

TOWN OF FREDERICA ORDINANCE NO. 22- 06

AN ORDINANCE AMENDING CHAPTER 365 – Streets and Sidewalks

BE IT ORDANIED BY THE MAYOR AND COUNCIL OF THE TOWN OF FREDERICA IN COUNCIL MET:

Section 1. That Section 365 of the Frederica Code shall be amended to establish ‘Article IV – Sidewalk and Curb Improvements’ with the following language:

Article IV – Sidewalk and Curb Improvements

§ 365-45 Sidewalk and curb.

A. Requirements.

- 1.) All new construction in the Town shall include installation of sidewalks and curbing on street frontage, on corner lots, and on the side exposed to traffic at the property owner’s expense. The sidewalks should be installed on the property or on the land abutting their property for the entire length such property abuts or forms a part of any street.
- 2.) New streets in subdivisions shall provide sidewalks on both sides of the street. Sidewalks shall be dedicated as part of the right-of-way of all streets.
- 3.) Curbs and gutters may be required for the purposes of drainage, safety, and the delineation or protection of pavement edges.
- 4.) Sidewalks and curbing must be installed before a certificate of occupancy is issued.

B. Construction standards.

- 1.) See Article 8, Table 8-1 of the LDO – Dimensional density standards.
- 2.) No building permit shall be issued unless and until the plans for the sidewalk shall have been set forth on the plans submitted and approved by the Town Council or their designee.

C. Installation by Town; Assessment of Costs.

Upon failure of the owner to install said sidewalks, the Town may install them and assess the costs thereof to the owner, payable by the owner within 60 days of the notice by the Town to the owner. Assessments so made shall immediately constitute a lien on said property and shall bear interest thereon at a rate of 12% per annum, commencing on the 61st day following notice of the assessment. Notice pursuant to this subsection shall be deemed sufficient if delivered by First Class mail to the owner of record as set forth on the Town tax rolls.

D. Fee In Lieu of Sidewalk Construction.

- 1.) When strict adherence to this Section is determined to be impractical, the owner or developer shall pay the equivalent cost of the current construction of said sidewalk(s), as determined by the Town or its designee. Payments received in lieu of construction shall be placed in a restricted fund and set aside in a deferred revenue account to be used to install and/or maintain/repair sidewalks within the Town limits as determined by the Town.
- 2.) An applicant may request to pay a fee in lieu of installation of a sidewalk at the time the applicant submits a permit application in the manner prescribed by the Town Manager or his/her designee. An applicant who has not filed a request at the time of application may later amend the application to request to pay a fee instead of installing a sidewalk.
- 3.) For a sidewalk required under this Section, the Town Manager, or his/her designee, may approve payment of a fee in lieu of installation of a sidewalk if the Town determines that:
 - a. There are no sidewalks in the vicinity, and it is unlikely that there will be development nearby that would require the installation of sidewalks;
 - b. Installation of the sidewalk would require the removal of a protected tree or other major obstruction within the right-of-way;
 - c. A stormwater drainage ditch or similar public utility facility prevents the installation of the sidewalk, and neither the sidewalk

nor the facility can be reasonably relocated to accommodate both the sidewalk and the facility;

- d. The topography would require the construction of a retaining wall more than two feet high to accommodate the sidewalk; or
- e. Other unusual circumstances make the sidewalk installation requirement unreasonable or inappropriate.

Section 3. Severability. The provisions of this Ordinance are severable, and if any of its provisions or any sentence, clause, or paragraph shall be held unconstitutional or violate the Laws of the State of Delaware by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 4. Effective Date. The Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law; and this Ordinance shall take effect and be in force thirty days from and after its approval by Council.

Section 5. Repealer: All ordinances and parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

ORDAINED AND ENACTED INTO THE LAW by a majority vote of the Council Members present at a regular session of Frederica Town Council, Delaware on the 6 day of July, A.D. 2022.

First Reading: June 15, 2022

Public Hearing and Second Reading: July 6, 2022

Published: August 6, 2022



William C. Glanden

Mayor

I do hereby certify that the foregoing is a true and correct copy of the Ordinance passed by the Town Council at its meeting on July 6, 2022 at which meeting a quorum was present and voting throughout that the same is still in full force and effect.


Clerk

SYNOPSIS:

This Ordinance amends Chapter 365 of the Code to establish Article IV, Sidewalk and Curb Improvements.