

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date:</b>	May 12, 2012
	<b>Agenda Item No.</b> <b>Roll Call No.</b> <b>Communication No.</b>  <b>Submitted by:</b>	<b>46</b> <b><u>12-0814</u></b> <b><u>Council</u></b> <b><u>Communication: 12-</u></b> <b><u>241</u></b> <b>Jeb E. Brewer, P.E.</b> <b>City Engineer</b> <b>Phil Delafield,</b> <b>Community</b> <b>Development</b> <b>Director</b>

**AGENDA HEADING:**

An ordinance to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 102-42, 102-43, 102-73, 102-75, 102-77, 102-79, 102-81, 102-83, 102-84 and 102-89 and by repealing Section 102-88, relating to sidewalk maintenance compliance and sidewalk construction.

**SYNOPSIS:**

Recommend approval of ordinance amending above-listed sections of Municipal Code Article II, Divisions 1 and 2 regarding sidewalk maintenance and replacement administration, requirements and standards.

**FISCAL IMPACT: NONE**

**ADDITIONAL INFORMATION:**

As part of the adopted Fiscal Year 2013 budget, duties related to complaint-based inspection of sidewalks were transferred from the Public Works Department to the Engineering and Community Development Departments. The proposed amendments to sections of Article II, Divisions 1 and 2 address this change in departmental duties.

Proposed amendments to Sections 102-42, 102-43, 102-73, 102-75, 102-79, 102-83 and 102-84 remove references to the Public Works Director, define Department Director as the director of any City department charged with enforcement of these sections of the Municipal Code, and update and correct other references relating to sidewalk maintenance and construction to make Divisions 1 and 2 more consistent with the shift from Public Works Department to the Engineering and Community Development Departments for sidewalk maintenance duties. These revisions also update the Code language to reference current City construction standards and City practices.

Section 102-77 is being amended to remove permit fee amounts from the Municipal Code. Permit fees for construction of new and replacement sidewalks will be established by Council by an approved schedule of fees, which is being presented to Council concurrently with this ordinance.

The proposed language in Section 102-42 extends the time frame in which repairs by adjoining property owners must be made from 90 days to 180 days, and allows for an additional 180-day extension, for a total of 360 days to repair the sidewalk upon request by the adjoining owner. This time frame is similar to the time frame for completing City contracted sidewalk repairs. It also provides property owners more time to plan funding for their repairs and complete repairs, if notification of sidewalk maintenance from the City occurs during the winter months.

Other amendments to this Code Section provide that sidewalk inspection will be performed on a complaint-only basis, and if the adjoining property owner does not make the required sidewalk repairs, the City may pursue a municipal infraction or civil penalty against the adjoining owner or pursue other legally available remedies, including but not limited to assessment of repair costs. This ordinance further permits the City Engineer and Community Development Director to establish policies and procedures relating to income-based subsidies for sidewalk repairs, similar to the existing Special Assessment Subsidy Program policy, and relating to reimbursement to adjoining property owners for sidewalk repair costs determined by the City inspectors to be caused by City activities or trees, all subject to funding availability for such subsidies or reimbursements.

Proposed revisions to Section 102-89 add reference to Municipal Code Chapter 42 to address emergency or nuisance repairs to dangerous sidewalks. It is proposed that Section 102-88 be deleted, as items in this Section are no longer applicable or are addressed in other Sections of Chapter 102, Article II.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: October 13, 2008

Roll Call Number: [08-1776](#)

Action: [Amending](#) Chapter 102 of the Municipal Code regarding civil infraction penalties for sidewalk maintenance. Moved by Coleman that this ordinance do now pass, [#14,800](#). Motion Carried 7-0.

Date: December 16, 2002

Roll Call Number: 02-2911

Action: (A) Final consideration of ordinance above, (waiver requested by City Manager), requires 6 votes. Moved by McPherson that the rule requiring that ordinances must be considered, and voted on for passage at two council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#14,164](#). Motion Carried 7-0.

Date: June 3, 2002

Roll Call Number: 02-1415

Action: Amending Chapter 102 of the Municipal Code regarding responsibility for maintenance and definitions of maintenance of sidewalks, and extends sidewalk replacement time from 30 to 90 days. Moved by McPherson that this ordinance do now pass, [#14,092](#). Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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