

## CHAPTER 136

# SIDEWALK REGULATIONS

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**136.01 PURPOSE.** This policy is intended to establish guidelines for the installation of new sidewalks in the City of Asbury and to document the methodology to be used to assess the costs associated with new sidewalk construction to the abutting property owner. Except as otherwise stated in this policy it is the goal of the City to have curb, gutter, and sidewalks, on existing and future streets for the benefit of the health, safety, and welfare of the citizens. The City of Asbury is committed to being a walkable community.

*(Ord. 2-2016 – May 16 Supp.)*

**136.02 DEFINITIONS.** As used in this chapter the following words have the following meanings:

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk with a fine hair broom when it is hardening.
2. “Defective sidewalk” means any public sidewalk exhibiting one or more of the following characteristics:
  - A. Vertical separations equal to three-fourths inch or more,
  - B. Horizontal separations equal to one-half inch or more,
  - C. Holes or depressions equal to three-fourths inch or more and at least four inches in diameter,
  - D. Spalling over fifty percent (50%) over a single square of the sidewalk with one or more depressions equal, to one-half inch or more,
  - E. Spalling over less than fifty (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths inch 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.

- 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 per foot.
- 3. “Engineer” means the City Engineer.
- 4. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
- 5. “Owner” means the person owning the fee title and the contract purchaser for purpose of notification required herein. For all other purposes, “owner” includes the lessee, if any.
- 6. “Portland cement” means any type of cement except bituminous cement.
- 7. “Sidewalk improvements” means the construction, reconstruction, repair, replacement or removal of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.
- 8. “Sidewalk” means all permanent public walks in business or residential areas.
- 9. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.
- 10. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

**136.03 SPECIFICATIONS FOR THE CONSTRUCTION OF SIDEWALKS.** Sidewalks constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

- 1. Preparing Subgrade. The subgrade upon which the sidewalk is to rest shall be prepared by excavating or filling the finished grade line that when tamped or rolled till smooth and firm, the subgrade will be uniform in density and at the desired depth below the finished grade lines before the forms are placed. All materials that would be classified as rock or stone over two (2) inches shall be removed from the subgrade. The subgrade material and fill section shall contain no nested clods. The subgrade shall be prepared for a distance of one (1) foot outside the forms to allow the forms to rest on the prepared subgrade. The subgrade shall be thoroughly wet so as to be in a moist condition immediately before the concrete is placed.
- 2. Grade. All permanent sidewalks constructed shall be constructed to conform to the established grade of the street upon which the sidewalk is laid. Sidewalks shall be laid in accordance with grades set by the City

Engineer. All sidewalks shall be elevated two (2) inches from the height of the adjoining curb and shall be elevated one (1) inch above the adjoining ground. All sidewalks shall slope one-fourth (1/4) inch per foot toward the curb. Sidewalks shall be placed four (4) feet behind the curb parallel to the street, unless an exception has been permitted by the City Engineer to preserve topographical or natural features or to provide visual interest, or unless the subdivider shows that an alternative pedestrian system provides safe and convenient circulation.

*(Ord. 8-07 – May 07 Supp.)*

3. Forms. Forms of a suitable material may be used. The forms shall always be cleaned of mortar and dirt, be free from warp and of sufficient strength to resist springing out of shape. The forms shall be well staked or otherwise held to the established lines and grades and their upper lines shall conform to the finished grade of the walk.

4. Expansion Joints. An expansion joint shall be constructed at all points where the walk meets other walks, curbs, or fixtures in the surface, and at intervals of not greater than fifty (50) feet. Joints shall have a width of three-fourth (3/4) inch and after the cement for the walk has been run into place and has set sufficiently, the expansion joints shall be filled with a mastic material of such consistency that it will not become soft and run in hot weather, and will not become brittle and chip off in extreme cold weather. Expansion joints must be provided where the end of the walk abuts against a curb and at all corners where two (2) walks meet at right angles.

5. Construction Joints. Contraction joints shall be installed as specified in the Standard Sidewalk Detail.

6. Concrete Mix. The concrete mix shall be of a proportion to develop a minimum ultimate twenty-eight (28) day compressive strength of three thousand (3,000) pounds per square inch. The concrete mix for a sidewalk through a driveway shall be of a proportion to develop a minimum ultimate twenty-eight (28) day compressive strength of four thousand (4,000) pounds per square inch.

7. Width and Thickness of Sidewalks. All sidewalks shall be at least four (4) feet in width and four (4) inches thick, and each section, separated by a construction joint at a maximum one-third (1/3) the thickness, shall be equal to the sidewalk width. Sidewalks through driveways shall be six (6) inches thick. Sidewalks through industrial and commercial driveways shall be a minimum of eight (8) inches thick and designed for the type of traffic the industry or business generates. Blocks identified by the council as having special need or special opportunity for wider sidewalks (e.g., blocks with commercial or other

high-traffic frontage or where property owners bear all or part of the cost of installation may be installed with a width wider than four feet).

(Ord. 2-2016 – May 16 Supp.)

8. Load. Whatever form of construction is used, it shall be designed to have sufficient strength to bear safely a uniformly distributed load of one hundred fifty (150) pounds per square foot of surface.

9. Care and Protection. Workers shall not be permitted to walk on freshly laid concrete, and where any sand or dirt gets on the surface it shall be carefully removed before finishing. When completed, the walk shall be protected from traffic and the elements for at least two (2) days, and from vehicle traffic at driveways and alleys for at least seven (7) days. The forms shall not be removed before twenty-four (24) hours, and when removed the earth shall be banked against the edge of the walk.

10. Tests and Inspection. The Engineer or the Superintendent of Public Works shall have the right to go upon any work wherein sidewalks are being constructed as provided in this section and make tests and do such other acts as may be necessary to determine whether or not the provisions of this chapter are being complied with.

11. Finish. All sidewalks shall be finished with a “wood float” and groomed in a traverse direction to the slab with a “broom finish”.

12. Detail Drawings. All sidewalks shall comply with the *Standard Sidewalk Detail*. Sidewalks through driveway sections shall comply with the *Residential Driveway Type A Standard Detail* and *Commercial Driveway Type A Standard Detail*. Sidewalk intersections and curb ramps shall be constructed in accordance with the *Iowa Department of Transportation Standard Road Plan, RB-6, Pedestrian Curb Ramp Detail*, current edition. Detectable warning pavers shall be pre-cast concrete as manufactured by Wausau Tile Company, type ADA-2, color U4008, or approved equal. The drawings are on file at City Hall.

(Ord. 2-07 – Feb. 07 Supp.)

13. New and reconstructed sidewalks shall be fully compliant with ADA regulations.

(Ord. 2-2016 – May 16 Supp.)

**136.04 PERMITS FOR CONSTRUCTION OR REMOVAL.** No person shall make any sidewalk improvements, whether, ordered by the City Council or not until obtaining a sidewalk permit and agrees in writing, that, in making sidewalk improvements, such person shall comply with the ordinances of the City and with the specifications for sidewalks approved by the City Council and on file in the office of the City Clerk.

1. Standard Sidewalk Specifications. All sidewalk improvements must be carried out in accordance with *City Standard Sidewalk Specifications*, adopted by ordinance and on file at City Hall.
2. Permit Required. No sidewalk improvements shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:
  - A. An exact description of the property, by lot and street number, in front of or along which it is desired to install/replace sidewalk(s).
  - B. A statement of purpose, for whom and by whom the sidewalk(s) is to be made.
  - C. The person responsible for all said work.
  - D. Date of commencement of the work and estimated completion date.
  - E. All permits for City Council ordered sidewalk improvements shall be issued in compliance with the resolution of the City Council ordering the improvement. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter.
  - F. The City Clerk 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 adversely affect the sidewalk improvements.
3. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the application is carrying public liability insurance in effect for the duration of the permit covering the applicant and listing the City as “Additional Insured” prior to commencing any work. The applicant and/or the applicant’s contractor(s) shall be insured for the following minimum amounts:
  - A. Bodily Injury - \$100,000 per person; \$300,000 per accident.
  - B. Property Damage - \$100,000 per accident.

Said applicant shall also agree to hold the City free from all liability or damages on account of injuries received by anyone through the negligence of such person or any agenda or employees in making the sidewalk improvements, or by reason of such person’s failure to properly guard the premises.

*(Ord. 5-07 – Feb. 07 Supp.)*

**136.05 INSPECTION OF WORK; REMEDIES.** All sidewalk improvements shall be done under the direction and supervision of the Public Works Department and subject to the inspection and approval by the Public Works Department. The owner shall pay the cost of inspection. Whenever any sidewalk improvements are made which do not conform to the provisions of this chapter and with the specifications herein referred to, or where any sidewalk improvements are made without obtaining a permit as required by this chapter, or the work is not performed within the time stated in the permit, the City Clerk shall serve upon the property owner or 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 (5) 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 City Clerk shall cause the sidewalk to be constructed, reconstructed or repaired in a proper manner and of proper materials. There shall be returned to the City 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 for collection in the same manner as a property tax.

*(Ord. 5-07 – Feb. 07 Supp.)*

**136.06 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 side 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 chapter shall be liable for any 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 chapter or of any failure to comply with provisions hereof.

**136.07 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, except where same forms part of a driveway, or shall, without the consent of the owner, remove, destroy, mar or deface any sidewalk, approach thereto, or part thereof, or destroy, mar, remove or deface any notice provided by this chapter.

**136.08 ORDERING NEW SIDEWALKS.** New sidewalk installation shall be coordinated by the City Engineer as directed by the City Council. Locations for new sidewalk that will be installed entirely independent of any street construction work shall generally conform to the City's Capital Improvement Plan that is revisited by the City Council on an annual basis to establish target areas and reassess needs as the community needs and priorities evolve with regard to pedestrian traffic. This will also allow constituents to plan ahead and have a level of awareness with regard to future sidewalk projects and targeted areas for sidewalk construction. Notices shall be mailed to property owners along streets slated to receive new sidewalk. This notice shall serve to notify the property owner that sidewalk will be installed and that assessments shall be levied against abutting properties. Special Assessment procedures shall conform to City Ordinances and applicable State Law. As provided by City Ordinance, the abutting property owner has the option of installing their own sidewalk or hiring their own contractor to install sidewalk. Any property owner choosing to install their own sidewalk or hire their own contractor must conform to City Ordinances and guidelines for construction. Any property owner choosing to install their own sidewalk or hire their own contractor assumes full responsibility for all costs associated with the sidewalk installation.

1. City Owned Property. Whenever sidewalks are constructed on a street, all City owned parcels contiguous to the project will have sidewalk installed. The Mayor and Council may decide by majority vote, after consideration of the material and relevant factors including but not limited to the following criteria, to forego installation of sidewalk in a particular location:

A. Exceptions:

(1) Locations where the topography is such that sidewalk construction is not feasible or where the cost to construct sidewalk would be excessive or would present inordinate engineering challenges or costs.

(2) There is insufficient existing public right of way or easement available for installation of sidewalk and it is infeasible to acquire the necessary easement or to incorporate part of the existing roadway for the sidewalk.

(3) The block(s) are not on a “major collector” or “collector” street as defined in Chapter 141 Street Reconstruction.

(4) The installation encourages pedestrian traffic in an otherwise dangerous area. (i.e. along an undeveloped rural street with narrow roadways)

(5) There is justification from the City Engineer determining that sidewalks are not required based on special circumstances. *(Ord. 2-2016 – May 16 Supp.)*

**136.09 REPAIRING DEFECTIVE SIDEWALKS.** It is the duty of the abutting property owner at any time, or upon thirty (30) days’ written notice by certified mail from the City, to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all defective sidewalks in the street right-of-way abutting said 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 City 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 City 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 for collection in the same manner as a property tax.

**136.10 CLEANING SNOW, ICE AND ACCUMULATIONS.** It is the duty of the abutting property owner to keep his or her sidewalk clean by promptly removing, or causing to be removed, all snow, ice, or accumulations such as mud, sand or other debris. If the owner fails to so clean or remove such materials within forty-eight (48) hours, the officer authorized by the City Council may remove, or cause to be removed, all snow, ice, or accumulations from all sidewalks without notice to the property owner, and he or she shall return to the City Council an itemized and verified statement of expenditures of labor and materials used in making such removal, and the description of the lot or parcel of ground abutting on which such snow, ice or other accumulation has been removed, and the cost thereof shall be assessed to the property fronting thereon for collection in the same manner as a property tax. *(Ord. 1-2015 – Jan. 15 Supp.)*

**136.11 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** Upon the filing of the verified statement, the City Clerk shall cause a



written notice of such facts to be given to the owner of the abutting property provided for in Sections 136.05, 136.08 and 136.09, either by personal service or by certified mailing 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, a demand that the person pay the amount assessed by a certain date without interest and advise that the person may object in writing to such assessment and the place where and the time by which such objection must be filed. The deadline set for filing objections shall not be less than ten (10) days after service or mailing of said notice. If the owner fails to pay the entire amount assessed by the date certain, and also fails to timely file proper written objection to the assessment, the City Clerk shall proceed to assess the charges to the property for collection in the same manner as a property tax. If the owner fails to pay the amount assessed by the date certain, but does file timely and proper written objection, the matter shall proceed to hearing and determination by the City Council under Section 136.12. Any assessment not objected to which exceeds one hundred dollars (\$100.00) may be paid in installments as set by the City Clerk, not exceeding ten (10), to the City 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 service or mailing of notice of assessment.

**136.12 HEARING AND ASSESSMENT.** The City Clerk shall set a time and place for hearing on any timely and properly filed written objection, which hearing shall be not less than fifteen (15) days from the filing of the objection, and shall give written notice thereof by regular mail to the owner. At the time and place designated in such notice, the City Council shall meet, hear and consider all objections to the whole or any part of such assessment and all evidence offered by the owner and the City, and shall correct all errors or omissions therein, and after such consideration, the City Council shall determine the amounts to be assessed against the property.

**136.13 BILLING AND CERTIFYING TO COUNTY.** If, after the adoption by the City 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 City Council determination of correct charges, the City Clerk shall certify all unpaid assessments to the County Treasurer for collection in the same manner as a property tax. Any assessment which exceeds one hundred dollars (\$100.00) may be paid in installments as set by the City 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 date that the City Council determined the final amounts.

**136.14 FAILURE TO REPAIR OR BARRICADE.** It is the duty of the owner of the property abutting the sidewalk, or his contractor or agent, to notify the City immediately in the event he or she fails or is unable to make necessary sidewalk improvements or to install or erect necessary warnings and barricades as required by this chapter.

**136.15 OWNER'S DUTY TO MAINTAIN SIDEWALKS.** The owner of any lot or parcel thereof abutting upon any sidewalk on the city streets in the city shall maintain said sidewalk in a state of good repair, free from cracks, holes, and unevenness so that the sidewalk does not constitute a safety hazard. A state of sidewalk disrepair is hereby declared a public nuisance. The owner of any lot or parcel who fails to repair said sidewalk shall be liable to any person injured as a result of such failure and shall further save, defend, indemnify and hold harmless the City of Asbury from and against any claim arising out of the failure to maintain said sidewalk.

*(Ord. 10-2017 – Jul. 17 Supp.)*

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