

CITY OF AMITY

AGENDA OF THE CITY COUNCIL

October 18, 2023 @ 5:30 pm

City Hall
109 Maddox Avenue
Amity, Oregon

WORK SESSION

Meeting ID: 872 3486 4153

Passcode: 052165

CALL TO ORDER

COUNCIL ROLL CALL: Melissa Bojorquez, April Dyche, Sandy McArthur, Caleb Shields, Alice Thompson and Mayor Rachel King

FORMAT OF THE WORK SESSION:

Work Sessions are “informal” opportunities for Council to meet and discuss City operations and business directly with City Staff in a non-decisional forum (one that does not require votes of/by Council). The Mayor and Council may direct, guide, and advise City Staff on City projects and programs. The Public is welcomed to attend but may not be afforded the opportunity to speak or engage (this is at the discretion of the Mayor). However, the Mayor and Council may address specific issues posed by community members, ask individuals to attend to present their issues to Council, and may direct City Staff to resolve those issues.

1. **CITIZEN COMMENTS/QUESTIONS** An opportunity to present items not on the regular agenda. Please state your name and address and limit your comments to **three (3) minutes**.
2. **CITY ADMINISTRATOR COMMENTS**
 - a. None
3. **TOPICS OF DISCUSSION**
 - a. Discuss Sidewalk Ordinance
4. **OPEN FORUM & DISCUSSION FROM THE MAYOR & CITY COUNCILORS**
 - a. Mayor Comments – Rachel King
 - b. Infrastructure – Councilors McArthur & Councilor Shields
 - c. Community Engagement – Councilors Bojorquez & Councilor Thompson
 - d. Public Safety – Councilor Dyche
 - e. Parks – Councilor Thompson
 - f. City Services – Councilor Shields & Councilor McArthur
 - g. Finance – Councilors Dyche & Councilor Bojorquez

The Mayor and Council will orally provide updates on their focus areas

ADJOURNMENT

ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Administrator's office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 hours prior to the meeting. To request these arrangements, please contact Natasha Johnson, City Recorder, at 503-835-3711



CITY OF AMITY

109 Maddox Avenue
P.O. Box 159
Amity, OR 97101

Ph: (503) 835-3711
Fax: (503) 835-3780

AGENDA ITEM

Subject: Sidewalk Ordinance Review
Date: September 6, 2023
Origin: Nathan Frarck, City Administrator
Action Requested: Approval of Resolution No. 2023-16

Background:

Recently the Amity City Council reviewed their current sidewalk ordinance and found some language that seemed to be outdated (i.e. sidewalk construction triggered by any renovation or improvement over \$5,000). This requirement did not match the Amity Development Code (which requires sidewalk at the construction of a new single family home) and there were questions regarding whether or not that was still an appropriate requirement.

City Council and City staff have been asked to review the ordinance and highlight areas of concern for further review. City staff have also gathered sidewalk ordinances from a few neighboring cities (Willamina, Dallas, McMinnville, Dundee, and Dayton) and attached them for comparison. Most other ordinances seem to have similar requirements, except instead of the \$5,000 improvement requirement, they just require sidewalk construction at the building of new homes/structures.

Exhibits:

- Exhibit A – Amity Sidewalk Ordinance
 - Exhibit B – Willamina Sidewalk Ordinance
 - Exhibit C – Dallas Sidewalk Ordinance
 - Exhibit D – McMinnville Sidewalk Ordinance
 - Exhibit E – Dundee Sidewalk Ordinance
 - Exhibit F – Dayton Sidewalk Ordinance
-

Recommendation:

Review Sidewalk Ordinances and think about what Amity's goals for sidewalks are and how the City can get there.

§ 92.04 CURBS, SIDEWALKS, AND DRIVEWAYS.

(A) All sidewalks and driveways installed within the City right-of-way shall be designed, constructed, reconstructed, altered, or repaired in accordance with the latest version of the Public Works Design Standards.

(B) It is the duty of an owner of land adjacent to a public right-of-way in the City to construct, reconstruct, repair, and keep clear of leaves, ice, snow, and all other obstructions or hazards to the public which are reasonably removable on all sidewalks and driveways adjacent to said land. The Engineer shall notify the property owner of the need to repair sidewalks and driveways after determining that the existing sidewalk is in such a state of disrepair that the condition or defect is such that it would create a danger to pedestrians. Such notice to the property owner shall be in writing.

(C) No person in charge of any building or structure shall suffer or permit rainwater, ice, or snow to fall from such building or structure onto a street or public sidewalk or to flow across such sidewalk.

(D) The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about such will not be carried across or upon any sidewalk.

(E) The owner responsible for maintenance of the adjacent sidewalk and driveway shall be liable to any third person who sustains any injury or damage as a result of inadequate maintenance, repair, construction, or failure to adequately remove snow, ice, leaves, or any other hazard or obstruction from that portion of sidewalk or driveway abutting his or her property. Additionally, any person who fails to perform or comply with the duties imposed by this division (E) shall be liable to any third person for injuries or damages suffered as a result of such failure.

(F) No owner or person in charge of property shall permit a cellar door or grate located in or upon a sidewalk or public pathway to remain open except when such entrance is being used and, when being used, there are adequate safeguards for pedestrians using the sidewalk.

(G) No person, except as otherwise permitted by chapter, shall obstruct, cause to be obstructed, or assist in obstructing vehicular or pedestrian traffic on any street or public sidewalk.

(H) Concurrent with the issuance of a building permit for the construction of a building for residential use or business structures or an addition or alteration to a dwelling or business structure, the value of which is \$5,000 or more.

(1) The owner, builder, or contractor to whom the building permit is issued shall meet the following requirements:

(a) Construct a sidewalk within the dedicated right-of-way for the full frontage in which a sidewalk in good repair does not exist. The sidewalk construction shall be completed within the building construction period or prior to issuance of an occupancy permit, whichever is the lesser; and

(b) Dedicate right-of-way in accordance with an approved City plan.

(2) The Engineer may issue a permit and certificate allowing noncompliance with the provisions of this section to the owner, builder, or contractor when, in his or her opinion, the construction of a sidewalk is impractical for one or more of the following reasons.

(a) Sidewalk grades have not and cannot be established for the property in question within a reasonable period of time.

(b) Future installation of public utilities or street paving would, of necessity, cause severe damage to existing sidewalks.

(c) Topography or contours make the construction of a sidewalk impractical.

(d) The noncompliance provided in divisions (H)(2)(a) and (H)(2)(b) above shall be temporary and shall cease to exist when grades are established for sidewalks by the Public Works Department or when public utilities or street paving have been constructed.

(3) If the owner, builder, or contractor considers any of the requirements impractical for any reason, they may appeal the decision to the Public Works Superintendent.

(4) If sidewalk is not constructed within the time required by this section, then the City may construct it for the full street frontage in front of the property and proceed with the construction, assessment, and collections of costs as provided for in this division (F) above.

(I) It is the duty of every property owner whose vacant or undeveloped property abuts upon any street, which has been improved with a hard-surface pavement, to construct a concrete curb and sidewalk conforming to City ordinances when 50% of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within two years after notice by the Engineer.

(J) It is the duty of every property owner of developed property whose property abuts upon a street, which has been improved with a hard-surface pavement, to construct a concrete curb, sidewalk, and driveway conforming to City ordinances when 50% of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within one year after notice by the Engineer.

(K) It is the duty of every property owner whose property abut upon a street designated as a "high pedestrian use street" to construct a concrete curb and sidewalk conforming to City ordinances within one year after notice by the Engineer. The Engineer shall identify "high pedestrian use streets" by determining whether a certain street is a primary walking route to schools, community buildings, or commercial areas and whether the absence of sidewalks along those walking routes is a potential danger to pedestrians. The Engineer may also apply other factors such as pedestrian counts, projects under construction, or sites designed for development when identifying "high pedestrian use streets."

(L) The City Council may, when it deems it reasonable, necessary, and expedient, order the construction, reconstruction, or repair of a sidewalk or driveway by the owner or owners of land adjoining any public right-of-way in the City.

(1) The order shall be by written resolution and shall contain:

(a) A description of the land adjacent to the ordered work and the same may be by street address only;

(b) The names or names of the owners of the affected property;

(c) The time within which the work is to be completed;

(d) The order of the Council requiring the work to be accomplished; and

(e) An order directing the Engineer to notify the owners of the City Council action.

(2) The Engineer shall be responsible to assure that the following requirements are fulfilled when the powers of City Council are to be used to accomplish the construction, reconstruction, or repair of sidewalks or driveways.

(a) Notices shall be sent out ten days in advance of any Council action to the affected owners, or his, her, or their agents, that consideration will be given to the construction, reconstruction, or repair of the sidewalks or driveways adjacent to his, her, or their property.

(b) It shall be deemed sufficient that the notice is served by one or more of the following methods:

1. Registered mail;
2. Posted on the property;
3. Served personally; and/or
4. Publication in a local paper.

(c) A mistake in the name of the owner shall not render void such notice.

(3) In the event the order of the Council for the construction, reconstruction, or repair of a sidewalk or driveway is not complied with within the time designated or is not complied with according to the Engineer's specifications or directions, the Engineer shall cause the order to be performed either by contract or force account and shall keep an accurate cost record of the expense as it applies to each parcel of land.

(4) Upon receipt of the record of costs specified in the above, the Council shall by ordinance assess the cost of all work against the adjacent property. The assessment shall be a lien against the property and may be collected in the same manner as is provided by law for the collection of unbonded liens for local improvements.

(5) The provisions of the Bancroft Bonding Act being ORS 223.205 et seq. of the state shall not be applicable to assessments made under this chapter unless the Council directs otherwise in the resolution ordering alternative forms of financing by or under the direction of the City upon such terms and provisions as the Council may deem appropriate.

(M) Any person who may desire to construct or is required to construct, reconstruct, or repair any sidewalk, curb, or driveway shall obtain a permit before commencing work; and such application shall specify the property along which such walk, curb, or driveway is to be laid; the name of the person for whom same is to be performed; and the time within which same is to be completed. It is hereby the duty of the Engineer to issue permits and upon the request of any person to whom a permit has been issued as herein provided and within a reasonable time thereafter, to set the grade and line stakes for the construction of any sidewalk, curb, or driveway in the City. No person shall construct or cause to be constructed any sidewalk, curb, or driveway in the City until such grade and line stakes have been set.

(N) The Engineer may authorize the installation of a meandering sidewalk for aesthetic purposes provide that said walk does not substantially inconvenience the general public nor create an apparent traffic or pedestrian hazard.

(Ord. 622, passed 11-3-2010)

CHAPTER 94: STREETS AND SIDEWALKS

Section

Responsibilities of Property Owners

- 94.01 General maintenance requirement
- 94.02 Requirement of property owner to construct sidewalks
- 94.03 Owner or occupant to remove obstructions
- 94.04 Liability for injury
- 94.05 Determination of defective sidewalk
- 94.06 Notification by City Council
- 94.07 Repairs by city; declaration of lien
- 94.08 Lien docket; interest
- 94.09 Collection of lien
- 94.10 Alternative procedure

RESPONSIBILITIES OF PROPERTY OWNERS

§ 94.01 GENERAL MAINTENANCE REQUIREMENT.

Real property owners in the city shall maintain and keep in repair all sidewalks in the streets, avenues and alleys of the city in front of and that are adjacent to or abutting upon the owner's or owners' real property.
(Ord. 548, passed 5-31-1990)

§ 94.02 REQUIREMENT OF PROPERTY OWNER TO CONSTRUCT SIDEWALKS.

(A) It is made the duty of all property owners in the city to keep the sidewalks on the streets thereof, adjacent to or abutting on their respective real property, in a good state of repair, in order to eliminate the hazard of injuries to pedestrians or

others using the same. The city has no responsibility for the maintenance or repair of sidewalks on the streets thereof, adjacent to or abutting on property owners' real property.

(B) It is made the duty of every property owner whose property abuts upon any street that has been improved with hard-surfaced pavement, or along any street the grade of which has been established and which has been improved by excavating and bringing the street to an established grade, to construct a cement sidewalk conforming to the ordinances of the city within 60 days from the completion of any structure located upon the property of the owner.

(C) (1) It is made the duty of every property owner whose vacant or nondeveloped property abuts upon any street that has been improved with a hard-surface pavement, or along any street, the grade of which has been established and which has been improved by excavating and bringing the street to an established grade, to construct a cement sidewalk

[missing text]

ordinances at such time as the sidewalks have been installed and constructed along any 1 individual block to the extent of 50% of the lineal distance of the block, the sidewalk to be constructed within 60 days after notice by the City Engineer or Street Superintendent. A property owner shall be eligible for a 1-year delay in completing the construction upon application to and approval by the Council.

(2) The owner of a structure or otherwise developed property which was built prior to the time 50% of the lineal distance of the block in which it is located has had sidewalks installed, shall construct a cement sidewalk conforming to the ordinance of the city within 60 days after notice has been given by the City Engineer or Street Superintendent.

(Ord. 548, passed 5-31-1990)

§ 94.03 OWNER OR OCCUPANT TO REMOVE OBSTRUCTIONS.

It is the duty of an owner or occupant of land adjoining a street to maintain in good repair and remove obstructions from the adjacent sidewalk.
(Ord. 548, passed 5-31-1990)

§ 94.04 LIABILITY FOR INJURY.

(A) The owner or owners of real property, in the city, shall be liable for any person suffering personal injury or property damage, by reason of any defect in the sidewalk adjacent to or abutting upon the property of the respective owner or owners thereof.

(B) If the city is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty which this chapter imposes, the property owner shall compensate the city for the amount of damages thus paid. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.
(Ord. 548, passed 5-31-1990)

§ 94.05 DETERMINATION OF DEFECTIVE SIDEWALK.

Whenever any sidewalk becomes defective or out of repair, the Utility Superintendent may, at his or her discretion, report the same to the City Council, designating the description of the property upon which the sidewalk fronts, is adjacent to or abuts upon, the record owner or owners of the property, and also the kind and nature of repair to the sidewalk, and that in his or her judgment repair thereof is necessary for the safety of pedestrians and others using the same. Failure of the city to notify property owner of needed repairs shall not relieve the property owner of liability in the event of personal injury or property damage suffered by reason of any defect in the sidewalk adjacent to or abutting upon the property of the owner or owners.
(Ord. 548, passed 5-31-1990)

§ 94.06 NOTIFICATION BY CITY COUNCIL.

The City Council, upon receipt of the report from the Utility Superintendent and deeming the repair necessary, may direct that the owner or owners repair the sidewalk by notifying the owner or owners in writing by mail, if the address of the owner or owners is known; if not known, by posting notice thereof on the property involved. This notice shall direct that the owner or owners make and complete the repairs, in the manner described in the notice, on or before 30 days after the mailing or posting of the notice. This notice is to be given or posted by or under the direction of the City Recorder.
(Ord. 548, passed 5-31-1990)

§ 94.07 REPAIRS BY CITY; DECLARATION OF LIEN.

In the event the owner or owners fail or refuse to make and complete the repairs to the sidewalk within 30 days after the mailing or posting of the notice, then the City Utility Superintendent may proceed to cause the repairs to be made and shall report the cost thereof, including 10% thereof for administrative costs, together with the name or names of the owner or owners of record of the real property abutting the sidewalk which was required to be repaired; and upon the approval of the reports of costs by the City Council, the same shall become and shall be declared to be a lien against the adjacent real property, and in a proportion as the Council shall direct, and the lien shall have priority over all other liens against the property, save and except such liens or taxes as by law take precedence.
(Ord. 548, passed 5-31-1990)

§ 94.08 LIEN DOCKET; INTEREST.

The Recorder shall enter all the liens in the lien docket as directed by the City Council, and these liens shall bear interest at the statutory rate from 20 days after the date notice of assessment is mailed.
(Ord. 548, passed 5-31-1990)

§ 94.09 COLLECTION OF LIEN.

At any time after the lien has been so docketed, the same shall be foreclosed and collected in the

manner provided for the collection of assessments for local improvements.
(Ord. 548, passed 5-31-1990)

§ 94.10 ALTERNATIVE PROCEDURE.

The procedure prescribed in this chapter shall be in no wise deemed a repeal of any existing ordinance providing for the repair of any existing sidewalk within the city, but is an alternative procedure, which in the sole discretion of the Council may be invoked for the repair of sidewalks within the city. Failure of the city to notify the property owner of needed repair shall not relieve the owner of liability.
(Ord. 548, passed 5-31-1990)

SIDEWALKS AND DRIVEWAY REPAIR

3.500 Definition

3.505 Duty To Repair

3.510 Liability For Sidewalk Injuries

3.515 Permit Specifications And Fees

3.520 Notice To Construct, Alter, Or Repair Sidewalk

3.523 Appeal Of Notice To Construct, Alter, Or Repair Sidewalk

3.525 City May Construct, Alter, Or Repair Sidewalk

3.530 Assessment For Sidewalk Work Done By City

3.535 Penalty

3.500 Definition

For purposes of sections 3.505 to 3.535, the following definitions shall apply:

1. "Owner" means the person in whose name real property is assessed for tax purposes according to the latest assessment roll in the office of the Polk County assessor.
2. "Sidewalk" means the concrete, asphalt, brick, paving stone or other hard surface area between the back of the curb and the owner's property line.

[Amended by Ordinance No. 1783, passed August 3, 2015]

3.505 Duty To Repair

The owner of real property adjacent to or abutting on a public sidewalk, driveway, or retaining wall shall maintain the sidewalk, driveway, or retaining wall in good repair and free of hazards.

3.510 Liability For Sidewalk Injuries

1. The owner of real property abutting a sidewalk is liable to any person injured because of failure by the owner to maintain the sidewalk in good repair or safe condition.
2. If the city is required to pay damages for an injury to any person caused by the failure of an owner to maintain a sidewalk in good repair or safe condition, the owner shall reimburse the city for the amount of damages paid, and for the attorney fees and costs of defending against the claim for damages. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

3.515 Permit Specifications And Fees

1. All sidewalks shall be constructed or repaired in accordance with specifications established by the city, a copy of which shall be available for public inspection in the office of the director of public works.
2. No person shall undertake the construction or repair of a public sidewalk within the city without first obtaining a permit from the director of public works.
3. At the time the permit for construction or repair of a sidewalk is applied for, the applicant shall pay a permit fee set by resolution.

[Amended by Ordinance No. 1662, passed March 20, 2006.]

3.520 Notice To Construct, Alter, Or Repair Sidewalk

1. When the city manager, or the city manager's designee, determines that a sidewalk needs construction, alteration, or repair, the city manager or the city manager's designee shall issue a notice.
2. The notice shall require the owner of the property abutting the sidewalk to complete the work specified in the notice within a period of time, not less than 30 days. The notice shall also state that if the work is not completed by the owner within the specified period of time, the city may complete it and assess the cost against the property abutting the sidewalk.
3. The notice shall be served personally upon the owner of the property abutting the sidewalk, or the notice may be served by certified mail, return receipt requested. If after diligent search the owner is not discovered, a copy of the notice may be posted in a conspicuous place on the property, and such posting shall be considered to have the same effect as personal service of notice upon the owner of the property.
4. The notice shall include a notice of the right to appeal, as provided in section 3.523.
5. The person serving the notice shall file with the city manager a return of service, reciting the time, place, and manner of service.

HISTORY

Amended by Ord. [1823](#) on 8/19/2019

3.523 Appeal Of Notice To Construct, Alter, Or Repair Sidewalk

1. An owner who receives a notice described in section 3.520 may appeal the notice to the city council by filing a notice of appeal. Such notice of appeal must be in writing, and delivered to the city manager within:

(a) 10 days from the date of personal service of the notice or service by posting;

or

(b) 14 days from the date of mailing, if notice is served by mail. Ordinance

2. The filing of an appeal under this section shall stay the period of time to complete the work until the appeal has been heard and decided.

3. An appeal filed under this section shall be limited to the determination that the sidewalk needs construction, alteration, or repair.

4. Upon receipt of a notice of appeal, the city manager, or the city manager's designee, shall schedule the appeal for hearing before the city council at the next regular meeting of the council that is more than seven days after receipt of the notice of appeal. At the hearing on an appeal under this section, the owner and the owner's representative may testify in person and may present evidence in support of the appeal.

5. The city council shall determine the appeal and render a decision and, if the council determines that the sidewalk needs construction, alteration, or repair, shall establish the date by which the work must be completed.

HISTORY

Adopted by Ord. [1823](#) on 8/19/2019

3.525 City May Construct, Alter, Or Repair Sidewalk

If the sidewalk alteration or repair is not completed within the required period of time specified in the notice, or by the city council after appeal, the public works director may complete it. Upon completion of the project, the public works director shall submit a report to the council containing an itemized statement of costs.

3.530 Assessment For Sidewalk Work Done By City.

Upon receipt of the report, the council, by resolution, shall assess the cost of the work against the property adjacent to the sidewalk. The assessment shall be a lien against the property and may be levied and collected in the same manner as is provided for in the city's general ordinance regarding local improvement assessment procedures.

3.535 Penalty.

Violation of a provision of sections 3.500 to 3.535 is a civil infraction punishable by a fine not to exceed \$250. Each day's violation of a provision of sections 3.500 to 3.535 constitutes a separate offense.

Chapter 12.12

SIDEWALK INSTALLATION

Sections:

- 12.12.010 Duty to maintain and keep in repair.**
- 12.12.020 Injury or property damage.**
- 12.12.030 New construction and remodeling.**
- 12.12.040 Vacant property.**
- 12.12.050 Developed property.**
- 12.12.060 Delay of construction.**
- 12.12.070 Sidewalk and intersections – Sharing of costs.**
- 12.12.080 High pedestrian use streets.**
- 12.12.090 Authority to grant variance.**
- 12.12.100 Failure to install – City procedure to install.**

12.12.010 Duty to maintain and keep in repair.

A. Real property owners in the city shall maintain and keep in repair all sidewalks in the public rights-of-way and alleys of the city that are in front of, adjacent to, or abutting upon any such owner or owners' real property. Said repairs shall be completed within 60 days after notice by the city engineer.

B. An existing sidewalk shall be considered in a state of disrepair when the condition of defect is such as would create a danger to pedestrians. (Ord. 4413 §1, 1987).

12.12.020 Injury or property damage.

The owner or owners of real property in the city shall be liable for any person suffering personal injury or property damage, by reason of any defect in the sidewalk adjacent to or abutting upon the real property of the respective owner or owners thereof. (Ord. 4413 §2, 1987).

12.12.030 New construction and remodeling.

A. It is hereby made the duty of every property owner whose property abuts upon any street that has been improved with hard-surface pavement or along any street, the grade of which has been established and which has been improved by excavating and bringing such street to an established grade, to construct a concrete sidewalk

conforming to the ordinances of the city within 60 days from the completion of any structure located upon the property of such owner.

B. "Any structure" includes all dwellings, commercial and industrial buildings, and any remodeling of an existing structure wherein the new construction or remodeling exceeds 25 percent of the value of the improvements on the property as established by the Yamhill County tax assessor at the time a construction permit is obtained. (Ord. 4413 §3, 1987).

12.12.040 Vacant property.

It is hereby made the duty of every property owner whose vacant or non-developed property abuts upon any street that has been improved with a hard-surface pavement to construct a concrete sidewalk conforming to city ordinances. This construction shall be required when 50 percent of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within one year after notice by the city engineer. (Ord. 4413 §4, 1987).

12.12.050 Developed property.

It is hereby made the duty of every property owner whose property abuts upon any street that has been improved with a hard-surface pavement to construct a concrete sidewalk conforming to city ordinances. This construction shall occur when 50 percent of the lineal distance of the sidewalk of said block has already been installed. Said construction shall be completed within one year after notice by the city engineer. (Ord. 4413 §5, 1987).

12.12.060 Delay of construction.

The city engineer may authorize a delay in the installation or repair of a sidewalk because of weather conditions or other extraordinary conditions beyond the control of the property owner. (Ord. 4413 §6, 1987).

12.12.070 Sidewalk and intersections – Sharing of costs.

Whenever any property owner constructs a sidewalk of his premises along a city street, and a part of such sidewalk is installed and constructed in the street intersection, the city shall pay and reimburse such property owner for that portion of such sidewalk being within the street intersection at the prevailing rate per square foot (subject to the availability of city funds); provided such property owner notified the city engineer or building official of the completion of such sidewalk within 60 days after the completion thereof, and such property owner had obtained the required permit to construct the sidewalk and such sidewalk meets the approval of the city engineer or building official. In the event the property owner fails to comply with this section of the chapter, the city is in no

way obligated to reimburse said property owner for any of the cost of said sidewalk in said street intersection. (Ord. 4413 §7, 1987).

12.12.080 High pedestrian use streets.

A. The streets designated as “high pedestrian use streets” are primary walking routes to schools, community buildings, or commercial areas. The absence of sidewalks along these ways is a potential danger to pedestrians. Therefore, property owners shall install sidewalks within one year after notice by the city engineer.

B. The city engineer shall identify “high pedestrian use streets” by applying the above factors to any given street. The engineer may apply other factors such as pedestrian counts, projects under construction, or sites designated for development when identifying high pedestrian use streets. (Ord. 4413 §8, 1987).

12.12.090 Authority to grant variance.

The city engineer may authorize variances from the requirements of this title where it can be shown that, owing to special and unusual circumstances related to a specific piece of property, strict application of this title would cause an undue or unnecessary hardship, except that no variance shall be granted for the purpose of avoiding the time limitations set forth herein nor to reduce the costs of the required construction. In granting a variance, the city engineer may attach conditions which he finds necessary to protect the best interests of the surrounding property, neighborhood, and the safety and convenience of pedestrians.

A. *Application.* A property owner may initiate a request for a variance by filing an application with the city engineer. The application shall be accompanied by a site plan, with distances and locations to be clearly marked and the reasons for said request.

B. *Circumstances for granting.* A variance may be granted only in the event that the following circumstances exist:

1. A pedestrian sidewalk exists on one side of the street and the walk would serve a dead-end street or a street which is less than four hundred feet in lineal distance (serving either a cul-de-sac or loop road without intersecting streets); or
2. The sidewalk would create a pedestrian loading zone that is likely to impede motor vehicle traffic or endanger sidewalk users.

C. *Evidence.* The city engineer may take into consideration the location of the proposed variance, the amount and kind of pedestrian traffic, and the overall effect upon present and future motor vehicle traffic and pedestrian use.

D. *Meandering sidewalk.* The city engineer may authorize the installation of a meandering sidewalk for aesthetic purposes provided said walk does not substantially inconvenience the general public nor create an apparent traffic or pedestrian hazard. (Ord. 4413 §9, 1987).

12.12.100 Failure to install – City procedure to install.

When a property owner has failed to install or repair a sidewalk as required in MMC [12.12.010](#), [12.12.030](#), [12.12.040](#) and [12.12.050](#) above, the city engineer shall proceed as follows:

- A. Submit a report to the council with a recommendation regarding construction or repair of the sidewalk by the city and set a time and place for a hearing.
- B. Send a notice of the hearing to the property owner by regular mail (plain envelope) and certified mail to the address listed on county tax roll records. Such notice shall:
 - 1. Be mailed at least ten working days prior to hearing;
 - 2. State the time and place for hearing and specify that the citizen will have opportunity to testify;
 - 3. Make reference to the specific violation;
 - 4. State the work to be done;
 - 5. State the name of staff member the citizen should contact for details;
 - 6. State the specific action the engineer is requesting council to take in regard to the property;
 - 7. Estimate the cost of installation or repair if city performs the work and state that the estimate is not binding upon the city and merely provided for property owner's information and convenience.
- C. At the council hearing the council shall:
 - 1. Receive the engineer's report, staff comments, and the testimony of property owner if said owner desires to testify;
 - 2. Deliberate and reach a decision based upon the testimony received, and either approve or deny the request of the engineer to install the sidewalk if the property owner has not complied in ten working days/or has not made other specific arrangements that are approved by the city engineer.
- D. Notice to property owner of the council's decision shall be given by regular mail (plain envelope) and certified mail and shall contain the following information:
 - 1. Council's decision;
 - 2. A requirement that action occur within ten working days from the date of notice;
 - 3. The opportunity to make arrangements with the city engineer for prompt construction or repair of the walk, taking into consideration weather or other work in progress;
 - 4. The name of a staff member the citizen may contact for details or with whom other arrangements may be made that satisfy the requirements of the ordinance;

5. Notice to property owner that if he fails to perform, the city will contract to have work done and will add 15 percent administrative charge to all costs; will charge interest in 12 percent annually; and, in addition, council will levy an assessment against the property and file a lien in city lien docket with collection upon foreclosure or upon sale of property;

E. In the event of owner(s) of the property or properties subject to the above procedure fail(s) to make said improvements or repairs as directed by the council and the city engineer has caused said sidewalk to be installed or repaired, then the city engineer shall report to the council the costs thereof, including 15 percent for administrative costs, together with the name or names of the owner(s) of record of the real property abutting said sidewalk. Upon the approval of the council by ordinance, the same shall become a lien against the adjacent real property. Said lien shall have priority over all other liens against such property, save and except such liens or taxes as by law take precedence. (Ord. 4413 §10, 1987).

This is a nonfinal proof copy of the McMinnville Municipal Code for customer review only. It should not be relied upon for any purpose.

The McMinnville Municipal Code is current through Ordinance 5111, passed March 8, 2022.

Disclaimer: The city recorder's office has the official version of the McMinnville Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.mcminnvilleoregon.gov](http://www.mcminnvilleoregon.gov)

[City Telephone: \(503\) 434-2342](tel:(503)434-2342)

[Hosted by Code Publishing Company, A General Code Company.](#)

Chapter 12.08

SIDEWALK MAINTENANCE AND REPAIR

Sections:

12.08.010 Definitions.

12.08.020 Responsibility of property owner.

12.08.030 Liability for sidewalk injuries.

12.08.040 Standards and specifications.

12.08.050 Required sidewalk repairs.

12.08.060 City may make repairs.

12.08.070 Assessment of costs.

12.08.080 Penalty.

12.08.010 Definitions.

As used in this chapter, the terms set out below shall mean as defined herein.

A. "City" means the city of Dundee, Yamhill County, Oregon.

B. "Costs" include all direct and indirect costs or charges incurred by the city pursuant to this chapter, including but not limited to overhead and administrative costs.

C. "Owner" includes any person, firm, corporation or other entity owning real property abutting any public street right-of-way in the city, and including a purchaser under an executory contract of sale.

D. "Sidewalk" means that part of any street right-of-way between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for use by pedestrians. [Ord. 464-2008].

12.08.020 Responsibility of property owner.

The owner of real property abutting any street where a sidewalk has been constructed shall maintain such sidewalk in both good repair and safe condition. To be in safe condition, a sidewalk must be free of litter, debris, vegetation or any other obstruction or condition that creates risk of harm to person or property. [Ord. 464-2008].

12.08.030 Liability for sidewalk injuries.

A. The owner of real property described in DMC [12.08.020](#) shall be liable to any person injured as a result of the sidewalk being either not in good repair or because it is not in a safe condition.

B. In the event that the city is required to pay damages for any injury to a person or property caused by an owner's failure to perform the duties required by this chapter, the owner shall compensate the city for such damages, and such compensation obligation may be enforced by the city by an action in circuit court. [Ord. 464-2008].

12.08.040 Standards and specifications.

Sidewalks shall be constructed and repaired in accordance with the specifications established by the city council as part of the city's public works design standards. [Ord. 464-2008].

12.08.050 Required sidewalk repairs.

A. When the city council determines repair of a sidewalk is necessary, it shall, by motion or resolution, direct the city administrator to issue a notice to the owner of property adjacent to the sidewalk to commence the repair, unless the city council determines that a person other than the property owner shall be responsible for its repair under subsection (D) of this section.

B. The notice shall require the owner of the property adjacent to the sidewalk to complete the repair of the sidewalk within 30 days after service of the notice, unless good cause exists why said repair cannot be accomplished within that time. The notice shall also state that if repair is not made in the time required by the notice, the city may thereafter cause the work to be done with the costs associated therewith to be charged against the property as an assessment and lien.

C. The city administrator shall cause a copy of the notice to be served personally upon the owner or notice may be sent to the owner by registered or certified mail, return receipt requested. If, after a reasonable search, the owner of the property is not located, the city administrator shall cause a copy of the notice to be posted in a conspicuous place on or near the property, and such posting shall have the same effect as service of notice by mail or by personal service upon the owner of the property. The failure of an owner to get actual notice of the required repairs shall not excuse compliance with this chapter or invalidate any action of the city relating thereto.

D. In the event that the city council determines that a person other than the owner or prior owner caused a sidewalk to be in disrepair, then the owner or prior owner shall not be responsible for repair, and the council may by notice direct such other person to make the necessary repairs.

Noncompliance with such notice shall subject such other person to all obligations and penalties prescribed in this chapter. [Ord. 464-2008].

12.08.060 City may make repairs.

If repair of the sidewalk is not completed within the time set out in the notice described in DMC [12.08.050](#), or such additional time as the city administrator may in his/her discretion deem appropriate, the city administrator may cause the needed repair work to be completed. Upon completion of the work, the city administrator shall prepare and submit an itemized statement of the costs associated therewith to the council and send a copy thereof to the property owner by registered or certified mail, return receipt requested. [Ord. 464-2008].

12.08.070 Assessment of costs.

Upon receipt of the report, the council, by resolution, may assess all or a part of the cost of the repair against the adjacent property and cause a resolution to be recorded in the county and city lien records. The assessment shall become a lien against the property and accrue interest at the legal rate as established in state law. [Ord. 464-2008].

12.08.080 Penalty.

Violation of this chapter is punishable by fine not to exceed \$100.00. Each day's violation of a provision of this chapter shall constitute a separate offense. The penalty established by this section is in addition to and not in lieu of any other obligation under this chapter. [Ord. 464-2008].

The Dundee Municipal Code is current through Ordinance 578-2022, passed January 4, 2022.

Disclaimer: The city recorder's office has the official version of the Dundee Municipal Code. Users should contact the city recorder's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://www.dundee.city.org/>

City Telephone: (503) 538-3922

[Code Publishing Company](#)



Municipal Code

0 results

- ☐ 6.7 Procedure For Constructing Public In
- ☐ 6.8 Procedure For Constructing Public In
- ☐ 6.9 Required Sidewalk Installation
 - ☐ 6.9.1 Enacting Ordinance
 - ☐ 6.9.2 Requirements
- ☐ 6.10 Reimbursement Districts
- ☐ 6.11 Telecommunications Facilities
- ☐ 6.12 Encroachments On City Property
- ☐ 7 DAYTON LAND USE AND DEVELOPMEN
- ☐ 8 UTILITIES

6.9 Required Sidewalk Installation
6.9.1 Enacting Ordinance
6.9.2 Requirements

(Added ORD 486-Effective 11/03/94)

6.9.1 Enacting Ordinance
Section 6.9 of Dayton Code is enacted by Dayton City Ordinance #486, adopted 10/03/94 and effective 11/03, 1994.

6.9.2 Requirements
Sidewalks, curbs and storm sewers, running the full length of contact between the property line and the street, by any contractor constructing new const increase the value of an improvement by 50% or more. Any recorded owner of property which is impro and storm sewers required by this section of Dayton Code, shall be guilty of a Class A infraction. An sidewalks, curbs and storm sewers required by this section of Dayton Code, shall be a public nuisance contained in Dayton Code Chapter 5.