

ORDINANCE NO. 756

AN ORDINANCE AMENDING SECTION 12.05.080 OF THE TROUTDALE MUNICIPAL CODE.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. Section 12.05.080 of the Troutdale Municipal Code assigns responsibility to abutting property owners for the construction, reconstruction, maintenance, and repair of sidewalks, curbs, driveway approaches and parking/landscaping strips in the adjacent public way. This section also assigns liability to those property owners if there is injury or damage due to the property owner's failure to do so. Further, this section provides a 30-day compliance period if a valid complaint is received.
2. Implementation of this section of the Troutdale Municipal Code has revealed that most property owners are unable to correct the problem within 30 days due to difficulty in finding a contractor, weather conditions, problems with financing, or other credible reasons. Therefore, the City Council determines that a more appropriate compliance period is 60 days with a possible 30-day extension.
3. Implementation of Section 12.05.080 has also revealed an ambiguity regarding ice and snow removal on sidewalks and driveway approaches in the public right-of-way. The City Council intends that responsibility for such ice and snow removal, and the liability for any injury or damage resulting from the failure to remove ice and snow, reside with the adjacent property owner. Due to scarce City resources and higher-priority tasks, especially during periods of ice and snow, staff will not respond to complaints alleging such failure.
4. The City Council desires to clarify that the use of the term "construction" in Section 12.05.080 does not, of itself, impose a requirement for a property owner to construct a sidewalk, curb, driveway approach, or parking/landscaping strip where none exists unless such requirement derives from some other source.


NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TROUTDALE

Section 12.05.080 of the Troutdale Municipal Code is amended to read as follows:

12.05.080 Sidewalks.

- A. The owner(s) of land abutting any street in the City shall be responsible for constructing, reconstructing, maintaining and repairing the sidewalks, curbs, driveway approaches, and parking/landscaping strips in the public way abutting or immediately adjacent to said land.
- B. Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage resulting from the defective condition of any sidewalk, curb, driveway approach, or parking/landscaping strip in the public way adjacent to said land, or by reason of the property owner's failure to keep such sidewalk, curb, driveway approach, or parking/landscaping strip in safe condition and good repair.
- C. If said property owner(s) does not construct, reconstruct, maintain, or repair the sidewalk, curb, driveway approach, or parking/landscaping strip in the public way adjacent to said land within sixty days after receiving written notice from the director to do so, the director may initiate a proceeding in municipal court to compel compliance, to assess a fine of not less than \$200 nor more than \$1,000 per violation, and/or to require reimbursement if the City performs the work. The sixty-day compliance period may be extended up to 30 days upon receipt of a written request to do so. The request must be received prior to the end of the original 60-day compliance period and cite the reasons(s) why compliance is not possible within the original 60 days.
- D. The director shall only issue a notice or initiate a proceeding in municipal court if the director receives a complaint that a sidewalk, curb, driveway approach, or parking/landscaping strip in the public way needs to be constructed, reconstructed, maintained, or repaired.
- E. The owner(s) of land abutting any street in the City shall also be responsible for removing ice and snow from the sidewalks and driveway approaches in the public way abutting or immediately adjacent to said land.
- F. Said property owner(s) shall be liable for any and all damages to any person who is injured or otherwise suffers damage by reason of the property owner's failure to keep such sidewalk or driveway approach free from ice and snow.
- G. Nothing in this section shall be construed as to require a property owner to construct sidewalks, curbs, driveway approaches, and/or parking/landscaping strips unless such requirement is contained in federal or state law or regulations, another portion of the Troutdale Municipal Code, the Troutdale Development Code, a City ordinance or resolution, a condition of land use approval, or an approved construction plan.

YEAS: 7
NAYS: 0
ABSTAINED: 0



Paul A. Thalhofer, Mayor
November 23, 2004

Date



Sarah Greif, Office Support Specialist

Adopted: November 23, 2004