BILL NO. 058  A BILL FOR  ORDINANCE NO. 86-074

AN ORDINANCE REGULATING THE
RECONSTRUCTION, ALTERATION AND REPAIR OF SIDEWALKS

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

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

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

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

The City Council makes the following special findings:

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

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

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

4) Keizer is without sufficient funds to hire
additional staff to continually inspect or repair sidewalks
within the City; NOW, THEREFORE,
The City of Keizer ordains as follows:

Section 1. SIDEWALK MAINTENANCE STANDARDS; INSPECTIONS. (A) The city manager shall prescribe, subject to approval by the council, standards for the maintenance of sidewalks in usable condition. Such standards shall prescribe the maximum permissible deviation in elevation at a crack or seam, the maximum permissible area and depth of pitting or other irregularities; the maximum permissible slope where a portion of a sidewalk deviates from established grade; and any other standards the city manager deems appropriate to maintain the effective use of sidewalk surfaces by pedestrians.

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

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

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

(2) On the side of a highway which has no shoulder, a sidewalk is that portion of the highway between the lateral line of the roadway and the adjacent property line capable of being used by a pedestrian.
"Sidewalk" does not include "Bicycle Lane" or "Bicycle Path" as those terms are defined by Oregon statutes.

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

(B) It shall be the duty of a property owner, either upon acquiring actual knowledge that a defect or danger exists in the sidewalk or requiring actual knowledge that a defect or danger exists in the sidewalk, to:

1. Insure that barricades or warning devices reasonably calculated to protect pedestrians using the sidewalk;

2. Cause repair or reconstruction of the sidewalk after obtaining a permit as required by Section 6; and

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

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

Section 3. NOTICE TO REPAIR; ACTION UPON REFUSAL; APPEAL. (A) If, upon inspection as provided in Section 1, the city manager determines that a sidewalk or portion thereof does not meet the standards provided in Section 1, the city manager
shall cause written notice of the defect to be mailed to the
owner or owners of the property abutting the sidewalk. Such
notice shall describe the defect, require compliance as provided
in Section 2, and this section, and give notice of the applicable
provisions of this section.

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

(C) If, in the opinion of the city manager, the defect
in the sidewalk represents an immediate and extreme hazard to the
public, the city manager may cause barricades or warning devices
to be immediately placed to give warning of the hazard; and
shall, if the abutting property is occupied, give written notice
to the occupant that such barricades or warning devices have been
erected, from which time it shall be the responsibility of the
owner or occupant to maintain adequate barricades or warning
devices continually in place. The owner or occupant may place
substitute barricades or warnings in which event the city manager
shall cause the City’s equipment to be removed; but in any event
the abutting owner shall pay to the City the sum of ten dollars
per day on and after the fifteenth day during which City
barricades or warning devices have not been replaced by the owner
or any occupant.

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

1. That the alleged defect is not in violation of the
   standards adopted under Section 1.

2. That the alleged defect is not hazardous in fact
   because of special conditions in the particular case;

3. That the compliance period is unreasonable;

4. That an extension of the compliance period was
   unreasonably denied;

5. That warning devices or barricades specified in
   the notice are unreasonable; or

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

(E) Upon receiving a notice of appeal, the city
recorder shall set the matter for public hearing before the
council and give notice thereof to the appellant. Following the
hearing, the council may affirm, reverse, or modify the city
manager's action.
If no appeal is filed within the time provided in subsection (D) of this section and no permit has been obtained or the repairs are not completed as required by the notice, or if the direction of the council following an appeal is not complied with, the city manager shall make a full report to the council, and the council may proceed as provided in Sections 4 and 5.

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

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

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

(D) In case the council finds an unsafe or dangerous condition exists, it may require that the work be constructed...
within ten days after the mailing of such notice. The recorder shall make or cause to be made and filed in said office an affidavit of service of such notice.

**Section 5.** PROCEDURE WHEN OWNER REFUSES TO REPAIR.

Whenever the council adopts a resolution directing the reconstruction or repair of any sidewalks and the owner of the property affected fails to make such reconstruction or repair within the time limited by the resolution, then the city manager shall proceed to reconstruct or repair such walk, and shall keep an accurate account of the cost of labor and material required for such reconstruction or repair, including inspection services, and shall file a written report thereof with the council, together with a description of the real property benefited by the reconstruction and repair of such sidewalks as determined by the council. Keizer shall follow its established contracting and purchasing procedures in conducting the repairs. Such cost, plus 15 percent additional to defray the cost of preparing and serving the notice, engineering, and advertising shall constitute the cost of reconstruction or repair of such sidewalk and shall constitute a lien upon the benefited property, which lien shall be entered by the recorder in the appropriate lien docket of the city and shall be collected and foreclosed as a city lien is collected and foreclosed. The 15 percent additional charge shall be waived if the property owner pays the cost in full within 30 days of the date of mailing of the bill for the repairs to the property owner.
Section 6. PERMIT TO RECONSTRUCT OR REPAIR REQUIRED.

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

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

Section 8. INSPECTION OF SIDEWALKS CONSTRUCTED UNDER PERMIT. After a permit to reconstruct or repair a sidewalk is issued, it shall be the duty of the city manager or the city manager's designee to make such inspection of the sidewalk covered thereby as, in the city manager's judgment, is necessary to have full compliance with the provisions of this ordinance and other ordinances that may be applicable. In case the walk is not constructed in accordance with the terms of this ordinance, it shall be the duty of the city manager to proceed against the owner of the property affected, being the owner of the property abutting upon that part of the street where the sidewalk is being repaired or reconstructed.

Section 9. COMPLIANCE. It shall be a city infraction for any person to willfully reconstruct or repair any sidewalk contrary to the directions of any permit granted by the city.
Manager or without first obtaining a city permit.

PASSED this 15th day of December, 1986.

SIGNED this 17th day of December, 1986.

______________________
Mayor

______________________
City Recorder
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.