

ORDINANCE NO. 14,092

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, by repealing Section 102-42 thereof and enacting a new Section 102-42 and adding and enacting a new Section 102-43, relating to maintenance and definitions of maintenance of sidewalks.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by repealing 102-42 thereof and enacting a new Section 102-42 and adding and enacting a new Section 102-43, relating to maintenance and definitions of maintenance of sidewalks, as follows:

Sec. 102-42. Maintenance.

(a) The owner of any property abutting a public sidewalk shall maintain the sidewalk in a safe condition, in a state of good repair, and free from defects. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

(b) In the sole discretion of the director of public works and if funds and personnel are available for the same, the Public Works Department may, but is not required to, conduct voluntary inspections of city sidewalks to assure that the owners of property abutting sidewalks are complying with the maintenance requirements imposed above.

(c) If, through voluntary inspection or otherwise, it comes to the attention of the director of public works that an owner of property abutting a sidewalk is not complying with the maintenance requirements imposed above, then the director shall cause to be served upon the property owner, by certified mail at the property owner's last known address as shown by the records of the

county auditor, notice that if the property owner does not cure the defects in the sidewalk within ninety (90) days from the date of the notice, the City may, in the sole discretion of the City Council, do so and assess the costs of such work against the property to be collected as taxes pursuant to Municipal Code Section 102-72.

(d) Failure of the abutting property owner to complete the maintenance within ninety (90) days of the date of notice shall be a civil infraction punishable by a fine of \$500.00 for a first offense and \$750.00 for a second offense and shall be available to the City as a remedy in addition to all other remedies in this section.

(e) In the sole discretion of the director of public works and if funds and personnel are available for the same, the Public Works Department may, but is not required to, place barricades or other devices or materials in such places as may serve to protect the public from sidewalks not in compliance with the maintenance requirements imposed above. If such protective devices are placed by the department, they shall not be removed until all sidewalk defects are corrected. Premature removal of the protective devices shall be a civil infraction punishable by a fine of \$500.00 for a first offense and \$750.00 for a second offense and shall be available to the city as a remedy in addition to all other remedies in this section.

(f) The director of the public works department shall keep records of all sidewalk complaints received, all voluntary sidewalk inspections conducted, notices of defects sent, protective devices placed and sidewalk work done by the City for a period of three (3) years from the date of the action and shall make the same available at a reasonable cost to all persons who claim to have been damaged or injured as a result

of the failure to maintain a sidewalk by an abutting property owner.

Sec. 102-43. Definitions - maintenance of sidewalks.

As used in Section 102-42 above, the following words have the following meanings:

"Property owner" or *"owner"* means the contract purchaser, if there is one of record; otherwise, the record holder of legal title.

"Sidewalk" means the paved portion of that area between the curb lines of the roadway and the adjacent property lines intended for the use of pedestrians.

"Maintain" or *"maintenance"* means the duty to remove and replace a public sidewalk, or a portion of a public sidewalk, all work to be performed in accordance with established city specifications in effect at the time the work is commenced, so as to render the sidewalk free from defect.

"Defect" or *"defective condition"* means a public sidewalk has a defect or defective condition when it exhibits one or more of the following characteristics:

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Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Terrence L. Timmins, Deputy City Attorney

Preston A. Daniels, Mayor

Attest:

I, Donna V. Boetel-Baker, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 02-1415), passed by the City Council of said City at a meeting held June 3, 2002 signed by the Mayor on June 3, 2002 and published as provided by law in the Business Record on June 17, 2002 Authorized by Publication Order No. 3278.

Donna V. Boetel-Baker, City Clerk