

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 13 SIDEWALK REGULATIONS

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6-13-1 PURPOSE. The purpose of this Chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-13-2 DEFINITIONS. As used in this Chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics shall be considered defective:

- a. vertical separations equal to three-fourths (3/4) inch or more;
- b. horizontal separations equal to three-fourths (3/4) inch or more;
- c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter;
- d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more;
- e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more;
- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot;
- g. a sidewalk with any part thereof missing to the full depth; or

h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement or removal of a public sidewalk or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-13-3 GRADE. The Director of Public Works shall be responsible for determining the proper grade.

6-13-4 SIDEWALK SPECIFICATIONS. The Council may by resolution determine width, thickness and type of construction of public sidewalks.

6-13-5 CLEANING SNOW AND ICE ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Secs. 364.12(2)(b) & (e))

6-13-6 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

(Code of Iowa, Sec. 364.12(2)(c))

6-13-7 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the abutting property owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to

the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

6-13-8 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall state that the property owner may request a hearing by the City Council within fifteen (15) days or receipt of the notice.

6-13-9 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order work to proceed to repair, replace or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(e))

6-13-10 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to immediately notify the City in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this Chapter.

6-13-11 STANDARD SIDEWALK SPECIFICATIONS.

1. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Director of Public Works, and in accordance with the standard sidewalk specifications set forth in this Chapter.

2. Ramps for the Disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk. This shall apply to construction of new sidewalks only.

(Code of Iowa, Sec. 216C.9)

6-13-12 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements without first obtaining a permit from the City Clerk. The permit shall

state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Director of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this Chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-13-13 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions and specifications of this Chapter, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this Chapter.

(Code of Iowa, Sec. 364.12(2)(e))

6-13-14 INSPECTION AND APPROVAL. Upon final completion, the Director of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work meets all requirements of this Chapter, including specifications and obtaining a permit, the Director of Public Works shall indicate this on both copies of the permit.

6-13-15 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner and the lessee of the property.

6-13-16 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice or warning device provided by this Chapter.

6-13-17 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements and/or repair of sidewalks in the City according to the special assessment procedures established under Chapter 384, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-13-18 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this Chapter, the City Clerk shall send a notice to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the property owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and that the property owner may pay the amount assessed within thirty (30) days without interest or penalty. The notice shall also indicate that the property owner may object to such assessment and be given the date, time and place for which the property owner may come before the City Council to voice any such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-13-19 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-13-20 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the City Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by the City Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments pursuant to Chapter 384, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the City Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-13-21 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).