

ORDINANCE NO. 7154

AN ORDINANCE AMENDING MULTIPLE PROVISIONS OF CHAPTER 31, ARTICLE IX, "CONSTRUCTION OR REPAIR OF SIDEWALKS," OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY UNDER THE PROVISIONS OF SECTION 10.05 OF THE CODE OF ORDINANCES OF THE CITY OF GARLAND, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GARLAND, TEXAS:

Section 1

That Section 31.120 "Definition", of Article IX, "Construction or Repair of Sidewalks", of Chapter 31 "Engineering," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 31.120 Definition

The term "sidewalk," as used in this Article, shall apply to the repair or construction of any sidewalk other than a sidewalk constructed as part of a new development, and shall include driveways and head-in parking; providing, in such case, that the article shall state the kind of sidewalk to be constructed, reconstructed, or repaired, or may merely direct the construction, reconstruction or repair of a sidewalk alone."

Section 2

That Section 31.125 "Bond required", of Article IX, "Construction or Repair of Sidewalks", of Chapter 31 "Engineering," of the Code of Ordinances of the City of Garland, Texas, is hereby amended *in part* to read as follows:

"Section 31.125 Bond required

...

(B) Such bond shall be conditioned that all work done in the construction, reconstruction or repair of any sidewalk shall be done in a good and workmanlike manner, and that such person shall faithfully and strictly comply with the specifications and with the terms of this Code and such ordinances, resolutions or regulations that may be passed by the City Council governing and relating to the construction, reconstruction or repair of sidewalks, and that the City shall be fully

indemnified and be held whole and harmless from any and all costs, expenses or damages, 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. Such bond shall be conditioned further that the principal shall, without additional cost to the person for whom the work was done, maintain all sidewalks so constructed, reconstructed or repaired by the principal for a period of two (2) years from the date of such construction, reconstruction or repair to the satisfaction of the Streets Department of the City, and shall reconstruct or repair such sidewalk to the satisfaction of the Streets Department of the City at any time within two (2) years after the construction, reconstruction or repair of such sidewalk and after ten (10) days notice from the Streets Department to construct or repair the same, and that the opinion of the Streets Department as to the necessity of such reconstruction or repair shall be binding on the parties thereto.

(C) Such bond shall, for the purposes mentioned above, be in force for two (2) years after any sidewalk is constructed, reconstructed or repaired and one recovery shall not exhaust the bond, but such bond shall be a continuing obligation against the sureties thereon until the entire amount therein provided for shall have been exhausted. In case the bond shall be decreased on account of any recovery which may be obtained, arising out of the violation of any condition of the same, the Director of Streets may require, upon notice of such fact, an additional bond to be given in accordance with this section in an amount sufficient, when added to the nonexhausted amount of the original bond, to be at all times equal to the sum of two thousand dollars (\$2,000.00).

...”

Section 3

That Section 31.126 “Specifications”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

“Sec. 31.126 Specifications

Sidewalks shall be constructed, reconstructed or repaired in accordance with the City of Garland Technical Standards Manual and City of Garland Standard Construction Details.”

Section 4

That Section 31.127 “Supervision and approval of work”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the

City of Garland, Texas, is hereby amended to read as follows:

“Sec. 31.127 Supervision and approval of work

All work done in the construction, reconstruction, alteration, repair, removal or replacement of sidewalks shall be done under the supervision and subject to the direction and approval of the Streets Department, whose decision shall be final.”

Section 5

That Section 31.128 “Approval or materials”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

“Section 31.128 Approval of materials

Upon request of the Streets Department, no materials of any kind shall be used in the construction, alteration or repair of any sidewalks until they have been examined and approved and found to be compliant with the Garland Development Code, the City’s Technical Standards Manual and the City’s Standard Construction Details, and the person performing such work shall furnish such samples as may be required for making tests and examinations in sufficient time prior to the use of same.”

Section 6

That Section 31.134 “Duty to keep sidewalks in safe condition”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

“Sec. 31.134 Duty to keep sidewalks in safe condition

It shall be the duty of any abutting property owner to keep the sidewalk, parkway, and driveway abutting such property in a good and safe condition, free from any defects and hazards of whatsoever kind and character. By way of example and not of limitation, a sidewalk is hazardous under any of the following conditions:

- (1) There is a difference in elevation between adjoining sections of sidewalk or opposing edges of any fissures (cracks) on the sidewalk surface of two (2) inches or more;

- (2) An unstable walking surface exists due to defects on the surface such as fissures that have created a gap of one and one half (1-1/2) inches or more;
- (3) A spalled finish condition creates an unstable walking surface;
- (4) Some sections of the sidewalk are incomplete due to missing corners or pieces of the sidewalk section;
- (5) The sidewalk has an excessive cross-slope greater than 5 percent;
- (6) Portions of the sidewalk are sunken or slanted, creating excessive ponding of water; or
- (7) An uplifted or sunken sidewalk causing longitudinal grades in excess of 5 percent or exceeding the adjacent street top of curb slope, whichever is greater.”

Section 7

That Section 31.135 “Liability for damages resulting from defective sidewalks”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

“Section 31.135 Liability for damages resulting from defective sidewalks

The abutting property owner or person making a special use of a sidewalk or enjoying the use of any property abutting on a sidewalk that has become defective or hazardous and has resulted in causing damage or injury as a result of such defective or hazardous condition shall be primarily liable in damages for any loss or damage sustained as a result of such defective or hazardous condition. The City shall not be held as assuming any such liability by reason of inspection of any sidewalk or providing notice as authorized in this article.”

Section 8

That Section 31.136 "Notice to reconstruct or repair", of Article IX, "Construction or Repair of Sidewalks", of Chapter 31 "Engineering," of the Code of Ordinances of the City of Garland, Texas, is hereby amended to read as follows:

"Sec. 31.136 Notice to reconstruct or repair

Any sidewalk, parkway or driveway that has become defective or hazardous is hereby declared a nuisance and it shall be the duty of the owner of property abutting such sidewalk, parkway, curb or driveway to reconstruct or repair such sidewalk, parkway, or driveway in accordance with the standard specifications of the City and such expense shall be borne by the abutting property owner, with the exception being that portion of a residential property located along a street designated on the City Thoroughfare Plan as Type A, B, C, D or E. In extenuating circumstances, the City Street Department may waive the adjacent property owner's responsibility for maintenance of the sidewalk. The failure of any owner or the agent of any owner to reconstruct or repair any such sidewalk, parkway, or driveway within thirty (30) days from receipt of a notice to repair from the Streets Department shall constitute an offense."

Section 9

That Section 31.137 "Repair by City; costs to be a lien against abutting property and owner personally liable for costs", of Article IX, "Construction or Repair of Sidewalks", of Chapter 31 "Engineering," of the Code of Ordinances of the City of Garland, Texas, is hereby amended *in part* to read as follows:

"Sec. 31.137 Repair by City; liability for costs

...

(B) Nothing herein shall inhibit the right of the City to make immediate repair of any condition considered to be of unusual and immediate danger to persons or property. In such instance, the Director of Streets shall send an invoice for expenses incurred in the repair of such condition to the owner of the abutting property, and within ten (10) days the owner shall have the right to a hearing on the matter of the reasonableness of the action and cost of repair. The owner shall pay the reasonable expenses as determined by the director.

(C) In the event the owner fails or refuses to pay such expense within thirty (30) days after notice of the reasonable charge by the Director of Streets, the City shall follow the procedure written above to perfect a lien on such property, which lien shall have the same character as written above.

...”

Section 10

That Section 31.138 “City Participation in sidewalk reconstruction”, of Article IX, “Construction or Repair of Sidewalks”, of Chapter 31 “Engineering,” of the Code of Ordinances of the City of Garland, Texas, is hereby amended *in part* to read as follows:

“Section 31.138 City Participation in sidewalk reconstruction

(A) The City may participate in the reconstruction provided monies are available for this program from bond funds. If monies are available, City participation in the cost of improvements shall be shared with the abutting property owner on a 50/50 basis-shared with the abutting property owner as follows:

(1) Sidewalk improvements (when those costs are not included in a street improvement project): 50%;

(2) The property owner of a qualifying project may receive additional reductions to his/her participation amount based on the following criteria:

(a) Property owner’s share may receive an additional reduction of fifteen percent (15%) if property has a homestead exemption as recorded in the Dallas Central Appraisal District (DCAD) database.

(b) Property owner’s share may receive an additional reduction of fifteen percent (15%) if property is located within a Community Development Block Grant (CDBG) geographical area as determined by the United States Department of Housing and Urban Development Community Development and current Census Data.

(c) Property owner’s share may receive an additional reduction of ten percent (10%) if property owner is disabled or a person 65 years of age or older. Property owners claiming disability must provide a Social Security Administration Award letter to receive the ten (10%) reduction benefit.

(d) Property owner’s share may receive a maximum benefit of a ninety percent (90%) City and ten percent (10%) Property Owner participation based on the

total cost of the sidewalk repair/replacement costs should the property owner qualify for all three (3) reductions contained in Sec. 31.138 (A)(1)(a), (b), and (c).

...”

Section 11

That Chapter 31 of the Code of Ordinances for the City of Garland, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

Section 12

That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Sec. 10.05 of the Code of Ordinances of the City of Garland, Texas.

Section 13

That the terms and provisions of this Ordinance are severable and are governed by Sec. 10.06 of the Code of Ordinances of the City of Garland, Texas.

Section 14

That this Ordinance shall be and become effective immediately upon and after its passage and approval.

PASSED AND APPROVED this 7th day of July, 2020.

CITY OF GARLAND, TEXAS

Mayor

ATTEST:

City Secretary

PUBLISHED: `