

2
3 AN ORDINANCE REGULATING THE
RECONSTRUCTION, ALTERATION AND REPAIR OF SIDEWALKS
4

5 WHEREAS, the City Council has reviewed the general
6 condition of sidewalks in the City of Keizer; AND

7 WHEREAS, the City Council has reviewed the City's
8 financial resources and in the budget process has determined the
9 priorities for expending funds available to the City; AND

10 WHEREAS, the responsibility for maintenance and repair
11 of sidewalks prior to the November, 1982 incorporation of the
12 City was by statute placed on property owners; AND

13 WHEREAS, the courts have upheld the right of cities to
14 place the responsibility for maintenance and repair of sidewalks
15 upon the property owner; NOW, THEREFORE,

16 The City Council makes the following special findings:

17 1) The general condition of sidewalks in Keizer is
18 adequate and not a danger to the public.

19 2) Keizer is without sufficient funds to undertake the
20 ongoing repair and maintenance of sidewalks within the City.

21 3) Keizer is without sufficient staff resources for
22 the continual inspection and repair of sidewalks or the removal
23 of trees, shrubs or roots obstructing or damaging sidewalks.

24 4) Keizer is without sufficient funds to hire
25 additional staff to continually inspect or repair sidewalks
26 within the City; NOW, THEREFORE,

1 The City of Keizer ordains as follows:

2 Section_____1. SIDEWALK MAINTENANCE STANDARDS;
3 INSPECTIONS. (A) The city manager shall prescribe, subject to
4 approval by the council, standards for the maintenance of
5 sidewalks in usable condition. Such standards shall prescribe
6 the maximum permissible deviation in elevation at a crack or
7 seam, the maximum permissible area and depth of pitting or other
8 irregularities; the maximum permissible slope where a portion of
9 a sidewalk deviates from established grade; and any other
10 standards the city manager deems appropriate to maintain the
11 effective use of sidewalk surfaces by pedestrians.

12 (B) Whenever the city manager learns of any condition
13 in a sidewalk which may not conform to the standards specified in
14 subsection (A) of this section, the city manager shall cause the
15 sidewalk to be inspected and, if found to be defective under
16 those standards, shall proceed as provided in Section 3.

17 (C) As used in Section 1 to Section 9, "sidewalk"
18 means the paved portion of the area determined as follows:

19 (1) On the side of a highway which has a shoulder, a
20 sidewalk is that portion of the highway between the outside
21 lateral line of the shoulder and the adjacent property line
22 capable of being used by a pedestrian.

23 (2) On the side of a highway which has no shoulder, a
24 sidewalk is that portion of the highway between the lateral line
25 of the roadway and the adjacent property line capable of being
26 used by a pedestrian.

1 (3) "Sidewalk" does not include "Bicycle Lane" or
2 "Bicycle Path" as those terms are defined by Oregon statutes.

3 Section 2. DUTIES OF ABUTTING OWNER. (A) It shall be
4 the affirmative duty of every owner of property abutting a
5 sidewalk to maintain the sidewalk in accordance with the
6 standards adopted pursuant to Section 1.

7 (B) It shall be the duty of every owner, either upon
8 notice of a defect or danger to pedestrians or upon acquiring actual
9 knowledge of a defective or dangerous condition in the sidewalk
10 to do the following:

11 (1) Erect and maintain barricades or warning devices
12 reasonably calculated to provide notice of the defect to
13 pedestrians using the sidewalk;

14 (2) Cause repair or reconstruction of the sidewalk
15 after obtaining a permit as required by Section 6; and

16 (3) Insure that the barricades or warning devices
17 remain in place until repairs are completed.

18 (C) The city shall make available to the property
19 owner the appropriate barricades or warning devices for fourteen
20 days without charge. Thereafter, the property owner shall pay
21 ten dollars per day for the use of the devices until returned to
22 the city.

23 Section 3. NOTICE TO REPAIR; ACTION UPON REFUSAL;
24 APPEAL. (A) If, upon inspection as provided in Section 1, the
25 city manager determines that a sidewalk or portion thereof does
26 not meet the standards provided in Section 1, the city manager

1 shall cause written notice of the defect to be mailed to the
2 owner or owners of the property abutting the sidewalk. Such
3 notice shall describe the defect, require compliance as provided
4 in Section 2, and this section, and give notice of the applicable
5 provisions of this section.

6 (B) The notice shall require that a permit to
7 undertake repair or reconstruction as required by Section 6 be
8 obtained within 30 days, and that the work be completed within a
9 reasonable period of time considering limitations of weather and
10 season, not to exceed 120 days. Such period may be extended in
11 the city manager's discretion upon application showing good cause
12 therefor. The notice may also specify the nature and location of
13 warning devices or barricades to be placed and maintained by the
14 owner.

15 (C) If, in the opinion of the city manager, the defect
16 in the sidewalk represents an immediate and extreme hazard to the
17 public, the city manager may cause barricades or warning devices
18 to be immediately placed to give warning of the hazard; and
19 shall, if the abutting property is occupied, give written notice
20 to the occupant that such barricades or warning devices have been
21 erected, from which time it shall be the responsibility of the
22 owner or occupant to maintain adequate barricades or warning
23 devices continually in place. The owner or occupant may place
24 substitute barricades or warnings in which event the city manager
25 shall cause the City's equipment to be removed; but in any event
26 the abutting owner shall pay to the City the sum of ten dollars

1 per day on and after the fifteenth day during which City
2 barricades or warning devices have not been replaced by the owner
3 or any occupant.

4 (D) Any person to whom the notice prescribed in
5 subsection (A) of this section is directed may appeal therefrom
6 to the Council by giving written notice of appeal to the city
7 recorder within fourteen days of the date the notice was mailed
8 or delivered, whichever is the earlier date. The notice of
9 appeal shall state one or more of the following grounds:

10 (1) That the alleged defect is not in violation of the
11 standards adopted under Section 1.

12 (2) That the alleged defect is not hazardous in fact
13 because of special conditions in the particular case;

14 (3) That the compliance period is unreasonable;

15 (4) That an extension of the compliance period was
16 unreasonably denied;

17 (5) That warning devices or barricades specified in
18 the notice are unreasonable; or

19 (6) That the person to whom notice has been given is
20 not the owner of the property adjacent to the allegedly defective
21 sidewalk.

22 (E) Upon receiving a notice of appeal, the city
23 recorder shall set the matter for public hearing before the
24 council and give notice thereof to the appellant. Following the
25 hearing, the council may affirm, reverse, or modify the city
26 manager's action.

1 (F) If no appeal is filed within the time provided in
2 subsection (D) of this section and no permit has been obtained or
3 the repairs are not completed as required by the notice, or if
4 the direction of the council following an appeal is not complied
5 with, the city manager shall make a full report to the council,
6 and the council may proceed as provided in Sections 4 and 5.

7 Section 4. PROCEDURE FOR INITIATING SIDEWALK REPAIR
8 AFTER NOTICE. (A) If a property owner fails to take action in
9 accordance with Section 3, proceedings for the reconstruction or
10 repair of existing sidewalk may be initiated by resolution of the
11 council.

12 (B) Notice of such resolution shall, by the recorder,
13 be served upon the record owner of such property liable to be
14 assessed for the cost and expense of reconstructing or repairing
15 the sidewalks by mail directed to the record owner at the last
16 post office address of such owner known to the recorder, and if
17 such post office address is unknown to the recorder, such notice
18 shall be directed to such owner at "Keizer, Oregon." Also, in
19 case of an owner whose post office address is unknown, a copy of
20 the notice shall be posted within five days after the date of
21 mailing upon such owner's property.

22 (C) Any such notice shall provide that such owner may
23 make such improvement within a specified period of time but not
24 less than thirty days from the date of mailing of such notice.

25 (D) In case the council finds an unsafe or dangerous
26 condition exists, it may require that the work be constructed

1 within ten days after the mailing of such notice. The recorder
2 shall make or cause to be made and filed in said office an
3 affidavit of service of such notice.

4 Section 5. PROCEDURE WHEN OWNER REFUSES TO REPAIR.

5 Whenever the council adopts a resolution directing the
6 reconstruction or repair of any sidewalks and the owner of the
7 property affected fails to make such reconstruction or repair
8 within the time limited by the resolution, then the city manager
9 shall proceed to reconstruct or repair such walk, and shall keep
10 an accurate account of the cost of labor and material required
11 for such reconstruction or repair, including inspection services,
12 and shall file a written report thereof with the council,
13 together with a description of the real property benefited by the
14 reconstruction and repair of such sidewalks as determined by the
15 council. Keizer shall follow its established contracting and
16 purchasing procedures in conducting the repairs. Such cost,
17 plus 15 percent additional to defray the cost of preparing and
18 serving the notice, engineering, and advertising shall constitute
19 the cost of reconstruction or repair of such sidewalk and shall
20 constitute a lien upon the benefited property, which lien shall
21 be entered by the recorder in the appropriate lien docket of the
22 city and shall be collected and foreclosed as a city lien is
23 collected and foreclosed. The 15 percent additional charge shall
24 be waived if the property owner pays the cost in full within 30
25 days of the date of mailing of the bill for the repairs to the
26 property owner.

1 Section 6. PERMIT TO RECONSTRUCT OR REPAIR REQUIRED.

2 No person shall alter, reconstruct or repair any sidewalk without
3 first obtaining a permit to do so from the city.

4 Section 7. APPLICATION. Application for the permit

5 required by the preceding section shall be made to the city
6 manager or the city manager's designee and shall describe the
7 location, width, length, and material proposed to be used, and
8 shall contain such other information as the city manager may deem
9 necessary to secure compliance with the provisions of this
10 ordinance. There shall be no fee charged for issuing this
11 permit.

12 Section 8. INSPECTION OF SIDEWALKS CONSTRUCTED UNDER

13 PERMIT. After a permit to reconstruct or repair a sidewalk is
14 issued, it shall be the duty of the city manager or the city
15 manager's designee to make such inspection of the sidewalk
16 covered thereby as, in the city manager's judgment, is necessary
17 to have full compliance with the provisions of this ordinance and
18 other ordinances that may be applicable. In case the walk is not
19 constructed in accordance with the terms of this ordinance, it
20 shall be the duty of the city manager to proceed against the
21 owner of the property affected, being the owner of the property
22 abutting upon that part of the street where the sidewalk is being
23 repaired or reconstructed.

24 Section 9. COMPLIANCE. It shall be a city infraction

25 for any person to willfully reconstruct or repair any sidewalk
26 contrary to the directions of any permit granted by the city

1 manager or without first obtaining a city permit.

2 PASSED this 15th day of December, 1986.

3 SIGNED this 17th day of December, 1986.

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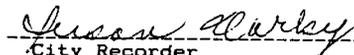
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Mayor

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City Recorder

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SIDEWALK REPAIR CRITERIA

Sidewalk defects that, in the judgment of the City Manager or the City manager's designee, would cause a pedestrian or jogger to trip or slip, or that would deflect or abruptly stop a wheeled vehicle, such as a wheelchair or skateboard, etc., shall be repaired. The following criteria are a guide to the City Manager or the City Manager's designee in evaluating if a sidewalk presents a public hazard warranting its repair. In all cases, the judgment of the City Manager or the City Manager's designee will be the controlling factor in the determination of whether or not a sidewalk creates a hazard requiring correction. It is the goal of the repair criteria to restore the sidewalk to its original or an equivalent standard.

1) Adjoining sections or portions thereof whose edges differ vertically by more than $3/4$ inch.

2) Any section having a cracks or holes greater than two inches wide by two inches deep.

3) Sections that have a sudden dip or rise in grade (tangents with slope difference more than 2 inches per foot with no radius at the intersection point).

4) Sections having depressions, reverse cross-slope (draining water away from street) or below curb grade so as to impound mud or water.

5) Sections that have ravelled or spalled resulting in aggregate protruding more than $3/4$ inch above the surface.

6) Paved or landscaped areas between the curb and sidewalk that protrude above the sidewalk and cause water to pond, drain, or flow along the sidewalk. This condition shall be corrected by lowering the area to a grade line between curb and sidewalk.

7) Repairs of utility vaults, valves or boxes that are not to proper grade shall be the responsibility of the appropriate utility company, and any adjacent sidewalk defects.

8) The City Manager may refer to the City Council the decision in its discretion to determine reconstruction responsibility for sidewalk defects that occur as a result of major flooding or any other similar occurrence.

9) The sidewalk shall be kept free from obstruction to travel caused by vegetation.