

TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 13 SIDEWALKS, SNOW REMOVAL

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6-13-1 PURPOSE The purpose of this ordinance is to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner so as to assure safe passage by citizens and minimize the liability of the City.

6-13-2 DEFINITIONS As used in this ordinance, the following words have the following meanings:

1. Defective sidewalk Any public sidewalk exhibiting one or more of the following characteristics:
 - a. Vertical separations equal to three-fourths inch ($\frac{3}{4}$ ") or more,
 - b. Horizontal separations equal to one-half inch ($\frac{1}{2}$ ") or more,
 - c. Holes or depressions equal to three-fourths inch ($\frac{3}{4}$ ") or more and at least four inches (4") in diameter,
 - d. Spalling over 50 percent (50%) over a single square of the sidewalk with one or more depressions equal to one-half inch ($\frac{1}{2}$ ") or more,
 - e. Spalling over less than 50 percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths inch ($\frac{3}{4}$ ") 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 (1")²,
 - g. A sidewalk with any part thereof missing to the full depth,
 - h. A change in the grade equal to or greater than three-fourths inch ($\frac{3}{4}$ ").
2. Sidewalk improvement The construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavation, filling or depositing of material in the public right-of-way in connection therewith.
3. Property owner The term "property owner" as used in this Chapter shall mean record holder of legal title or contract purchaser if there is one of record.
4. City engineer The City engineer or the officer designated by the City Council to perform the duties prescribed for the engineer.

6-13-3 STANDARD SIDEWALK SPECIFICATIONS The City engineer shall prepare full and complete plans and specifications for the construction of sidewalks and driving crossings in the same, which upon approval of the Council shall be on file in the office of the Clerk. All sidewalk improvements in 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 Engineer, and in accordance with the plans and specifications prepared by his office and approved by the City Council.

6-13-4 SIDEWALK GRADES All sidewalk grades shall be the grade of the top of the surface of the walk at the edge of the walk nearest to the property line. All sidewalks and terraces between the sidewalks and curbs shall have a uniform grade of two and one-half percent (2½%) or three-tenths of an inch (.3") to the foot from the inside of the walk sloping to the outside of the curb, unless otherwise ordered by resolution of the Council. The construction of permanent sidewalks shall not be made until the bed of the same shall have been graded so that, when completed, such sidewalk will be at the grade established by the Engineer.

6-13-5 PERMITS FOR CONSTRUCTION AND REMOVAL No person shall make any sidewalk improvements whether ordered by the City Council or not, unless such person shall obtain a permit from the City Manager and shall agree in writing that he/she will, in making the sidewalk improvements comply with ordinances of the City and with the specifications for sidewalks approved by the City Council and on file in the office of the Clerk and that the work shall be done under the direction and supervision of the City Manager and subject to the approval of that officer or his/her duly authorized agent. He/she shall also agree to hold the City free from all liability for damages on account of injuries received by anyone through the negligence of such person or his/her agents or employees in making the sidewalk improvements, or by reason of such person's failure to properly guard the premises. All such permits shall be issued without charge and a copy thereof, together with the written agreement above referred to, shall be filed and preserved in the office of the City Manager. Before granting any permit to make sidewalk improvements, the City Manager shall determine the propriety of the same and shall state in all permits issued when the work is to be commenced and when the sidewalk work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Manager when in his/her judgement it is deemed necessary. All permits for Council ordered sidewalk improvements shall be issued in compliance with the resolution of the Council ordering the improvement. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this ordinance. The City Manager 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.

6-13-6 INSPECTION OF PRIVATE WORK: REMEDIES All sidewalk improvements shall be done under the direction and supervision of the City Engineer or other duly authorized officer, and subject to the inspection and approval of the Engineer or his/her agent. Whenever any sidewalk improvements are made which do not conform

to the provisions of this ordinance and with the specifications herein referred to, or where any sidewalk improvements are made without obtaining a permit as required by this ordinance, or the work is not performed within the time stated in the permit the City Engineer or his/her duly authorized agent, shall serve upon the property owner or his/her agent, and upon the contractor doing the work, a notice to obtain a permit, if not already obtained or, if the sidewalk is in the course of construction, to stop until a permit is obtained or work is corrected in compliance with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed sidewalk improvement within five days from the receipt of said permit, in the proper manner and of proper materials as required by the specifications herein referred to. In case any owner shall fail to do so, the officer authorized by the Council or his/her duly authorized agent shall cause the sidewalk to be constructed, reconstructed, or repaired in a proper manner and of proper materials. There shall be returned to the Council an itemized and verified statement of expenditures of material and of the labor used in doing such work, and the legal description of the lot, part of lot, or parcel of ground abutting the sidewalk on which such work has been performed. The cost thereof shall be assessed to the property fronting thereon.

6-13-7 BARRICADES AND SIGNAL LIGHTS Whenever any material of any kind shall be deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the constructor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved signal lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this ordinance shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this ordinance or of any failure to comply with the provisions hereof.

6-13-8 INTERFERENCE WITH SIDEWALK IMPROVEMENTS No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while 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 provided by this ordinance.

6-13-9 ORDERING NEW SIDEWALKS The Council may, by resolution, order the construction or reconstruction of permanent sidewalks upon any street or court. Unless the owners of a majority of the linear feet of the property fronting on the improvement, petition the Council therefore, new permanent sidewalks shall not be made unless three-fourths ($\frac{3}{4}$) of all the members of the Council, by resolution, order the making thereof, all in accordance with state law for special assessments.

6-13-9A SIDEWALKS REQUIRED UPON NEW CONSTRUCTION Whenever the owner of any property within the city builds a new residential, commercial, or industrial building or structure, said property owner shall construct new sidewalks on the property if no sidewalks presently exist. Any sidewalks so constructed shall connect to the adjoining, existing sidewalks and shall be built to specifications adopted by the city council. If there are no adjoining sidewalks, the new sidewalks shall be constructed from lot boundary to lot boundary in a location to be directed by the city. If a property owner fails to construct sidewalks as required by this section, the city manager shall serve notice by certified mail on the property owner, as shown by the records of the county auditor, requiring the property owner to construct the required sidewalks. If the property owner fails to do so within thirty (30) days after the mailing of such notice, the city manager may cause the required action to be performed and assess the costs against the property owner for collection in the same manner as a property tax. If the amount assessed exceeds \$100.00, the assessment may be paid in five (5) annual installments. A failure to construct sidewalks as required by this section also constitutes a municipal infraction.

(Ord. 974, 8-5-02)

6-13-10 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, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks in the street right-of-way abutting his/her property. If, upon the expiration of thirty (30) days as provided in said notice, the required work has not been done or is not in the process of completion, the officer authorized by the Council may proceed to repair, replace or reconstruct said sidewalks, or cause the same to be repaired, replaced or reconstructed. There shall be returned to the Council an itemized and verified statement of expenditures of material and of the labor used in doing such work, and the legal description of the lot, part of lot, or parcel of ground abutting the sidewalk on which such work has been performed. The cost thereof shall be assessed to the property fronting thereon.

6-13-11 NOTICE OF ASSESSMENT OF REPAIR Upon the filing of the verified statement, the Clerk shall cause a notice of such facts to be given to the owner of the abutting property provided for in sections 6, 9, 10, either by personal service or by mailing a notice to the last known address of the owner. The notice shall contain a statement of the character of the work performed; a description of the property affected; the amount returned against such lot or parcel of ground; and that the person may pay the amount assessed by a certain date without interest or penalty. The notice shall also indicate that the person may object to such assessment and the notice shall state the place and time at which Council will hear such objections. The time set for hearing shall be not less than ten (10) days after the service or mailing of said notice.

6-13-12 HEARING AND ASSESSMENT At the time and place designated in such notice, the Council shall meet, hear, and consider all objections to the whole or any part of such assessment, and shall correct all errors or omissions therein, and after such

consideration, the Council shall adopt the corrected list as the amounts to be assessed against the property therein described.

6-13-13 BILLING AND CERTIFYING TO COUNTY If, after the adoption by the Council of the final assessment against each lot, part of lot, or parcel of land, any assessment or any part thereof shall remain unpaid for over thirty (30) days after Council determination of correct charges, the Clerk shall certify to the County Treasurer as a special tax against the lot, part of lot, or parcel of ground all unpaid amount, which shall constitute a lien and be collected by the County Treasurer in the same manner as all other taxes. Any assessment which exceeds one hundred dollars (\$100.00) may be paid in installments as set by Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments under chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or part thereof, paid within thirty (30) days of the time that the Council determined the final amounts.
(Ord. 991, Passed April 19, 2004)

6-13-14 LIABILITY OF ABUTTING OWNERS In the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of him/her 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 said abutting owner that it claims the injury was caused by his/her negligence and/or his/her 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.

6-13-15 FAILURE TO REPAIR OR BARRICADE It shall be the duty of the owner of the property abutting the sidewalk, or their contractor or agent to notify the City immediately in the event they fail or are unable to make necessary sidewalk improvements or to install or erect necessary barricades as required by this ordinance.

REMOVAL OF SNOW AND ICE

6-13-16 DUTY OF PROPERTY OWNER It is the responsibility of the abutting property owner to promptly remove snow, ice and accumulations from the sidewalks. Property owners who own property along the pedestrian trail whose path is greater than four feet (4') will be required to remove snow and ice from the four foot (4') portion of sidewalk closest to their property.
(Ord. 899, 06-01-98)

6-13-17 FAILURE OF OWNER TO REMOVE Any owner who shall for a period of twenty-four hours after the cessation of the storm or cause of accumulation, permit snow, ice or accumulations to remain upon the adjoining and abutting sidewalks, is guilty of a misdemeanor.

(Ord. 778, 2-17-92)

6-13-18 REMOVAL BY CITY, ASSESSING COSTS Should snow, ice, or accumulations be permitted to remain upon any sidewalk for a period of ten (10) daylight hours after the cessation of the storm or the cause of the accumulation, the City Manager shall cause a Notice to be hung on the front door of the premises which Notice shall give the person in possession of the premises ten (10) daylight hours to remove the accumulation on the sidewalks. If the sidewalks have not been cleared within ten (10) daylight hours of the posting of the Notice, then the City street crews shall clear the sidewalk and shall salt or sand.

If the person in possession of the premises fails to remove the accumulation within ten (10) daylight hours of the posting of the Notice, and City crews are required to remove the accumulation, then an administration fee of twenty-five dollars (\$25.00) and a material fee to be set by the City Council, shall be assessed against the property owner. The fees assessed shall be collected according to the procedure set forth in 6-13-19.

If the City crews are required to remove an accumulation at a residence after a second or any subsequent Notice posted on the front door of the premises, then the administrative fee assessed against the premises shall be fifty dollars (\$50.00) in addition to the material fee. The fees shall be collected as set forth in 6-13-19.

The first and subsequent Notices shall refer to Notices given each winter season.

(Ord. 811, 6-17-93)

6-13-19 ASSESSMENT PROCEDURE WHEN REMOVED BY CITY When snow, ice or accumulations have been removed from any sidewalk, under the provisions of the preceding Section, the procedure to secure payment of the cost of removal of snow, ice or accumulations to the City shall be as follows:

1. The City Manager shall submit to the Council an itemized and verified statement showing expenditures of material, labor and equipment used in making the removal, the name of the owner or owners of the property, and the description of the lot, part of lot or parcel of ground in front of and abutting upon the sidewalk from which snow, ice or accumulations have been removed.

2. The Council shall examine the verified statement and if found correct shall assess the actual cost of the removal against the lot, part of lot, or parcel of ground and direct the City Clerk to certify the cost and assessments to the County Treasurer and it shall then be collected with, and in the same manner as, general taxes as provided in Section 364. 12 (2) (E) Code of Iowa, 1979.

(Ord. 427, 2-22-71)

(Ord. 991, Passed April 19, 2004)

6-13-20 REMOVAL FROM PRIVATE PROPERTY No person shall throw, push, or place or cause to be thrown, pushed, or placed any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition thereon.

6-13-21 REMOVAL FROM COMMERCIAL DRIVES Where, in the clearing of large commercial drives in the built-up central business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or his/her agent, and only after first making arrangements for such prompt removal of this accumulation at the owner's cost within a reasonably short time.

(Ord. 527, 2-5-79)

6-13-22 REMOVAL FROM SIDEWALKS Snow or ice from sidewalks may be disposed along the curbs of the streets prior to the commencement of the City's snow removal operations. Snow or ice may not be disposed of on a street after the City's snow removal operations have been completed on that street. This Section is not applicable to snow or ice from the roofs, parking lots, driveways, and private property other than sidewalks.

(Ord. 531, 3-5-79)

6-13-23 PERMIT REQUIRED It shall be unlawful for any person or firm or business to place upon or over the public right-of-way or public sidewalk within the City any object, excepting awnings, without first applying for and procuring a permit from City Staff. There shall be no fee for such permit. (Staff may seek Council approval of application if necessary.)

(Ord. 900, PASSED 7-6-98)

6-13-24 INSURANCE REQUIRED Before any permit shall be issued, each applicant must make application on a form provided by the City Manager and shall file evidence of possession of liability insurance in the minimum amounts of one hundred thousand dollars (\$100,000) for bodily injury, two hundred thousand dollars (\$200,000) aggregate and one hundred thousand dollars (\$100,000) property damage indemnifying the City and/or any person injured or property damage resulting from the object placed in the

public right-of-way or public sidewalk. Each applicant shall notify the City Manager of the cancellation of liability insurance.

6-13-25 STATE CONCURRENCE An applicant requesting a permit for the placing of an object within right-of-way owned by the State of Iowa must also obtain the concurrence of the Iowa Department of Transportation.

6-13-26 EXEMPTIONS UNDER THE FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES Newspaper vending machines and other objects protected by the right of free speech shall be exempted from this ordinance provided such obstructions be located within ten feet (10') but not nearer than two feet (2') from the nearest light or utility pole of a recognized municipal street. Such exempted obstructions may not be less than thirty inches (30") nor more than forty-eight inches (48") in height; nor less than twelve inches (12") nor more than thirty inches (30") in width or depth. Such exempted obstruction shall be colored white, or any other color approved by application in writing to the City Council; and contain no advertising other than the name of the exempted provider or providing organization. Such obstruction, however, shall not be chained, bolted, screwed, nailed, or in any other way attached to any structure or substance on the public right-of-way or public sidewalk. Any subsequent modification of this exemption which is more restrictive shall not exclude existing exemptions.

6-13-27 TEMPORARY EXEMPTION Any person or organization owning or renting property adjacent to the public right-of-way or public sidewalk may, upon notification filed with the City Manager, be exempted from 6-13-23 for up to five (5) days each calendar year, provided such notification describes the placement and design of such obstruction and it is deemed neither unsuitably sized nor unsuitably located by the City Manager. Such notification shall be hand-delivered to the City Manager or his/her representative not less than seventy-two (72) hours prior to the placement of such obstruction. The City Manager, acting for reasons related to the safety of the pedestrian, for concerns of visual or aesthetic purposes, or for concerns for the City liability for injury to persons or property, shall notify the applicant within the seventy-two (72) hour period of a decision to deny exemption to such obstruction.

6-13-28 BLANKET EXEMPTION Any person representing a recognized organization promoting the betterment of the business climate or quality of life in Maquoketa may apply for a blanket exemption for all members of such organization. Such exemption shall be applied for pursuant to Section 6-13-23 and shall include the specific dates to which such exemption is requested. This application shall include an attached exhibit listing all organization members and the addresses to which the exemption, if granted, shall apply. The obstructions on the public sidewalk under the blanket exemption shall be permitted only during the normal hours of business as designated by the Maquoketa Area Chamber of Commerce.

6-13-29 PERMIT REQUIRED All permits are subject to the approval of a majority vote of the City Council. Permits issued under this Section shall be limited to only the

Central Business District as defined in Chapter 24, Downtown Business Revitalization Area of Title II, Policy and Administration of this Code.

6-13-30 AREA LIMITED Obstructions allowed by permit as authorized in Section 6-13-29 shall be limited to an area of the public sidewalk of no more than five feet (5') or no more than thirty-three percent (33%) of the full width of the public sidewalk adjacent to the building, whichever is less.

6-13-31 EXEMPTIONS - U.S. POSTAL SERVICE The provisions of Section 6-13-23 through 6-13-32 shall not apply to fixtures owned by the U.S. Postal Service.

6-13-32 PENALTY FOR VIOLATION Persons who violate or who participate in a violation by commanding or persuading another to violate the provision of this ordinance shall be subject to fines as set forth in Chapter 17, Title III of this Code, entitled Civil Penalty for Municipal Infractions. An employer or an employer's agent who orders an employee to violate this ordinance or who knowingly permits an employer or person supervised to violate this ordinance, shall be guilty of a violation of this ordinance and subject to the penalties set forth in Chapter 17, Title III of this Code, entitled, Civil Penalty for Municipal Infractions.

(Ord. 746; 3-4-91)

6-13-33 STANDARD SPECIFICATIONS The construction of portland cement concrete sidewalks, driveways, and handicapped ramps shall be completed in accordance with Supplement No. 3 to the Standard Specifications for the City of Maquoketa, Iowa, which is hereby adopted as a part of the City's Standard Specifications.

(ORD. 804, passed 3-1-93)