

ORDINANCE NO. 2014-1077

AN ORDINANCE OF THE CITY OF BELMONT AMENDING BELMONT CITY CODE CHAPTER 22 REGARDING THE CONSTRUCTION, MAINTENANCE AND REPAIR OF SIDEWALKS

THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. BCC SECTION 22-61 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-61 is amended as follows:

Sec. 22-61. Scope of this article; definitions.

(a) This article shall not apply to construction of curbs, gutters and sidewalks for new building construction.

(b) *Block* means property facing one side of any street between the next intersecting streets or between the terminus of a dedicated right-of-way of a street and an intersecting street. Street does not include an alley or other right-of-way unless it is of the same width as a regular residential minimum width street. In the case of an alley, block means property facing both sides of any alley between the next intersecting streets or alleys, or between the terminus of an alley and an intersecting street.

(c) *Cost and construction cost or variants thereof*, means and includes both the actual cost of construction of the work, design and inspection and incidental expenses, as defined in this article.

(d) *Sidewalk* shall include all portions of a parking strip maintained in the area between the property line and the street line and also includes curbs, gutters, bulkheads, retaining walls or other works for the protection of any sidewalks or of any such parking strip.

SECTION 2. BCC SECTION 22-62 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-62 is amended as follows:

Sec. 22-62. Duty to construct.

(a) Adjacent property owners are responsible for the construction of the sidewalk adjacent to or fronting on any portion of their property. Owners required by this article to construct any portion of a sidewalk shall owe a duty to members of the general public, including travelers on the sidewalk, to construct the sidewalk in a safe and secure condition. It shall be a violation of this article for owners to fail to perform the duties and obligations established by this article or to perform such duties and obligations in a negligent manner. If any person suffers personal injury or damage to property, as a result of the failure of owners to construct any sidewalk in a safe and secure condition as required by this article, the adjacent property owners shall be directly liable to such person for the resulting injury or damages. The City of Belmont shall have a cause of action for indemnity against a property owner for any damages it may be required to pay as satisfaction of any judgment or settlement of any claim that results from injury to persons or property as a legal result of the owner's failure to construct a

sidewalk in accordance with this section.

(b) Construction of curbs, gutters and sidewalks shall occur when:

(1) The director of public works or his/her designee finds that curbs, gutters and sidewalks have been constructed, or that their construction has been guaranteed to his satisfaction, in front of properties constituting more than fifty (50) percent of the frontage in any block; or

(2) Where a petition signed by the owners of more than sixty (60) percent of the front footage of the block has been filed with the city clerk requesting the installation of such improvements; or

(3) Whenever the city council of the city upon its own motion has ordered the installation of such improvements.

SECTION 3. BCC SECTION 22-72 REPEALED

Belmont City Code Chapter 22, Article V, Section 22-72 is repealed.

SECTION 4. BCC SECTION 22-73 REPEALED

Belmont City Code Chapter 22, Article V, Section 22-73 is repealed.

SECTION 5. BCC SECTION 22-74 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-74 is amended to read:

Sec. 22-74. Report following completion of construction repair or removal; contents.

Upon the completion of the construction, the director of public works or his/her designee shall prepare and file with the city council a report specifying the work which has been done, the cost of work, a description of the real property in front of which the work has been done and the assessment against each lot or parcel of land proposed to be levied to pay the cost or portion thereof. The report may include work done in front of any number of parcels of property, whether contiguous to each other or not. In determining the amount of the assessment against each lot or parcel of land, the director of public works or his/her designee shall assess the same portion of the total cost of the work against each lot or parcel as that parcel will receive of the total benefit from the work.

SECTION 6. BCC SECTION 22-75 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-75 is amended to read:

Sec. 22-75. Notice of cost; service; contents; time for hearing.

(a) Upon the completion of the construction the city shall cause notice of the cost of the construction, repair or removal be given in the manner specified in this article for the giving of notice to construct, repair or remove, which notice shall specify the day, hour and place when the city council will hear and pass upon a report by the director of public works or his/her designee of the cost of the work, together with any objections or protests, if any,

which may be raised by property owners liable to be assessed for the cost of such work and any other interested persons. In no case shall the hearing provided for in this section be sooner than ten (10) days after giving of notice.

(b) The cost of the work may include a proportionate share, as determined by the city council, of the cost of improvements constructed in a place other than in front of a parcel of property which is required for the proper functioning of the improvements in front of the parcel.

SECTION 7. BCC SECTION 22-76 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-76 is amended to read:

Sec. 22-76. Hearing on report; confirmation; finality of decision.

Upon the day and hour fixed for the hearing the city council shall hear and pass upon the report of the director of public works or his/her designee, together with any objections or protests which may be raised by any of the property owners liable to be assessed for such construction and any other interested persons. Thereupon the city council may make such revision, correction or modifications in the report as it may deem just, after which, by motion or resolution, the report as submitted, or as revised, corrected or modified, shall be confirmed. The city council may adjourn the hearings from time to time. The decisions of the city council on all protests and objections which may be made, shall be final and conclusive.

SECTION 8. BCC SECTION 22-77 AMENDED

Belmont City Code Chapter 22, Article V, Section 22-77 is amended by modifying the section title to read as follows. The text of Section 22-77 is unchanged.

Sec. 22-77. Assessment of cost; lien for construction

SECTION 9. BCC CHAPTER 22, ARTICLE VI ADDED

Belmont City Code Chapter 22 is amended by adding Article VI to read

ARTICLE VI. MAINTENANCE OF SIDEWALKS

Sec. 22-81. Maintenance of sidewalks.

(a) As used in this section, sidewalk area includes the sidewalk, any park or parking strip maintained in the area between the property line and the street line, and the curbing, gutter, driveway, bulkheads, retaining walls or other works for the protection of any sidewalk or of any park or parking strip.

(b) The owner of a lot fronting on or adjacent to a public street must maintain any sidewalk area in good repair and condition. This duty includes but is not limited to maintenance and repair of surfaces including performance of grinding, removal and replacement of sidewalks, and repair and maintenance of curb and gutters, so that the sidewalk area will remain in a condition that is not dangerous to property or to persons using the sidewalk area in a reasonable manner and will be in a condition which will not interfere with the public convenience in the use of the sidewalk area.

(c) An owner required by this section to maintain a sidewalk area shall owe a duty to members of the public to keep and maintain the sidewalk area in a safe and non-dangerous condition.

(d) If, as a result an owner's failure to maintain a sidewalk area in a safe and non-dangerous condition, any person suffers injury or damage to person or property, the owner shall be liable to the person for the resulting damages or injury.

(e) The City of Belmont shall have a cause of action for indemnity against a property owner for any damages it may be required to pay as satisfaction of any judgment or settlement of any claim that results from injury to persons or property as a legal result of the owner's failure to maintain a sidewalk area in accordance with this section.

(f) Failure of an owner to maintain a sidewalk area as set forth in this section shall constitute a public nuisance.

Sec. 22-82. Repairs.

When any portion of the sidewalk is out of repair or pending reconstruction and in a condition to endanger persons or property or in a condition to interfere with the public convenience in the use of such sidewalk, the public works director may, in addition or as an alternative to any other legal remedy, utilize the procedures in Streets and Highways Code Division 7, Part 3, Chapter 22, Article 2 to cause the necessary work to be performed by the adjoining property owner.

Sec. 22-83. No mandatory duty of city created.

Nothing in this chapter is intended to create a mandatory duty on the part of the city manager or the city to protect persons or property from a violation of the provisions of this chapter.

SECTION 10. CEQA EXEMPTION.

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the San Mateo County Clerk in accordance with the CEQA guidelines.

SECTION 11. SEVERABILITY.

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

SECTION 12. EFFECTIVE DATE.

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 13. PUBLICATION AND POSTING

The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c) of the, once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The City Council of the City of Belmont, California introduced the foregoing ordinance, on May 13, 2014 and adopted the ordinance at a regular meeting held on May 27, 2014 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney