

ENROLLED ORDINANCE

PUBLISHED PURSUANT TO CHAPTER 1 SECTION 4.5 OF THE REVISED ORDINANCES OF THE CITY OF EVERETT AND IN COMPLIANCE WITH MASSACHUSETTS GENERAL LAWS Chapter 43, Section 23.

ENROLLED: 2/11/2019

DATE OF PROPOSED ORDAINMENT: 2/25/2019



CITY COUNCILNo. C0033-19

IN THE YEAR TWO THOUSAND AND NINETEEN

AN ORDINANCE CREATING A NEW SUBSECTION IN CHAPTER 17 OF REVISED ORDINANCES, DRIVEWAY CONSTRUCTION, ALTERATIONS, AND MAINTENANCE

Councilor /s/ Richard J. Dell Isola Jr., as President

Whereas: This ordinance is to regulate the construction, alteration, and maintenance of driveways within the City of Everett; and

Whereas: Applicants who wish to construct, alter, and/or maintain driveways shall now be required to submit a Driveway Permit Application in accordance with regulations described within this Ordinance; and

Whereas: The City of Everett and its Officials may, after review, approve, approve with additional conditions, or deny Driveway Permit Applications; and

Whereas: By requiring submission of Driveway Permit Applications and thorough review by City Officials, this allows for the City to safely regulate, allowing for compliance with municipal codes and ordinances.

Now, therefore, by the authority granted to the City Council of the City of Everett, Massachusetts to make ordinances:

Be it Ordained by the City Council of the City of Everett, Massachusetts that the Revised Ordinances of the City of Everett be amended as follows:

Section 17-58

Article I: Purpose

1.1 The purpose of these Rules and Regulations is to prescribe conditions under which the City of Everett will allow Driveway Construction, Alterations, and Maintenance, to promulgate

regulations and accept Permit Applications from owners of property requesting to construct, alter, reconstruct or expand driveways, whether pervious or impervious, and other impervious surfaces that would not otherwise require a building permit on lots within the City of Everett.

1.2 The regulations will include a required review of storm water runoff, landscaping requirements, parking regulation, pervious surface requirements and other related regulations in one comprehensive process.

1.3 The Building Commissioner, subject to approval by the Planning Board, Department of Public Works, and the City Engineer, is hereby authorized to conduct a Permit Application review accordingly. The Building Commissioner may delegate the inspection and enforcement provisions of this regulation to the Director of Code Enforcement. Permit applicants seeking to replace existing driveways or other impervious surfaces without change to dimensions, pavement material and storm water runoff shall not be denied.

Article II - Definitions:

The words and phrases designated in this chapter shall be defined for the purposes of this chapter, except as otherwise indicated, as follows:

- 2.1 Alteration: any change of existing conditions.
- 2.2 Applicant: any individual, firm, corporation, partnership, or agency, public or private that has filed a Permit Application.
- 2.3 Application: Driveway Permit Application.
- 2.4 City Road Drainage System: the network of culverts, manholes, catch basins, ditches, pipes, swales, gutters, and other man-made and natural courses for draining storm water runoff from City Roads.
- 2.5 Commissioner: The Building Commissioner.
- 2.6 Curb: a raised device used extensively on urban streets and highways that controls drainage, restricts vehicles to the pavement area and defines points of access to abutting properties.
- 2.7 Curb Cut: the phrase used to refer to the width of the opening to the street. Note: the presence of a physical curb or berm is not required for a curb cut width to be valid.
- 2.8 Driveway: point of access from a public street to private property.
- 2.9 Landscaping: shall include the existing outdoor areas through the planting of shrubs, trees, and/or groundcover; the placing of sod or seed; and/or the removal or pruning of existing plant materials (i.e., shrubbery, trees, and groundcover).
- 2.10 Permission: approval "by the City of Everett."

2.11 Right-of-way: the land (usually a strip) acquired for or devoted to roadway and municipal purposes.

2.12 Sidewalk: path for pedestrian travel which follows a street and occupies the border between the vehicular travel ways and private property.

Article III - Driveway Permit Process

3.1 Anyone seeking the permission of the Commissioner as described herein by these Regulations shall follow the procedure delineated below.

3.2 No person, firm, corporation, partnership, or agency may construct, alter, expand, or otherwise change an existing driveway without first obtaining a Driveway Permit.

3.3 No access by driveway to a City Road shall be made without first obtaining a Driveway Permit.

3.4 No person, firm, corporation, partnership, or agency may place or alter curbs, make a connection to, pump water to, or drain water to the City Road drainage system from adjacent properties, or in any way make any alteration to the City Roadway system without City approval.

3.5 An applicant may obtain a Driveway Permit Application at the City of Everett Building Department.

3.6 Upon completion of the Driveway Permit Application, the applicant shall file same with all necessary copies of plans and computations required for the type of access, as prescribed in these rules and in conjunction with applicable zoning ordinances.

3.7 At the time of submission, the applicant shall provide an Application with all items from the permit checklist, including plans describing the proposed work.

3.8 Any alteration that affects or adds drainage within the City Roadway Right-of-way requires the stamp of a Massachusetts Registered Professional Engineer, as requested by the City when necessary.

3.9 During the review process, the applicant shall, at his/her own expense, provide any additional information relevant to the proposed access required by the City.

3.10 As a result of the review, the Application will be approved as submitted with standard condition, approved with additional conditions, or denied as submitted. The decision will be mailed no later than thirty (30) business days after the submission date.

3.11 Once a Driveway Permit is issued, the applicant may commence construction after giving seventy-two (72) hours notice. The applicant is responsible for obtaining all permits or approvals before commencing construction.

3.12 After the Driveway Permit is granted, contractors may proceed with work but are still subject to following all of the regulations while building the project according to the submitted plan.

3.13 The Commissioner may suspend a Driveway Permit for violation of Driveway Permit condition(s) after a written notification to the applicant by certified mail, posting on the property, or hand delivery. The applicant has thirty (30) days to rectify any work in violation of the Driveway Permit requirements. Failure to comply or to respond within the specified time period may result in the revocation of the Driveway Permit.

3.14 An applicant aggrieved by the decision of the City of Everett may appeal to the Building Department.

3.15 The Driveway Permit is valid for one hundred twenty (120) days from date of issue. This Driveway Permit may be renewed at no cost by requesting an extension in writing, including a statement that conditions have not changed since the time of the original submission. The applicant shall file a request for an extension prior to the expiration of the Driveway Permit. If the permit is allowed to expire without timely renewal the applicant shall reapply for a new Driveway Permit and pay the applicable fee.

Article IV - Fees

4.1 No Application for a Driveway Permit shall be accepted from any person, firm, corporation, partnership, agency or other entity without a fee payment. Federal, State and Municipal entities are exempt from fee payments, but a Driveway Permit must still be applied for.

4.2 Payment shall be in the any form accepted by the City of Everett Treasurer/Collector.

4.3 Fee:

Residential: \$90.00

Commercial: \$150.00

4.4 Fees are not refundable.

Article V - General Conditions Under Which This Driveway Permit Is Granted

5.1. The permittee shall carefully and truly observe the zoning ordinances, rules and regulations, and specifications adopted by the City of Everett to govern the work covered by this Driveway Permit. Failure may result in revocation of this Driveway Permit.

5.2. All work shall be in accordance with the Department of Public Works or the Massachusetts Department of Transportation rules, whichever is more stringent, and specifications regulating street excavation, curb cuts, sidewalk and street construction, and sanitary and storm sewer installations.

5.3. Notice shall be given by the permittee to the Department of Public Works, Police Department and Fire Departments seventy-two (72) hours in advance of excavation.

5.4. A copy of the Driveway Permit shall be kept at the work site and shall be available to City of Everett officials upon request.

5.5. No work shall result in the concentration and discharge of surface or subsurface water including any mechanical dewatering activity into public or abutting property. All Federal, State and local Stormwater Regulations apply.

5.6. This Driveway Permit is null and void unless a valid "Call Before You Dig Number" (DIG SAFE ticket number) appears on the Driveway Permit Application.

5.7. It is the permittee's responsibility to provide bond and certification of insurance, indemnification of the City of Everett, and waiver of claims as required prior to the issuance of a Driveway Permit. Work resulting in violation of the City of Everett ordinances shall, at the permittee's expense, be reconstructed to conformance.

5.8. It is the permittee's responsibility to obtain all other applicable federal, state, and local permits prior to commencement of any work on City-owned land.

5.9 Curbing is the property of the City of Everett and, if removed, is to be returned to the City of Everett Department of Public Works.

Article VI - Specific Conditions

6.1. No construction activity, unless approved by the Department of Public Works or his/her authorized Department of Public Works representative, shall be performed at times not allowed under City of Everett Public Peace and Safety Ordinances, unless otherwise noted on the Driveway Permit. (Note: Section 13A – 62(g), subsection 14 (6) entitled "Construction Work" states no loud or unusual noise between the hours of 9:00 PM and 7:00 AM are permitted unless first authorized in writing.)

6.2. No materials shall be stored in the area of street and sidewalk outside of working hours.

6.3 Any materials or equipment stored within other areas of the City's Right-of-way shall be protected with lights and barricades.

6.4. When, for reasons of safety, it is necessary for work to be done outside of working hours, the contractor shall be notified to take immediate corrective action. If the contractor cannot be contacted or if he/she fails to do the work, the Department of Public Works shall take corrective action and bill the contractor for any corrective action undertaken, including safety details where necessary.

6.5. Contractors shall protect elements of the City of Everett's infrastructure.

Article VII - Specific Conditions for Driveways

7.1 No construction activity on driveways shall begin without a City of Everett Driveway Permit. This applies to any and all driveway work.

7.2 For residential driveways, it shall be the responsibility of the property owner and driveway-paving contractor to secure the Driveway Permit. Paving contractors who fail to secure a Driveway Permit before the start of construction shall be subject to penalty, and the removal and restoration of the constructed area.

7.3 All work on driveways shall be subject to the regulations of the City of Everett zoning ordinance, including the landscape requirements.

7.4 Construction activity to extend or alter residential driveways where no construction will impact the public Right-of-way, sidewalk, street or curbs shall require a Driveway Permit to ensure that the project is consistent with zoning regulations and within the requirements of the Massachusetts Stormwater standards.

7.5 Construction activity to extend or alter driveways where construction will impact the public Right-of-way, sidewalks, street or curbs shall require a Driveway Permit to ensure that the project is consistent with zoning regulations and within the requirements of the Massachusetts Stormwater standards, and that public infrastructure is repaired or replaced as required.

7.6 Applicants for Driveway Permits for residential driveways may, in order to provide the required project plan, provide a simple sketch plan with dimensions (which may be based off a mortgage plot plan) indicating the existing and proposed limits of pavement as well as proposed elevation and direction of water runoff. (see 3.8).

7.7 Any construction activity to extend or alter a residential driveway before securing a Driveway Permit shall result in an order to remove and restore the driveway and any altered property to the original condition.

7.8 These regulations do not apply to crack sealing and coating operations.

7.9 Tree Removal: All proposed tree removals or relocation of trees within the City Roadway or City Right-of-way shall conform to Chapter 87, Section 3 of Massachusetts General Laws and the City of Everett Ordinances.

7.10 The City of Everett may require that the applicant place granite curbing at areas where traffic channeling and control and public safety would be affected. The applicant will do such placement at his/her own expense.

7.11 Where a curb is to be altered at an existing corner or a corner created by a new design, ADA/AAB approved wheelchair ramps shall be installed, and the sidewalk shall be graded to accommodate wheelchairs. All work must be ADA/AAB compliant.

7.12 In commercial Applications, the applicant is required to submit detailed computations and site grading plans for drainage conditions existing and proposed when applying for a Driveway Permit. These computations and designs shall take into consideration a storm event in

accordance with the Massachusetts Stormwater Management Handbook and local regulations. These computations and plans shall be approved and stamped by a Registered Professional Engineer. If storm drainage will not affect the City Road drainage system, a statement of no impact shall be submitted with a Driveway Permit Application approved and stamped by a Registered Professional Engineer. Area shall be graded as to not cause surface runoff to abutting properties.

7.13 Where the construction of a driveway necessitates crossing of wetlands or an area within the wetlands buffer zone, the applicant shall obtain approval from the Everett Conservation Commission prior to filing for a Driveway Permit.

Review of Driveway Permit Procedures

- Applicant shall read and comply with the attached regulations. This page is only a brief outline and is not intended to supplement the regulations.
- The Driveway Permit is used for a driveway accessing into a roadway, sidewalk or City Right-of-way, or to extend or alter driveways.
- When submitting the Driveway Permit Application, include:
 - Application fee (\$90 for residential work and \$150 for commercial work);
 - A Certificate of General Liability Insurance (\$1,000,000.00 per accident, \$2,000,000.00 general aggregate) per Driveway Permit;
 - Digsafe number;
 - Starting and completion dates.
- Make sure that a sketch is attached that includes scale, dimensions, lines of adjoining property and any existing pole, post, hydrant, catch basin tree or other structure near area of proposed driveway.
- Photos; these are optional but helpful.
- Property owner and/or contractor signatures on the Application.
- After submitting the permit with all information and attachments required, the permit is then given to the Commissioner who will approve or deny the permit.
- After the Commissioner has reviewed the permit, the applicant will be notified by telephone whether the permit is approved, approved with additional conditions, or denied.

- Applicant is responsible for notifying the Department of Public Works twenty-four (24) hours in advance of the excavation starting date.
- The \$90.00 or \$150.00 Application fees are not refundable.
- Permits for routine installations are issued only between April 1st and November 15th.
- A Permit Application shall be on file in the office of the Building Commissioner and shall be returned to the Building Commissioner once the Application is filled out in its entirety.

Note: Zoning 17(M) No parking stall shall be located within eight (8) feet of any window of habitable rooms in the basement or first story level of any building.

SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City of Everett hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more section, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

This ordinance shall take effect upon passage by the City Council and subsequent approval by His Honor the Mayor.

January 28, 2019

Enrolled in the City Council

8 yeas; 0 nays

February 11, 2019

Ordained In the City Council

10 yeas; 0 nays

March 4, 2019

Signed: Mayor Carlo DeMaria Jr.

A true copy attest



Sergio Cornelio

Sergio Cornelio, City Clerk