

ORDINANCE NO. 1144

AN ORDINANCE ASSIGNING RESPONSIBILITY FOR SIDEWALKS, PUBLIC PLANTING STRIPS, AND DRIVEWAY APPROACHES

THE PEOPLE OF THE CITY OF PRINEVILLE ORDAIN AS FOLLOWS:

1. Definitions. For the purposes of this Ordinance, the following definitions shall apply:

- a. *Driveway Approach.* A driveway approach is an area, construction, or improvement located within the public street right-of-way between the roadway of the public street and private property intended to provide access for vehicles from the roadway of a public street to private property and used for the ingress and egress of vehicles.
- b. *Property Owner.* The owner or the contract purchaser of record of real property adjacent to the sidewalk.
- c. *Sidewalk.* That portion of the public street right-of-way intended for the use of pedestrians and improved by surfacing.
- d. *Planting Strip.* That portion of a public street right-of-way that lies between the roadway and the sidewalk.
- e. *Roadway of Public Street.* That part of a public right-of-way street where vehicles drive and where vehicles park, excluding any curbs.
- f. *City.* The City of Prineville.
- g. *Superintendent.* The City of Prineville's Public Works Superintendent or his/her designee.

2. Maintenance of Sidewalks, Driveways, and Planting Strips. All property owners shall maintain sidewalks, driveway approaches, and planting strips adjacent to their property in good repair.

3. Liability for Injury.

- a. A property owner responsible for maintaining the adjacent sidewalk, planting strip, and driveway approach shall be liable to any person injured because of any negligence of the property owner in failing to maintain the sidewalk, planting strip, and/or driveway approach in good condition.
- b. If the City is required to pay damages for an injury to persons or property caused by the failure of a property owner perform the duty imposed by Section 2, the property owner failing to perform the duty shall compensate the City for the full amount of the damages paid and all City legal fees incurred in defense of such a claim. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

4. Notice to Repair.

- a. If a property owner allows a sidewalk, driveway approach, or planting strip adjacent to such owner's property to become out of repair, and the Superintendent has personal notice of the same, it shall be his or her duty to post a notice on the adjacent property or on a tree immediately in front thereof entitled "Notice to Repair." The notice shall be in legible characters and shall direct the owner, agent, or occupant of the property to immediately repair the sidewalk, driveway approach, and/or planting strip in good and substantial manner in accordance with Section 7 below.

b. A notice to repair the sidewalk, driveway approach, or planting strip shall be mailed by certified mail, return receipt requested, to the property owner as shown on the Crook County Tax Assessor's records. A mistake in the name or address of the property owner does not render the notice void, but in such case the posted notice shall be sufficient.

c. The Superintendent shall file with the City Recorder an affidavit of the posting of the notice, stating the time and place of posting and also any proof of mailing the notice to the property owner.

5. Repair by the City. If within 20 days after such notification of repair has been posted and mailed, the sidewalk, driveway approach, and/or planting strip are not repaired or the repairs are not completed by a date agreed upon by the property owner and the Superintendent, which agreement was made within the same 20 day period, then the City may make the necessary repairs. The costs of repairs, plus an administrative fee equal to five percent of the repairs, shall constitute a lien against the property and shall be entered in the docket of city liens.

6. City Liens. If a lien is not paid in full by the property owner within 30 days after entry in the lien docket, the City may foreclose the lien in the manner provided for delinquent assessments for public improvements.

7. Improvement Standards. Improvements or repairs to any sidewalk or driveway approaches shall conform to the City of Prineville's standard specifications for sidewalks and/or driveways and shall also conform to ADA standards.

8. Permits. All persons seeking to construct or repair sidewalks, driveway approaches, and/or planting strips shall first obtain a permit for the same from the City. Such persons shall also have the specifications for the construction approved by the Superintendent prior to commencing construction and shall have the placement of the forms approved by the Superintendent prior to pouring concrete.

9. Appeal. Any person aggrieved by a ruling by the Superintendent in connection with the proposed construction or repair of any sidewalk, driveway approach, or planting strip within the City may appeal the ruling to the City Manager. Any person aggrieved by a ruling of the City Manager in connection with the proposed construction and repair of any sidewalk, driveway approach, and/or planting strip may appeal the ruling to the City Council and the decision of the City Council shall be final on the matter.

10. Severability. A finding by any court of competent jurisdiction that any portion of this Ordinance is unconstitutional or invalid shall not invalidate any other provision or the remaining provisions of this Ordinance.

11. Repeal. Sections 92.15, 92.16, 92.17, 92.18, 92.19, and 92.20 of the Code of Prineville are hereby repealed.

Passed by the City Council this 24th day of July, 2007.

Signed by the Mayor this 24th day of July, 2007.



Mike Wendel, Mayor

ATTEST:



Robb Corbett, City Recorder/Manager