

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF AMARILLO, TEXAS:
AMENDING THE AMARILLO MUNICIPAL CODE,
CHAPTER 4-6, ARTICLE IV, BY ADDING SECTION 4-6-
191 REGARDING THE CITY'S SIDEWALK COST-SHARE
PROGRAM; PROVIDING FOR SEVERABILITY;
PROVIDING FOR A REPEALER; PROVIDING FOR A
PENALTY; AND PROVIDING FOR PUBLICATION AND
AN EFFECTIVE DATE.**

WHEREAS, the City Council has been presented evidence that the City's adopted Neighborhood Plans have an interest in the repair and replacement of public street and sidewalks that are damaged and in disrepair to the extent it is considered a nuisance and presents health and safety issues at properties within these Plans;

WHEREAS, the City Council desires to clarify the property owner's responsibility to maintain in good repair sidewalks and street appurtenances for health and safety purposes;

WHEREAS, to assist property owners in the maintenance and repair of such sidewalks and street appurtenances, the City Council further desires to develop a City cost-share program to aid property owners within these neighborhood plans financially if revenues are available to complete such projects; and

WHEREAS, the City Council finds that such repairs are in the best interest of their citizens, and acting under their home rule authority, has the power to enact ordinances to protect the health, safety, and welfare of its citizens.

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

SECTION 1. All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. The Amarillo Municipal Code, Chapter 4-6, Article IV, Public Improvement Maintenance or Use, is hereby amended by adding a new section 4-6-191 and reads as follows:

Sec. 4-6-191. Repair of sidewalks and street appurtenances; City cost-share program.

- (a) *Duty of Owner.* Any owner of property abutting on a public Street and Sidewalk shall maintain in good repair the Sidewalk and any driveway approach apron crossing the Sidewalk as stated in Sec. 4-6-187.
- (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 located in one of the City's adopted Neighborhood Plan boundaries. Notice of funding availability and program criteria for each Neighborhood Plan area will be posted in a

supplementary sidewalk program policy document on the City's website at [Amarillo.gov/neighborhood planning](http://Amarillo.gov/neighborhood_planning).

- (c) *Policies and procedures of cost-share program.* The City's cost-share program ("the program") shall operate as follows:
- (1) *Eligible properties:* Property owners of the following types of owner or tenant-occupied properties are eligible to participate in the program: single-family residences, duplexes, townhomes, and condominiums within one of the City's adopted Neighborhood Plan boundaries. The Plan shall list as a priority goal the repair and reconstruction of sidewalks or street appurtenances. The supplementary sidewalk program policy may further define eligibility based upon the Neighborhood Plan goals.
 - (2) *Sidewalk Evaluation Criteria:* Only sidewalks and street appurtenances in the City's right-of-way determined to be damaged or in disrepair to the extent it is a nuisance are eligible. In no event will reconstruction or repairs be performed on private property. Drive-way ramps are eligible. Curbs and gutters are the responsibility of the City of Amarillo and will not be charged to the property owner.
 - (3) *Cost:* The property owner's share of cost under the program shall be 50% of the total estimated cost for the requested improvements, or a percentage calculated based on the criteria in the Neighborhood's supplementary program policy.
 - (4) *Trees:* All trees located in the City's right-of-way shall be removed in conjunction with each project that is considered to be an obstacle for repair. The cost of removal shall be included in the estimate of each project.
 - (5) *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.
 - (6) *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 18 monthly payments. Payment agreements must be made through the City Finance 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, late fees 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.
 - (7) *Lien.* Where the property owner makes a payment agreement with the City Finance 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 superior to any other lien or claim except State, County, and City ad valorem taxes, and 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.

- (8) *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 plan, 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.
- (9) *Refund and reimbursement:*
 - a. *Refund.* A 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.* A Property owner shall be eligible for reimbursement of the portion of the cost of replacement or repair for work done in connection with the plan 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 plan 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 plan is ineligible for any reimbursement.

SECTION 3. Severability. If any provision, section, subsection, sentence, clause or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this Ordinance or the application thereby shall remain in effect, it being the intent of the City Council of the City of Amarillo, Texas in adopting this Ordinance, that no portion thereof or provision contained herein shall become inoperative or fail by any reasons of unconstitutionality of any other portion or provision.

SECTION 4. Repealer. All ordinances and resolutions or parts thereof that conflict with this Ordinance are hereby repealed, to the extent of such conflict.

SECTION 5. Publishing and Effective Date. This Ordinance shall be published and become effective from and after its date of final passage.

INTRODUCED AND PASSED by the City Council of the City of Amarillo, Texas, on First Reading the day of 2022 and PASSED on Second and Final Reading the day of 2022.

Ginger Nelson, Mayor

ATTEST:

Stephanie Coggins
City Secretary

APPROVED AS TO FORM

Bryan McWilliams,
City Attorney