

## **ORDINANCE 23-03**

**AN ORDINANCE OF THE CITY OF WOODWAY, TEXAS; AMENDING CHAPTER 16, STREETS AND SIDEWALKS, ARTICLE II – CONSTRUCTION STANDARDS, OF THE CODE OF ORDINANCES OF THE CITY OF WOODWAY, TEXAS, TO ADD SECTION 16-21, SIDEWALKS, CURBS, GUTTERS AND DRIVEWAYS; PROVIDING A SAVINGS CLAUSE; PROVIDING A REPEALING CLAUSE, AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED WAS NOTICED AND WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WOODWAY, TEXAS:**

### **SECTION I**

That Chapter 16, Streets and Sidewalks, Article II – Construction Standards, of the Code of Ordinances of the City of Woodway, Texas, is amended to add Section 16-21, Sidewalks, Curbs, Gutters and Driveways, which reads as follows:

#### **SECTION 16-21. SIDEWALKS, CURBS, GUTTERS AND DRIVEWAYS**

##### **Sec. 16.21.1. 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:

*Arterial street* shall have the meaning contained in Ch. 17, Sec. 17-3. – General construction and definitions.

*Collector street* shall have the meaning contained in Ch. 17, Sec. 17-3. – General construction and definitions.

*Developer, owner and/or builder* means and refers to an owner or developer of, or a builder building or planning to build on, the property subject to the conditions and requirements of any of the ordinances governing and regulating sidewalks, including chapters 13, 16, and 17 of the Code.

*Driveway approach* means any vehicle entrance from public property onto private property.

*Infill area or areas* shall mean areas where the streets have already been constructed.

**Sec. 16.21.2. Infill areas; development.**

(a) Existing sidewalks that are in disrepair, including those exhibiting excessive cracking or significant vertical displacement at joints or cracks, and are located within an infill area, are required to be repaired or replaced by the developer, owner, and/or builder.

(b) Infill area sidewalks shall be constructed as part of the development of an infill lot.

**Sec. 16.21.3. Same—Location and width of sidewalks.**

(a) When a sidewalk is required by the city in an infill area, it shall be located along the street frontage and side where on a corner.

(b) New sidewalks along arterial streets must be a minimum of six feet wide with a four-foot planting strip or other city-approved buffer to the street curb. New sidewalks along collector streets must be a minimum of five feet wide with a four-foot planting strip or other approved buffer to the street curb. In areas where existing sidewalks on adjacent infill lots are located so that the planting strip or other city-approved buffer is not four feet wide, the adjacent planting strip or other city-approved buffer width can be extended through such lot if planting strip or other city-approved buffer provides pedestrians a safe distance from the curb except, there still must be at least four feet of sidewalk width that is two feet or more from the curb. In commercial districts with significant pedestrian traffic, sidewalks shall be at least eight feet wide. Where sufficient right-of-way does not exist, a pedestrian easement must be granted to allow construction of the required sidewalk width.

**Sec. 16.21.4. Same—Exception to requirements—Appeal.**

The city engineer shall have the discretion to make exceptions to infill sidewalk requirements where the construction of sidewalks is financially or otherwise impractical. The decision of the city engineer pertaining to the construction of sidewalks in an infill area may be appealed by the party responsible for constructing the sidewalk to the Board of Adjustment, according to the procedures contained in Appendix A, Part 8, Section 8.2 of this Code.

**Sec. 16.21.5. Permit required.**

No person shall construct, reconstruct, alter or repair, remove or replace any sidewalk curb, gutter, driveway or other concrete work on any public property within the city without first obtaining a permit from the city engineer.

**Sec. 16.21.6. Conformity to specifications.**

All sidewalks, curbs and gutters built within the city on public property shall be classified and built according to the specifications and the plans set out in the booklet "Design and Construction Standards and Specifications for Public Works Construction" published by the city and on file in the city engineer's office.

**Sec. 16.21.7. When approval required for permit.**

Where any construction, reconstruction, alteration or repair of any sidewalk, curb, gutter driveway or other concrete work on any public property within the city shall have a bearing on present or

future traffic engineering principles, the approval of the city engineer shall be obtained before the permit for such work shall be issued.

**Sec. 16.21.8. Permit fees.**

(a) There shall be charged a fee for all inspections and/or other engineering services performed by the city engineer or his authorized representative for any person doing any work which comes under the provisions of this article, except for all such service performed for those agencies of the city and county financed from the general fund. The fee shall be in the amount as approved by the city council in the annual budget or by minute entry and shall be paid at the time of application for a permit.

(b) No fee shall be charged when a cement contractor is ordered by the city to repair defective concrete work performed by him, as a new permit will not be required to make such repairs.

(c) In case any work for which a permit is required by this article is started prior to obtaining such permit, the fee above-specified shall be doubled. The payment of such doubled fee shall not relieve any person from fully complying with the requirements of this article in the execution of work nor from other penalties prescribed herein.

**Sec. 16.21.9. Expiration of permit.**

Every permit issued under the provisions of this article shall be deemed cancelled if active work is not commenced within 60 days from the date of issuance of such permit by the city engineer. If the permit shall be cancelled under this section, all fees paid for such permit shall be retained by the city.

**Sec. 16.21.10. Supervision of work; conformance to specifications.**

Any person who shall construct, reconstruct, alter, repair, remove or replace any sidewalk, curb, gutter, driveway or other concrete work on public property within the city shall perform such work under the supervision of the city engineer and in accordance with the specifications provided for in this article, or such other specifications as may be prepared by the city engineer.

**Sec. 16.21.11. Contractors required to file bond.**

No person shall construct, reconstruct or repair any sidewalk, curb or gutter or other concrete work on public property in the city without executing and delivering to the city a bond payable to the city in an amount and with a surety company approved by the city attorney which bond shall be conditioned as follows:

- (1) That all work done in the construction, reconstruction or repair of any sidewalk, curb or gutter or other concrete work on public property shall be done in a good and workmanlike manner.
- (2) That such person shall faithfully and strictly comply in all things to the requirements as to the specifications as set out in this Code and in general and special ordinances of the city governing the construction of such sidewalks, curb and gutter or other concrete work on public property and any other resolutions or regulations that may be passed by the city council governing or relating to the

construction, reconstruction or repair of sidewalks, curbs and gutters or other concrete work on public property.

- (3) That the city shall be fully indemnified and be held harmless from any and all costs, expense or damage, whether real or asserted, on account of any injury done to any person or property in the prosecution of such work, or that may arise out of or be occasioned by the performance of such work.
- (4) That the person shall, without additional cost to the person for whom the work was done, maintain all sidewalks, curbs, gutters or other concrete work on public property so constructed, reconstructed or repaired by such person for a period of 12 months from the date of such construction, reconstruction or repair to the satisfaction of the director of public works and shall reconstruct or repair such sidewalk, curb, gutter or other concrete work on public property to the satisfaction of the director of public works at any time within 12 months after the construction, reconstruction or repair of such sidewalk, curb, gutter or other concrete work on public property and after 30 days' notice from the director of public works to reconstruct or repair the same. The opinion of the director of public works as to the necessity of such reconstruction or repair shall be binding upon the parties thereto, which bond shall be for such purpose and be in force for 12 months after the construction, reconstruction or repair of such sidewalk, curb, gutter or other concrete work on public property.
- (5) That if the city engineer orders the contractor to make repairs or replacements of any sidewalk, curb, gutter or other concrete work on public property, and the contractor fails to repair or replace same, or to make an attempt to do so within 30 days after written notice, the city engineer shall have the authority to accept bids from three bonded cement contractors, award the work to the lowest bidder, and upon the completion of such work and its acceptance by the city engineer, the bonding company shall be held liable for the payment of the cost of such replacement or repairs. The opinion of the city engineer as to the necessity of such replacement or repairs shall be binding upon the parties thereto.
- (6) That the city may, for itself or for the use and benefit of any person injured or damaged by reason of any defective construction, reconstruction or repair of any sidewalk, curb, gutter or other concrete work on public property by any person, maintain suit on such bond in any court having jurisdiction thereof, or suit may be maintained thereon by any person injured or damaged by reason of the failure of any person who shall construct, reconstruct or repair any sidewalk, curb, gutter or other concrete work on public property to observe the conditions of bond.
- (7) That if the contractor fails to properly clean up the site of any concrete work, the city engineer may take such steps as are necessary to have such site cleaned, and the bonding company shall be held liable for the payment of the cost of such cleanup.
- (8) That in case the bond provided for shall be decreased on account of any recovery which may be obtained arising out of the violation of any condition of the same, the city engineer shall require, upon notice to it of such fact, an additional bond to be given by any person in accordance with this section in an amount sufficient, when added to the unexhausted amount of the original bond, to be at all times equal to the sum of the original bond.

**Sec. 16.21.12. Dimensions—Parkway.**

(a) The parkway shall be that space between the face of the street curb and the property line. This parkway shall have a minimum slope of one-quarter of an inch per one foot and a maximum slope of one-half of an inch per one foot toward the street.

(b) If this slope has been established by prior work, the cement contractor shall adhere to that slope, except that such slope shall never exceed that allowed in subsection (a) of this section.

**Sec. 16.21.13. Same—Curb and gutter.**

The curb and gutter shall be monolithic and shall conform to the street standards and specifications which are set out in the booklet "Design and Construction Standards and Specifications for Public Works Construction" published by the city and on file in the city engineer's office.

**Sec. 16.21.14. Same—Radii of curb and gutter.**

The curb and gutter radii for all street and alley corners shall be as set out in the booklet "Design and Construction Standards and Specifications for Public Works Construction" published by the city and on file in the city engineer's office.

**Sec. 16.21.15. Same—Tie-ins.**

All tie-ins required in front of new curb and gutter or drive approaches will be made by the contractor. The tie-in will be made with 2,000 psi concrete or better with the surface held down 1½-inch minimum or to the depth of the existing hot mix. The hot mix surface will be installed by the contractor who took out the permit or his designated representative.

**Sec. 16.21.16. Backfill and cleanup.**

(a) Within six days after the minimum time set for removal of the forms, or seven days after the placing and finishing of the concrete, the contractor must remove all forms and bracing from the concrete work. He shall also within this time use a portion of the excavated material for backfill around the concrete work and dispose of the excess excavated material.

(b) Immediately upon completion of the concrete work, the contractor shall remove all unused materials, dirt and debris. The contractor shall see that the streets, sidewalks and construction site shall be broomed clean and usable by the public.

**Sec. 16.21.17. Barricades, warning signs.**

The contractor shall provide, erect and maintain all necessary barricades, suitable and sufficient red lights or flares and danger signals on all concrete work under construction or repair, and on all materials and forms used in construction or repair from sundown to sunrise each and every day that such construction or repair, and/or materials and forms are a hazard to the public safety. This work shall be done in accordance with the Texas Manual on Uniform Control Devices. The contractor shall indemnify the city against all real or asserted injury to persons or property arising out of or accruing from the construction of such concrete work or any condition attendant upon such construction.

**Sec. 16.21.18. Liability for defective sidewalk, curb or gutter.**

The abutting property owner or person enjoying the use of any property abutting on a sidewalk or curb or gutter that has become defective and has resulted in causing damages or injury as a result of such defective condition, shall be primarily liable in damages for any loss or damage sustained as a result of such defective condition.

**Sec. 16.21.19. Duty to keep sidewalk and curb in safe condition.**

It shall be the duty of any property owner or person making special use of any sidewalk or curb for purposes of ingress or egress for loading elevators, downspout drains or any other specific use of whatsoever kind or character to keep such sidewalk, parkway, curb and driveway abutting such property in a good and safe condition and free from any defects and hazards of whatsoever kind and character.

**Sec. 16.21.20. Driveways.**

Unless otherwise controlled by the state, all access driveways to state highways and public streets shall be governed by the regulations contained in the booklet "Design and Construction Standards and Specifications for Public Works Construction" published by the city and on file in the city engineer's office.

**Sec. 16.21.21. Subdivision sidewalks; other law.**

In the event there is a conflict between this section and Chapter 17 "Subdivisions" of the Code, this section shall govern for sidewalks in subdivisions other than infill areas.

**SECTION II**

That if any provision of this ordinance is found by a Court of competent jurisdiction to be invalid, unconstitutional or unenforceable, or if the application of this ordinance to any person or circumstances is found to be invalid, unenforceable or unconstitutional, such invalidity, unenforceability or unconstitutionality shall not affect the other provisions or application of this ordinance which can be given effect without the invalid, unenforceable or unconstitutional provisions or application.

**SECTION III**


That all ordinances, codes, regulations, policies and guidelines of and in the City of Woodway, in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION IV**

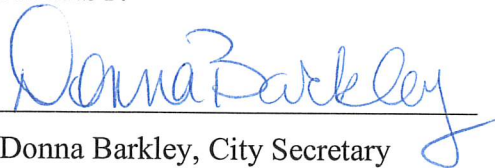
That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public as required by law and that public notice of the time, place and purpose of said meeting was given as required by law.

**PASSED AND APPROVED** this 13<sup>th</sup> day of March 2023.


**CITY OF WOODWAY, TEXAS**

  
\_\_\_\_\_  
Amine Qourzal, Mayor *Pro Tem*  
*David Mercer*

ATTEST:

  
\_\_\_\_\_  
Donna Barkley, City Secretary

APPROVED:

  
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David Shaw, City Attorney