

TITLE 7 CHAPTER 3

STREETS, SIDEWALKS, AND PUBLIC WAYS

SECTION:

- 7-3-1: Sidewalks; Repair and Replace
- 7-3-1-1: Owner's Duty to Repair or Replace
- 7-3-1-2: Permit Required
- 7-3-1-3: City to Furnish Lines and Grades
- 7-3-1-4: Material Specifications
- 7-3-1-5: Repair; Notice to Owner: Time Limit for Work
- 7-3-1-6: Manner of Letting Contract
- 7-3-1-7: Inspection by City; Certificate
- 7-3-2: Openings in Sidewalks
- 7-3-3: Damage to Sidewalk Prohibited
- 7-3-4: Removal of Snow, Ice, Other Accumulations and Obstructions
- 7-3-5: Encroachments
- 7-3-6: Failure to Remove; Assessment; Lien; Collection
- 7-3-7: Manner of Numbering Buildings

7-3-1: SIDEWALKS; REPAIR AND REPLACEMENT:

7-3-1-1 OWNER'S DUTY TO REPAIR OR REPLACE: It is the duty of the person owning or having control of real property along or abutting any sidewalk, to repair or replace the sidewalk so as to provide safe, all-weather passage for pedestrians, regardless of whether or not the owner has received notice from the City as provided in this chapter.

7-3-1-2: PERMIT REQUIRED: No sidewalk shall be constructed or repaired by any person within the City without first having obtained from the City a permit for such construction or repair. Such permit shall be obtained by application made therefore upon forms to be provided by the City.

7-3-1-3: CITY TO FURNISH LINES AND GRADES: No sidewalk shall be constructed or repaired along the streets or alleys of the City until lines and grades therefore shall have been furnished by the City, and all sidewalks shall be so constructed as to conform to the lines and grades so furnished and established. It shall be the duty of the City to supply to any person holding a permit for the construction or repair of a sidewalk, and the grades and lines therefore upon request by such person.

7-3-1-4: MATERIAL SPECIFICATION:

(A) Sidewalks. All sidewalks constructed, reconstructed, repaired or laid within the City shall be constructed of first quality concrete not less than four feet in width and a minimum of five inches in thickness (4'x5"), finished so as to provide a smooth, regular and continuous surface of a sand finish. At residential driveways, the sidewalk thickness shall be seven inches. In commercial driveway areas and public alleys, the sidewalk thickness shall be a minimum of eight inches.

(B) Base. The base for any sidewalk or walking path shall be constituted of no less than six inches (6") of pit run gravel, which base shall be compacted in a manner acceptable to the City.

(C) Asphalt Construction. If an asphalt sidewalk is being installed, and after approval of such by the City, then a minimum of three inches (3") of asphalt, meeting Idaho Transportation Department SP2 standard shall be laid over compacted gravel base. If the asphalt path or sidewalk abuts the curb, then the non-curb side shall have a minimum of a one foot (1') shoulder. If the asphalt path or sidewalk does not abut a curb, then the path shall have a minimum shoulder of one foot (1') on each side.

(D) Curb and Gutter. Unless otherwise specified and approved by the City, Roll Gutter shall be installed along all City Streets where curb and gutter installation is required. See Standard Drawing No. A-1, at the end of this chapter 3.

(E) Any such construction, reconstruction or repair of sidewalks, curbs or gutters shall, at a minimum, meet the specifications and requirements of the current Americans with Disabilities Act Accessibility Guidelines (ADAAG), or shall be immediately removed and replaced to meet said guidelines, at contractor's expense.

7-3-1-5: REPAIR; NOTICE TO OWNER; TIME LIMIT FOR WORK:

(A) Notice to Owner. Whenever the City Council determines that a sidewalk should be repaired, the Council shall cause notice to be sent to the property owner of the abutting property describing the sidewalk to be repaired, giving the address and legal description of the property abutting the sidewalk to be repaired, describing the work to be done and the length of time allowed to complete the work and advising the owner that if the work is not completed within the allotted time that the City may order that the work be accomplished and the costs thereof assessed against the real property.

(B) Service of Notice upon Owner. The required notice from Subsection A, above, shall be served upon the owner by depositing the notice into the United States mail, postage prepaid, addressed to the owner at the last known address or at the address shown upon the assessment rolls of Cassia County.

(C) Time Limit for Work; Failure to Repair; Cost Assessment; Lien. If, after the notice is served

as provided, the owner does not repair the sidewalk within the time required by the notice, the City Council may cause the work to be done, and assess the cost thereof against the abutting property, and the full amount of such costs shall become a lien upon the property and shall at the time provided by law be certified by the City Council to the County Tax Collector to be placed upon the proper tax roll to be collected as other taxes are collected and shall be in addition to all other taxes legally assessed against such property, and pursuant to Idaho Code Section 50-1008.

(D) **Protests to Order; Filing and Hearing:** Any person owning or having any interest in the property in front of or adjacent to which the repair or reconstruction of a sidewalk shall have been proposed by resolution of the City Council, as above provided, shall have the right to file in the office of the City Clerk, within the time specified in said resolution, a protest in writing, specifying the interest of the protestant and the nature of the grounds of his/her objection to the proposed improvement. At the time fixed for the hearing of protests, the same shall be considered by the City Council and any person who shall have filed a protest may appear before the Council at such time and present such evidence as he/she may desire in support of his/her said protest. When said hearing shall have been completed, the City Council shall vote upon the question of ordering work to proceed in whole or in part, and upon a majority of the members present voting to proceed therewith, the Council shall by resolution entered in minutes, direct that the proposed improvement or a portion thereof, describing the same, shall be made. The Council may, at its discretion, order that any portion of the proposed improvement shall not be made, and such resolution shall be entered on the minutes of the meeting, together with a statement of the reasons therefore.

(E) **Levies and Special Assessments; Special Fund.** All such assessments for the repairing of sidewalks, as referred to in this chapter shall be a special assessment for improvements and shall be levied and collected as a special tax. All money received from such special assessments shall be held by the City Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made. The money shall be used for no other purpose whatever except to reimburse the municipality for money expended for such improvement.

(F) **Payment; Lien Discharge; Penalty for Non-Payment.** Whenever any such sidewalk is repaired and the cost thereof is assessed against the property as provided in this chapter, the owner of the property may pay the City Treasurer the full amount assessed against the property and have the lien discharged. If the amount assessed against any such property is not paid on or before August 1st following its repair, there shall be added to the amount assessed against the property the amount the county charges for the collection of such money.

7-3-1-6: **MANNER OF LETTING CONTRACT:** Each contract for the performance of work as hereinafter specified shall be in writing, executed by the successful bidder who shall also deposit with the City Clerk a contractor's bond as required by the laws of the State of Idaho, conditioned for the faithful performance by him/her of the terms of the said contract and the payment by him/her of all laborers, material, persons to whom he/she may become indebted on account of the performance of his/her said contract; the amount of the said bond to be not less than seventy five percent (75%) of the amount of the price to be paid by the City for the doing of the said work as specified in the said contract, and the surety thereon shall be subject to the approval by the City Council.

7-3-1-7: **INSPECTION BY CITY; CERTIFICATE:**

(A) Inspection Required: All work done in accordance with the terms and provisions of this Chapter, whether done by the owner of the property, the City or a contractor shall be done and performed under and subject to inspection by and the approval of the City, and shall be in accordance with the plans and specifications therefore approved by the City as in this Chapter provided.

(B) Certificate Filed upon Completion of Work: It shall be the duty of the City to inspect and examine all work done under the provisions of this Chapter and to require that the same be of such quality and type as to meet all reasonable engineering and construction requirements. Upon the completion of such work, and its approval by the City either by its own employees or under contract, City Maintenance Department shall make and cause to be filed with the City Clerk a certificate specifying the completion thereof, and that the said work has been done in accordance with specifications prepared by that Department, and has been approved by that Department. The said certificate shall describe the property in front of or adjacent to which said sidewalk has been reconstructed or repaired, and shall state the cost of doing the said work in front of or adjacent to each separate piece or parcel of land, where the same shall have been done.

7-3-2: **OPENINGS IN SIDEWALKS:**

(A) Trap Doors, Openings or Gratings Unlawful: It shall be unlawful to construct or maintain any trap door, opening or grating in any public sidewalk in the City, except upon permission therefore being granted by the City Council by resolution duly adopted.

(B) Regulations: Every person building, maintaining or permitting a bulkhead, cellar or basement way, stairway, door, window or other hole or opening leading to or from the street or sidewalk to the premises owned or occupied by him/her shall keep the same properly guarded with a good substantial rail, grate or other device, which rail, grate or other device, together with the manner of placing and maintaining the same shall be approved by the Building Inspector, and the owner or person having control of any premises to or from which such bulkhead, cellar or basement way, stairway, door, window or other hole or opening shall open or lead, and not protecting the same as aforesaid shall be guilty of a misdemeanor.

7-3-3: **DAMAGE TO SIDEWALKS PROHIBITED:** Every person who shall step or walk upon or otherwise mark or deface any part of the cement sidewalk within the City or who shall permit any dog, horse or other animal owned by him/her or under his/her control to step or walk upon or otherwise mark or deface the said sidewalk or any part thereof before the same shall have become dry and cleared for use shall be guilty of a misdemeanor.

7-3-4: **REMOVAL OF SNOW, ICE, OTHER ACCUMULATIONS AND OBSTRUCTIONS:**

(A) Removal of Ice and Snow: Every owner or occupant of any house or other building and the owners or proprietors, lessees or persons entitled to the possession of any vacant lot and every person having the charge of any church or public building within the City, during the time snow and ice shall be on the ground, shall clear the sidewalks in front of such house and other buildings and in front of such lot of snow and ice when necessary, and keep such sidewalks reasonably and conveniently free therefrom during the day so as to allow all pedestrians to use concrete sidewalks within said area in an easy, safe and commodious manner.

(B) Obstructions: Every owner or occupant of any house or any other building and the owners or proprietors, lessees or persons entitled to possession of any vacant lot and every person having charge of any church or public building within the City limits shall at all times keep such concrete sidewalks clean and free from dirt, debris and other obstructions so as to allow all pedestrians to use the concrete sidewalks in any easy, safe and commodious manner.

7-3-5: ENCROACHMENTS:

Any encroachment made or allowed to exist for a period of thirty (30) days from the effective date hereof, excepting those within the allowable limitation hereof, shall constitute a trespass and a nuisance and shall be subject to removal at the expense of the encroacher or such encroacher shall be liable to the City for damages thus created or arising therefrom.

An “encroachment” within the meaning of this Section shall be any fixture, construction or restriction, permanent or temporary, which intrudes into or invades any way, alley or street of the City, or encloses a portion thereof, diminishing its width or area.

The word “hamper” within the meaning of this Section shall be that which interferes with the free and unrestricted use of such way, alley or street of the City.

The term “allowable limitation” within the meaning of this Section shall be an encroachment now existing which does not extend into or invade or intrude into any way, alley or street of the City a distance of more than eight inches (8"), or an encroachment made, after the effective date hereof, which does not extend into or invade or intrude into any way, alley, or street of the City a distance of more than four inches (4"); provided, that any such encroachment does not hamper public use of any such way, alley or street of the City.

7-3-6 FAILURE TO REMOVE; ASSESSMENT; LIEN; COLLECTION:

Whenever any property owner neglects or refuses to comply with this chapter, then the City shall notify the City Maintenance department of the last known legal owner of property abutting the sidewalk, the property description, and the work to be performed. The Maintenance department shall proceed with the work specified and transmit the cost of the work to the City Clerk, who shall then present the cost of work to the City Council to be paid. The costs shall be assessed upon the abutting lot, block or property to the sidewalk from which the snow and ice or other substances are

removed. The full amount of such costs shall become a lien upon the property and shall at the time provided by law be certified by the City Council to the County Tax Collector to be placed upon the proper tax roll to be collected as other taxes are collected and shall be in addition to all other taxes legally assessed against such property.

7-3-7: MANNER OF NUMBERING BUILDINGS:

All structures in the City located on the north side of the streets running east and west, and on the west side of the streets running north and south, shall bear even numbers; and all structures located on the south side of streets running east and west on the east side of the street running north and south shall bear odd numbers. There shall be one number assigned for each twelve and one-half feet (12'6") of frontage upon a street, and numbers shall be assigned so as to result in uniformity of numbering throughout the City.