

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AMENDING CHAPTER 54, ORLANDO CITY CODE, CONSTRUCTION AND REPAIR OF SIDEWALKS, TO CLARIFY WHEN SIDEWALKS ARE REQUIRED, THE MANNER AND LOCATION OF SIDEWALK CONSTRUCTION, NOTICE TO OWNERS, SIDEWALK CONSTRUCTION REQUIREMENTS, PAYMENT IN LIEU OF CONSTRUCTION AND APPEALS; PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCES AND ACTIONS, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, The Orlando City Council hereby finds and declares that amending the City's current Code regulations relating to Streets and Sidewalks, as provided in this Ordinance, will address the requirements, construction and repair of sidewalks; and

WHEREAS, the Orlando City Council hereby finds and determines that amending the City's current regulations as provided in this Ordinance is in the best interest of the public health, safety, and welfare, and is in harmony with the purpose and intent of the Orlando City Code.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:

SECTION 1. CHAPTER 54 AMENDED. Sections 54.37, 54.38, 54.39, 54.41, 54.44 and 54.45, City Code of the City of Orlando, Florida, are hereby amended as follows:

Sec. 54.37. - Approval.

The construction and repair of sidewalks shall be subject to this Article III and the authority of the City Engineer as provided herein.

Sec. 54.38. – Construction and Repair Generally; Width.

All sidewalks, driveways or curb and gutters which may be constructed as required by City Code, or under the authority of the City Engineer Council shall be portland cement concrete, or other materials as approved by the City Engineer, and sidewalks, except where otherwise ordered by the City Engineer, shall not be less than five (5) feet wide. The sidewalk requirements in this Article III apply to construction of new sidewalks and repair of existing sidewalks.

Sec. 54.39. - Concrete Sidewalks.

All portland cement concrete sidewalks shall be at least four (4) inches thick and shall be constructed according to the standard specifications of the City. Sidewalks shall be required to be constructed along the entire length of the property as the property adjoins public right-of-way for all property on which parking lots are to be constructed or structures are to be erected or substantially improved or enlarged, unless waived in total or in part by the City Engineer. Sidewalks shall be required to be

constructed at the outside edge of the right of way, unless a modified location is approved by the City Engineer using the criteria referenced in Section 54.45 (b) 1. A-F.

Sec. 54.41. - Notice to Construct or Repair Sidewalk or Parkway; Duty of Abutting Owner.

The owner of any real estate in the City which adjoins rights-of-way on which any sidewalk or parkway shall have been ordered laid, or on which an existing sidewalk or parkway shall be in disrepair, due to action attributable to the adjoining property owner or his employees or agents, shall upon proper notice as provided in Section 54.43 be required to construct or repair said sidewalk and parkway within a period of forty-five (45) days.

Sec. 54.44. - Same—Failure to Comply with Notice; Work to be Done by City; Cost.

If any person so owning property adjoining right-of-way on which such sidewalk or parkway has been ordered laid, or repaired in accordance with Section 54.41 and who shall have received notice as provided in Section 54.43 of this Code, shall fail or refuse to construct or repair such sidewalk or parkway within a period of forty-five (45) days, the City may construct or repair same, or cause the same to be repaired or constructed and shall thereupon be entitled to a lien upon such property, for the reasonable expense of such repairs or construction and such lien shall be superior to all other liens except for taxes.

Sec. 54.45. - ~~Reserved.~~ Sidewalks.

(a) *Sidewalks Required.* Except as provided otherwise herein, sidewalks shall be required on both sides of all streets, subject to the following:

1. Modification of Sidewalk Location. The City Engineer shall be authorized to approve or require modifications in sidewalk locations to accommodate unique design characteristics or to protect existing trees or when there is a conflict between the sidewalk and a required Typical Cross-Section.

2. Sidewalk-Bikeway Trade-Offs. The City Engineer shall be authorized to allow construction of a single paved sidewalk-bikeway in Townhome development, Special Plan Areas, Multiplex Development, and Mobile Home Developments in lieu of the required sidewalks on local streets only, when the sidewalk-bikeway forms part of an integrated bicycle and pedestrian system in common or dedicated open space. The sidewalk-bikeway shall be ten (10) feet in width, or such other appropriate dimension determined by the City Engineer after consideration of site conditions, pedestrian and bicyclist needs, and the requirements of this section.

3. Sidewalks a Priority Near Schools. Sidewalks shall be required as a priority on both sides of all streets within a one-mile radius of any elementary, middle, or high school.

4. Substantial Enlargements and Improvements. Sidewalks shall be required at the time of any substantial enlargement or substantial improvement, as those terms are defined in Chapter 66 of this Code. For purposes of this Section, the term "substantial improvement" includes paved areas, such as stand-alone or accessory parking lots. Sidewalks shall be required on all streets and/or right of way contiguous to a parcel undergoing the substantial improvement or enlargement. Notwithstanding the foregoing requirement, no sidewalks shall be required to be constructed at the time of a substantial improvement when the substantial improvement is necessitated by damage sustained as the result of a hurricane, tornado, flood, sinkhole, fire, natural disaster or other act of God, and the permit applicant does not have property insurance which will cover the cost of constructing the sidewalk.

5. Sidewalks must be constructed on both sides of all new streets, public and private, unless the City Engineer determines that construction is not practical under the criteria set forth in Section 54.45 (b) 1. A-F.

(b) Payment in Lieu of Construction.

1. When Not Practical. Upon request of a building permit applicant, the City Engineer shall be authorized to determine that construction of sidewalks is not practical. Examples of factors that may make sidewalk construction not practical include but are not limited to the following:

- A. Existing physical impediments;
- B. Substantial grade changes;
- C. Trees;
- D. Impending road/right-of-way construction; and/or
- E. Impacts on pedestrian network.

F. Any other situation where the City Engineer determines that sidewalk construction is not practical.

2. Sidewalk Construction Fund. If the City Engineer determines that sidewalk construction is not practical, the permit applicant shall not be required to construct sidewalks. Instead, the permit applicant shall make a payment into the Sidewalk Construction Fund prior to issuance of any permit for development of the site. Such payment shall be the equivalent of the per linear foot cost to the City for installing the sidewalk, based upon the City's Annual Sidewalk Contract in effect at the time of permit issuance, using 6" thick concrete for the driveway and 4" thick concrete for the remainder of the parcel frontage. The City shall expend proceeds from the Sidewalk Construction Fund for sidewalk construction only, that benefits the Transportation Area within which the Fund payments were collected.

(c) Appeals.

ORDINANCE NO. 2019-30

1. Any person desiring to appeal a determination issued by the City Engineer under this Article III is hereinafter referred to as "Appellant." In order to secure administrative review under this subsection, Appellant must file a written Notice of Appeal with the City of Orlando Public Works Director within ten calendar (10) days of the decision sought to be appealed. A required processing fee, as established from time-to-time by the Public Works Director, may be required with the Notice of Appeal in order to defray actual administrative costs associated with processing the appeal.

2. All Notices of Appeal shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation which the applicant desires to be considered.

3. Within thirty (30) days following the receipt of the Notice of Appeal, the Public Works Director will review the submitted documents and any other relevant material. The thirty (30) day review period may be extended if additional information is needed from the Appellant in order to render a decision. Upon completion of the administrative review, the Public Works Director will provide a written response to the Appellant.

4. Appellant may appeal the determination of the Public Works Director by filing a written Notice of Appeal to the Director of Transportation for the City within fifteen (15) days following receipt of the Public Works Director's determination. Within thirty (30) days following receipt of the Notice of Appeal, the Director of Transportation will review the Appellant's submitted documentation and any other relevant material. Upon completion of the administrative review, the Director of Transportation will provide a written determination to Appellant.

5. Appellant may appeal the determination of the Director of Transportation by filing a written Notice of Appeal to City Council. Said filing shall be made with the City Clerk for the City within fifteen (15) days following receipt of the Director of Transportation's determination. All Notices of Appeal to City Council shall include a full explanation of the reasons for the appeal, specifying the grounds therefore, and containing any documentation which the applicant desires to be considered. The appeal shall contain the name and address of the person(s) filing the appeal and shall state their capacity to act as a representative or agent if they are not the owner of the property.

6. The City Clerk is responsible for scheduling the appeal before the City of Orlando City Council and will provide at least ten (10) days notice to the Appellant of the date of the designated Council meeting. Postponements of the City Council appeal date may be granted by the City Clerk if they are requested in writing at least ten (10) days in advance of the scheduled City Council meeting date. When an Appeal is scheduled before the City Council, the Appellant and the City staff shall each be given five (5) minutes for presentation at the meeting.

SECTION 2. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 3. REPEAL. All ordinances or parts of ordinances previously adopted and in conflict with this ordinance are hereby repealed.

SECTION 4. CODIFICATION. The city clerk and the city attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

SECTION 5. SCRIVENER'S ERROR. The city attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the city clerk.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect upon adoption.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2019.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the _____ day of _____, 2019.

DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the _____ day of _____, 2019.

BY THE MAYOR/MAYOR PRO TEMPORE
OF THE CITY OF ORLANDO, FLORIDA:

Mayor/Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND
APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

Chief Assistant City Attorney

ORDINANCE NO. 2019-30

Print Name