

Chapter 14.75

DRIVEWAY APPROACHES AND CURBS

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14.75.010 Definitions; Application to Chapter.

The following terms shall apply in the enforcement and interpretation of this chapter.

Alter a curb shall mean the cutting, breaking, lowering, or removing of any portion of curb in the public right-of-way.

Building Official shall mean the Director of Building and Safety or a designated employee of the Department of Building and Safety.

Driveway approach shall mean an area of the public right-of-way located between the roadway and property adjacent to the public right-of-way which is intended to provide access for vehicles from the roadway to the adjacent property.

Person shall mean and include a person, a corporation, or any type of business or nonbusiness organization.

Public Works Official shall mean the Director of Public Works and Utilities or a designated employee of the Public Works and Utilities Department.

Regulations shall mean the City of Lincoln guidelines and regulations under the City of Lincoln Access Management Policy as approved and adopted by the City of Lincoln, City Council through resolution.

Roadway shall mean the portion of the public right-of-way which is improved or designed to accommodate through vehicular traffic or on which through vehicles ordinarily travel. (Ord. 19682 §1; March 5, 2012: prior Ord. 16951 §123; March 11, 1996: Ord. 14837 § 27 (part); February 29, 1988: Ord. 12912 § 3; May 5, 1980).

14.75.020 Policy.

It is the policy of the City of Lincoln to promote the maximum safe and efficient travel of persons on the public right-of-way and to preserve the maximum capacity of the roadway to accommodate such travel.

The issuance, denial, modification, and revocation of driveway approach permits and the ordering of the removal, reconstruction, relocation, or alteration of any driveway approach may be used to implement this policy. (Ord. 12912 § 4; May 5, 1980).

14.75.030 Unlawful to Alter Curb.

It shall be unlawful for any person, including a driveway approach permit holder, to alter a curb in the public right-of-way within the corporate limits of the City of Lincoln.

This section is not intended to apply to any alteration of curbs accomplished by employees of the City of Lincoln acting within the scope of their employment or persons authorized by the City of Lincoln through special contractual arrangements to alter curbs. (Ord. 12912 § 5; May 5, 1980).

14.75.040 Driveway Approach Permit Required; Exceptions.

It shall be unlawful for any person to use, construct, reconstruct, relocate, or alter a driveway approach within the City or within three miles of the corporate limits thereof without first having obtained a driveway approach permit issued by the City.

The permit is required for all driveway approaches on all public rights-of-way, even if the roadway is uncurbed, unpaved, or unimproved.

Curb alterations are not to be made until driveway approach permits are properly obtained. Except, a driveway approach permit is not required:

(a) For ordinary repairs to the driveway approach if a sidewalk permit has been obtained from the Public Works Official;

(b) For the continued use of a driveway approach which exists at the time of passage of this ordinance until such time as the driveway approach is proposed to be reconstructed, relocated, altered, or removed, either voluntarily or by order of the Building Official or Public Works Official;

(c) For driveway approaches serving property used exclusively for farm or single- or two-family residential purposes located outside the corporate limits of the City and consent from the official of Lancaster County responsible for public right-of-way in the county has been obtained for the driveway approach;

(d) For all driveway approaches on state highways outside of the corporate limits of the City and consent from the State of Nebraska has been obtained for the driveway approach. (Ord. 16951 §124; March 11, 1996: prior Ord. 12912 § 6; May 5, 1980).

14.75.050 Permit Application Procedure.

The owner of the property to be served by the driveway approach or the owner's representative authorized to bind the owner as to decisions on the driveway approach shall make application

for a driveway approach permit in the office of the Department of Building and Safety and at the time of application shall supply:

- (a) The legal description and street address of the property;
- (b) The name of the owner of the property;
- (c) The name of the person authorized by the owner to make decisions concerning the driveway approach binding on the owner;
- (d) The telephone number of the owner or owner's representative;
- (e) A site plan of the area of the property in such detail and quantity as the regulations require;
- (f) Money in an amount sufficient to pay the cost of labor, materials, and administrative costs required to accomplish any work performed by the city to facilitate the driveway approach. The actual cost shall be determined by reference to a schedule of costs approved by the Mayor;
- (g) Other information required by the regulations or other information which the Building Official or Public Works Official shall deem reasonably necessary to determine compliance with the laws and standards governing driveway approaches. (Ord. 16951 §125; March 11, 1996: prior Ord. 14837 § 27 (part); February 29, 1988: Ord. 12912 § 7; May 5, 1980).

14.75.060 Official's Powers as to Permit Applications.

The Building Official shall review and may approve or deny the permit applications for driveway approaches which provide access for property used or proposed to be used exclusively for single- or two- family residential dwellings.

The Public Works Official shall review and may approve or deny all other permit applications.

Before either Official may deny a permit application, the Official will indicate the standards or requirements that prevent approval of the permit application. If the applicant wants to continue with the current design, the permit applicant shall make a request for deviation and the Official shall process deviation requests in accordance with this chapter and the Access Management Policy. (Ord. 19682 §2; March 5, 2012: prior Ord. 16951 §126; March 11, 1996: Ord. 12912 § 8; May 5, 1980).

14.75.065 Request for Deviation.

A request for a deviation shall be submitted by the applicant in writing to the Building Official or Public Works Official as provided in the Access Management Policy. (Ord. 19682 §3; March 5, 2012).

14.75.067 Appeal of Official's Decision for Deviation Request.

The decision of the Building Official or Public Works Official on the request for a deviation may be appealed by the permit applicant to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the date of the decision of said Official. Upon receipt of the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days from the date of receipt of the notice of appeal. If the appeal is associated with an application to be heard by the Planning Commission, the appeal shall be scheduled within thirty days after the

Planning Commission's action. The City Council may make such decision on the deviation request as ought to be made and either approve, approve with modification, or deny the deviation request. The decision regarding the deviation request will affect the permit application and the City Council will, at the same hearing, make a determination on the Driveway Approach Permit and either deny the permit or approve the permit with the deviation request approved, with the deviation request approved as modified or with the deviation request denied. The decision by the City Council on the Driveway Approach Permit is the final decision and may be appealed in accordance with state law. (Ord. 19682 §4; March 5, 2012).

14.75.069 Appeal of Driveway Approach Permit on State or Federal Controlled Route.

Access on a state or federal controlled route requires the permit applicant to seek approval of the state or federal government pursuant to their permit application processes and seek approval of the City of Lincoln pursuant to this chapter and the policy. If the state or federal government denies the state or federal access permit, the Director will deny the City of Lincoln Driveway Approach Permit and such denial shall be a final decision and may be appealed to district court pursuant to state law. If the state or federal government approves the state or federal access permit, the Director will either approve or deny the City of Lincoln Driveway Approach Permit. If denied, the denial may be appealed by the permit applicant to the City Council by filing a notice of appeal with the City Clerk within fourteen days following the date of decision of said Official. Upon receipt of the appeal by the City Council, the Council shall hold a public hearing thereon within thirty days from the date of receipt of the notice of appeal. If the appeal is associated with an application to be heard by the Planning Commission, the appeal shall be scheduled within thirty days after the Planning Commission's action. The City Council may make such decision as ought to be made and either approve or deny the City of Lincoln Driveway Approach. The decision by the City Council on the Driveway Approach Permit is the final decision and may be appealed in accordance with state law. (Ord. 19682 §5; March 5, 2012).

14.75.070 Criteria for Permit Approval.

The permit application shall be approved and a driveway approach permitted only when the driveway, storage, circulation patterns, and parking areas for vehicles on the property served, the application, and the driveway approach meet the requirements of the Lincoln Municipal Code and the regulations. (Ord. 12912 § 9; May 5, 1980).

14.75.075 Expiration of Permit.

The permit shall expire and become null and void if the construction, reconstruction, relocation, or alteration of the driveway approach is not commenced within 180 days from the date of issuance of such permit, or if, after commencement, such work is suspended or abandoned at any time for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so. No refunds or credits shall be given on permits which have expired.

Any permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit. The Building Official or Public Works Official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. (Ord. 17207 §1; July 14, 1997).

14.75.080 Limitations on Use of Driveway Approach.

It shall be unlawful for a person to use or the owner of the property served to permit the use of a driveway approach for which a driveway approach permit is required before any of the following:

- (a) The driveway approach permit has been granted;
 - (b) The driveway approach has received final inspection approval from the Public Works Official;
 - (c) The work on the driveway approach is completed in accordance with the permit terms.
- (Ord. 12912 § 10; May 5, 1980).

14.75.090 Terms of Permit; Unlawful to Violate.

The terms of the permit are the Lincoln Municipal Code, the regulations, the site plan and design approved by the Building Official or the Public Works Official, and such other terms which are placed in writing on the site plan or permit by the Building Official or Public Works Official.

It shall be unlawful to use, construct, reconstruct, relocate, or alter a driveway approach in any manner not authorized by the permit terms. (Ord. 16951 §127; March 11, 1996: prior Ord. 12912 § 11; May 5, 1980).

14.75.100 Driveway Approach Standards.

The following are permit terms and all driveway approaches which are required to have driveway approach permits shall comply with these standards.

The driveway approaches shall be designed so that under the circumstances for the property:

- (a) Reasonable access from the roadway to the property is afforded;
- (b) The separation between the driveway approach and other driveway approaches and intersections is the maximum attainable;
- (c) The area and number of points where conflicts can occur between vehicles using the driveway approach and through vehicles on the roadway and pedestrians on the public right-of-way is kept to a minimum;
- (d) The differential in speeds between the vehicles using the driveway approach and through vehicles on the roadway is kept as low as practical;
- (e) The driver of a vehicle entering or leaving the roadway from a driveway has the maximum unobstructed view of other vehicles using the roadway;
- (f) The maximum safety and efficiency of right- and left-turning vehicles using the driveway is afforded;
- (g) The frequency of vehicles which must stop or substantially reduce their speed on the roadway because of the actions of vehicles entering or leaving the driveway approach is kept to a minimum;
- (h) The maximum safety, efficiency, and capacity of the roadway is promoted.

Designed as used in this section shall include, but is not limited to, the number, size, and location of the driveway approach.

In addition to the standards of this section, driveway approaches shall also comply with the driveway approach standards as set forth in the regulations. (Ord. 12912 § 12; May 5, 1980).

14.75.110 Temporary Nature, Revocation, Modification of Permit.

A driveway approach permit is temporary in nature, revocable, and modifiable by the City of Lincoln. Without the further approval of the City Council or Mayor, the Public Works Official is authorized to revoke or modify the driveway approach permit in the event that:

- (a) Continued use of the driveway approach constitutes an unreasonable danger to the safety and welfare of persons and property on the public right-of-way; or
- (b) Continued use of the driveway imposes an unreasonable burden on the free flow and movement of traffic; or
- (c) The roadway is proposed to be reconstructed, repaved, relocated, or redesigned; or
- (d) The driveway approach is either defective in construction, in a deteriorated condition, or deviates from the permit terms; or
- (e) There occurs or is proposed to occur on the property served by the driveway approach any of the following:
 - (1) A change of use of the property from single-family or two-family residential to any other use;
 - (2) The construction or addition of drive-in facilities which allows a driver of a vehicle to transact business while remaining in the vehicle;
 - (3) Work on the property or a change in use of the property which will either substantially increase or decrease the parking area for vehicles, or substantially increase or decrease the number of vehicles entering or leaving the property, or substantially alter prior traffic circulation patterns on the property;
 - (4) An addition, removal, or alteration of traffic circulation guide devices which substantially alters prior traffic circulation patterns;
 - (5) Addition, removal, or relocation of fuel pumps or fuel pump islands;
 - (6) A substantially more frequent use of a driveway approach by trucks (excluding pickup trucks) or other vehicles of large size or other vehicles with slow acceleration or deceleration rates;
 - (7) Elimination of a legal off-street parking area on the property so that access for vehicles are no longer needed;
 - (8) Any act which causes the unobstructed sight distance for a driver of a vehicle exiting the property to be reduced below the minimum distance of the regulations;
 - (9) Any act which causes the speed of vehicles entering or exiting the property to be reduced unreasonably;
 - (10) Any act which causes through vehicles on the roadway to stop or reduce speed substantially because of the actions of vehicles using the driveway approach or the congestion of vehicles already on the property.
- (f) Vehicles using the driveway approach park either wholly or partially on public right-of-way due to the lack of a legal off-street parking area.

The permit may be revoked or modified by City Council action for any other reason at the discretion of the Council.

As a condition of the permit, the record owner of the property served by the driveway approach at the time the permit is revoked or modified is obligated to remove, relocate, reconstruct, or alter the driveway approach as directed by the Public Works Official at no cost to the City of Lincoln. Also, public right-of-way shall be restored or altered to a condition acceptable to the Public Works Official at no cost to the City. (Ord. 16951 §128; March 11, 1996: prior Ord. 12912 § 13; May 5, 1980).

14.75.120 Relocation, Reconstruction, Alteration, or Removal of Driveways Existing Without a Permit.

A driveway approach in existence for which no permit has been issued may be ordered removed, relocated, reconstructed, or altered upon the order of the Public Works Official. The order may issue in the event that:

(a) The driveway approach is required to have a driveway approach permit and no such permit has been issued for such driveway approach; or

(b) Continued use of the driveway approach constitutes an unreasonable danger to the safety and welfare of persons and property on the public right-of-way; or

(c) Continued use of the driveway imposes an unreasonable burden on the free flow and movement of traffic; or

(d) The roadway is proposed to be reconstructed, repaved, relocated, or redesigned; or

(e) The driveway approach is either defective in construction, in a deteriorated condition, or deviates from the permit terms; or

(f) There occurs or is proposed to occur on the property served by the driveway approach any of the following:

(1) A change of use of the property from single-family or two-family residential to any other use;

(2) The construction or addition of drive-in facilities which allows a driver of a vehicle to transact business while remaining in the vehicle;

(3) Work on the property or a change in use of the property which will either substantially increase or decrease the parking area for vehicles, or substantially increase or decrease the number of vehicles entering or leaving the property, or substantially alter prior traffic circulation patterns on the property;

(4) An addition, removal, or alteration of traffic circulation guide devices which substantially alters prior traffic circulation patterns;

(5) Addition, removal, or relocation of fuel pumps or fuel pump islands;

(6) A substantially more frequent use of a driveway approach by trucks (excluding pickup trucks) or other vehicles of large size or other vehicles with slow acceleration or deceleration rate;

(7) Elimination of a legal off-street parking area on the property so that access for vehicles are no longer needed;

(8) Any act which causes the unobstructed sight distance for a driver of a vehicle exiting the property to be reduced below the minimum distance of the regulations;

(9) Any act which causes the speed of vehicles entering or exiting the property to be reduced unreasonably;

(10) Any act which causes through vehicles on the roadway to stop or reduce speed substantially because of the actions of vehicles using the driveway approach or the congestion of vehicles already on the property; or

(g) Vehicles using the driveway approach park either wholly or partially on public right-of-way due to the lack of a legal off-street parking area.

The driveway approach may be ordered removed, reconstructed, relocated, or altered by City Council action for any other reason at the discretion of the Council. (Ord. 16951 §129; March 11, 1996; prior Ord. 12912 § 14; May 5, 1980).

14.75.130 Costs and Authority Over Work.

The owner of the property served by a driveway approach shall bear the entire cost of:

- (a) Labor, materials, and administration required to accomplish any work performed by the city to facilitate the driveway approach;
- (b) Constructing, reconstructing, relocating, removing, or altering a driveway approach when such work is performed either voluntarily or upon order of the Public Works Official;
- (c) Bringing a driveway approach into compliance with the permit terms;
- (d) Altering, relocating, or removing any private or public improvements in the public right-of-way when such action is taken to facilitate a driveway approach;
- (e) Restoring the public right-of-way.

The Public Works Official shall have authority to determine the manner and materials used for and the qualifications required of persons performing any work within the public right-of-way. The owners or persons in charge of utilities and private improvements shall have primary authority over any work performed on utilities or private improvements to facilitate the driveway approach. (Ord. 16951 §130; March 11, 1996: prior Ord. 12912 § 15; May 5, 1980).

14.75.140 Alteration of Public Improvements and Trees.

Before a driveway approach permit may be granted and before any construction activity related to a driveway approach is commenced, the owner of the property served shall consent to any alteration of public improvements and trees deemed necessary by the Public Works Official, Building Official, Parks Department Official, or Lincoln Electric System Administrator. Such officials shall determine the manner of alteration. Public improvements include, but are not limited to, manholes, inlets, sidewalks, curbs, curb returns, gutters, poles, roadway signs, hydrants, utilities, traffic-control devices, bike paths, and bus shelters. (Ord. 16951 §131; March 11, 1996: prior Ord. 12912 § 16; May 5, 1980).

14.75.150 Construction not Complying with Permit Terms.

Work not in compliance with the permit terms shall be corrected immediately upon notice by the city and at no cost to the city. Failure to immediately correct the work shall allow the city to revoke the driveway approach permit and prohibit the use of the driveway approach. (Ord. 12912 § 2017; May 5, 1980).

14.75.160 Inspections.

All work which is performed pursuant to the permit or is performed to facilitate a driveway approach shall be subject to inspection by the City of Lincoln.

A required inspection shall be performed by the Public Works Official at a time after the forms are set but before the concrete or other material is placed for the roadway, curb, gutter, and driveway approach.

All work shall be subject to special inspection pursuant to any inspection instructions deemed appropriate by the Public Works Official and communicated to the owner or owner's representative. Communication may be either oral or written. A final inspection shall be made by the Public Works Official.

It shall be the duty of the property owner or owner's representative to notify the Public Works Official and request an inspection of the work at such a time as to give the official a reasonable amount of time to make the inspection. Any work not inspected by the official for which

an inspection is required may be required to be removed at no cost to the city to enable the official to make the inspection.

The inspection shall be for the purpose of determining whether the work is in compliance with the permit terms, the actions of vehicles using the driveway approach, or the congestion of vehicles already on the property. (Ord. 12912 § 18; May 5, 1980).

14.75.170 Duty of Persons to Protect Curb.

It shall be unlawful for any person to push, drive, or cause a motor vehicle or any construction equipment over a curb on a paved roadway without first having obtained the permission of the Public Works Official. The Public Works Official shall designate a method and material for protecting the curb from injury and the person shall use such method and material before causing such machine to cross said curb. (Ord. 12912 § 19; May 5, 1980).

14.75.180 Unlawful to Bridge Gutter or Curb.

Except in the manner as approved by the Public Works Official, it shall be unlawful for any person to place any material over any curb or in any roadway gutter for the purpose of bridging the same, such material to include but is not limited to earth, wood, planks, pipe, asphalt, concrete, or rock. (Ord. 12912 § 20; May 5, 1980).

14.75.190 Unlawful to Injure or Obstruct Gutter.

It shall be unlawful for any person to damage or destroy any portion of curbing or gutter on a paved roadway or to obstruct the drainage within the gutter on a paved roadway. Obstruction of drainage shall include that caused by the construction of a driveway approach. (Ord. 12912 § 21; May 5, 1980).