

Prepared by LeAnn M. Even, Deputy City Clerk, City of Waterloo, 715 Mulberry Street, Waterloo, IA 50703, (319) 291-4323.

ORDINANCE NO. 5622

AN ORDINANCE AMENDING THE CITY OF WATERLOO CODE OF ORDINANCES BY REPEALING CHAPTER 2, SIDEWALK CONSTRUCTION, INSPECTIONS, AND REPAIR, AND ARTICLE A, INSPECTION AND REPAIR, OF TITLE 7, PUBLIC WAYS AND PROPERTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WATERLOO, IOWA AS FOLLOWS:

That Title 7, Public Ways and Property, of the City of Waterloo, Code of Ordinances be amended by repealing Chapter 2, Sidewalk Construction, Inspections, and Repair, and Article A, Inspections and Repair, as follows:

7-2-1: CITY COUNCIL TO ORDER CONSTRUCTION:

A. Permanent Or Temporary Sidewalks: The city council may, by resolution, order the construction of permanent and/or temporary sidewalks upon any streets, highways, avenues or public grounds in the city, but the construction of permanent sidewalks shall not be made until the bed of the sidewalks shall have been graded, so that when completed, the sidewalks shall be at the established grade.

B. Vote Required For Improvement: Unless the owners of a majority of the linear feet of property fronting on the proposed sidewalk improvement petition the city council therefor, the proposed improvement shall not be made unless three-fourths (3/4) of all the members of the city council shall, by vote, order the making thereof. (Rev. Ord. 1193, Comp. 1941, p. S-14; amd. Ord. 3626, 3-13-1989; Ord. 3649, 6-5-1989)

7-2-2: PUBLIC IMPROVEMENT PROCEDURES:

The procedure for the construction of the public improvements in the nature of the construction of new public sidewalks, whether permanent or temporary, shall be governed by any and all provisions of the Iowa Code, then in existence, with regard to notice for hearing, publication of notice, notice of assessments and any other relevant statutory rules and regulations. (Rev. Ord. 1193, Comp. 1941, p. S-14; amd. Ord. 3626, 3-13-1989; Ord. 3649, 6-5-1989)

7-2-3: SPECIAL ASSESSMENTS FOR IMPROVEMENTS:

A. Payments: Any assessment that exceeds five hundred dollars (\$500.00) may be paid in installments as set by the city council, not exceeding nine (9), in the same manner and at the same interest rate as for special assessments under Iowa Code chapter 384, division IV. (Ord. 5346, 4-11-2016)

B. Certification Of Special Assessments To County Treasurer: Upon making the special assessment pursuant to this chapter, it shall be certified to the county treasurer and shall be placed on the tax list as is provided by law. (Ord. 4611, 4-28-2003)

7-2-4: JOB PERMITS REQUIRED:

A. No person, except the public works director or the city engineer, while acting in their official capacity, or a contractor in performing the necessary work on a contract with the city, shall construct or cause to be constructed any concrete sidewalk in any public street, avenue, alley or highway within the city except such walks as are required to connect residences or other buildings with the city sidewalks, curbs or street roadways, without first obtaining a permit therefor, signed by the city engineer. The permit shall describe the location of the work and state the time in which it is to be done. If an extension of time is required, the permittee shall present

the permit to the city engineer for an extension of the completion date, and no extension of time shall be valid unless signed by the city engineer.

B. All permits issued pursuant to subsection A of this section must be kept at the place of construction for which they were issued during the time when the work is being done and exhibited when called for by the city official having the authority to examine the permit(s).

C. Sidewalk improvement permit fees shall be set by resolution of the city council and be collected by the office of the city engineer. Work performed by the city shall not require a permit fee. (Rev. Ord. 1783, Comp. 1941, p. S-25; amd. Ord. 2878, 4-18-1977; Ord. 3626, 3-13-1989; Ord. 3649, 6-5-1989)

7-2-5: CONTRACTOR'S BOND:

Any person constructing sidewalks within the city must first file a right of way construction bond with the city clerk in the sum of fifteen thousand dollars (\$15,000.00), effective January 1, 2017. The application for such construction must be approved by the city council and conditioned upon the fulfillment of the following:

- A. Faithful performance of all duties and regulations required by this chapter;
- B. Faithful performance of every driveway and sidewalk specification on file in the city engineer's office, and/or any provision of this code or other city ordinance regulating the construction, reconstruction or repair of sidewalks within the city;
- C. Prompt payment to the city of any sums that may become due for any reason or under this chapter;
- D. Prompt payment of all fines imposed upon said person for a violation of this chapter, which violations occur during the life of the bond; and
- E. Upon indemnifying and keeping the city harmless from any liability arising from said person's constructing or reconstructing sidewalks within the city. (Ord. 5346, 4-11-2016)

7-2-6: STANDARDS AND SPECIFICATIONS:

Standards and specifications for concrete sidewalks shall be prescribed from time to time by the city council, and shall be on file in the office of the city engineer; conformance with such standards and specifications is required, and failure to comply shall be grounds for revocation of the permit issued pursuant to this chapter to construct a sidewalk. (1970 Code § 33-70)

7-2-7: VIOLATION; PENALTY:

- A. Any person violating the provisions of this chapter shall be deemed guilty of an offense, and shall be liable for all damage sustained by the city or by any person. Failure to comply with any of the provisions of this chapter shall be deemed a municipal infraction and upon conviction thereof shall be punished in accordance with subsection 1-3-2C of this code.
- B. In the case of a construction specification of this chapter not being complied with, the sidewalk contractor shall be given written notice by the city engineer, or designee, stating the specifications not complied with and the contractor shall cause the work to comply with such specifications within fifteen (15) days of the mailing of the notice. If the contractor fails to comply with the notice, the bonding company shall be notified by regular mail of such failure to comply.
- C. Any person who shall have violated the provisions of this chapter shall be refused any further permit required by this chapter until that person has complied with all the provisions of this chapter. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989; Ord. 4441, 10-16-2000)

ARTICLE A. INSPECTION AND REPAIR

SECTION:

7-2A-1: Definitions

7-2A-2: Sidewalk Specifications

7-2A-3: Permits

7-2A-4: Inspections

7-2A-5: Improvements And Repairs

7-2A-6: Barricades And Warning Lights

7-2A-7: Cost Of Improvements; Assessments

7-2A-8: Vacation Of Sidewalks

7-2A-1: DEFINITIONS:

As used in this article, the following words have the following meanings:

CITY ENGINEER: The city engineer or personnel designated by the city engineer to perform the duties prescribed for the engineer by this article.

DEFECTIVE SIDEWALK: Any public sidewalk exhibiting one or more of the following characteristics:

- A. Vertical separations equal to three-quarters inch (3/4") or more;
- B. Horizontal separations equal to three-quarters inch (3/4") or more;
- C. Spalling or surface deterioration over fifty percent (50%) of the surface of a single square of the sidewalk and one or more half-inch (1/2") depressions;
- D. A single square of sidewalk cracked in such a manner causing three (3) or more pieces with one or more loose pieces;
- E. A sidewalk that is sloped or tilted creating water pockets, greater than 1/2 the width of the sidewalk, measured at any one point;
- F. A change from design or construction grade equal to or greater than two inches (2") in a ten foot (10') long area or less;
- G. Holes and/or depressions greater than one-half inch (1/2") deep and one and one-half inches (1 1/2") or more in any horizontal dimensions; Holes to the full depth of the sidewalk shall be repaired by removal and replacement of the full panel from existing joint to existing joint.
- H. Vertical or horizontal separations equal to three-fourths inch (3/4") or more where sidewalk abuts the curb, or any other fixture or structure and the separation is deemed unsafe;
- I. Any other defects deemed unsafe by the City Engineer.

OWNER: The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, if any.

SIDEWALK IMPROVEMENTS: The reconstruction, repair, replacement or removal of a public sidewalk or the excavating, filling or depositing of material in the public right of way in connection therewith.

SIDEWALK REPAIRS: Sidewalk repairs shall be by removal and replacement of full sidewalk panels from existing joint to existing joint for all defect types except surface depressions with an area of eighteen (18) square inches or less, which qualify for repair by patching. No sidewalk panel shall have a patched area exceeding 20% of the panel's total area. Sidewalk panels exceeding 20% of patched surface area shall be removed and replaced from existing joint to existing joint. A list of approved patching materials shall be on file in the city engineer's office. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989; Ord. 3875, 7-6-1992)

7-2A-2: SIDEWALK SPECIFICATIONS:

All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the city, shall be performed under the supervision and inspection of the city engineer or designee and in accordance with the plans and specifications prepared by the city engineer's office and approved by the city council. No permanent sidewalk improvements shall be performed until the bed for the same shall have been graded so that when completed such sidewalk shall be at the location and grade established by the city engineer or designee. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

7-2A-3: PERMITS:

A. Permit Required: No person shall make any sidewalk improvements whether ordered by the city council or not, unless such person obtains a permit from the city engineer and agrees that,

in making the sidewalk improvements, compliance will be made with the ordinances of this city and with the specifications for the sidewalks as prepared by the city engineer and approved by the city council, and that the work shall be done under the direction and supervision of the city engineer and subject to the approval of the city engineer or designee.

B. Bonds: A bond shall be required for all repairs except repairs made by patching as allowed under the definition of "sidewalk repairs" in section 7-2A-1 of this article. The bond shall be filed in the proper amount and the owner 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 agents thereof in making the sidewalk improvements, or by reason of failure to properly guard the premises.

C. Filing, Term Of Permits: All permits issued shall be filed and preserved in the office of the city engineer. Before granting any permit to make sidewalk improvements, the city engineer shall determine the appropriateness of the same and shall state in all permits issued when the sidewalk work is to be completed.

D. Extension Of Permit: The time of completion for the sidewalk improvements may be extended by the city engineer when in his judgment the extension is deemed necessary. The city engineer may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or if weather conditions will adversely affect the sidewalk improvements.

E. Permit Fees: Sidewalk permit fees shall be set by resolution of the city council and collected by the city engineer's office. Work performed by the city shall not require a permit fee. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989; Ord. 3708, 4-23-1990)

F. Failure To Obtain Permit: Whenever any sidewalk improvements are not completed in conformance to the provisions of this article, i.e., not in compliance with the current sidewalk standard specifications, or without a permit, the city engineer shall serve notice upon the property owner and/or the contractor doing such work of the nonconformance. If construction work is underway without a permit, the notice shall order the work to cease until a permit is obtained, and a fee of three (3) times the permit cost in addition to the cost of the original permit is paid. If the sidewalk improvement underway with a permit is not in conformance with the current sidewalk specifications, all work must be corrected to comply with the current specifications. In the event that the sidewalk work has been completed without obtaining a permit, a permit shall be immediately obtained, and a fee of three (3) times the permit cost in addition to the cost of the original permit is paid, and any corrections needed shall be completed within five (5) days after receipt of the permit. Any person who shall have violated the provisions of this chapter shall be refused any further permits required by this chapter until he has complied with all of the provisions of this chapter. Failure to comply with this notice shall result in the completion of the work being done by the office of the city engineer with the costs being assessed to the property owner as provided in this article. (Ord. 4611, 4-28-2003)

7-2A-4: INSPECTIONS:

A. Time Of Inspections: The office of the city engineer, its employees, or designees shall be responsible for inspecting the public sidewalks on a twelve (12) year cycle within the city or on a complaint basis. These inspections shall be made to determine if any of the public sidewalks within the city are defective as previously defined.

B. Inspection And Approval: The city engineer, or a designee, shall inspect the work, and may order the corrections if the work does not meet specifications. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

7-2A-5: IMPROVEMENTS AND REPAIRS:

A. Sidewalk Improvements Ordered: The city engineer may order the reconstruction, repair or replacement of permanent sidewalks upon any public right of way. Notice of this order shall be sent to the owner by regular mail. This notice shall include the fact that a hearing shall be held by the city council within thirty (30) days from the date of sending of the notice. The notice shall also contain information regarding the estimated costs of reconstruction, repair or replacement, as estimated by the office of the city engineer.

B. Defective Sidewalks Repaired: It shall be the duty of the abutting property owner at any time, or within forty five (45) days from the date of notice from the city, to repair, replace or reconstruct all broken or defective sidewalks in the public right of way abutting said property. If, after the expiration of the forty five (45) days, as provided in the notice, the required work has not been done or is not in the process of completion, the city engineer shall proceed to repair, replace or reconstruct the sidewalk. The total costs, including, but not limited to, engineering, inspection, construction and administrative costs, shall be assessed to the property as taxes or special assessments as provided hereinafter. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

7-2A-6: BARRICADES AND WARNING LIGHTS 1 :

Proper warning lights and barricades shall be placed to protect persons from materials, equipment and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, or the person conducting the work. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

Notes

1. See also sections 7-1-3 and 7-3-10 of this title.

7-2A-7: COST OF IMPROVEMENTS; ASSESSMENTS:

A. Hearing On Estimated Costs: The city council shall hold a hearing within thirty (30) days from the date of the sending of the notice, as aforementioned, wherein, at the time and place designated in the notice, the city council shall consider the estimated costs of reconstruction, repair or replacement which may be assessed against the property owners and any errors, irregularities or inequalities in the proposed reconstruction, repair or replacement. Affected property owners shall have the right to object to the proposed costs.

B. Notice Of Assessment For Repair Costs: When the city engineer submits an assessment for sidewalk improvements or repair, the city clerk shall send a notice of such facts to the owner of the abutting property. The notice shall be sent by regular mail to the last known address of the owner. The notice shall contain a statement of the work performed, the total costs of the work that is being assessed, a description of the property affected, and the fact 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, on account of errors, irregularities or inequalities, and give the place and time at which the city council will hear such objections. The time set for hearing shall be within thirty (30) days after the service or mailing of the notice.

C. Hearing And Assessment: At the time and place designated in the notice, the city council shall consider all objections to the assessment, correct all errors or omissions and adopt a corrected list of the amounts to be assessed against the property. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

D. Billing, Certification To County: Thirty (30) days after the decision of the city council of the assessment, the city clerk shall certify any unpaid amounts to the Black Hawk County treasurer. The unpaid assessments shall be collected by the county treasurer in the same manner as special assessments. The following schedule shall control the method wherein the property owner shall be required to pay any unpaid portion of the total costs of the repair of the sidewalk:

\$0.00 to \$500.00	1 year
\$500.01 to \$1,500.00	3 years
\$1,500.01 to \$2,500.00	5 years
\$2,500.01 to \$3,500.00	7 years
\$3,500.01 and over	9 years

Such assessments shall be paid in the same manner and at the same interest rates as for special assessments under Iowa Code chapter 384, division IV. No interest shall be charged for such assessments, or parts thereof, if paid within thirty (30) days from the date of the city council determination on the final amounts of the assessment. (Ord. 5346, 4-11-2016)

7-2A-8: VACATION OF SIDEWALKS:

A sidewalk may be vacated by the owner of the property by making a request to the planning, programming and zoning commission. The city engineer, and/or his designee, will review the request and forward it, along with his recommendation, to the planning, programming and zoning commission. The planning, programming and zoning commission will review the vacation request at its regular monthly meeting. The commission's recommendation will be forwarded to the city council for its consideration at its next regular meeting. (Ord. 3626, 3-13-1989; amd. Ord. 3649, 6-5-1989)

INTRODUCED:	November 1, 2021
PASSED 1st CONSIDERATION:	November 1, 2021
PASSED 2 nd CONSIDERATION:	November 1, 2021
PASSED 3 rd CONSIDERATION:	November 1, 2021

PASSED AND ADOPTED by this Council this 1st day of November 2021.

Quentin Hart



Quentin Hart, Mayor

ATTEST:

Kelley Felchle



Kelley Felchle, City Clerk

CERTIFICATE

I, Kelley Felchle, City Clerk of the City of Waterloo, Iowa, do hereby certify that the preceding is a true and complete copy of Ordinance No. 5622 as passed and adopted by the City Council of the City of Waterloo, Iowa, on the 1st day of November 2021.

Witness my hand and seal of office this 1st day of November 2021.

Kelley Felchle



SEAL

Kelley Felchle, City Clerk

