

## **Chapter 12.04 SIDEWALK CONSTRUCTION AND MAINTENANCE\***

### **Sections:**

#### **12.04.010 Duty of owners to construct and maintain sidewalks, power of council.**

It is made the duty of all owners of land adjoining any street in the city to construct and maintain the sidewalks in front of such land. The council has the power and authority to determine the grade and width of all sidewalks in the city, the material to be used, and the specifications for the construction thereof. The council has the authority to initiate and order to complete sidewalks through a hearings process or to waive sidewalk construction for those circumstances where sidewalks may not be warranted.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.020 Timing of construction of sidewalks.**

Sidewalks shall be constructed for each parcel of land adjoining a public street at the time of initial development and in no case more than ninety (90) days after the initial development of the property with approval of the city manager or their designee with the circumstances listed in subsections A through E of this section.

- A. Weather conditions would not allow proper construction of the sidewalk;
- B. The property is part of a local improvement district for sidewalks already approved;
- C. The city has a pending project which would preclude construction at the time of initial development;
- D. There are topographical grade issues which would preclude the installation of a sidewalk;
- E. Where the construction of the sidewalk would not enhance or meet approved connectivity plans of pedestrian pathways.

(Ord. 5-2008 § 3 (part), 2007)

#### ~~**12.04.030 Duty of owners to make sidewalk repairs, power of council.**~~

~~It is made the duty of all owners of land adjoining any street in the city to maintain in good repair the sidewalks in front of such land. The council has the power and authority to determine the grade and width of all sidewalks in the city, the material to be used, and the specifications for the repair thereof.~~

(Ord. 5-2008 § 3 (part), 2007)

#### ~~**12.04.040-030**~~ **Maintaining free and unobstructed sidewalks.**

It is the duty of all owners or tenants of land adjoining a street in the city to maintain free and unobstructed sidewalks which are designed to be pedestrian pathways.

- A. No owner shall affix to, or place on or over, the sidewalk in a manner to create an obstruction any of the following items:
  - 1. Sports or other stanchions or appurtenances (e.g., basketball baskets and supporting structures, etc.);

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2. Fencing;
  3. Retaining walls;
  4. Trees or shrubs;
  5. Passenger vehicles, trucks, trailers or recreational vehicles;
  6. Garbage cans other than noted in subsection B of this section;
  7. Other items which impair full unobstructed pedestrian access to the sidewalk or create diminished safety of the pedestrian.
- B. Exceptions include the following:
1. Garbage cans within twenty-four (24) hours prior to or after pickup;
  2. Temporary advertising sandwich board signs which meet the provisions of Boardman Development Code Chapter 3.6.500(E)(6);
  3. Other similar temporary obstructions deemed appropriate by the city manager or their designee.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.~~050-040~~ Notice of obstructed sidewalks.**

If the owner or tenant of any lot or part thereof or parcel of land shall cause any obstruction of the sidewalk, it shall be the duty of the city manager or their designee to notify the owner or tenant of the violation. It shall be the duty of the owner or tenant to remove the identified obstruction.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.~~060-050~~ Penalty for violation of obstruction of sidewalks.**

A violation of obstruction of sidewalks shall constitute a Class D violation as defined in Chapter ~~153 of the Oregon Revised Statutes or as hereafter amended and the fine for such a violation shall be as set forth in Chapter 153 of the Oregon Revised Statutes for a Class D violation as presently defined or as hereafter amended~~ 1.16 General Penalty; Violations and Fines; Procedure in Criminal Matters Generally of this Municipal Code and the fine for such a violation shall be as set forth in that same Chapter for a Class D violation as presently defined or as hereafter amended.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.~~070-060~~ Notice of defective sidewalks.**

If the owner of any lot or part thereof or parcel of land shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the city manager or their designee, or any person appointed by the council for that purpose, ~~when ordered to do so by the council,~~ to post a notice on the adjacent property headed "Notice to Repair Sidewalk," and such notice shall direct the owner, agent, or occupant of such property immediately to repair the same in a good and substantial manner. The person posting the notice shall file ~~with the city recorder~~ an affidavit of the posting of such notice, stating the date when and the place where it was posted. ~~The city recorder~~ They shall, ~~upon receiving the affidavit of the person posting such notice, also~~ send such notice by mail, postpaid, a notice to repair such sidewalk to the owner, if known, and directed to the post-office address of such owner or agent, when such post-office address is known to the city ~~recorder~~. If such post-office address be unknown to the city ~~recorder~~, such notice shall be directed to such owner or agent at Boardman, Oregon. A

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mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property, shall not render such notice void. In such case, the posted notice shall be sufficient. Repairs shall be made within ninety (90) days from the posting of the notice.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.080-070 Permit for repairs.**

Prior to making sidewalk repairs, the owner, agent, or occupant shall obtain from the Planning Official with input from the City Engineer a permit prescribing the kind of repair to be made, the material to be used, and the specifications therefore.

(Ord. 5-2008 § 3 (part), 2007)

#### **12.04.090-080 Repairs by city, record and report.**

If the owner, agent, or occupant of a lot, part of a lot, or parcel of land fails, neglects, or refuses to make the sidewalk repairs within the time designated, the city engineer may make the repairs. The city engineer shall keep an accurate account of the cost of the labor and materials used in making the repairs, ~~report monthly to the council the cost of the repairs, and prepare a description of the lot or parcel of land fronting on the repaired sidewalk and use the abatement process outlined in Title 8 Health and Safety Chapter 8.04 Nuisances as needed.~~

(Ord. 5-2008 § 3 (part), 2007)

#### **~~12.04.100 Assessment for repairs by city.~~**

~~The council shall, at least once each year, by ordinance assess the cost of making such repairs or laying the same including legal, administrative, and engineering costs attributable thereto upon each lot or part thereof or parcel of land fronting upon sidewalks which have been so repaired or laid. All such assessments may be combined in one assessment roll and the city recorder shall enter in the docket of city liens a statement of the amounts assessed on each lot or part thereof or parcel of land, together with the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the lot or part thereof or parcel of land that has been assessed for the sidewalk repair. Such assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance. After expiration of thirty (30) days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon.~~

~~(Ord. 5-2008 § 3 (part), 2007)~~

#### **12.04.110-090 Liability of owners.**

The owner or owners of land adjoining any street in the city shall be liable to any person suffering injury by reason of any defect in the sidewalks in front of such land.

(Ord. 5-2008 § 3 (part), 2007)