

RESOLUTION NO. 2745

WHEREAS, the City of Madison is responsible to protect the public health, safety and welfare of the citizens of Madison and

WHEREAS, the City of Madison is responsible for the adoption and regulations concerning the construction and maintenance of sidewalks within the City of Madison and,

WHEREAS, the City has received complaints regarding injuries by tripping on inferior sidewalks and,

WHEREAS, the City of Madison is concerned for public safety, liability to the City of Madison and for the liability to the owner of the property whose sidewalk the person was injured on and,

WHEREAS, the South Dakota Codified law mandates that the owner of the property adjacent to the right-of-way is ultimately responsible for any injuries caused by a defective sidewalk and,

WHEREAS, the City of Madison currently has approximately 45 miles of public sidewalk and,

WHEREAS the adjacent or abutting property owner is responsible for the maintenance of any sidewalks on or abutting their property in accordance with SD law,

NOW THEREFORE BE IT RESOLVED that the City of Madison hereby establishes a sidewalk inspection program and,

NOW THEREFORE BE IT RESOLVED the City has been divided into several inspection areas and one or more of these inspection areas will be scheduled for inspection each year and,

NOW THEREFORE BE IT RESOLVED the City of Madison will cause all costs of construction, maintenance and repair of the sidewalk to be assessed to the adjacent or abutting property owner and,

NOW THEREFORE BE IT RESOLVED that the procedures for the inspection and repair of sidewalk are dictated according to Sidewalk and Inspection and Repair Policy 2010-1.

Passed and adopted this 5th day of April, 2010.

CITY OF MADISON


Mayor

ATTEST: 
City Finance Officer

CITY OF MADISON
Sidewalk Inspection and Repair Policy
2010-1

I. GENERAL

This Policy is designed to protect the public health, safety, and welfare of the citizens of the City of Madison, by the adoption of regulations concerning the construction and maintenance of sidewalks within the city. This policy is not applicable to any sidewalks located on private property or within the right-of-way of a privately owned road or street.

Each year the City receives complaints regarding injuries caused by people tripping on deteriorated sidewalk. This is a concern for public safety, for the liability to the City of Madison, and for the liability to the owner of the property whose sidewalk a person was injured on. South Dakota Codified Law (SDCL) 9-46 makes the owner of the property adjacent to the right-of-way ultimately responsible for any injuries caused by defective sidewalk.

The City hereby establishes the Sidewalk Inspection Program. Sidewalks in the public right-of-way are inspected annually to identify potential sidewalk hazards. The City has been divided into several inspection areas, and one or more inspection areas are scheduled for inspection each year.

Currently the City has approximately 45 miles of public sidewalk. It is the intent of the City through the Sidewalk Inspection Program to inspect all sidewalks within the city on a four to six year cycle. The Central Business District shall be identified as the downtown parking zone. Any written and signed citizen complaints identifying a specific hazard will also be inspected and marked accordingly. Noted significant defects identified within the inspection period will be incorporated into the required repairs list if not anticipated for inspection within 2 years.

II. PROCEDURES FOR INSPECTION AND REPAIR OF SIDEWALK.

At the time of inspection, door hangers will be hung on the front door of property where defective sidewalk is found. The door hangers are an unofficial notice that will describe the problem with the sidewalk and list repair options. After all sidewalks in the inspection areas for that year are inspected, a "Notice to Repair/Replace Sidewalk" letter is sent to the property owner of record for all properties with defective sidewalks. The "Notice to Repair/Replace Sidewalk" letter (1st Notice) will describe the problem with the sidewalk, list repair options, and give the property owners a desired deadline by which the repairs must be made, typically November 1st of the inspection year. The final deadline is generally August 1st of the year following the inspection year.

If the sidewalk is not repaired by the desired deadline in the "Notice to Repair/Replace Sidewalk" letter, the city will take steps as allowed by state law to repair the sidewalk and assess the property owner. City Engineering will prepare a list of sidewalks that have not been repaired by the desired deadline, and the list will be presented to the City Commission. After the City Commission adopts a resolution of necessity ordering the sidewalk to be repaired, City Engineering will advise the property owners of the final deadline to repair the sidewalk with a 2nd notice. City engineering will also advertise for bids and hire a contractor to repair the sidewalks not repaired by the property owner by the final deadline.

Sidewalk permits obtained by property owners shall be used to track repairs.

An inspector shall perform all sidewalk inspections as indicated in this policy and as set forth by City inspection standards. The Inspector will determine what sidewalks are in need of repair generally based on the Sidewalk Defects and Acceptable Ways to Repair Defective Sidewalk.

All official notices will be sent by certified and/or first class mail and as otherwise required by SDCL.

Further details about this process is identified in Appendix A.

III. RESPONSIBILITY OF PROPERTY OWNERS

The adjacent or abutting property owner is responsible for maintenance of any sidewalks on or abutting their property in accordance with South Dakota law. In the event that the adjacent property owner does not properly maintain the sidewalk in accordance with this policy, the City Commission may authorize the City Engineer to provide for the construction, maintenance or repair of sidewalks by general contract, or in such other manner as appropriate to cause compliance with this policy. The City of Madison will cause all costs of the construction, maintenance or repair of the sidewalk to be assessed to the adjacent or abutting property in accordance with this policy.

The property owner shall obtain sidewalk permits for any work on sidewalk.

The inspector will determine as best he/she can, the location of property lines in order to determine the proper owner to send a notice to repair. It is the responsibility of the property owner to notify the City if they have received a notice for property other than theirs. If a defective sidewalk overlaps on two properties, a notice will be sent to both properties and they will share proportionally to their frontage on the defective sidewalk.

IV. DISCLAIMER

To the extent that any previous rule, regulation, policy or past practice, written or unwritten, is in conflict with the provision of this policy, such is hereby withdrawn, voided and all personnel should conduct themselves in conformity with this policy.

This Sidewalk Inspection and Repair Policy is not intended to create and should not be construed in any manner as creating a guaranty that any hazard associated with sidewalk conditions is eliminated by the City's efforts to maintain public sidewalks in accordance with this policy.

V. DEFINITIONS.

Adjacent/Abutting Property. Any lot or parcel of land adjoining, bordering or touching the street as defined herein.

Public Sidewalk. That portion of the sidewalk located within the street right-of-way next to and abutting adjacent property as defined herein.

Driveway. A hard paved surface on private property behind the sidewalk for the purpose of gaining access to the property.

Driveway Approach. An area within the right-of-way located between the sidewalk and the edge of the improved roadway, for the purpose of gaining access to the driveway and to the property.

Panel. A section of sidewalk the length of which usually equals the width of the sidewalk.

Roadway. Every public roadway and street which is open for public travel and shall include bridges, sidewalks, crosswalks and culverts on any roadway. The term roadway does not include alleys, trees, utility poles, or private roads and streets.

Inspector. Inspector shall mean any representative of the City of Madison designated to perform sidewalk/driveway inspections.

Owner. Owner shall mean the individuals holding title to the property adjacent to sidewalk along a street as defined herein.

Privately Owned Sidewalk. Sidewalk either asphalt or concrete located on private property outside of a public right-of-way or easement.

Private Property. Any property not belonging to a governmental agency.

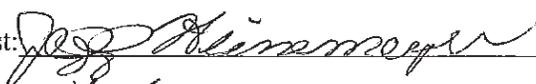
Public Property. Shall mean the dedicated right-of-way or right-of-way easement which may include public roadways, streets and alleys.

Repair/Replacement. Means the adjustment, removal/replacement, realignment, mudjacking, patching of holes/cracks or installation of any sidewalk or asphalt surfacing in effect functioning as sidewalk in accordance with adopted city repair/replacement standards.

Sidewalk. Any improved portion of the public right-of-way lying between the edge of the improved roadway and adjacent property line intended for the use of pedestrians. The sidewalk materials shall consist of concrete with widths generally ranging between four to six feet. Asphalt surfacing shall be considered public sidewalk if it is continuously located on and across public property and bounded by sidewalk on both ends.

Street. A dedicated thoroughfare in the City that is designated for public travel and transportation, affording the principal means of access to abutting property. This does not include any privately owned roads, streets or other means of access.

Signatures:

Mayor: 
Attest: 
Date: 4-6-2010

Appendix A

To City of Madison Sidewalk Inspection and Repair Policy

ANNUAL INSPECTION PROCESS

1. City Engineer's Office will determine geographic areas of the city that are inspected for replacement. A press release outlining the program and survey area will be sent to all news media.
2. The inspector shall follow the criteria listed herein of this policy to determine whether or not the sidewalk needs replacement or repair. The inspector shall describe the damage on the sidewalk inspection form or using GPS equipment and note the approximate lineal footage that requires replacement/repair.

If a defect is found, a pink mark will be placed on the defective panel. A Notice of Sidewalk Inspection door hanger, will be placed on the front door of properties where defective sidewalk is found. The door hanger will also give the property owner the options available to them for getting their sidewalk repaired. Other sidewalk related defects related to other City ordinances may also be noted on said notice.

Note: Sidewalk repair permits are issued by city engineering to property owners or contractors doing sidewalk repairs. Information for property owners constructing/repairing their own sidewalk will be provided when the property owner secures a sidewalk permit from the City Engineering Office. When sidewalk permits are issued for repair of sidewalks, the repair process will be tracked to provide inspections of repairs in a timely manner. When the repair is approved, the property owner will be removed from the list of those requiring the second and final notice of repairs.

3. The property owners will be advised via a first notice of the desired repair date for the repairs will be November 1st of the inspection year to make the necessary repairs.
4. If the sidewalk is not repaired by the November 1st deadline , the city will take steps as allowed by State law to repair the sidewalk and assess the property owner. City Engineering will prepare a list of properties that have not been repaired, and the list will be provided to the property owners and presented to the City Commission in the form of a proposed resolution of necessity.
5. After any necessary adjustments are made to the proposed resolution of necessity and said resolution is approved by the City Commission, a second notice will be provided to the property owners ordering the sidewalk to be repaired by August 1st of the year following the initial inspection. City Engineering will advertise for bids and hire a contractor to repair the sidewalks not repaired by August 1st.
6. Immediately prior to contractor making repair, an unofficial notice shall be provided to the property owner that work will commence.
7. All costs incurred by the City for hiring a contractor to repair their sidewalks will be submitted into the assessment process for each property owner.