

★ **Roll Call Number**

Agenda Item Number

40

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Date September 22, 2008

An Ordinance entitled, "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, and amended by Ordinance No. 14,092 passed June 3, 2002, and Ordinance No. 14,164 passed December 16, 2002 by amending Section 102-42 thereof, relating to civil infraction penalty for sidewalk maintenance",

which was considered and voted upon under Roll Call No. 08- 1599 of September 8, 2008; again presented.

Moved by _____ that this ordinance be considered and given second vote for passage.

(Second of three required readings)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
COLEMAN				
HENSLEY				
KIERNAN				
MAHAFFEY				
MEYER				
VLASSIS				
TOTAL				

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

Date Sept. 8, 2008

Agenda Item 40 29

Roll Call # D8-1599

ORDINANCE NO. _____

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, and amended by Ordinance No. 14,092 passed June 3, 2002, and Ordinance No. 14,164 passed December 16, 2002 by amending Section 102-42 thereof, relating to civil infraction penalty for sidewalk maintenance.

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, and amended by Ordinance No. 14,092 passed June 3, 2002, and Ordinance No. 14,164 passed December 16, 2002 is hereby amended by amending Section 102-42 relating to civil infraction penalty for sidewalk maintenance, as follows:

Sec. 102-42. Maintenance.

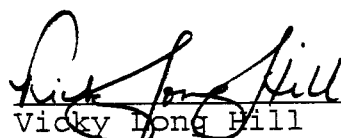
- (a) The owner of any property abutting a public sidewalk shall maintain the sidewalk in a safe condition, in a state of good repair, and free from defects. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.
- (b) In the sole discretion of the director 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~~ civil penalty of ~~\$500.00~~750.00 for a first offense and ~~\$750.00~~1,000.00 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~~ civil penalty of ~~\$500.00~~750.00 for a first offense and ~~\$750.00~~1,000.00 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.
- (g) This section shall not apply to multi-use recreational trails.

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

FORM APPROVED:



 Vicky Long Hill
 Assistant City Attorney