

ORDINANCE NO. 4454

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING CHAPTER 15 OF THE CODE OF THE CITY OF MESQUITE, TEXAS, AS AMENDED, BY DELETING SECTION 15-44 IN ITS ENTIRETY AND ADDING A NEW SECTION 15-44 REGARDING THE REPAIR OF SIDEWALKS AND STREET APPURTENANCES AND THE CITY'S COST SHARE PROGRAM; PROVIDING A REPEALER CLAUSE; AND PROVIDING A SEVERABILITY CLAUSE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Chapter 15 of the Code of the City of Mesquite, Texas, as amended, is hereby amended by deleting Section 15-44 in its entirety and adding a new Section 15-44 to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

Sec. 15-44. Repair of sidewalks and street appurtenances; City cost share program.

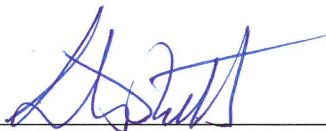
- (a) *Duty of owner.* When a sidewalk, driveway approach, curb, gutter or appurtenance ("sidewalk or street appurtenance") becomes defective, unsafe or hazardous, it shall be the duty of the owner of the abutting property ("property owner") to reconstruct or repair it at the property owner's expense. When a sidewalk or street appurtenance is found to be defective, unsafe or hazardous, the Building Official shall notify the owner to reconstruct or repair it.
- (b) *City cost share program.* If revenues are available, the City may participate in the reconstruction or repair of a sidewalk or street appurtenance with an eligible property owner on a 50/50 basis.
- (c) *Policies and procedures of cost share program.* The City's 50/50 cost share program ("the program") shall operate as follows:
 - (1) *Eligible properties:* Property owners of the following types of owner-occupied properties are eligible to participate in the program: Single-family residences, duplexes, town homes and condominiums. Only sidewalks and street appurtenances in the City's right-of-way are eligible. In no event will reconstruction or repairs be performed on private property.
 - (2) *Cost:* The property owner's share of cost under the program shall be one-half of the total estimated cost for the requested improvements, excluding costs of non-barrier ramps.
 - (3) *Trees:* All trees located in the City's right-of-way shall be removed in conjunction with each project. The cost of removal shall be included in the estimate of each project.

- (4) *Damage to improvements.*: The City shall not be responsible for damage that may occur to sprinkler systems, trees, shrubs or other improvements in the City's right-of-way. It shall be the responsibility of the property owner to protect these improvements before and during reconstruction or repair.
- (5) *Method of payment*: The property owner shall make payment to the City in the full amount of their share before commencement of reconstruction or repair or, alternatively, pursuant to a payment agreement, in 12 or 24 monthly payments. Payment agreements must be made through the City Tax Office with the first payment due and paid before commencement of the reconstruction or repair, and subsequent payments due on the dates set forth in the agreement. No interest will be charged if payments are made according to the agreed schedule. If a balance remains unpaid at the end of the agreed schedule, interest will be charged on an annual rate of the lesser of six percent or the maximum rate allowed by law, until the outstanding balance is paid.
- (6) *Lien*: Where the abutting property owner makes a payment agreement with the City Tax Office, their share of the cost of the reconstruction/repair performed by the City, together with interest shall constitute a personal claim against them and shall be secured by a lien on such property which may be enforced against the owner in the manner provided by law. Upon full and final payment of such costs, the City will release the lien.
- (7) *Rework*: In the event the replaced sidewalk or street appurtenance reconstructed through the program fails within one year of the completion of the replacement under the program, the City shall make appropriate repairs, as determined to be necessary by the City, to the failed section at no additional cost to the property owner.
- (8) *Refund and reimbursement*:
 - a. *Refund*. An abutting property owner may make a written request for a refund before initiation of the reconstruction or repair. In no event shall a refund be made after the City begins work.
 - b. *Reimbursement*. Property owner shall be eligible for reimbursement of the portion of the cost of replacement or repair for work done in connection with the program if within two years of the completion of the replacement or repair, the City undertakes a capital improvement project and the sidewalk or street appurtenances reconstructed or repaired through the program is replaced in connection with the capital improvement project. Reimbursement under this paragraph is available only for areas included in the capital improvement project on a pro rata basis, except that a driveway approach widened beyond the original approach width under the program is ineligible for any reimbursement.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

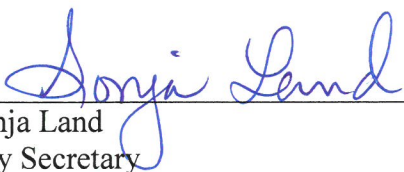
SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 17th day of October, 2016.



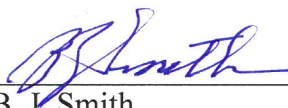
Stan Pickett
Mayor

ATTEST:



Sonja Land
City Secretary

APPROVED:



B. J. Smith
City Attorney