

ORDINANCE NO. C-20-20

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING SECTION 25-56 – DUTY OF OWNER OF ABUTTING PROPERTY; SECTION 25-58 – DETERMINATION OF NECESSITY FOR CONSTRUCTION RECONSTRUCTION; SECTION 25-59 – NOTICE TO OWNERS TO CONSTRUCT, RECONSTRUCT, REPAIR, ETC.; SECTION 25-60 – CONTENTS OF NOTICE; SERVICE; AND SECTION 25-61 – WORK DONE BY CITY; COSTS OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO ALLOW THE CITY MANAGER TO DETERMINE SIDEWALK REPAIR NEEDS AND RESPONSIBILITY OF SAID REPAIRS AND TO SPECIFY THE LIMITED CONDITIONS UNDER WHICH THE ABUTTING PROPERTY OWNER IS RESPONSIBLE FOR SIDEWALK REPAIRS OR REPLACEMENT AND PROVIDING FOR AND PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City receives numerous requests from homeowners for sidewalk repairs that are within the public rights-of-way; and

WHEREAS, Sections 25-56(a) and 25-59 of the City Code of Ordinances require each owner of the abutting property to construct or reconstruct, maintain and keep in good repair sidewalks in front of or abutting upon each parcel of said owner's property within the city when so directed by resolution of the city commission; and

WHEREAS, many owners find themselves unable to make repairs at their expense for several reasons including, but not limited to, hiring a licensed contractor, and other intricacies of permitting and inspections requirements; and

WHEREAS, there is always a chance of repairs not been being made according to professional design and construction standards, resulting in premature failures; and

WHEREAS, this could expose the City to increased liability; and

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WHEREAS, almost all sidewalks are constructed within the public rights-of-way or special easements and are used by the public at large;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Section 25-56 - Duty of Owner of Abutting Property, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 25-56. - Duty of owner of abutting property.

- (a) It shall be the duty of each owner of property to notify the City when sidewalk abutting each parcel of his property is in need of repair.
 - (1) Repair needs and responsibility will be determined by the City following inspection.
- (~~ab~~) It shall be the duty of each owner of abutting property to construct or reconstruct, maintain and keep in good repair uniform and substantial sidewalks in front of or abutting upon each parcel of his property within the city when so directed by resolution of the city commission ~~the City Manager or his designee when:~~
 - (1) It is determined by City inspection that damage is due to trees on the owner's property.
 - (2) It is determined by City inspection that heavy equipment used by the property owner has damaged the sidewalk.
 - (3) It is determined by City inspection and/or permit application that concrete sidewalk was changed to paver bricks, stamped concrete or stamped asphalt during driveway or sidewalk re-construction.
- (~~bc~~) It shall be unlawful for the owner or occupant of any lot or part thereof to permit any sidewalk in front of such lot or part thereof to remain in such a condition as to prevent the convenient and safe use thereof by the public.

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- (ed) Sidewalks shall be required in connection with the development of vacant property, redevelopment of developed property or construction of improvements on developed property to the extent of twenty-five (25) percent or more of the replacement value of existing improvements. They shall be constructed on all public streets abutting the plot, except as hereinafter provided. Such sidewalks shall be constructed to standards established by the city engineer and located as determined by the city engineer, generally at the edge of the right-of-way. However, no person shall be required to construct such sidewalks when one (1) or more of the following conditions are found to exist:
- (1) The ~~city commission~~City Manager or his designee has not made a determination that sidewalks are desirable;
 - (2) The engineering division has determined that a drainage problem exists or will be created by such construction;
 - (3) Adjacent properties have not been improved with sidewalks;
 - (4) No sidewalks were constructed in the original subdivision development; or
 - (5) The adjacent right-of-way is less than fifty (50) feet in width.
- (de) The conditions set forth in paragraphs (ed)(4) and (5) of this section shall not operate to relieve an owner from such construction requirement if the majority of properties within two hundred fifty (250) feet of the subject property have been improved with sidewalks.
- (ef) Any person aggrieved by an adverse decision of the city engineer may appeal such decision to the board of adjustment, pursuant to section 47-31.

SECTION 2. That Section 25-58 – Determination of Necessity for Construction or Reconstruction, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

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Sec. 25-58. - Determination of necessity for construction, ~~or reconstruction~~ or repair.

- (a) ~~The city commission~~ City Manager or his designee shall determine ~~by resolution~~ all places and sites within the city wherein it is necessary or advisable, by reason of any unsafe, unsanitary or dangerous condition affecting the public health, safety or general welfare of the city or its inhabitants or for any other reason, for sidewalks to be constructed, ~~or reconstructed~~ or repaired.
- (b) The City shall be responsible to repair sidewalks as determined by Sec. 25-56(a)(1).

SECTION 3. That Section 25-59 – Notice to Owners to Construct, Reconstruct, Repair, etc., of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 25-59. - Notice to owners to construct, reconstruct, repair, etc.

Upon determination by the ~~city commission~~ City Manager under provisions of Section 25-58, the ~~city commission~~ City Manager or his designee shall give or cause to be given written notice to the owner of the property abutting upon such sidewalk or proposed sidewalk directing such property owner to construct, reconstruct, maintain or repair, as the case may be, the sidewalk or proposed sidewalk in front of or abutting upon such property determined by conditions set forth in Sec. 25-56 (b) (1), (2) or (3).

SECTION 4. That Section 25-60 – Contents of Notice; Service, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 25-60. - Contents of notice; service.

The notice required by Section 25-59 shall direct the abutting property owner to forthwith commence and, within ~~thirty~~ sixty (3060) days after date of such notice, complete the construction, reconstruction or repair work. Such notice shall be mailed to the address of each such property owner, if the address is known to or by reasonable diligence can be obtained by the eCity clerk; if the address is unknown or cannot be obtained by reasonable diligence or if such notice is returned unclaimed, then a copy of such notice directed to the owner shall be published in a newspaper of general circulation in the county once each week for two (2) consecutive weeks (two (2) publications being sufficient) directing the owner to forthwith commence and, within ~~thirty~~ sixty

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(3060) days after the last publication of such notice, complete the construction, reconstruction or repair work.

SECTION 5. That Section 25-61 – Work Done by Costs, of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 25-61. - Work done by City; costs.

- (a) In the event the abutting property owner shall fail or refuse to do and perform the construction, reconstruction or repair work on any sidewalk or proposed sidewalk within the time prescribed in the notice, under the provisions of Section 25-59 hereof, then and in that event, the ~~city commission~~City Manager or his designee shall make or cause such work to be done and make the cost thereof a charge and lien against such property of the same extent and character as the lien now granted or which may hereafter be granted to the City by law for special assessments for the cost of local improvements.
- (b) ~~A property owner of a residential single family, duplex, triplex or other residential property, as defined by Chapter 47 of the Unified Land Development Regulations, would have the option to pay the sidewalk repair costs over a period of up to ten (10) years at an annual interest rate of six (6) percent compounded monthly. A property owner electing to finance the sidewalk repairs or portion thereof will repay the fee as part of the regular utility bill and will be subject to collection actions authorized by Code or Florida Statute. Those property owners' homes will be subject to a "voluntary lien," which must be paid in full prior to transfer or sale of property to another owner. An owner who elects to finance the sidewalk repair pursuant to this section shall be required to execute a promissory note secured by a lien on the property prior to the sidewalk repairs being made.~~

SECTION 6. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 7. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

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SECTION 8. That this Ordinance shall be in full force and effect ten days from the date of final passage.

PASSED FIRST READING this 16th day of June, 2020.

PASSED SECOND READING this _____ day of _____, 2020.

ATTEST:

Mayor
DEAN J. TRANTALIS

City Clerk
JEFFREY A. MODARELLI

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