

ORDINANCE NO. C-22-34

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA BY AMENDING ARTICLE II. ENTITLED "CONSTRUCTION AND REPAIR OF SIDEWALKS" TO CREATE SECTION 25-40 ENTITLED "DECLARATIONS AND INTENT", SECTION 25-45 ENTITLED "DEFINITIONS", AND SECTION 25-62 ENTITLED "REQUIREMENTS FOR NEW DEVELOPMENT AND SITE ALTERATIONS"; TO AMEND SECTION 25-41 ENTITLED "ENFORCEMENT", SECTION 25-42 ENTITLED "CONTRACTORS, ETC., VIOLATING ARTICLE", SECTION 25-43 ENTITLED "SIDEWALKS CONSTRUCTED CONTRARY TO THIS ARTICLE", SECTION 25-44 ENTITLED "SUPERVISION BY CITY", SECTION 25-56 ENTITLED "DUTY OF OWNER OF ABUTTING PROPERTY", SECTION 25-57 ENTITLED "WIDTH, MATERIAL, GRATE, ETC.", SECTION 25-58 ENTITLED "DETERMINATION OF NECESSITY FOR CONSTRUCTION, RECONSTRUCTION OR REPAIR", SECTION 25-59 ENTITLED "NOTICE TO OWNERS TO CONSTRUCT, RECONSTRUCT, REPAIR, ETC.", AND SECTION 25-60 ENTITLED "CONTENTS OF NOTICE; SERVICE"; PROVIDING FOR SEVERABILITY; REPEAL OF CONFLICTING ORDINANCE PROVISIONS; CODIFICATION AND CORRECTION OF SCRIVENER'S ERRORS; AND FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Fort Lauderdale, at its conference meeting of April 20, 2021, directed staff to amend the City's Code of Ordinances to address sidewalk installation criteria based on requirements for installation of new sidewalks as well as sidewalks associated with new development and site alterations; and

WHEREAS, the installation of multi-modal travel infrastructure provides safe and viable alternative transportation options, builds community by connecting neighborhoods and social spaces, and generally enhances the quality of life of its citizens; and

CODING: Words, symbols, and letters ~~stricken~~ are deletions; words, symbols, and letters underlined are additions.

WHEREAS, public sidewalks are an essential and necessary component of creating multi-modal travel networks in the City; and

WHEREAS, there are areas in the City that do not have sidewalks or that have areas of discontinuity in the sidewalk network; and

WHEREAS, the City hereby adopts regulations establishing Property Owner's and Developer's responsibilities for the installation, protection and maintenance of public Sidewalks in the City's rights-of-way and easements;

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

SECTION 1. That Sections 25-25 through 25-40 entitled "Reserved" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Secs. 25-25 – ~~25-40~~ 25-39. – Reserved.

SECTION 2. That Section 25-40 entitled "Declarations and Intent" of the City of Fort Lauderdale Code of Ordinances is hereby created in Article II - Construction and Repair of Sidewalks, Division 1. - Generally as follows:

ARTICLE II. - CONSTRUCTION AND REPAIR OF SIDEWALKS

DIVISION 1. – GENERALLY

Sec. 25-40. Declarations and Intent.

The City Commission of the City of Fort Lauderdale finds and declares that:

- (a) The installation of multi-modal travel infrastructure provides safe and viable alternative transportation options, builds community by connecting neighborhoods and social spaces, and generally enhances the quality of life of its citizens; and
- (b) Public sidewalks are an essential and necessary component of creating multi-modal travel networks in the City; and

- (c) There are areas in the City that do not have sidewalks or that have areas of discontinuity in the sidewalk network; and
- (d) Whenever possible, sidewalks should be installed as development and redevelopment takes place to mitigate the proportionate increase in demand on the City's transportation system; and
- (e) In accordance with the foregoing, the City hereby adopts regulations establishing Property Owner's and Developer's responsibilities for the installation, protection and maintenance of public Sidewalks in the City's rights-of-way and easements.

SECTION 3. That Section 25-41 entitled "Enforcement" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-41. - Enforcement.

The city manager or his or her designee shall enforce the provisions of this article.

SECTION 4. That Section 25-42 entitled "Contractors, etc., violating article" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-42. - Contractors, etc., violating article.

It shall be unlawful for any contractor, developer, property owner, builder or any other person to construct, reconstruct, or repair any sidewalk contrary to or to violate any other provisions of this article.

SECTION 5. That Section 25-43 entitled "Sidewalks constructed contrary to article" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-43. - ~~Sidewalks constructed contrary to article.~~ Engineering permit required; non-compliance.

~~Any sidewalk constructed contrary to the provisions of this article may be condemned by the commission and ordered reconstructed or reformed as provided in this article.~~

It shall be unlawful for any contractor, developer, property owner, or any other person to:

- (a) Remove, construct, reconstruct, repair, or modify any Sidewalk in rights-of-way under City jurisdiction without first obtaining an Engineering Permit; or
- (b) Be in non-compliance with any other provisions of this Article

SECTION 6. That Section 25-44 entitled "Supervision by city" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-44. – Supervision by city. Remedies for violations; orders by the City Manager.

~~The construction, reconstruction, maintenance and repair of all sidewalks within the corporate limits of the city shall be under the supervision of the city.~~

The City Manager or his or her designee is hereby authorized to issue notice for violations to Section 25-43 to the violator. Upon receipt of a notice of violation, the violator shall do the following:

- (a) Upon receiving notice, the violator shall immediately cease any such unlawful actions and take all necessary action to make the right-of-way safe for the public. The violator shall make diligent and continuous progress towards implementing said safety measures and shall not leave the jobsite until the right-of-way is deemed to be in a safe condition by the City. The safety measures must be fully implemented within four (4) hours from receipt of notice; and
- (b) Within twenty-four (24) hours of receiving notice, the violator shall implement corrective actions, including but not limited to the removal, repair, reconstruction of sidewalk and restoration of other areas of the right-of-way, as provided in this Article.

SECTION 7. That Section 25-45 entitled "Definitions" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby created as follows:

Sec. 25-45. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Contractor. Any persons or business organization engaged in the business of contracting, as defined in Section 489.105, Florida Statutes; and Chapter 9, Broward County Code of Ordinances; and Section 9-72, City of Fort Lauderdale, Florida Code of Ordinances, as may be amended from time to time.
- (b) Engineering Permit. A permit approved and issued by the Engineering Division of the Development Services Department for construction and other activities in the right-of-way under the City's jurisdiction.
- (c) Master Plans. A planning document established to guide the future vision of an area, which may include a focus on growth and development providing design standards and dimensions for buildings and streetscape or identifying specific capital improvements and implementation projects for a particular area or corridor.
- (d) Property. Any lot, parcel of land, plot or development site located within the City's corporate limits.
- (e) Property Owner. Person or persons who have legal ownership of a Property, or their authorized representative.
- (f) Sidewalk. A walkway made of concrete, or if approved by the City Engineer, asphalt, paver blocks or other similar material that is walkable and slip-resistant, that is compliant with the Americans with Disabilities Act, and located within a public right-of-way or easement under the City's jurisdiction.
- (g) Sidewalk Improvements. Installation of new sidewalks, or the repair or reconstruction of existing sidewalks. The term shall include, without limitation, any ancillary improvements necessary for the safe and efficient movement of pedestrian travel and to provide connectivity to existing sidewalks in the area, including signage, pavement markings, ramps, coloration, tactile surfaces, railing, and curbing, in accordance with the Americans with Disabilities Act.
- (h) Violator. Person or legal entity alleged or allegedly deemed responsible for the violation of the Code.

SECTION 8. That Section 25-56 entitled "Duty of owner of abutting property" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-56. - ~~Duty of owner of abutting property.~~ Requirements for Existing Sidewalks.

- (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.~~ Property owner shall promptly notify the City when a sidewalk or sidewalks adjacent to his or her property is damaged or in need of repair, for any reason. Upon being notified of sidewalk damage, the Public Works Department will inspect the site and prepare a sidewalk assessment report to document the sidewalk conditions and cause of damage to determine the party responsible for the repairs. The City may also inspect and issue a report on any sidewalk in the City at any time, on its own volition.
- (1) ~~Repair needs and responsibility will be determined by the City following inspection.~~
- (b) 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 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.~~ structural or material damage to sidewalk or underlying base materials was caused by manmade or natural features located on or extending from the property, including but not limited to trees, landscaping, irrigation systems, or any other objects; or
- (2) ~~It is determined by city inspection that heavy equipment used by the property owner has damaged the sidewalk.~~ structural or material damage to sidewalk or underlying base materials was caused by vehicular parking, operation of vehicles or equipment, or drainage, whether caused by the property owner, their hired contractor or tenant; or
- (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.~~ that safe and efficient passage of

the public is hindered by or the appearance of the sidewalk surface is diminished by the discharge of rainwater or other fluids falling on or originating from the adjacent property, or conveyance of sedimentation, debris, or any material from the adjacent property onto the sidewalk surface; or

- (4) It is determined by city inspection that the safe and efficient passage of the public is hindered by or the sidewalk is rendered non-compliant with the Americans with Disabilities Act by obstructions created by manmade or natural features located on or extending from the property line, including trees, landscaping, or any other objects, on or above the sidewalk surface area.
- (5) It is determined by city inspection that the adjacent sidewalk is made from non-standard or decorative materials the property owner has a duty to construct, reconstruct, or repair said sidewalk using the same non-standard or decorative material as the abutting portions of the existing sidewalk to ensure aesthetic continuity. The absence of permit records for the installation of such decorative sidewalks shall not relieve the property owner from construction, reconstruction, or maintenance obligations. Property owners have no duty to construct or reconstruction a decorative sidewalk adjacent to their property if the said sidewalk was the constructed as a capital improvement or other improvement project authorized by the City.
- ~~(c) 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.~~
- ~~(d) 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 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.~~
- ~~(e) The conditions set forth in paragraphs (d)(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.~~
- ~~(f) 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 9. That Section 25-57 entitled "Width, material, grade, etc." of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Sec. 25-57. – Width, material, grade, etc. Specifications.

~~The width of each sidewalk, the material to be used in its construction, the grade thereof, and the method and manner of constructing, reconstructing and repairing the same shall be as prescribed and approved by the city.~~

Sidewalk widths shall be in accordance with the design criteria established in a master plan endorsed or accepted by the City Commission and shall be a minimum of five (5) feet in all areas not identified in a master plan. Sidewalks shall be constructed in compliant with the Americans with Disabilities Act and of non-reinforced Portland cement concrete that is a minimum six (6) inch thick, three thousand (3,000) pounds per square inch, and supported by compacted existing subgrade material. Other materials may be used as approved by the City Engineer.

SECTION 10. That Section 25-58 entitled "Determination of necessity for construction, reconstruction or repair" of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

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

(a) The city manager or his or her designee is hereby authorized to identify shall determine 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, reconstructed or repaired where the provisions of Section 25-56(b) are applicable.

(b) The city shall be responsible to repair sidewalks as determined by section 25-56(a)(1).

SECTION 11. That Section 25-59 entitled "Notice to owners to construct, reconstruct, repair, etc." of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

Sec. 25-59. – Notice to owners to construct, ~~reconstruct, repair, etc.~~ sidewalk improvements.

Upon determination by the city manager or his and her designee under that any of the provisions of section 25-58 25-56 are applicable, the city manager or his and her ~~their~~ designee shall give or cause to be given written notice to the property 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 section, 25-56 (b) (1), (2) or (3) requiring the applicable sidewalk improvement.

SECTION 12. That Section 25-60 entitled "Contents of notice; service" of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended as follows:

Sec. 25-60. – Contents of notice, service.

The written notice required by section 25-59 shall direct the ~~abutting~~ property owner to forthwith commence and, within sixty (60) days after date of such notice, complete the

~~construction, reconstruction or repair work~~ sidewalk improvements. Such notice shall be certified mailed to the address of each such property owner, if the address is known to or by reasonable diligence can be obtained by the city; ~~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 sixty (60) days after the last publication of such notice, complete the construction, reconstruction or repair work.~~

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SECTION 13. That Section 25-62 entitled "Requirements for New Development and Site Alterations" of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby created as follows:

Sec. 25-62. – Requirements for New Development and Site Alterations

(a) Sidewalks shall be required in connection with the development of vacant property, redevelopment of developed property, or construction of improvements on developed property when any of the following conditions exist:

- (1) The value of the proposed improvements exceeds twenty-five (25) percent or more of the value of the existing improvements, or
- (2) The aggregate area of the proposed site improvements is more than twenty-five (25) percent of the area of the Development Site; or
- (3) The area of the proposed building or structural addition(s) exceed twenty-five (25) percent of the gross floor area of the existing buildings or structure(s) on the Development Site; or
- (4) A proposed change in zoning, use or occupancy results in a higher off-street parking requirement than the existing use, as calculated in accordance with Section 47-20 – "Parking and Loading Requirements" of the Unified Land Development Regulations ("ULDR"). For the purpose of this section the calculation of the off-street parking

requirements shall exclude any parking reductions and exemptions granted for the development pursuant the ULDR.

(b) Sidewalks shall be constructed on all public streets abutting the property, except as provide herein:

- (1) The proposed location of sidewalk improvements are on a finger island or dead-end street where eighty (80) percent or more of properties do not have sidewalks abutting the property.
- (2) A neighborhood transportation plan approved by the City Commission clearly indicates that sidewalks are not preferred for the area in which the property is located.
- (3) Property owners may request relief from the provisions of this section by making application to the Board of Adjustment. The property owner shall have the burden of demonstrating that a unique circumstance particular to the property at issues exists that would otherwise preclude the installation of a sidewalk in the specified location.

SECTION 14. That Sections 25-62 through 25-75 entitled "Reserved" of the City of Fort Lauderdale, Florida Code of Ordinances is hereby amended as follows:

Secs. 25-62~~63~~ – 25-75. – Reserved.

SECTION 15. CODIFICATION AND SCRIVENER'S ERRORS. The City intends that this Ordinance will be made part of the Code of Ordinance; that sections of this Ordinance can be re-numbered or re-lettered to accomplish codification and, regardless of whether this Ordinance is ever codified, the Ordinance can be re-numbered or re-lettered, and typographical errors that do not affect the intent can be corrected with the authorization of the City Manager, or his designee, without the need for a public hearing.

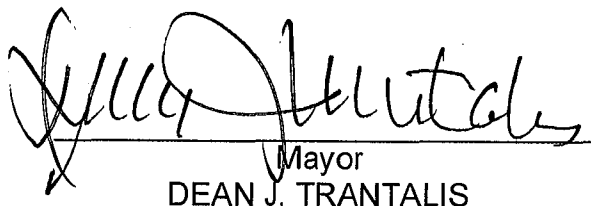
SECTION 16. That if any clause, section, or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 17. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.


SECTION 18. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this 6th day of September, 2022.

PASSED SECOND READING this 22nd day of September, 2022.


Mayor
DEAN J. TRANTALIS

ATTEST:


City Clerk
DAVID R. SOLOMAN