

**ORDINANCE NO. 334(24)**

AN ORDINANCE OF THE CITY OF ALBION, NEBRASKA, AMENDING ARTICLE III – SIDEWALKS OF CHAPTER V, STREETS AND SIDEWALKS, OF THE ALBION CITY CODE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ALBION, NEBRASKA, AS FOLLOWS:

SECTION 1: ARTICLE III – SIDEWALKS of CHAPTER 6 – STREETS AND SIDEWALKS is hereby repealed and replaced with the following:

# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE III -SIDEWALKS

### SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY

Every owner of any lot, lots or piece of land within the limits of this city, shall at all times keep and maintain the sidewalks along and contiguous to said lot, lots or pieces of land, as the case may be, in good and proper repair and in a condition reasonably safe for all travelers thereon; in case the owner or owners of any lot, lots or land abutting on any street or avenue or part thereof shall fail to construct or repair any sidewalk in front of his/her or their lot, lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the mayor and City Council shall have power to cause such sidewalks to be constructed or repaired and assess the cost thereof against such property.

(Ref. 17-557.01 RS Neb.)

### SECTION 5-302: NEW SIDEWALK; NOTICE

Whenever the City Council shall deem it necessary that a sidewalk should be constructed in front of any lot or piece of ground in the City in a place where there is no sidewalk, they shall so order and the street superintendent shall thereupon notify the owner of such lot or piece of ground, or his/her agent, if a resident of the City, of the work or improvement to be done, and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same.

(Ref. 17-552, 17-523 RS Neb.)

### SECTION 5-303: REPAIRING SIDEWALK; NOTICE

Whenever the street superintendent shall deem it necessary that any sidewalk shall be repaired, or it shall be required by the City Council or committee on streets and walks, or the street superintendent, he/she or they shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated to repair the same within 48 hours from and after the giving of such notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the street superintendent, then a written notice left in the house situated on such lot or piece of ground, or posted upon said premises, shall be sufficient, and the 48 hours shall begin to run from the leaving or posting up of such notice as the case may be.

### SECTION 5-304: RECONSTRUCTING SIDEWALKS; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk shall be replaced or reconstructed, it shall order the same to be done and the street superintendent shall give notice in the manner and form provided in Section 5-303 of this article, to replace or reconstruct the same within 30 days from and after such notice.

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## SECTION 5-305: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR

If any such owner shall neglect or refuse, or shall have failed, after notice has been given as provided in this article, to construct, repair, replace or reconstruct any sidewalk within the time limited in the notice given in such case and whose duty it is made by this article to construct, repair or rebuild such walks, the street superintendent or other officer empowered herein to act shall proceed at once without further notice to such owner or person to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land, and collected as provided by law.

## SECTION 5-306: CONSTRUCTION BIDS

Whenever the City shall construct, widen, replace or reconstruct any sidewalk, notice prepared by the city attorney, specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor shall be published in at least one issue of a legal newspaper of general circulation in the City; provided, bids so invited shall be filed in the office of the city clerk within ten days after the date of publication. Bids shall be opened at the next regular or special meeting of the City Council, and the City Council shall then award the work to the lowest responsible bidder. Upon approval of the work, the City Council may require the contractor to accept payment in certificates issued to him/her by the city clerk entitling him/her to all assessments or special taxes, against such real estate whenever such assessments or special taxes shall be collected together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The county treasurer shall pay over to such contractor or other holder of the certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected.

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## SECTION 5-307: CONSTRUCTION BY PETITION

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the City Council to make the same, the City Council shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the freeholder making, executing and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

## SECTION 5-308: SIDEWALKS; CONDITIONAL REQUIREMENTS FOR BUILDING PERMIT

As a condition of obtaining a building permit for the construction of any structure on any property, excluding alteration or remodeling of existing structures and the construction of accessory buildings including, but not limited to garages and storage buildings, the applicant for the building permit shall include plans and commitment to construct a sidewalk or sidewalks on the property to be improved by the structure.

## SECTION 5-308~~9~~: CONSTRUCTION BY PROPERTY OWNERS

Any person desiring to construct or cause to be constructed any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Said owner shall make application in writing for a permit and file such application in the office of the ~~city clerk~~building inspector. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The ~~zoning administrator~~building inspector shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the ~~zoning administrator~~building inspector shall submit the application to the City Council who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct or cause to be constructed said sidewalk at any other location, grade or elevation than so designated. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the ~~zoning administrator~~building inspector.

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## SECTION 5-310: SIDEWALKS; STANDARD SPECIFICATIONS

All sidewalks shall be constructed of portland cement concrete and shall be constructed to a true line and grade as established by the street department. The subgrade shall be carefully prepared, and where existing subgrade material is, in the opinion of the street department, unsuitable as a foundation material for sidewalks, the unsuitable material shall be removed and replaced with satisfactory compacted material. The concrete mix design utilized for sidewalks shall be L-3500 portland cement, unless otherwise approved by the street department.

Unless otherwise specified, the sidewalks shall be constructed four (4) inches thick where subjected to pedestrian traffic only. They shall be five (5) inches thick at all residential driveways. At all business driveways or entrances the thickness shall be figured to meet the wheel loads expected, but in no case shall the walk across such entrances be less than six (6) inches thick. The edges of the walk may be bevelled and suitable allowance may be made with additional bevelling to protect the edges at all locations where it can be reasonably expected the walk will be crossed by vehicles. Planes of weakness shall be marked off on the surface in square blocks. These blocks shall contain not less than nine (9) square feet, nor shall they exceed twenty (20) square feet. On these lines the concrete shall be cut through for not less than one-fourth the thickness with a pointed trowel and the concrete edged on both sides.

An expansion joint made of one-inch prefabricated asphalt material shall be placed at the ends of each lot, and against any curb that the sidewalk abuts, but these expansion joints shall not be placed more than one hundred (100) feet apart.

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## SECTION 5-311: SIDEWALKS; WIDTH AND LOCATION

All residential sidewalks shall have a minimum width of three (3) feet; except where such sidewalk integrates with the public trail system. Public trail system sidewalks shall have a minimum width of five (5) feet.

Commercial sidewalk widths shall be determined by the needs of the business and of the public. This need shall be determined by the building inspector upon consultation with the property owner and the city street department; however, in no case shall the sidewalk be less than three (3) feet in width.

The location of sidewalk placements shall be as follows:

- (a) All sidewalks shall be placed upon the public right of way.
- 1) Residential sidewalks shall be located six (6) inches from the abutting property line.
  - 2) Commercial sidewalk locations shall be determined by the needs of the business and of the public as determined by the building inspector upon consultation with the property owner and the city street department. Curb walks in commercial districts shall be required to provide extra width in order to provide necessary pedestrian safety. In no case shall curb walks be less than six (6) feet wide and expansion joints are required for all curb walks.
- (b) The building inspector may waive the residential sidewalk location provisions of subsection (a-1) upon recommendation from the street department, provided that:
- 1) The sidewalk shall be no closer than three (3) feet to the curb; or,
  - 2) The site conditions make it impractical to build the sidewalks except adjacent to the curb; however, in such cases extra width of sidewalk shall be required in order to provide necessary pedestrian safety. In no case shall curb walks be less than six (6) feet wide and expansion joints are required for all curb walks.

## SECTION 5-312: SIDEWALKS; SLOPE AND LONGITUDINAL GRADIENT

The sidewalk shall slope (cross slope) toward the street a minimum of one-eighth inch per foot and a maximum of one-quarter inch per foot. The longitudinal gradient shall not exceed 5%. If the longitudinal sidewalk grade exceeds 5%, a level landing area of 5 feet by 5 feet shall be provided for every 30 inch of longitudinal rise. All sidewalks shall comply with the American Disability Act, including, but not limited to, detectible warning surfaces at all curb ramps and vehicle crossings.

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## ~~SECTION 5-309: SPECIFICATIONS (Replaced by Sections 5-310 thru 5-312)~~

~~All sidewalks built on streets which have been brought to grade shall be constructed on said grade of concrete; the same must have a depth of not less than four inches, must be frost proof and surface composed of cement properly hardened, and in all respects substantially built. All sidewalks hereafter built on streets not on grade shall be constructed of brick or stone in the same manner and in all respects as provided in this section, and shall be laid on the natural surface of the ground, continuously with adjoining sidewalks, so far as possible. All sidewalks built adjacent to paved streets shall be constructed so as to be two inches above the curb line, sloping to match the top of the curb, and expansion joints shall be included in the construction at any and all points where driveways or sidewalks meet the pavement.~~

## ~~SECTION 5-310: FAILURE TO REBUILD (Duplicate Provision to 5-305)~~

~~In case the owner of property in front of which any unlawful sidewalk is constructed or refuses or neglects to rebuild or relocate the same within five days after notice to do so, then the City Council may order the same rebuilt or relocated and assess the costs thereof upon the abutting property upon the same notice and in the same manner provided by law for the construction of and assessment for new sidewalks.~~

## SECTION 5-31~~3~~1: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk. In the event that the mayor or his/her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 A.M. the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm.

(Ref. 17-557 RS Neb.)

## SECTION 5-31~~4~~2: SIDEWALKS; DUTY TO REMOVE BRANCHES AND SHRUBBERY ENCROACHING THEREON; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground in said city to keep the sidewalk adjacent thereto free from overhanging branches and free from limbs to a height of nine feet, and to keep such sidewalk free from encroaching hedges or shrubbery; and no tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery, sign or other obstacle which obstructs the view for a distance of ten feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined in any sum not exceeding that permitted by Nebraska law for

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the violation of a municipal ordinance and shall pay the costs of prosecution and the costs of the removal of such encroachments.

(Ref. 17-557.01 RS Neb.)

## SECTION 5-31~~53~~: SPACE BENEATH SIDEWALKS

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the City Council. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the city engineer. Should such plans or specifications be disapproved by him/her, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of space underneath city sidewalks as herein contemplated, the City Council may require the applicant to furnish a bond to the City as obligee for the benefit of any person who may suffer any damage by reason of such use. The bond shall be in such sum as the City Council, in its discretion, may designate.

SECTION 2: This ordinance shall go into full force and effect after its passage, approval and publication as required by law on the 22ND day of MAY, 2024.

INTRODUCED BY: \_\_\_\_\_

PASSED AND APPROVED THIS 14<sup>th</sup> DAY OF MAY, 2024 .

PUBLISHED THIS 22<sup>ND</sup> DAY OF MAY, 2024.

CITY OF ALBION, NEBRASKA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(Seal)

Ord334(24) AlbionCodeChapterFiveSectionThreeAmend

{{Introduction and First Reading }}

{{Suspension of Rules }}

{{Second and Third Reading}}

{{Final Passage and Adoption}}