

ORDINANCE NO. 300

AN ORDINANCE PLACING THE RESPONSIBILITY FOR SIDEWALK REPAIRS AND MAINTENANCE ON ADJACENT PROPERTY OWNERS, REQUIRING A PERMIT FOR SIDEWALK CONSTRUCTION, RE-CONSTRUCTION, REPAIRS OR ALTERATIONS, PROVIDING FOR ASSESSMENT OF COSTS WHEN SIDEWALKS ARE REPAIRED BY ORDER OF THE CITY, AND PLACING LIABILITY FOR INJURIES ON PROPERTY OWNERS.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE:

SECTION 1. SHORT TITLE

This ordinance shall be known as the SIDEWALK ORDINANCE.

SECTION 2. DEFINITIONS

- A. "Curb" shall mean any structure which, at the time it is constructed, conforms to City standards for curb construction.
- B. "Public Walkway" shall mean any strip of land or structure over a strip of land, which has been, by common use or deliberate construction, so created as to reasonably permit or encourage pedestrian traffic at a safe distance from vehicular traffic.
- C. "Sidewalk" shall mean any structure within the part of the street right-of-way between the curblines or the lateral lines of a roadway and the adjacent property lines that is intended for the use of pedestrians.
- D. "Street" shall mean any street, avenue, boulevard, alley, place, lane way or cul-de-sac which is now, or may hereafter be opened or dedicated to public use.

SECTION 3. DUTY OF PROPERTY OWNERS

- A. It shall be the duty of all owners of property adjoining any street or public walkway in the City of Troutdale to reconstruct, repair, and maintain in good condition, the sidewalk, public walkway, planter strip and curb adjoining said property up to the face of the curb.
- B. It shall be the duty of all owners of property adjoining a public walkway not within a street right-of-way to reconstruct, repair, and maintain in good condition, the public walkway to the center thereof.

SECTION 4. ORDER TO RE-CONSTRUCT/REPAIR/MAINTAIN

The Public Works Director may, when it is deemed necessary, order the reconstruction, repair, or maintenance of a sidewalk, public walkway, planter strip, or curb by the owner, owners, or contract purchaser of the land adjoining any street or public walkway in the City of Troutdale. The Public Works Director shall notify the owner, contract purchaser, or their agent affected by said order. Such notice shall be made in writing and shall contain:

- A. The name of the owner or contract purchaser or their agent;

- B. A description of the land adjoining the sidewalk, public walkway, planter strip, or curb, and the same may be by street address only;
- C. The dimensions, material and location of the sidewalk, public walkway, planter strip, or curb to be re-constructed, repaired, or maintained;
- D. A description of the work ordered, including location, specifications, materials, and required completion date; and
- E. A statement of how the person affected may appeal such an order.

SECTION 5. NOTIFICATION OF ORDER

For the purposes of notice, it shall be sufficient for the Public Works Director to:

- A. Serve personally and in person, a copy of said order on the owner, contract purchaser, or their agent; or
- B. Mail by certified mail, a copy of said order to the last known address of any of the persons named in paragraph A above; or
- C. Arrange one publication of said notice in a newspaper of local general readership; and
- D. Post said notice on the land affected.

SECTION 6. ERROR IN NOTIFICATION

Should the person ordered to re-construct, repair, or maintain a sidewalk, public walkway, planter strip, or curb believe said order to be erroneous or unjust, they may appeal the order through the following process:

- A. The appeal shall be submitted verbally in person or by certified mail in writing to the City Recorder not more than ten days following the date of notification by the Public Works Director.
- B. The appeal shall contain a description of the specific property affected, the name of the owner or contract purchaser or their agent affected, the nature of the work required by the order, and a full presentation of the basis of the appeal.
- C. The Public Works Director shall give full and impartial consideration to the appeal, shall decide on the basis of the facts involved whether or not the order shall be upheld, suspended, dismissed or modified, and shall notify the appellant of his decision either verbally or by certified mail.
- D. If the appellant believes the decision of the Public Works Director to be erroneous or unjust, further appeal may be made to the Common Council in the same manner as prescribed by paragraphs A and B above, within five days of the Public Works Director's notification of decision on the initial appeal.

- E. The appellant shall be notified in person or by certified mail of the next regularly scheduled hearing of the Common Council at which said appeal shall be heard. The notice shall be given not less than five days before the hearing.
- F. The Council may, on the hearing of such appeal, uphold, suspend, dismiss or modify the order involved by motion only.
- G. The Council shall, at the request of the appellant, provide a written record of the hearing to include findings of fact and decisions rendered.
- H. The City shall not perform any work required by an order for the re-construction, repair, or maintenance of a sidewalk, public walkway or curb while an appeal of said order is pending, unless the City is prepared to assume the cost of such work should the appellant be absolved of financial responsibility.

SECTION 8. PROVISION FOR NON-COMPLIANCE WITH AN ORDER

In the event the order of the Public Works Director for re-construction, repair, or maintenance of a sidewalk, curb, public walkway, or planter strip is not complied with within the time designated or is not complied with in the matter of the nature, location, standards or materials required, the Public Works Director shall perform the work required by said order and keep an accurate cost of the expense as it applies to each parcel of land affected and, upon completion, make a report thereof to the Council.

SECTION 9. ASSESSMENT FOR RECONSTRUCTION/REPAIR/MAINTENANCE

- A. In the event the City performs the work required by the order, the Council shall make an assessment upon the land, lot, parcel, or part of a lot affected by such reconstruction, repair, or maintenance, including legal, administrative, publication, construction, and engineering costs attributable thereto. The same shall be entered in the Docket of City Liens and collected in the same manner as is provided by the general law of the State of Oregon.
- B. Promptly after levying the assessment, the City Recorder shall send by registered or certified mail a notice of assessment to the owner of property being assessed. The notice of assessment shall contain:
 - 1. A brief description of the work and related expenses for which assessment is made;
 - 2. The procedure for payment; and
 - 3. The assessment levied on the property.

SECTION 10. ERRORS IN ASSESSMENT CALCULATIONS

Claimed errors in the calculation of assessments shall be called to the attention of the City Recorder, who shall determine whether there has been an error in fact. If the Recorder shall find that there has been an error in fact, the Recorder shall recommend to the Council an amendment to the

assessment ordinance to correct such error, and upon enactment of such amendment, the City Recorder shall make the necessary correction in the Docket of City Liens and send a correct notice of assessment by registered or certified mail to each affected person.

SECTION 11. PERMIT FOR CONSTRUCTION/RE-CONSTRUCTION/REPAIR/ALTERATION

- A. No person shall attempt to construct, re-construct, repair, cut, break, or otherwise alter the condition of a sidewalk, or curb without first obtaining from the Public Works Director a permit to do so. The Sidewalk Permit Fee shall be \$10.00 due and payable on the date of issuance of the permit. In those cases where a notice of an order for the re-construction or repair of a sidewalk or public walkway has been served, such notice shall be deemed a permit to do the required work, subject to the above permit fee. The owner, contract purchaser, or their agent shall perform the required work in accordance with said order within thirty days from the date of posting of the notice.
- B. In those cases where work is to be done by initiative without an order, an application for a permit shall be made in writing, setting forth the plans, location, standards, and materials for the work to be done.
- C. In all cases, the Building Official shall approve the plans and specifications prior to issuance of a permit by the Public Works Director, and shall inspect the completed project for conformance to said plans and specifications. No one shall be issued such a permit as is required by this section except the owner, or contract buyer, or their agent, of property adjoining the affected sidewalk, public walkway, planter strip, or curb, except in cases to which Section 8, above, would apply.

SECTION 12. PENALTY FOR NOT OBTAINING PERMIT

Any person who shall attempt to construct, re-construct, repair, cut, break, or otherwise alter the condition of a sidewalk without first obtaining a permit to do so may be fined one thousand dollars (\$1,000) for each offense.

SECTION 13. LIABILITY

The owner or contract purchaser of any land in the City shall be liable to any person suffering injury due to lack of proper repair and maintenance of any sidewalk, public walkway, planter strip, and/or curb adjoining their land.

SECTION 14. SEVERABILITY CLAUSE

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

PASSED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 11th DAY OF September, 1979.

YEAS: 6

NAYS: 0

ATTEST:

Jerry Widner
Jerry Widner, Finance Director/
City Recorder

R. M. Sturges
R. M. Sturges, Mayor