

ORDINANCE NO. 15947

AN ORDINANCE AMENDING SECTION 31-5 "IMPROVEMENTS" OF CHAPTER 31, "SUBDIVISION REGULATIONS" OF THE CODE OF THE CITY OF FORT WORTH (1986), AS AMENDED, BY ADDING SUBPARAGRAPH (d) RELATED TO THE CONSTRUCTION OF SIDEWALKS IN RESIDENTIAL SUBDIVISIONS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in January 2002, the City Manager appointed the Development Standards Task Force to assess the extent to which the City's development standards and procedures effectively implement the development policies contained in the City's Comprehensive Plan; and

WHEREAS, the City Council conducted a public hearing on the proposed amendments of the Development Standards Task Force on January 13, 2004 and a workshop concerning the amendments on January 20, 2004; and

WHEREAS, on January 27, 2004 the City Council approved the majority of the proposed amendments of the Development Standards Task Force, but continued the proposals regarding sidewalks and head-in parking to allow staff to present additional information and potential alternatives; and

WHEREAS, based on the recommendations of the Development Standards Task Force and the city staff, it is necessary to amend subparagraph (d) of Section 31-5 of the Code of the City of Fort Worth (1986), as amended, to provide for the construction of sidewalks within residential subdivisions.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS, AS FOLLOWS:

SECTION 1.

Subparagraph (d) of Section 31-5 "Improvements" of Chapter 31, "Subdivision Regulations", of the City Code of the City of Fort Worth (1986), as amended, is hereby further amended be and read as follows:

Section 31-5. (d) Paving, sidewalk, and drainage facilities.

- (1) All streets, alleys and other improvements within the public right-of-way shall be designed, constructed and paved in accordance with city design standards and specifications.
- (2) All drainage facilities shall be designed and constructed in accordance with city design standards and specifications.
- (3) Sidewalks on internal streets adjacent to lots upon which residential structures are to be constructed shall not require a community facilities agreement; however, the City shall not release the final electrical to the utility provider until the sidewalks are constructed and approved by the City.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (1986), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4.

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation exists shall constitute a separate offense.

Recommended Changes to Policy for the Installation of Community Facilities Regarding Sidewalk Construction

Amend Sections VII. 3 and 4 of the Community Facilities Agreement Policy to read as follows:

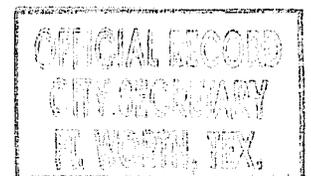
The developer, builder or property owner shall pay for the cost of required sidewalks in residential developments, including multifamily developments. There will be no City participation in the construction cost of sidewalks.

1. Internal Streets

- a. The builder, at its sole cost and expense, shall be responsible for the construction of all required sidewalks on internal streets other than those listed in Section 2 below.
- b. The final electrical inspection shall not be released to the utility provider until the sidewalks are constructed and approved by the City.
- c. In the case that a lot is not developed, the property owner will be responsible for the installation of sidewalk within five years of the date of street acceptance. Property owners of undeveloped lots will be notified on the five-year deadline that failure to construct sidewalks within 60 days of the date of the notice may result in the City constructing the sidewalks and filing a lien against the property for all costs and expense incurred by the City.
- d. The City, at its option, and after notice to affected property owners, may construct required sidewalks that have not been completed within five years of the date that the streets within the subdivision were completed. After such notice, the property owner shall construct the sidewalks in accordance with this policy. Failure to construct the sidewalk within sixty days of the date of the notice may result in the City constructing the sidewalks and filing a lien against the property for all costs and expense incurred by the City.

2. Border streets and designated open spaces

- a. The developer, at its sole cost and expense, is responsible for the installation of required sidewalks on all border streets, and designated open spaces, including public and private parklands.
- b. The developer shall provide a financial guarantee to assure the construction of the required sidewalks.
- c. Sidewalks along all border streets shall be constructed concurrent with roadway construction.



SECTION 5.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinance No. 3011, Ordinance No. 13896 or any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6.

That the City Secretary of the City of Fort Worth, Texas is hereby directed to publish this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by V.T.C.A. Local Government Code Subsection 52.013.

SECTION 7.

This ordinance shall take effect ninety (90) days following adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY

By: *Jean J. Rullewicz*
Assistant City Attorney

ADOPTED: 4-13-04

EFFECTIVE: 4-20-04

ATTACHMENT A

Development Standards Task Force: Recommended Changes to Subdivision Ordinance and Community Facilities Agreement Policy Regarding Sidewalk Construction

1. Amend Section 104.000 of the Subdivision Ordinance to read as follows:

In any subdivision or tract of land where community facilities are required by this ordinance or by related policy, rule, or regulation, no building permit shall be issued and no work shall be started for the installation of such community facilities unless and until the owner, developer or builder has executed a community facilities agreement with the City to provide for the installation of such improvements.....

Sidewalks on internal streets adjacent to lots upon which residential structures are to be constructed shall not require a community facilities agreement; however, the City shall not release the final electrical to the utility provider until the sidewalks are constructed and approved by the City.

2. Amend Sections VII. 3 and 4 of the Community Facilities Agreement Policy to read as follows:

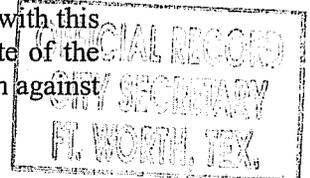
The developer, builder or property owner shall pay for the cost of required sidewalks in residential developments, including multifamily developments. There will be no City participation in the construction cost of sidewalks.

1. Internal Streets

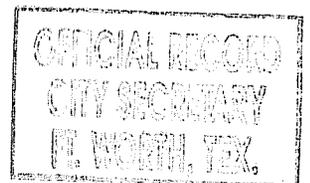
- a. The builder, at its sole cost and expense, shall be responsible for the construction of all required sidewalks on internal streets other than those listed in Section 2 below.
- b. The final electrical inspection shall not be released to the utility provider until the sidewalks are constructed and approved by the City.
- c. In the case that a lot is not developed, the property owner will be responsible for the installation of sidewalk within five years of the date of street acceptance. Property owners of undeveloped lots will be notified on the five-year deadline that failure to construct sidewalks within 60 days of the date of the notice may result in the City constructing the sidewalks and filing a lien against the property for all costs and expense incurred by the City.
- d. The City, at its option, and after notice to affected property owners, may construct required sidewalks that have not been completed within five years of the date that the streets within the subdivision were completed. After such notice, the property owner shall construct the sidewalks in accordance with this policy. Failure to construct the sidewalk within sixty days of the date of the notice may result in the City constructing the sidewalks and filing a lien against the property for all costs and expense incurred by the City.

2. Border streets and designated open spaces

- a. The developer, at its sole cost and expense, is responsible for the installation of required sidewalks on all border streets, and designated open spaces, including public and private parklands.



- b. The developer shall provide a financial guarantee to assure the construction of the required sidewalks.
- c. Sidewalks along all border streets shall be constructed concurrent with roadway construction.



City of Fort Worth, Texas
Mayor and Council Communication

COUNCIL ACTION: Approved on 4/13/2004 - Ordinance 15946 and Ordinance 15947

DATE: Tuesday, April 13, 2004
LOG NAME: 20PUBLIC2

REFERENCE NO.: G-14332

SUBJECT:

Adoption of Ordinance Amendment to Chapter 31, Subdivision Regulations, Related to Sidewalks; Adoption of Ordinance Amendment to Chapter 22, Motor Vehicles and Traffic, Related to Head-In Parking; and Adoption of Amendment to the Sidewalk Policy, in the Policy for Installation of Community Facilities

RECOMMENDATION:

It is recommended that the City Council:

1. Adopt the attached ordinance amending Sec. 22-175, "Head-In Parking," of Chapter 22, "Motor Vehicles and Traffic";
2. Adopt the attached ordinance amending Sec. 31-5, "Improvements," of Chapter 31, Subdivision regulations; and
3. Approve the attached amendment to Section VII, Sidewalk Policy, of the Policy for Installation of Community Facilities.

DISCUSSION:

In January 2003, the City Manager appointed the Development Standards Task Force (DSTF) to assess the extent to which the City's development standards and procedures effectively implement the development policies contained in the Comprehensive Plan, and to recommend amendments based on that assessment. The majority of proposed DSTF amendments were approved by the City Council on January 27, 2004. City Council conducted a special work session on the DSTF and City Plan Commission proposals regarding sidewalks and head-in parking on January 20, 2004. Additional input was gathered following the work session, and three potential alternatives to the current sidewalk policy were presented to the City Council in a work session and public hearing on March 11, 2004.

The proposed ordinance and policy amendments are summarized below:

Amendment to Sec. 22-175, "Head-in Parking": New head-in parking will be allowed under certain traffic conditions, with the approval of the City Traffic Engineer, if the new parking directly supports a re-development project within the City. Re-development projects are defined as projects that include a change in use of an existing structure, or the reuse of a vacant parcel where prior use can be demonstrated to the City. This ordinance will become effective upon its adoption and publication.

Amendment to Sec.31-5, "Improvements": This amendment will eliminate the requirement for the developer to execute a community facilities agreement for the construction of sidewalks on internal streets adjacent to lots upon which residential structures are to be constructed. A community facilities agreement will be required for all other improvements. In addition, sidewalks in residential developments will not be

constructed by developer, but rather by the builder. The final electrical will not be issued until the sidewalks have been constructed. The effect of this amendment will be that electrical utility service cannot be activated until the sidewalks have been constructed. This amendment will become effective 90 days after its adoption and publication.

Amendment to Sidewalk Policy: Eliminates the requirement that developers financially guarantee the installation of sidewalks on interior streets in new developments. Instead, require sidewalk installation and acceptance as a condition of the issuance of electric service to individual residences. Also, establish a trigger date by which all sidewalks within a new development must be installed. Owners of undeveloped lots will be notified on the trigger date that they are required to install sidewalks within a specified timeframe. Should they fail to comply, the City will have the option of installing the walk and filing a lien against the property. This amendment will become effective 90 days after its adoption.

FISCAL INFORMATION/CERTIFICATION:

The Finance Director certifies that this action will have no material effect on City funds.

TO Fund/Account/Centers

FROM Fund/Account/Centers

Submitted for City Manager's Office by:

Marc Ott (8476)

Originating Department Head:

Robert Goode (7804)

Additional Information Contact:

Katherine Mehl (7918)
