.

Sec. 46-23. Abandoned facilities.

- (a) A utility owning abandoned facilities in the right-of-way shall:
 - (1) Remove its facilities and repair, at its expense, any damage caused by the removal. The director of public works may allow some or all facilities to remain if he determines that such is in the best interest of the public; or
 - (2) Provide information satisfactory to the city that the utility's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized utility.
- (b) The facilities of a utility who fails to comply with this section, and those facilities which remain unused for two (2) years, shall be deemed to be abandoned unless, within the aforesaid two-year period, the city receives written confirmation and reasonable evidence that the utility intends to use the facilities. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, taking possession of the abandoned facilities or requiring the removal of the facilities by the utility.

ARTICLE III. ADMINISTRATION

DIVISION 1. GENERALLY

Sec. 46-31. City approval of construction of infrastructure.

- (a) Infrastructure within right-of-way. If a person constructs, or causes to be constructed, reconstructed, repaired or regraded, any

infrastructure that is located wholly or partially within the right-of-way or that connects directly to infrastructure located within the right-of-way, such person must obtain prior approval from the city as set forth in this section. Such approval shall be in the form of a permit granted by the city after making proper application therefor. Proper application for a permit shall include submittal of all drawings, specifications, site plans, fees, etc. required in this section and shall be submitted to the city through the director of public works. Once granted, such permit must be conspicuously displayed, along with evidence that the person has secured a bond as required in accordance with this chapter, within 20 feet of the construction area during the prosecution thereof.

- (b) Infrastructure not within the right-of-way. If a person constructs, or causes to be constructed, reconstructed, repaired or regraded, any infrastructure that is not located wholly or partially within the right-of-way or that does not directly connect to infrastructure located within the right-of-way, such person must obtain prior approval from the city as set forth in this section. Such approval shall be through issuance of a building permit, after making proper application therefor, in accordance with this chapter, which permit may not issue until approval of infrastructure by the director of public works. If approval is required as set forth in this section, such application for a building permit shall include the submittal of plats, if any, related to the infrastructure.
- (c) Exceptions. No permit as set forth in subsection (a) of this section, and no approval as required in subsection (b) of this section shall be necessary for the following:
 - (1) The repair, replacement or maintenance of infrastructure lawfully located in the right-of-way, or platted development if the repair, replacement or maintenance does not require the digging up, breaking up, cutting, excavation, drilling or tunneling under or the removal, modification or excavation of infrastructure, improvements or structures of any kind;
 - (2) Any work performed for the city under a contract with the city; or
 - (3) Any work required to install a sign within right-of-way if the applicant has received a sign permit from the city and has complied with the requirements of this chapter.

Sec. 46-32. Permit fees.

Except where expressly prohibited by law, fees for any permit required to construct, reconstruct, repair or regrade infrastructure shall be paid to the city in the amount specified in a resolution adopted by the city council establishing a schedule of fees.

Sec. 46-33. Stop work orders; revocation.

- (a) If a person violates a provision of this chapter or of the city design manual, the director of public works may cause to be issued a written stop work order to the violator directing any work or activity to cease until the violation is corrected. Upon receiving a stop work order, the person shall immediately cause all work to stop, but may take steps necessary to secure the site. It is unlawful for any person to continue work under a permit or approval after receiving notice that the director of public works has issued a stop work order for the work or activity or to resume any work or activity until the director of public works withdraws the stop work order.
- (b) When a permit is required as approval for infrastructure within the right-of-way, or when approval is required for infrastructure not within right-of-way pursuant to issuance of a building permit, the director of public works may revoke the permit or rescind the approval for a violation of this chapter. To revoke a permit or to rescind an approval, the director of public works shall send or deliver written notice of a violation to the person, ordering the violation to be corrected within a specified time. If the person fails to correct the violation as directed, the director of public works may revoke the permit or rescind the approval by giving notice of the same to the person in writing.
- (c) Any person may appeal the denial or revocation of a permit or the rescission of approval, the interpretation or application of a requirement of this chapter, the issuance of a stop work order or notice of violation, or other requirement or action imposed under this chapter by the director of public works. The appeal must be submitted in writing to the city manager or the city manager's designee within 72 hours of the action being appealed. The city manager or his designee shall review the facts and issue a written determination within 72 hours of the city's receipt of the appeal.

Sec. 46-34. Responsibility of permittee.

Any person who receives approval, pursuant to any of the provisions of this chapter, will undertake such work, or promise that the work to which the approval relates will be done in full and in exact accordance with the provisions

of the application and of the plans and specifications therefor, as approved by the city, and that no work other than that covered by such approval will be undertaken pursuant thereto. Acceptance of the terms and conditions of city approval shall be conclusively presumed if, after city approval is given, the person does any of the work contemplated or provided for therein. Such person shall, during the course of such work, comply with every instruction and order of the city, and the person will stop any work which is being done in a manner contrary to the approval given by the city.

Sec. 46-35. Plan review.

In addition to any permits and related fees required under this chapter, all construction plans, including public infrastructure plans, grading plans, commercial development plans and major landscaping plans required to be submitted under this chapter shall be assessed a plan review fee and shall be paid to the city upon submittal of the plans in an amount specified in a resolution adopted by the city council establishing a schedule of fees.

DIVISION 2. VARIATION PROCEDURE

Sec. 46-51. Application for variation.

Any proposal of variation from the technical requirements of this chapter or the city design manual must be submitted to the city and signed and sealed by a registered professional engineer licensed to practice in the State of Texas, following generally accepted engineering standards for traffic, sidewalks and other infrastructure as applicable. Such proposal must contain the following information:

- (1) Sets forth the proposed deviation to the technical standard;
- (2) Sets forth the impact such deviation has on speed differential and street capacity, the likelihood of accidents, the long-term maintenance and operation effect, the degree of functionality and efficiency, the technological advancements involved, and other relevant matters;
- (3) Shows a comparison of the technical standard to the proposed deviation with respect to overall safety and quality, speed differential, street capacity, existing and projected accidents, long-term maintenance and operation, degree of functionality, degree of efficiency, technological advancements and other relevant matters; and
- (4) Describes all mitigating improvements that reduce the negative impact of the proposed deviation on overall safety and quality,

speed differential, street capacity, accident occurrences, long-term maintenance and operation, degree of functionality and degree of efficiency, demonstrating the degree to which the proposed deviation detrimentally affects such items. Other relevant factors, including technological advances, should be explained by describing how they will affect the proposed development. Mitigating improvements can include, but are not limited to, traffic control devices, pavement improvements, added acceleration or deceleration lanes or reservoirs, and other on-site improvements.

Variances are authorized only if approved in writing by the director of public works or his designee.

Sec. 46-52. Variation reviews.

Application for a variation review shall be accompanied by a fee for review of such plan and shall be paid to the city upon submittal of the plans in an amount specified in a resolution adopted by the city council establishing a schedule of fees.

DIVISION 3. CONSTRUCTION PLANS

Sec. 46-71. Requirement.

Construction plans for improvements in the public right-of-way and in public easements shall be prepared by a registered professional engineer and submitted in accordance with the requirements and specifications of this chapter and city design manual. Multiple copies of such document shall be provided in accordance with the schedule of required copies. No improvements shall be installed until and unless such plans shall have been received and approved by the city.

Sec. 46-72. Review by state department of transportation.

The state department of transportation may require its review of plans for certain proposed improvements, such as driveways, sidewalks and drainage facilities, that are located on or which abut state right-of-way. Evidence of this review and approval must be submitted with the construction plan prior to the city permitting such work. The state's approval does not create an exception to obtaining the city's approval through its permit process.

ARTICLE IV. DESIGN STANDARDS

Sec. 46-101. City Design Manual.

The city herein adopts the city design manual which sets forth technical requirements to be followed when designing, improving, repairing, constructing or performing modifications of any kind to infrastructure, subject to the provisions of this chapter. The city design manual consists of design requirements, standard construction details, and standard details. Any amendments to the city design manual shall be adopted by the city council pursuant to ordinance.

Sec. 46-102. Safety features.

Additional improvements to proposed construction, reconstruction, repair or regrading of infrastructure may be required so as to enhance safety, including, but not necessarily limited to, safety refuge islands and sidewalks, safe zones in esplanades, lighting, signing, and other various traffic control devices and practices.

Sec. 46-103. Wheelchair accessibility.

When designing a project that requires or may require curbs and adjacent sidewalks to accommodate pedestrian traffic, proper attention shall be given to the requirements of physically handicapped persons whose means of mobility are dependent upon wheelchairs and other devices designed to aid mobility. Any construction, reconstruction or other improvements addressed in this chapter shall conform at a minimum to the Americans with Disabilities Act, the Texas Accessibility Standards of the Texas Architectural Barriers Act, and any rules and regulations relating thereto.

ARTICLE V. UTILITIES

Sec. 46-131. Adjustments of utility facilities.

Improvements to infrastructure may require adjustments of utility facilities. When integrating new infrastructure and preexisting infrastructure, full consideration should be given to methods reflecting sound engineering principles and economic factors necessary to preserve and protect the integrity and visual quality of the neighborhood, the street, and the maintenance, efficiency and safety of infrastructure and improvements. Adjustments of utility facilities must be in accordance with the city design manual. Evidence of review and approval by the affected utility district or authority must be submitted with the site plan prior to the city permitting or approving the same.

ARTICLE VI. DRIVEWAYS

Sec. 46-161. Purpose of article; general policy.

Large speed differentials among motor vehicles traveling the same or connecting roadways create unsafe driving conditions. Minimizing speed

differentials through the proper design of driveway approaches promotes driver and pedestrian safety. It is the city's policy to encourage a driveway design that creates no more than a ten mile per hour maximum speed differential on roadways. Regulated access is encouraged on a site-specific basis. The city policy is to create a balance between optimal access and safety. Technical standards for the installation and maintenance of driveways are included in the city design manual.

ARTICLE VII. SIDEWALKS

Sec. 46-191. Required; standards.

Sidewalks shall be required to be constructed along all roadways abutting the property in all residential and commercial areas being developed except for local streets in R rural single family residential districts and shall meet the following criteria:

- (1) The minimum sidewalk width and minimum distance of the sidewalk from the back of the curb of the adjacent street is as set forth in the city design manual.
- (2) No trees are to be planted between the sidewalk and the back of the curb of an adjacent street except as may be allowed in accordance with the provisions of this chapter, the city design manual and the Missouri City Zoning Ordinance.
- (3) Sidewalks shall be installed on both sides of all highways, streets and roadways.
- (4) Sidewalks shall conform to the requirements of this chapter, the city design manual, the Americans with Disabilities Act, 42 U.S.C. §12101 et. seq., and the Texas Accessibility Standards of the Architectural Barriers Act, Texas Government Code, Chapter 469. Underground utilities should be adjusted accordingly.

ARTICLE VIII. STREET LIGHTS

Sec. 46-241. Purpose of streetlights.

The purpose of streetlights is to provide motor vehicle drivers with accurate and comfortable vision at night, taking into consideration the need to provide lighting in an economically feasible manner, that is consistent, safe and compatible with surrounding land use.

Sec. 46-242. Responsibility for installation and maintenance.

(a) Installation and maintenance of streetlights by the city in existing developments shall be contingent upon the average daily traffic count, stage of development, street design, existing illumination levels and budgeted funds. In no case shall the standards in this chapter be interpreted to mean that existing streetlights already installed or proposed in existing developments be removed, relocated or otherwise changed unless the current streetlight layout of an existing development is to be substantially altered from the condition in place at the time of the adoption of the policy set out in this article. In such instances, the new layout will conform to the technical standards set forth in the city design manual.

(1) Residential developments and commercial developments.

a. In existing residential and commercial developments where streetlights are installed or proposed to be installed throughout the development, or a section thereof, by the developer or homeowners' association of the development or section, the developer or homeowners' association shall maintain and ensure the proper illumination, in accordance with this division, of the street lighting, including paying the monthly utility cost therefor, until 80 percent of the land area is built out as reflected by the city's tax rolls, or for a period of three years after the initial use of the streetlights, whichever occurs first. Thereafter, it shall be the responsibility of the city to maintain the streetlights in a manner consistent with this division.

b. In existing residential and commercial developments or sections thereof, where streetlights have not been installed and are not proposed to be installed by the developer or homeowners' association, the city may opt to provide for the installation and maintenance of street lighting, including ensuring the proper illumination thereof and paying the monthly utility costs beginning the fourth year following final plat or plan approval, or after 80 percent of the land area is built out as reflected by the city's tax rolls, whichever occurs first.

(2) Major thoroughfares. Notwithstanding anything to the contrary in this section regarding existing developments,

along existing major thoroughfares or a portion thereof where streetlights have not been installed and are not proposed to be installed, the city shall provide for the installation and maintenance of streetlights, including proper illumination and paying the monthly utility costs therefore, when the average daily traffic count, stage of development, street design, existing illumination levels and budgeted funds allow for such installation and maintenance, as determined by the city.

- (b) The developer shall include a streetlight layout plan, conforming to the provisions of the city design manual, with the construction plans submitted for approval by the city.
 - (1) Residential developments and commercial developments. In all new residential and commercial developments, the developer shall be responsible for the installation and maintenance, including the proper illumination, of streetlights along all streets or portions of streets prior to the beginning of the one-year maintenance period of the streets and continuing until 80 percent of the land area is built out, as reflected by the city tax rolls, or for a period of three years from the acceptance of streets for permanent maintenance by the city, whichever occurs first. Utility charges for the operation and maintenance of the streetlights will be the responsibility of the developer, and shall be paid directly to the electricity provider. Thereafter, it shall be the responsibility of the city to maintain streetlights in new residential developments and new commercial developments in a manner consistent with this article.
 - (2) Major thoroughfares. Notwithstanding anything to the contrary in this article regarding new developments, the developer of property adjacent to a major thoroughfare, or of property within which all or a portion of a major thoroughfare is situated or proposed, shall be responsible for the installation and maintenance, including ensuring the proper illumination, of streetlights along the major thoroughfare for the length of the major thoroughfare along which the development is situated. When a developer develops only on one side of a major thoroughfare, he is required to install and maintain approximately half of the number of streetlights required for the length of thoroughfare. The responsibility to install and maintain streetlights as set forth in this section by the developer continues until the end of the one-year street maintenance period. During that time, the monthly utility

charge for the streetlights is the responsibility of the developer, and is paid directly to the electricity provider. Thereafter, it is the responsibility of the city to maintain streetlights along the major thoroughfare or portion thereof in a manner consistent with this article.

Sec. 46-243. Spacing and Lumen size.

Streetlights shall conform to the technical standards for spacing and lumen size as set forth in the city design manual.

Sec. 46-244. Poles.

- (a) Metal poles will be used for streetlights in residential developments.
- (b) In commercial/industrial developments, metal poles are preferred. Where wood poles and overhead wires are already prevalent, wood poles will be used for streetlights.

Sec. 46-245. Special conditions.

From time to time, special conditions may exist that render it necessary to alter the lumen size, spacing requirements or other technical standards to adequately meet the objectives of this article. Such special conditions shall include, but not necessarily be limited to, the following:

- (1) In new construction of developments and major thoroughfares, the developer may be required to install lights in excess of the standards set forth in this chapter to lessen traffic and safety hazards existing because of certain site conditions which prevent the technical standards from providing sufficient lighting for traffic safety, as determined by the director of public works. These conditions include but are not limited to pavement type, number of interchanges, street design, ratio of night to day accidents, and other relevant matters.
- (2) Wherever the city may deem it necessary or desirable, the city may elect to be responsible for the installation and maintenance of street lighting in excess of the standards set out in this division to lessen traffic and safety hazards or otherwise alter existing conditions.
- (3) Developers, homeowners' associations and property owners' associations may install streetlights in a manner which deviates from and/or exceeds the requirements set forth in this article and in the city design manual, and such street lighting shall, to the extent it

exceeds or deviates from such requirements, be considered ornamental lighting and shall be permitted only upon prior application and approval by the director of public works. In no event shall the streetlight layout and design fall below the standards set forth in this article or in the city design manual, nor exceed the standards set by the Illuminating Engineering Society. If the maintenance cost for such ornamental lights exceeds the cost for lights installed in accordance with the City standards, the cost above the City standard shall be paid by the developer, homeowners' association or property owners' association, under contract directly with the service provider, in perpetuity.

ARTICLE IX. STREETS

Sec. 46-261. Standards.

Public and private streets shall be designed, constructed, improved, repaired, and maintained in accordance with the regulations contained within this ordinance and the city design manual. These minimum requirements and specifications are designed to maintain the high quality of streets within the city, to provide for the safety and convenience of the public, to minimize street deterioration and to provide for street maintenance efficiency.”

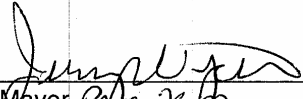
Section 2. Penalty. Any person who causes, allows or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction, shall be punishable by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall be permitted to exist shall constitute a separate offense.

Section 3. All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 4. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

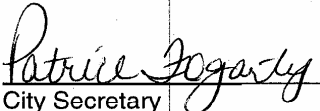
PASSED AND APPROVED on first reading this 21st day of June, 2004.

6th PASSED, APPROVED and ADOPTED on second and final reading this day of July, 2004.



Mayor

ATTEST:



City Secretary

APPROVED AS TO FORM:



Asst City Attorney