

ORDINANCE NUMBER 2011-1600.00

AN ORDINANCE OF THE BROWNSVILLE CITY COMMISSION AMENDING THE CODE OF ORDINANCES BY REPEALING CURRENT ARTICLE II, DIVISIONS 1 AND 2 OF CHAPTER 320, AND INSTATING NEW ARTICLE II, DIVISION 1: SIDEWALK FACILITIES, SECTIONS 320-36 THROUGH 320-43.

WHEREAS, this ordinance bears a substantial relationship to the public health, safety, or general welfare and all procedural requirements for the passage hereof have been met; and

WHEREAS, the City of Brownsville finds that amendment and clarification of current City ordinances governing sidewalks is necessary to better effect property development and pedestrian mobility within the City of Brownsville; and

WHEREAS, increasing livability and alternative modes of transportation is a stated goal in the Imagine Brownsville Comprehensive Plan adopted by the City Commission in 2009.

WHEREAS, amending these regulations will increase the livability of neighborhoods and connectivity between commercial and residential areas;

THEREFORE, BE IT ORDAINED by the City of Brownsville:

PART 1. Regarding the regulation of Sidewalk Regulations on any tract of land situated within the city's jurisdiction:

Sec. 320-36. GENERAL

This chapter provides for the construction and maintenance of sidewalks on private property throughout the City for the safety and convenience of pedestrians.

Sec. 320-37. DESIGN STANDARDS

- (a) All sidewalks installed within the City shall comply with City design standards for width, location, construction material, finish, appearance and structural quality. City design standards, as that term is used in this Chapter, shall mean the following:
 - (i) Sidewalks shall be constructed of concrete unless otherwise approved by the Engineering Department
 - (ii) Sidewalks shall be four feet in width, and located adjacent and parallel to the property line with a minimum unpaved parkway width of four feet. The parkway width is the distance from the back of curb to the leading edge of the sidewalk.

- (iii) If physical constraints, sidewalk continuity, urban type development or other factors require sidewalks to be placed against the back of curb, the width of sidewalk shall be increased to a minimum of five feet. In locations where buildings are typically constructed at the property line (for example, in the downtown area), the minimum sidewalk width shall either be a.) 7.5 feet; or b.) the distance between the property line and the leading edge of the street or the back edge of the curb if applicable if said distance is less than 7.5 feet.
- (iv) Wherever sidewalks are constructed, the remaining parkway width, whether between the curb and sidewalk or sidewalk and property line, shall remain unpaved.
- (v) "Meandering" sidewalks are permitted but shall be no closer than four feet from the back of the curb at the nearest point.
- (vi) If any connection opportunities exist, sidewalk must be connected.
- (b) Sidewalks and related sidewalk ramps shall conform to Americans with Disabilities Act (ADA) and Texas Accessibility Standards requirements.
- (c) The specific design and location of all sidewalks must be in accordance with the current subdivision sidewalk plan however if no such plan exists as part of the subdivision the design and location shall be reviewed by the Building, Engineering, and Planning departments before being approved.

Sec. 320-38. NEWLY-DEVELOPING AREAS

- (a) Sidewalks are required on both sides of all publicly-maintained streets within the City
- (b) The location and design of sidewalks shall normally be determined during the subdivision process or if subdivision has already occurred then at the site review/ building permit process.
- (c) Due to the potential damage sidewalks can incur during the construction of homes and other buildings, sidewalks should not be installed until building work has been completed on individual properties. Exceptions may be made for streets that are without direct property access.
- (d) Implementation and construction costs of all sidewalks in newly developing areas shall be paid for by the developer, builder or property owner. The City shall not be liable for any sidewalk implementation or construction costs.
- (e) All required sidewalks shall be installed prior to final inspection or issuance of a Certificate of Occupancy.

Sec. 320-39. REDEVELOPING AREAS

- (a) A redeveloping or redeveloped area, as those terms are used in this chapter means the issuance of a building permit for construction that equals or exceeds 50% of the appraised value of any existing improvements as determined by the appraisal district in which the property is located.

- (b) Sidewalks shall be required in redeveloping areas in the same manner as in "Newly Developing Areas" when redevelopment occurs.
- (c) The cost of required sidewalks shall be paid for by the developer, builder or property owner; the City will not participate in the cost.
- (d) When the development is single family residential and in an existing subdivision the requirement for sidewalks will be determined as follows: If sidewalks already exist on more than 40% of the street frontage then a sidewalk will be required. If no sidewalks exist on that particular street and no connections can be made then sidewalks will not be required.
- (e) All required sidewalks shall be installed prior to final inspection or issuance of a Certificate of Occupancy.

Sec. 320-40. EXISTING DEVELOPED AREAS

(a) *New Sidewalks.* New sidewalks may be installed in existing developed areas by either of the following methods:

- (i) *By the property owner at property owner's expense.* Property owners may construct sidewalks along their property frontage at their expense. Sidewalks constructed by individual property owners shall conform to City design standards and will be inspected by the City at no expense to the property owner.

(A) Sidewalks constructed by private property owners must be constructed by qualified bonded contractors under permit by the City of Brownsville Building Department.

- (ii) *By the City at City's expense.* The City may install sidewalks to enhance the safety and convenience of pedestrians. Priority is given to continuous sidewalks that serve a higher number of pedestrians on more heavily-traveled streets or where children typically walk to schools, parks and community centers. City staff prioritizes locations and these are approved by City Commission annually. The number of sidewalks constructed each year is dependent upon funding availability. The City may also install sidewalks as part of a City-funded street reconstruction or public building construction project.

(b) *Replacement Sidewalks.* The maintenance and repair of sidewalks is the responsibility of each individual property owner. The City reserves the right to inspect all sidewalks within City right-of-ways and to notify property owners to make repairs when their sidewalks become unsafe.

(A) Examples of conditions rendering sidewalks unsafe shall include but not be limited to:

- (1) Uneven Sidewalks
- (2) Broken Concrete
- (3) Overgrown Weeds

(B) Where sidewalk repair or replacement is impractical due to physical conditions or lack of right-of-way, the city may elect to remove the sidewalk and return the property to grass.

Sec 320-41. SIDEWALK PLANS

- (a) Sidewalk Plans shall be required for any new subdivision and shall be submitted during platting process and shall also contain the following information
- (1) Location of sidewalks, landings, and curb ramps
 - (2) Design Specifications and Details
 - (3) Identify the party responsible for the construction of the Sidewalks

(b) Sidewalk Plans will be reviewed during the subdivision process and approved by the City Engineering and Planning Departments.

Sec. 320-42. SPECIAL PROVISIONS

If special conditions make sidewalk construction infeasible, unnecessary or undesirable, and such conditions have been verified by City staff, the sidewalk requirement may be waived. Such waivers shall be only be granted by the board of adjustments upon submission of an application requesting a hearing before the Board of Adjustments.

Sec. 320.43 Enforcement and penalties; severability

- (a) A violation of any provision of this chapter shall be punishable in accordance with Sec. 1-13 of the City of Brownsville Code of Ordinances. The terms and provisions of this ordinance are severable in accordance with Sec. 1-12 of the City of Brownsville Code of Ordinances

PART 2. That all provisions of the City Code of Ordinances are incorporated herein by reference and declared to be part thereof; and that this ordinance shall become effective on Dec. 13th, 2011 provided, however that it shall have been signed, attested, and recorded in an ordinance book of the City, with proof of publication, as specified by the City Charter.

INTRODUCED for **FIRST READING** at a Public Hearing on the 15th day of November, 2011.

PASSED on **SECOND AND FINAL READING** on the 13th ^{December} day of ~~November~~, 2011.



Antonio Martinez
Mayor

Attest:



Estela Von Hatten
City Secretary

Approved as to form and legality



Mark Sossi
City Attorney

