

## Title 12

### STREETS, SIDEWALKS AND PUBLIC PLACES

#### Chapters:

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#### Chapter 12.04

### SIDEWALK CONSTRUCTION AND MAINTENANCE\*

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\* Prior code history: Prior code §§ 2-1.1--2-1.6.

12.04.010 Duty of owners to construct sidewalks, power of council.

It is made the duty of all owners of land adjoining any street in the city to construct the sidewalks in front of such land. The council has the power and authority to determine the grade and width of all sidewalks in the city, the material to be used, and the specifications for the construction thereof. The council has the authority to initiate and order to complete sidewalks through a hearings process or to waive sidewalk construction for

those circumstances where sidewalks may not be warranted. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.020 Timing of construction of sidewalks.

Sidewalks shall be constructed for each parcel of land adjoining a public street at the time of initial development and in no case more than ninety (90) days after the initial development of the property with approval of the city manager or their designee with the circumstances listed in subsections A through E of this section.

- A. Weather conditions would not allow proper construction of the sidewalk;
- B. The property is part of a local improvement district for sidewalks already approved;
- C. The city has a pending project which would preclude construction at the time of initial development;
- D. There are topographical grade issues which would preclude the installation of a sidewalk;
- E. Where the construction of the sidewalk would not enhance or meet approved connectivity plans of pedestrian pathways. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.030 Duty of owners to make sidewalk repairs, power of council.

It is made the duty of all owners of land adjoining any street in the city to maintain in good repair the sidewalks in front of such land. The council has the power and authority to determine the grade and width of all sidewalks in the city, the material to be used, and the specifications for the repair thereof. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.040 Maintaining free and unobstructed sidewalks.

It is the duty of all owners or tenants of land adjoining a street in the city to maintain free and unobstructed sidewalks which are designed to be pedestrian pathways.

- A. No owner shall affix to, or place on or over, the sidewalk in a manner to create an obstruction any of the following items:
  - 1. Sports or other stanchions or appurtenances (e.g., basketball baskets and supporting structures, etc.);
  - 2. Fencing;
  - 3. Retaining walls;
  - 4. Trees or shrubs;
  - 5. Passenger vehicles, trucks, trailers or recreational vehicles;
  - 6. Garbage cans other than noted in subsection B of this section;

7. Other items which impair full unobstructed pedestrian access to the sidewalk or create diminished safety of the pedestrian.

B. Exceptions include the following:

1. Garbage cans within twenty-four (24) hours prior to or after pickup;
2. Temporary advertising sandwich board signs which meet the provisions of Boardman Development Code Chapter 3.6.500(E)(6);
3. Other similar temporary obstructions deemed appropriate by the city manager or their designee. (Ord. 5-2008 § 3 (part), 2007)

12.04.050 Notice of obstructed sidewalks.

If the owner or tenant of any lot or part thereof or parcel of land shall cause any obstruction of the sidewalk, it shall be the duty of the city manager or their designee to notify the owner or tenant of the violation. It shall be the duty of the owner or tenant to remove the identified obstruction. (Ord. 5-2008 § 3 (part), 2007)

12.04.060 Penalty for violation of obstruction of sidewalks.

A violation of obstruction of sidewalks shall constitute a Class D violation as defined in Chapter 153 of the Oregon Revised Statutes or as hereafter amended and the fine for such a violation shall be as set forth in Chapter 153 of the Oregon Revised Statutes for a Class D violation as presently defined or as hereafter amended. (Ord. 5-2008 § 3 (part), 2007)

12.04.070 Notice of defective sidewalks.

If the owner of any lot or part thereof or parcel of land shall suffer any sidewalk along the same to become out of repair, it shall be the duty of the city manager or their designee, or any person appointed by the council for that purpose, when ordered to do so by the council, to post a notice on the adjacent property headed "Notice to Repair Sidewalk," and such notice shall direct the owner, agent, or occupant of such property immediately to repair the same in a good and substantial manner. The person posting the notice shall file with the city recorder an affidavit of the posting of such notice, stating the date when and the place where it was posted. The city recorder shall, upon receiving the affidavit of the person posting such notice, send by mail, postpaid, a notice to repair such sidewalk to the owner, if known, and directed to the post-office address of such owner or agent, when such post-office address is known to the city recorder. If such post-office address be unknown to the city recorder, such notice shall be directed to such owner or agent at Boardman, Oregon. A mistake in the name of the owner or agent, or a name

other than that of the true owner or agent of such property, shall not render such notice void. In such case, the posted notice shall be sufficient. Repairs shall be made within ninety (90) days from the posting of the notice. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.080 Permit for repairs.

Prior to making sidewalk repairs, the owner, agent, or occupant shall obtain from the city engineer a permit prescribing the kind of repair to be made, the material to be used, and the specifications therefore. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.090 Repairs by city, record and report.

If the owner, agent, or occupant of a lot, part of a lot, or parcel of land fails, neglects, or refuses to make the sidewalk repairs within the time designated, the city engineer may make the repairs. The city engineer shall keep an accurate account of the cost of the labor and materials used in making the repairs, report monthly to the council the cost of the repairs, and prepare a description of the lot or parcel of land fronting on the repaired sidewalk. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.100 Assessment for repairs by city.

The council shall, at least once each year, by ordinance assess the cost of making such repairs or laying the same including legal, administrative, and engineering costs attributable thereto upon each lot or part thereof or parcel of land fronting upon sidewalks which have been so repaired or laid. All such assessments may be combined in one assessment roll and the city recorder shall enter in the docket of city liens a statement of the amounts assessed on each lot or part thereof or parcel of land, together with the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the lot or part thereof or parcel of land that has been assessed for the sidewalk repair. Such assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance. After expiration of thirty (30) days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon. (Ord. 5-2008 § 3 (part), 2007)

#### 12.04.110 Liability of owners.

The owner or owners of land adjoining any street in the city shall be liable to any person suffering injury by reason of any defect in the sidewalks in front of such land. (Ord. 5-2008 § 3 (part), 2007)

## Chapter 12.08

### EXCAVATIONS

#### Sections:

- 12.08.010 Permit required.
- 12.08.020 Permit applications.
- 12.08.030 Security.
- 12.08.040 Replacement.
- 12.08.050 Utilities.
- 12.08.060 Breakage.
- 12.08.070 Safety.
- 12.08.080 Penalty.

#### 12.08.010 Permit required.

No person, firm or corporation shall excavate, cut, break, dig up, damage in any manner, undermine or tunnel under a public street or alley without first securing a permit and depositing security as provided in this chapter. (Prior code § 2-4.1)

#### 12.08.020 Permit applications.

Applications may be obtained at the office of the city manager on a form prescribed by the city and shall specify the name and address of the applicant, date of application, the name of the street to be cut, excavated or tunnelled under, the nature of the street surface or pavement involved, the purpose of the work, the size of the cut or excavation, the number of days required to complete the work, and an agreement to deposit security as required by the city manager. The applicant must also consent to comply with the specifications of the city engineer pertaining to the conduct of the work and save the city and its employees harmless against any injury or damage resulting from the acts of the applicant. (Amended during 11-01 supplement; Prior code § 2-4.2)

#### 12.08.030 Security.

A. Before the issuance of a permit, the city manager may require the applicant to file as security either:

1. Cash or a certified check in an amount equal to twice the estimated replacement value of the pavement to be cut or excavated, conditioned that the applicant will, immediately on the completion of the work, remove all surplus earth, rubbish or other material, replace the pavement cut or undermined area in a condition as good or better than it was before, and keep the same in good repair, at his or her own expense, for a period to be designated by the city manager, but not to exceed one year from the completion of such work; or

2. A blanket surety bond to cover all street cuts made by any particular applicant for a period of one year, in an amount to be fixed by the city manager, but not to exceed one thousand dollars (\$1,000.00), and subject to the same conditions as stated above with reference to cash or certified checks for particular street cuts.

B. The city manager may waive the requirements of this section if, in the opinion of the city manager, such security is not necessary for the protection of the public interest. (Amended during 11-01 supplement; Prior code § 2-4.3)

#### 12.08.040 Replacement.

A. All portions of the cut within the curb lines of the street or other actual travelled portion of the street as designated by the city manager shall be replaced with material similar to that excavated. Temporary cold asphalt patches on paved streets must be placed over the opening within twenty-four (24) hours after the completion of the construction work that necessitated the street opening. Temporary patches must be replaced with hot asphalt permanent patches within a reasonable time, giving consideration to weather conditions and practicalities of delivering reasonable quantities of hot asphalt to the city.

B. For twelve (12) months following the completion of the work and the restoration of a street, the person or firm who opened the street shall be responsible for the condition of the fill and replacement and of the resurfacing. All necessary steps shall be taken to insure that the street remains in good condition, without settlement at the location of the work. If the trench settles during this period, the applicant shall bring the street back to proper grade. Acceptance or approval by the city of an excavation or cut and its replacement and resurfacing, if any, shall not prevent the city from asserting a claim against the applicant for incomplete or defective work, if discovered within twelve (12) months from the completion of the work. (Amended during 11-01 supplement; Prior code § 2-4.4)

#### 12.08.050 Utilities.

Cuts or excavations in the city streets made by a franchised public utility shall be repaired within a reasonable time according to the standards set out in this chapter, including the placement of a temporary patch within twenty-four (24) hours as provided in Section 12.08.040. If the utility fails to repair after written notice by the city, the city may make the repairs and restore the street and charge the costs to the utility at the prevailing rate for the work in the city, plus ten (10) percent to cover administration. (Prior code § 2-4.5)

#### 12.08.060 Breakage.

The applicant shall determine the existence and location of all underground utilities and protect the same against damage. The applicant is responsible for any damage done to a public or private property by reason of the breaking of water pipes, sewer, electric, phone or cable TV lines, or other utility facilities. (Prior code § 2-4.6)

#### 12.08.070 Safety.

The applicant shall take appropriate measures to assure that during the performance of the excavation work traffic conditions are maintained as near normal as practicable, so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public. The applicant shall keep the excavation or cut properly safeguarded by substantial barricades and shall display warning signs or lights from dusk to daylight in conformity with regulations that may be specified by the city manager. (Amended during 11-01 supplement; Prior code § 2-4.7)

#### 12.08.080 Penalty.

Violation of a provision of this chapter is punishable by a fine of not less than five hundred dollars (\$500.00) and not more than one thousand dollars (\$1,000.00). (Prior code § 2-4.8)

### Chapter 12.12

## STREETS AND CURBS

### Sections:

- 12.12.010 Duty of owners.
- 12.12.020 Maintaining free and unobstructed streets and curbs.
- 12.12.030 Notice of obstructed street or curbs.
- 12.12.040 Penalty for violation of obstruction of streets or curbs.
- 12.12.050 Protecting streets and curbs from damage.
- 12.12.060 Notice of street or curb damage.
- 12.12.070 Assessment for repairs by city.
- 12.12.080 Liability of owners.

12.12.010 Duty of owners.

It is made the duty of all owners of land adjoining any street in the city:

- A. To keep the on-street parking area free of obstructions other than on-street parking as intended by design;
- B. To protect from damage the area of on-street parking and curbs for those portions of the street abutting such land. (Ord. 4-2008 § 3 (part), 2007)

12.12.020 Maintaining free and unobstructed streets and curbs.

It is the duty of all owners or tenants of land adjoining a street in the city to maintain free and unobstructed streets which are designed to be pedestrian pathways.

A. No owner shall affix to, or place on or over, the street in a manner to create an obstruction any of the following items:

- 1. Sports or other stanchions or appurtenances (e.g., basketball baskets and supporting structures, etc.);
- 2. Fencing;
- 3. Retaining walls;
- 4. Trees or shrubs;
- 5. Garbage cans other than noted in subsection B of this section;
- 6. Other items which impair full unobstructed on-street parking access to the street or create diminished safety of the pedestrian or vehicular traffic.

B. Exceptions include the following:

- 1. Garbage cans within twenty-four (24) hours prior to or after pickup;
- 2. Other similar temporary obstructions deemed appropriate by the city manager or their designee. (Ord. 4-2008 § 3 (part), 2007)

12.12.030 Notice of obstructed street or curbs.

If the owner or tenant of any lot or part thereof or parcel of land shall cause any obstruction of the street or curbs, it shall be the duty of the city manager or their designee to notify the owner or tenant of the violation. It shall be the duty of the owner or tenant to remove the identified obstruction. (Ord. 4-2008 § 3 (part), 2007)

#### 12.12.040 Penalty for violation of obstruction of streets or curbs.

A violation of obstruction of street or curbs shall constitute a Class D violation as defined in Chapter 153 of the Oregon Revised Statutes or as hereafter amended and the fine for such a violation shall be as set forth in Chapter 153 of the Oregon Revised Statutes for a Class D violation as presently defined or as hereafter amended. (Ord. 4-2008 § 3 (part), 2007)

#### 12.12.050 Protecting streets and curbs from damage.

It shall be the responsibility of the owner of land abutting a street to protect the curb and area of on-street parking from damage to the pavement or curb from the following practices resulting in damage to those structures:

- A. Vehicle fluid leaks such as oil, transmission fluid, hydraulic fluid, antifreeze, acids, and other damaging fluids;
- B. Parking on the curb creating structural damage to the curbs;
- C. Digging, grinding, or other activities which degrade pavement surface;
- D. Preventing tree or shrubbery roots from uplifting curbs and streets causing structural damage;
- E. Other practices by the owner which may cause structural damage to the street of curbs beyond normal wear and tear. (Ord. 4-2008 § 3 (part), 2007)

#### 12.12.060 Notice of street or curb damage.

If the owner of any lot or part thereof or parcel of land shall suffer any street or curb damage along the same, it shall be the duty of the city manager or their designee, or any person appointed by the council for that purpose, when ordered to do so by the council, to post a notice on the adjacent property headed "Notice to Repair Damaged Streets and Curbs," and such notice shall direct the owner, agent, or occupant of such property immediately to repair the same in a good and substantial manner. The person posting the notice shall file with the city recorder an affidavit of the posting of such notice, stating the date when, and the place where it was posted. The city recorder shall, upon receiving the affidavit of the person posting such notice, send by mail, postpaid, a notice to repair such streets and curbs to the owner, if known, and directed to the post-office address of

such owner or agent, when such post-office address is known to the city recorder. If such post-office address be unknown to the city recorder, such notice shall be directed to such owner or agent at Boardman, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property, shall not render such notice void. In such case, the posted notice shall be sufficient. Repairs shall be made within twenty (20) days from the posting of the notice. (Ord. 4-2008 § 3 (part), 2007)

#### 12.12.070 Assessment for repairs by city.

The council shall, at least once each year, by ordinance assess the cost of making such repairs or laying the same including legal, administrative, and engineering costs attributable thereto upon each lot or part thereof or parcel of land fronting upon streets which have been so repaired. All such assessments may be combined in one assessment roll and the city recorder shall enter in the docket of city liens a statement of the amounts assessed on each lot or part thereof or parcel of land, together with the name of the owners and the date of the assessment ordinance. Upon such entry in the lien docket, the amount so entered shall become a lien and charge upon the lot or part thereof or parcel of land that has been assessed for the sidewalk repair. Such assessment liens of the city shall be superior and prior to all other liens or encumbrances on property insofar as the laws of the state of Oregon permit. Interest shall be charged at the rate of six percent per annum until paid on all amounts not paid within thirty (30) days from the date of the assessment ordinance. After expiration of thirty (30) days from the date of such assessment ordinance, the city may proceed to foreclose or enforce collection of the assessment liens in the manner provided by the general law of the state of Oregon. (Ord. 4-2008 § 3 (part), 2007)

#### 12.12.080 Liability of owners.

The owner or owners of land adjoining any street in the city shall be liable to any person suffering injury by reason of any defect in the streets or curb in front of such land. (Ord. 4-2008 § 3 (part), 2007)