

**CITY OF OTTERTAIL
SIDEWALK CONSTRUCTION, INSPECTION
AND MAINTENANCE
POLICY INCLUDING TRAILS**

1. PURPOSE AND AUTHORITY

The purpose of this policy is to establish the criteria for the City of Ottertail to grant applications for sidewalk placement, driveways, curb and gutter in the City and/or State Road Right-of-Way and the provisions for the general inspection and maintenance of the sidewalks, driveways, curb and gutter according to OTTERTAIL CITY CODE Title XV Chapter 155.111 and rules and specification of the State of Minnesota Department of Transportation. This policy will also put forth requirements of financial responsibility for any new and existing sidewalks, driveways, curb and gutter.

(A) **New Construction – New Developments:** One hundred percent (100%) of the cost for installing sidewalks within a new development shall be the responsibility of the adjoining property owner.

(B) **New Construction – Existing Developments:** One hundred percent (100%) of the cost for installing new sidewalks within existing developments shall be the responsibility of the adjoining property owner.

(C) **Reconstruction:** One hundred percent (100%) of the cost for repair or replacement of existing sidewalks will be assumed by benefited adjoining property owner.

2. PERMIT REQUIRED:

No person may excavate, obstruct, construct new or reconstruct existing sidewalks or trails without first obtaining an appropriate permit(s). Permits are granted for specific dates and must be renewed or a new application made before the expiration date of the initial permit expires. When renewing current fees apply.

(A) **Permit Application:** Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions.

- (1) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, as well as the following information.
- (2) Permittee's name, address, telephone number.
- (3) Contractors name, license number and contact information.
- (4) Provide a certificate of insurance or self-insurance: Applicant assumes all risk and hazards associated with maintaining a sidewalk/trail in the public right-of way and in doing so will provide necessary coverage.

- (a) The certificate shall require that the Clerk, Deputy Clerk or other person designated by the Council be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;
 - (b) indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city council or other person designated by the city council in the amount of \$1,000,000 to protect the city and the public and to carry out the purpose of this policy.
 - (c) the city requires a copy of the actual insurance policies.
- (B) The City of Ottertail will:
- (a) verify that an insurance policy has been issued to the applicant by an insurance company licensed to do business in the state, or on a form of self-insurance acceptable to the Clerk, Deputy Clerk or other person designated by the council;
 - (b) verify the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the applicant, its officers, agents, employees and permittees and placement and use of facilities and equipment in the right-of-way by the applicant, its officers, agents, employees and permittees, including but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property.
 - (c) verify the city has been named as an additional insured as to whom the coverage's required herein are in force and applicable for whom defense will be provided as to all coverage's;
- (C) Payment of fees due to the city: Permit fees are non-refundable and established by the Council and adopted by ordinance that may be amended from time to time.
- (D) No permit shall be issued without payment.

3. PERMIT CONDITIONS

(A) Applicant will comply with all parts of this policy, all provisions and requirements set forth by the City of Ottertail, the State of Minnesota Department of Transportation and the agreement between that department and the City of Ottertail, if any.

(B) The Council may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, included but not limited to MS 216D.01-09 (Gopher One Call Excavation Notice System) and Minn. Rules Ch. 7560. Excavation Notice System.

(C) Permit issuance. If the applicant has satisfied the requirements as established in this policy, the Clerk, Deputy Clerk or other person designated by the Council shall issue a permit.

4. MAINTENANCE

(A) It shall be the responsibility of the abutting property owner to keep the sidewalk facilities in good condition, free of debris, snow, ice, in good repair and safe for pedestrians.

(B) The city will be responsible for removing debris, snow and ice from sidewalks that abut city-owned buildings, property, parking lots or trails. The city may, as a public service and for reasons of public safety, remove snow and ice from sidewalks. The Maintenance Supervisor will identify sidewalks and trails from which the city will remove ice and snow.

5. INSPECTIONS

(A) The Maintenance Supervisor shall establish procedures for regular inspection of sidewalks and trails. Those procedures will include an inspection survey, regular inspections and criteria for determining whether a particular sidewalk or trail condition is in need of replacement or repair. Those criteria will include, but not necessarily be limited to, a deviation or difference in elevation determined at the time of inspection.

(B) The city recognizes that some sidewalk and trail conditions create unreasonable hazards for pedestrians and other users. Under appropriate circumstances, the Maintenance Supervisor will inspect any and all complaints of unsafe conditions provided by pedestrians and other users and use criteria to determine replacement or repair.

6. RESTORATION AND REPAIR:

The owner of any property within the city abutting public sidewalk shall keep the sidewalk in repair and safe for pedestrians. The property owner assumes all liability for the sidewalk.

(A) Notice: In the event that the property owner's sidewalk shall not be maintained by the property owner in accordance with this policy, being unsafe and in need of repair, such fact shall be brought to the attention of the council. Written notice of the defect in the sidewalk causing it to be unsafe shall be served by mail.

(B) Repair by City: If the sidewalk is not repaired within 30 days after receipt of the notice, the council may, by resolution, order the sidewalk repairs necessary to make the sidewalk safe, and that the cost of such repairs shall be paid by the property owner. If unpaid, such expenses for repairs or restoration will be assessed against the property concerned.

7. REVIEW AND MODIFICATION OF POLICY:

The Council may modify or clarify this policy at any time. Where the Council has delegated responsibility or authority to any city employee or official for development or implementation of any portion of this policy, that employee or official shall have full authority to modify that portion of the policy at any time.

8. REVIEW OF POLICY:

The City Clerk will keep on file comments and complaints received regarding this policy. The policy will be reviewed periodically. Any review will consider comments and complaints since the last review and any other factors affecting the policy or its implementation.

9. EFFECTIVE DATE OF POLICY:

This policy shall be effective upon approval by city council resolution on April 21, 2011. Modifications of the policy shall be effective on the date said modifications are approved by city council resolution or the date the city employee or official (with authority granted by the city council) has approved the policy modification or change.

Amended May 16, 2013.

Myron Lueders, Mayor

Attest

Elaine Hanson, Clerk-Treasurer