

ORDINANCE NO. P15-2

AN ORDINANCE OF THE CITY OF COOPER CITY, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 25-102 “MAINTENANCE REQUIRED” OF ARTICLE VII “DRIVEWAYS AND SIDEWALKS” OF CHAPTER 25 “DEVELOPMENT STANDARDS”, IN ORDER TO AMEND THE CITY’S REGULATIONS, REGARDING THE REPAIR OF SIDEWALKS WITHIN THE CITY; ESTABLISHING A NEW SECTION 25-105 “ENFORCEMENT AND PENALTY” AUTHORIZING ENFORCEMENT ACTION PURSUANT TO ARTICLE VI “CODE ENFORCEMENT” OF CHAPTER 13 “PUBLIC SAFETY” OF THE CITY CODE FOR ANY VIOLATION OF ARTICLE VII; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Cooper City (“City”) is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the City Commission of the City of Cooper City (“City Commission”) recognizes and finds that the proper repair of sidewalks which are available and provided to the public are essential to the quality of life in the City; and

WHEREAS, the City Commission finds that it is in the best interest of the residents of the City to provide for updated regulations concerning the uniform and proper repair of public sidewalks which are located within the City; and

WHEREAS, the City Commission finds that it is necessary to provide for a consolidated summary of procedures for the enforcement of Article VII “Driveways And Sidewalks” regulations as provided by Article VI of Chapter 13 of the City Code; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the City Commission finds that this Ordinance is in the best interest of the citizens and residents of the City; and

WHEREAS, the City Commission has held a public hearing in accordance with Florida law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA¹

Section 1. RECITALS ADOPTED. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. CHAPTER 25 OF CITY CODE AMENDED. That Section 25-102 “Maintenance Required” is hereby amended, and Section 25-105 “Enforcement and Penalty” is hereby created, both Sections being within Article VII “Driveways and Sidewalks” of Chapter 25 “Development Standards” of the City of Cooper City Code of Ordinances, to read as follows:

ARTICLE VII. DRIVEWAYS AND SIDEWALKS

* * *

Sec. 25-102. Repair and Maintenance required.

- A. Repair Of Sidewalks Located On Owner’s Premises. It shall be the duty and responsibility of each property owner (including homeowner associations’ pursuant to Section 6-33(h) of the City Code) ~~of abutting property~~ to construct or reconstruct and to ~~maintain and~~ keep in repair any sidewalks located on their premises (i.e. excluding public sidewalks which are located within the public right of way). ~~uniform and substantial sidewalks, within the paved driveway area.~~

¹ Proposed additions to existing City Code text are shown by underlining; proposed deletions from existing City Code text are shown by ~~strikethrough~~.

B. Driveway Aprons. The apron area of a driveway shall be repaired by the owner of the abutting property so as to remain in a smooth and clean condition, free from ruts, pot holes, loose aggregate and deterioration. Any sidewalks which are separately laid out and constructed as a sidewalk and situated between the paved driveway and the driveway apron area shall be the City's responsibility (in lieu of the owner of the abutting property being responsible for said sidewalk) to the same extent that the City repairs sidewalks pursuant to this Section 25-102, except that the City's responsibility under this paragraph (C) shall be subject to each of the following limitations, restrictions and conditions:

- (i) The City shall cause any sidewalk repair work for which the City is responsible to be done by its own forces or City contractors in accordance with construction specifications, standards and methods which are approved by the City's Public Works Director;
- (ii) The City shall not be responsible for aesthetic or cosmetic differences between the repaired sidewalk and the remaining portion of the driveway or for any lack of uniformity of appearance;
- (iii) Before undertaking any sidewalk repair work pursuant to this paragraph (C), the City Manager may require the benefited property owners to execute release and indemnifications forms (the "Release") which serves to implement this provision and to protect the City and its officers, agents, employees, and contractors from liability. The Release shall also provide for the benefited property owner to be solely responsible for the repair of the remaining portion of the property owner's driveway.

As an alternative to doing the above- described repair work via the City's own forces or City contractor, the City Manager may authorize, by written agreement, the property owner to engage the property owner's own contractor to do the sidewalk repair work, at the property owner's sole cost and expense, except that the City Manager may reimburse the property owner for the cost of the repair, after the work is satisfactorily completed. The amount of reimbursement shall not exceed the cost that the City would have incurred had the City used its own forces or a City contractor for the repair work.

C. Harmony Of Provisions. Except as provided in paragraphs (A) to and including (B) above, ~~All other~~ sidewalks areas within public rights-of-way shall be kept in a structurally sound condition ~~maintained~~ (as defined in Section 6-36(o) of the City Code) by the City. Any sidewalks located within the paved driveway apron area of a non-residential property shall be the property owner's responsibility to construct or reconstruct and keep in repair.

* * *

Sec. 25-105. Enforcement and penalty.

(1) Any person (including a homeowners' association) who violates any provision of Article VII, shall be subject to enforcement under the Local Government Code

Enforcement Act, Chapter 162, F.S., as amended, and Article VI of Chapter 13 of the City Code as amended.

(2) Each day that a violation continues shall be deemed a separate violation.

Sec. ~~25-105~~25-106– 25-109. Reserved.

Section 3. REPEAL. That all sections or parts of the Code of Ordinances, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be and the same, are hereby repealed to the extent of such conflicts.

Section 4. SEVERABILITY. That should any section or provision of this Ordinance, or any portion thereof, of any paragraph, sentence or word, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof, as a whole or a part thereof other than the part declared to be invalid.

Section 5. INCLUSION IN THE CODE. That it is the intention of the City Commission, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of the City of Cooper City; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

Section 6. EFFECTIVE DATE. That this Ordinance shall be in force and take full effect immediately upon its passage and final adoption.

PASSED AND ADOPTED on First Reading this ____ day of _____, A.D., 2015.

PASSED AND FINAL ADOPTION on Second Reading this __ day of _____ A.D., 2015.

GREG ROSS
Mayor

ATTEST:

SUSAN POLING
City Clerk

Approved As To Form:

DAVID M. WOLPIN
City Attorney

ROLL CALL

Mayor Ross _____
Commissioner Sims _____
Commissioner Mallozzi _____
Commissioner Curran _____
Commissioner Green _____

ORDINANCE NO. P15-6

AN ORDINANCE OF THE CITY OF COOPER CITY, FLORIDA, AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 25-102 “MAINTENANCE REQUIRED” OF ARTICLE VII “DRIVEWAYS AND SIDEWALKS” OF CHAPTER 25 “DEVELOPMENT STANDARDS”, IN ORDER TO AMEND THE CITY’S REGULATIONS, REGARDING THE MAINTENANCE OF SIDEWALKS WITHIN THE CITY; ESTABLISHING A NEW SECTION 25-105 “ENFORCEMENT AND PENALTY” AUTHORIZING ENFORCEMENT ACTION PURSUANT TO ARTICLE VI “CODE ENFORCEMENT” OF CHAPTER 13 “PUBLIC SAFETY” OF THE CITY CODE FOR ANY VIOLATION OF ARTICLE VII; PROVIDING FOR REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida Statutes, the City of Cooper City (“City”) is authorized to protect the public health, safety and welfare of its residents and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the City Commission of the City of Cooper City (“City Commission”) recognizes and finds that the proper maintenance of sidewalks which are available and provided to the public are essential to the quality of life in the City; and

WHEREAS, the City Commission finds that it is in the best interest of the residents of the City to provide for updated regulations concerning the uniform and proper maintenance of public sidewalks which are located within the City; and

WHEREAS, the City Commission finds that it is necessary to provide for a consolidated summary of procedures for the enforcement of Article VII “Driveways And Sidewalks” regulations as provided by Article VI of Chapter 13 of the City Code; and

WHEREAS, following proper notice to the public and after having received input and participation by interested members of the public and staff, the City Commission finds that this Ordinance is in the best interest of the citizens and residents of the City; and

WHEREAS, the City Commission has held a public hearing in accordance with Florida law.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA¹

Section 1. RECITALS ADOPTED. That each of the above stated recitals is hereby adopted and confirmed.

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ARTICLE VII. DRIVEWAYS AND SIDEWALKS

* * *

Sec. 25-102 Maintenance required.

- A. It shall be the duty of each owner of abutting property to construct or reconstruct and to maintain and keep in repair, uniform and substantial sidewalks, within the paved driveway area. All other sidewalk areas within public rights-of-way shall be maintained by the city.
- B. Cleaning Of Sidewalks. It shall be the responsibility of each property owner (including homeowner associations’ pursuant to Section 6-33(h) of the City Code) to uniformly clean debris, stain, and mold from all sidewalks on or abutting the front or sides of their property. This area shall also be kept clean and free of weeds, trash and debris and other such obstructions. Notwithstanding any other provisions of this Section, the City may, in its

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discretion, periodically clean (i) those portions of a public sidewalk that abuts non-residential property and which are in the public rights-of-way outside a property owner's boundaries; or (ii) sidewalks which abut the rear property boundary of a residential property that may or may not be separated by a fence or other physical barrier from the property.

* * *

Sec. 25-105. Enforcement and penalty.

(1) Any person (including a homeowners' association) who violates any provision of Article VII, shall be subject to enforcement under the Local Government Code Enforcement Act, Chapter 162, F.S., as amended, and Article VI of Chapter 13 of the City Code as amended.

(2) Each day that a violation continues shall be deemed a separate violation.

Sec. ~~25-105~~25-106– 25-109. Reserved.

Section 3. REPEAL. That all sections or parts of the Code of Ordinances, all ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith, be and the same, are hereby repealed to the extent of such conflicts.

Section 4. SEVERABILITY. That should any section or provision of this Ordinance, or any portion thereof, of any paragraph, sentence or word, be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof, as a whole or a part thereof other than the part declared to be invalid.

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Section 6. EFFECTIVE DATE.

That this Ordinance shall be in force and take

full effect immediately upon its passage and final adoption.

PASSED AND ADOPTED on First Reading this ____ day of _____, A.D., 2015.

PASSED AND FINAL ADOPTION on Second Reading this ____ day of _____ A.D., 2015.

GREG ROSS
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