

**ORDINANCE NO. 2010- 5**

**An ordinance amending Sections 20-80 and 20-90 of Chapter 20 of the Victoria City Code, clarifying provisions regarding the reconstruction of nonconforming driveways, to update such sections; providing for the repeal of all ordinances or parts of ordinances in conflict herewith; providing for severability; providing for savings; providing for codification and publication; and declaring an effective date.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VICTORIA, TEXAS THAT:

1.

The following Sections of Chapter 20 of the Victoria City Code are amended to read as follows:

Sec. 20-80. - Definitions.

The following terms shall have the following meanings when used within this article. In addition, the definitions provided by Section 21-3 of the City Code shall apply to this article if not defined below.

*Alley.* A public or private street primarily designed to serve as secondary access to the side or rear of properties whose primary frontage is on some other street.

*Arterial street.* An arterial thoroughfare as defined by the City's thoroughfare plan, a plat approved by the Planning Commission, or Chapter 21 of this Code. An arterial street, for the purpose of this article, shall include the service and frontage roads of freeways or highways.

*Circular driveway.* A single-family residential driveway with two (2) points of access to a public street connected by a non-intersected arc or arcs and tangents along its outer edges, with no parking internally off the driveway.

*Collector street.* A collector roadway as defined by the City's thoroughfare plan, a plat approved by the Planning Commission, or Chapter 21 of this Code.

*Commercial and multifamily land use.* A parcel of land used primarily for nonresidential, office, retail or institutional buildings, recreational, or a multifamily dwelling having more than two (2) dwelling units.

*Curb radius.* The circular arc connecting the outer limits of a driveway and street intersection.

*Director.* The Director of Development Services of the City or his/her designated representative.

*Driveway.* A roadway **with a defined structure** that permits **vehicular** access between private land use(s) and public streets and alleys. **The definition of "Driveway" is not intended to encompass any form of sidewalk.**

*Driveway width.* The width of the driveway approach measured between the termination of the curb radii at each side of the driveway, at a point of tangency essentially perpendicular to the street.

*Freeway.* A roadway, including expressways, parkways, and loops, that provides for rapid and efficient movement of large volumes of through traffic between areas and across the urban area; it is not intended to provide land access service.

*Frontage.* The length of a single property ownership or platted land use adjacent to a public street measured at the property line adjacent to the street. For lots located at a street intersection (i.e. corner lots), frontage shall be measured at the projected intersection of the two property lines along the intersecting streets.

*One-way/high capacity driveway.* A driveway constructed with nonstandard design characteristics, including greater width, curb radii, provision of internal storage, divider median and on-street deceleration lanes, to meet the needs of greater driveway volumes and/or limitation of movements entering or leaving the driveway.

*Internal storage.* The portion of the driveway between the property line and the near side of the first intersecting internal driving aisle or parking space.

*Local street.* A street which requires sixty (60) feet or less of right-of-way as defined by the City's Master Thoroughfare Plan.

*Median.* A raised, unpaved or curbed division between lanes of opposing traffic.

*One-way driveway.* A driveway constructed to accommodate only one (1) direction of traffic movement, either an entrance or exit.

*Reconstructed.* Removed more than twenty-five (25) percent of the surface area and replaced said surface. **Removal may be performed by any person or through damage caused by person, nature, accident, or unforeseen events. Replacement may occur by any person. For the purpose of this section, "person" is to be considered as that term is defined by the Texas Code Construction Act, Tex. Gov't Code §31.005.**

*Residential land use.* A parcel of land used primarily for single-family or duplex structures.

**Sidewalk. A paved area intended for the sole use of pedestrians and located in a street right-of-way between the curb lines or the edge of pavement of the roadway or within a public access easement and the adjacent property lines.**

*Standard driveway.* A single, undivided driveway opening providing for both entrance and exit traffic movements with horizontal characteristics of width and radii as determined by this subchapter.

Sec. 20-90. - Nonconforming driveway.

- (a) It is the intent of this section that nonconforming driveways be discontinued and that driveways be required to conform to the regulations prescribed herein ~~having due regard for the investment in such nonconforming driveways~~ **with nonconforming status applying only under the appropriate circumstances. It is the further intent of this section that nonconforming driveways will eventually be eliminated through the natural course of application of this section and the need for repair and reconstruction or changes in use. Nonconforming status is intended to be a status to prevent a property owner from having to pay to bring a driveway into compliance with newer regulations after its original construction. Nonconforming status is not intended to guarantee a driveway will avoid alteration.**
- (b) Any driveway access that does not conform to the provisions of this chapter but legally existed as a conforming driveway prior to **May 1, 2010** ~~may~~ shall be permitted to continue as a nonconforming driveway until:
  - (1) A change of use occurs such that the off-street parking requirements of this Code require the addition of paved area or at least a ten (10) percent increase in required parking spaces, whichever is greater. This provision shall be cumulative for any site from January 1, 2000.
  - (2) An increase in intensity of use occurs such that the off-street parking requirements of this Code require the addition of paved area or at least a ten (10) percent increase in required parking spaces, whichever is greater. This provision shall be cumulative for any site from January 1, 2000.
  - (3) The addition of or conversion to a use for which this Code requires queuing spaces.
  - (4) A driveway is reconstructed **as defined by Section 20-80**; or
  - (5) Any development that is required by the City Code to be accompanied by a site plan.
- (c) In the event any of the above criteria are met, the nonconforming driveway shall no longer be permissible, and the director shall require driveway access to meet the requirements of this article. No certificate of occupancy shall be issued on property containing a driveway required to be discontinued under this section, unless and until all applicable standards contained in this article are met. The director may block any such nondiscontinued driveways after notice is mailed to the property owner of record.

(d) Nothing in this section is intended to prevent the City, at the City's expense, from reconstructing or altering any driveway as part of a repair of public facilities or public improvement project.

2.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

3.

If any portion of this ordinance is held unconstitutional by a Court of competent jurisdiction, the remaining provisions hereof shall nevertheless be valid, the same as if the portion of portions held unconstitutional had not been adopted.

4.

The City Secretary shall publish the caption or a descriptive title of this ordinance one time within ten (10) days after final passage of the ordinance in a newspaper of general circulation in the City of Victoria in accordance with Article II §10. of the City Charter.

5.

The provisions of this ordinance shall become effective ten (10) days after final passage and approval by the City Council of the City of Victoria, Texas.

6.

PASSED FIRST READING, this the 6<sup>th</sup> day of April, 2010.

AYES: 6  
NAYS: 0  
ABSTENTIONS: 0

PASSED SECOND READING, this the 20<sup>TH</sup> day of APRIL, 2010.

AYES: 7  
NAYS: 0  
ABSTENTIONS: 0

PASSED THIRD READING, this the 20<sup>TH</sup> day of APRIL, 2010.

AYES: 7  
NAYS: 0  
ABSTENTIONS: 0

APPROVED AND ADOPTED, this the 20<sup>TH</sup> day of APRIL, 2010.



*Will Armstrong*

WILL ARMSTRONG, Mayor of the City of Victoria, Texas

APPROVED AS TO LEGAL FORM:

*Thomas A. Gwosdz*

THOMAS A. GWOSDZ, City Attorney

ATTEST:

*Scarlet Swoboda*  
SCARLET SWOBODA, City Secretary

Distribution: Legal Department  
City Secretary's Office  
Development Services  
Public Works

Copies Sent: APRIL 21, 2010