

CITY OF DRIPPING SPRINGS

ORDINANCE No. 2020-39

AN ORDINANCE AMENDING CHAPTER 28, EXHIBIT A, SUBDIVISION ORDINANCE OF THE DRIPPING SPRINGS CODE OF ORDINANCES; AMENDING REGULATIONS RELATED TO THE INSTALLATION OF SIDEWALKS; PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES; AND, SEVERABILITY.

WHEREAS, the City Council of the City of Dripping Springs (“City Council”) seeks to promote the public health, safety, morals and general welfare of the municipality and the safe, orderly, and healthful development of the municipality, including its extraterritorial jurisdiction; and

WHEREAS, the City Council finds that haphazard laying out of lots and erratic dedication of public infrastructure is harmful to the environment and quality of life; and

WHEREAS, the City Council acknowledges that subdivision controls are based on the land registration system, and that land registration is a privilege that local governments such as Dripping Springs have the power to grant or withhold based on compliance with reasonable conditions; and

WHEREAS, the City Council’s regulation of development is based on the government’s legitimate interests in promoting orderly development, ensuring that subdivisions are constructed safely, and protecting the future owners from inadequate police and fire protection, inadequate drainage, and unsanitary conditions; and

WHEREAS, the City Council determines that the provision of sidewalks assists with safe and proper development; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Chapter 212 of the Texas Local Government Code, the City has the authority to adopt rules governing plats and subdivisions of land; and

WHEREAS, the City has determined that amending its ordinance related to subdivisions is required by state law; and

WHEREAS, the City has the statutory authority to regulate the size of lots in the City’s extraterritorial jurisdiction (ETJ) as a component of the City’s Water Quality Protection Program, enacted pursuant to Sections 26.177 and 26.180 of the Texas Water Code, and Section 401.002 of the Local Government Code, which authorizes

the City to adopt an ordinance promoting water protection, preventing water pollution, and mandating abatement; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace or order of the City of Dripping Springs to adopt an ordinance regulating the subdivision and platting of land.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DRIPPING SPRINGS:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Chapter 28, Exhibit A Subdivision Ordinance of the City of Dripping Springs Code of Ordinances is hereby amended so to read in accordance with Attachment A, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

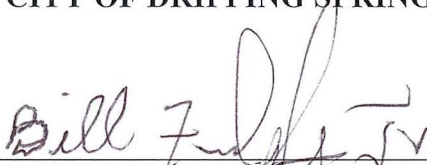
This Ordinance shall be effective immediately upon passage and publication as provided for by law.

7. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 14th day of July 2020, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Dripping Springs, Texas.

CITY OF DRIPPING SPRINGS:



Bill Foulds, Jr., Mayor

ATTEST:



Andrea Cunningham, City Secretary



SECTION 15. SIDEWALKS

15.1. Requirements Purpose

~~Pedestrian concrete walkways (sidewalks) not less than four feet (4') wide shall be required on both sides of Collector and Arterial streets without open ditch drainage, in accordance with the Thoroughfare Plan.~~

15.1.1 Pedestrian concrete walkways (sidewalks) shall be required for all residential and nonresidential developments within the City Limits and ETJ. Sidewalk width and location shall be in accordance with the Transportation Master Plan (TMP).

15.1.2 When not defined by the TMP the following shall apply:

- (a) For Commercial Site Developments: A minimum 5' sidewalk shall be provided within adjacent street right of way (ROW) along the entire frontage of the property.
- (b) For Residential Subdivisions: A minimum 5' sidewalk shall be required within ROW on both sides of all streets.

15.2. Specifications Requirements

~~Sidewalks not less than five feet (5') wide shall be provided within all residential and nonresidential developments, as set forth in the City of Dripping Springs' Code of Ordinances and in applicable state standards. Root barriers shall be installed underneath, and along with the construction of, all required sidewalks. Barrier free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns. Sidewalks shall be constructed within the street right of way, one foot (1') away from the right of way line, and at least five feet (5') away from the street curb. In certain instances, the City Administrator may, in consultation with the planning department and the City Engineer, approve placement of the sidewalk adjacent or closer than five feet (5') to the curb or located on private property and in a public access easement, provided that such placement benefits the general public by allowing more space for landscaping, such as for street trees, screening shrubs, and decorative walls and fences, and provided that the width is increased to a minimum of five feet (5') of sidewalk pavement or to such a width as may be needed in the interest of public safety.~~

15.2.1 Sidewalks shall be constructed in compliance with the Dripping Springs Technical Criteria Manual (DSTC).

15.2.2 Sidewalk Plan: A sidewalk plan shall be required on all Construction Plans and Site Development Plans. Plans shall show the location of all proposed sidewalks and shall state at what stage of the project they will be constructed. If compliant sidewalks have already been constructed, the constructed sidewalks shall appear on

all Construction Plans and Site Development Plans.

15.2.3 Sidewalk Alignment: Sidewalk alignment shall comply with that set forth in the TMP with the following exceptions:

- (a) A sidewalk shall be allowed to meander within the ROW or an easement upon approval by the Development Review Committee.
- (b) Routing to clear poles, trees or other obstacles shall be subject to approval by the Development Review Committee.
- (c) When not defined by the TMP sidewalks shall be constructed within the ROW, a minimum one foot (1') away from the ROW line, and at least five feet (5') away from the street curb.
- (d) In certain instances, the Development Review Committee may approve placement of sidewalks adjacent or closer than five feet (5') to the curb or located on private property and in a public access easement, provided that such placement benefits the general public by allowing more space for pedestrian safety, drainage facilities, landscaping or tree preservation.
- (e) Where no raised curb is installed, the sidewalk shall be at least ten (10) feet from the edge of pavement (EOP) unless otherwise approved by the Development Review Committee.

15.2.4. Root barriers shall be required, as determined by the City Engineer, in locations where trees are (or will be) in close proximity to the sidewalk.

15.2.5. ADA requirement: All sidewalks shall be designed and constructed to meet the Texas Accessibility Standards administered by the Texas Department of Licensing and Regulation and the Americans with Disabilities Act, as amended. Barrier-free ramps shall be constructed at all street intersections and at any other locations deemed appropriate by the City due to anticipated pedestrian travel patterns.

15.2.6. Finish: All sidewalks shall have a light broom-swept finish to provide a non-slip surface.

15.3. Roadway Arterials City Acceptance and Certificate of Occupancy

15.3.1 All Ssidewalks along a perimeter roadway or arterial streets or in public sidewalk easements are considered part of the overall development's required public improvements and shall be installed prior to acceptance of the subdivision public improvements by the City and prior to final plat approval, unless fiscal surety is provided.

- (a) Exception: To prevent damage to newly constructed sidewalks. Construction of sidewalks fronting residential or commercial lots may occur after City acceptance of public infrastructure and final plat approval if fiscal surety is provided.

~~15.3.2 In any event, a Certificate of Occupancy will not be issued for any lot or Unit within the subdivision until the required sidewalks are in place or appropriate surety is provided.~~

15.4. Eserow Fee in Lieu of Construction

~~The cost and provision of any perimeter sidewalks, such as along major thoroughfares, may be escrowed as a part of a developer's agreement, if approved by the Planning and Zoning Commission. The City has the right, but not the obligation, to refuse escrow and to require paving of the sidewalks if, in its sole opinion, immediate provision of the sidewalks is necessary for safe pedestrian circulation or if it would otherwise protect the public health, safety, convenience or welfare.~~

15.4.1. Fee-in-Lieu of construction of sidewalks may be accepted when approved by the Development Review Committee.

15.4.2. The Development Review Committee shall consider the following criteria when evaluating a request for fee-in-lieu of construction for sidewalks:

- (a) Proximity to the nearest existing sidewalk.
- (b) Proximity to public facilities, such as public or private schools, libraries and other government buildings;
- (c) Whether any public sidewalk improvements are planned or contemplated in the area; and
- (d) Any other information deemed appropriate by the Development Review Committee.

15.4.3. Fee-in-Lieu payments shall be placed in the City of Dripping Springs Sidewalk Fund. Payments will be calculated based on the square feet of sidewalk construction waived as set out in the Fee Schedule. Funds shall be used for the sole purpose of sidewalk improvements and pedestrian amenities in public right of way, parks and sidewalk easements within the City. The fee in lieu of sidewalks shall be paid in full to the City prior to approval of the construction plans or site development plans.