Sidewalk Repair Program
Work Session 05-08-17

I. Planning Session Report, 11-07-16
On-going Commitment/Obligation

- Develop sidewalk repair program

II. Sidewalk-Related Activities

A. Sidewalk Work Session, March 28, 2016
B. Transition Plan, June 13, 2016

III. Regulatory

A. Iowa Code

- Section 364.12(2) "A city shall keep all . . . sidewalks open, in repair, and free from nuisance, with the following exceptions . . .

  c. The abutting property owner may be required by ordinance to maintain all property outside the lot and property lines and inside the curb lines upon the public streets . . .
  d. A city may serve notice on the abutting property owner . . . requiring the abutting property owner to repair, replace or reconstruct sidewalks.
  e. If the abutting property owner does not perform an action required under this subsection within a reasonable time, a city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax . . ."

B. City Code of Ordinances

1. Chapter 136 – Sidewalk Regulations (Attachment 1)

   a. 136.04 Responsibility for Maintenance
   b. 136.05 City May Order Repairs
   c. 136.06 Sidewalk Construction Ordered

2. Expressly imposed liability

C. City Policies and Procedures

- Sidewalk Policy No. 0710 (Attachment 2)

  1. Repair, replace existing walks and fill in gaps
  2. Install a sidewalk along one side of previously constructed arterial and collector streets
  3. New sidewalks

IV. Historical Projects

A. Sidewalk Repair Program: 1983, 1984, 1987
B. Sidewalk Evaluation
The Building Inspectors: 1999-2000

V. Sidewalk program

- Sidewalk Repair Program
  Inspection/Evaluation (Attachment 3)

VI. Summary

A. Expressly imposed liability?
B. Sidewalk Repair Program implementation?

ATTACHMENT 1

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice, and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Sidewalk Standards
136.08 Barricades and Warning Lights
136.09 Failure to Repair or Barricade
136.10 Interference with Sidewalk Improvements
136.11 Encroaching Steps
136.12 Openings and Enclosures
136.13 Fires or Fuel on Sidewalks
136.14 Defacing
136.15 Debris on Sidewalks
136.16 Merchandise Display
136.17 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement, or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

136.02 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Defective sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (¾) inch or more.

B. Horizontal separations equal to one-half (½) inch or more.

C. Holes or depressions equal to three-fourths (¾) inch or more and at least four (4) inches in diameter.

D. Spalling over fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to one-half (½) inch or more.

E. Spalling over less than fifty percent (50%) of a single square of the sidewalk with one or more depressions equal to three-fourths (¾) inch or more.

F. A single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

G. A sidewalk with any part thereof missing to the full depth.

H. A change from the design or construction grade equal to or greater than three-fourths (¾) inch per foot.

3. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

4. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

5. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

6. "Portland cement" means any type of cement except bituminous cement.

7. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

8. "Sidewalk improvements" means the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

9. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE, AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2b & e])

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to repair, replace or reconstruct, or cause to be repaired, replaced or reconstructed, all broken or defective sidewalks and to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

(Code of Iowa, Sec. 364.12[2c])

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & e])

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa.*

(Code of Iowa, Sec. 384.38)

136.07 SIDEWALK STANDARDS. Sidewalks repaired, replaced, or constructed under the provisions of this chapter shall constructed in accordance with the plans and specifications on file in the office of the Public Works Director.

136.08 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such

dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.09 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.10 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.11 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.12 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating, or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.13 FIRES OR FUEL ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.14 DEFACING. It is unlawful for a person to scatter or place any paste, paint, or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.15 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

(Code of Iowa, Sec. 364.12[2])

136.16 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.17 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

[The next page is 751]

ATTACHMENT 2

CITY OF CARROLL

POLICIES AND PROCEDURES MANUAL

Subject	Policy No.
Sidewalk Policy	0710
Responsible Division(s), Office(s)	**Related Policies & Procedures**
All	
Effective/Revision Date	**Approval(s)**
10-26-98; 08-26-13	Gerald L. Clausen

I. **Repair, replace existing walks and fill in gaps.**

A. An inventory shall be taken of all "gaps", listing those which are possible to fill in. (It may be impossible, impractical or unnecessary in some areas). The staff shall establish priorities and recommend to the Council those which are not in need of filling.

B. An inventory shall be taken of walks which need repair or replacement. The staff shall establish priorities and recommend to the Council those which are in need of repair or replacement.

C. Follow orders under City Code of Ordinance Section 185.06 (repairs) and Section 185.07 (construction) for citizen compliance.

D. New construction "gap" sidewalks to be completed within 5 years; repairs or replacement of existing defective sidewalks to be completed immediately. If there is no voluntary compliance, proceed with assessment process under Chapter 384, Iowa Code.

II. **Install a sidewalk along one side of previously constructed arterial and collector streets.**

A. An inventory shall be taken listing action to be taken. (It may be impossible, impractical or unnecessary in some areas). The staff shall establish priorities and recommend to the Council the action to be taken.

III. New Sidewalks

A. Residential Streets: all new subdivisions to have walks on southerly and westerly sides of streets except where doing so would create gaps from previously constructed walks, for example: where the adjacent subdivision had walks on north or east.

B. Cul-de-sacs: all new subdivision cul-de-sacs less than 250 feet in length, measured from the right-of-way line of the cross street to the center of the cu-de-sac, shall not be required to have walks. All new subdivision cul-de-sacs exceeding 250 feet in length, measure from the right-of-way line of the cross street to the center of the cul-de-sac, to have walks on the southerly and westerly sides of the cul-de-sacs.

C. Arterial & Collector Streets: all new subdivisions to have walks on both sides of these streets.

ATTACHMENT 3

CITY of CARROLL, IOWA

CITY OFFICES (712) 792-1000 ZIP CODE 51401

March 25, 1987

MEMO TO: The Honorable Mayor and City Council Members

MEMO FROM: Dick Hierstein, City Manager

SUBJECT: Sidewalk inspection program

Recent decision of the Iowa Supreme Court have greatly increased the need for a city sidewalk inspection program. Liability can be decreased by a regular program of inspection and repair.

It is proposed that such a program be implemented by our Building Inspector. The city would be divided into three areas with one area inspected each year.

The attached standards are suggested to determine if repair or replacement would be required. Standards vary among cities. Generally, repair code "A" is less restrictive than many cities which allow only 1/2" vertical edge.

The inspection procedure would involve several steps:

1. After an initial inspection, an informal repair notice would be left at the home. The notice would state the nature of the defect and the necessary corrective action. The sidewalk area to be repaired would also be marked with spray paint. This notice would ask that repair be made within thirty days to avoid the more expensive official repair procedure. A voluntary assessment form would be attached in case the owner wanted the city to conduct the repair.

2. A followup inspection would occur in thirty days.

3. If the necessary repair had not been made, we would determine the owner of the property. Then official repair notification by certified mail would take place. Again, thirty days would be allowed for the repair to be done.

4. A second followup inspection would take place.

5. If the necessary repair still had not been made, the city would have the repair performed. All costs of the repair including inspection, notice and assessment schedule costs would be assessed against the property.

Although we estimate that 5% or less of the sidewalks in town will require repair, complaints can be anticipated. However, the program is necessary to keep our sidewalks in safe condition.

Options to the program are:

1. Do nothing
2. Eliminate the informal first step
3. Adopt an ordinance making failure to maintain the sidewalk a misdemeanor

Doing nothing would expose the city to the full liability opened by the Supreme Court. This option would also subject the public to preventable hazards.

Elimination of the informal first step could speed up the repair process in some cases. It would save staff time in those cases where the informal notice would not get the problem corrected. However, the legal format of the official notice would offend many persons who would comply with a less formal request to improve pedestrian safety. In cases where the informal notice obtained the desired repair, it would involve much less time and expense (researching ownership and sending certified notice).

Some cities have made the failure to repair sidewalks a misdemeanor. Charges can be filed until the necessary repair is made. This has also been done in conjunction with our basic repair procedure.

RECOMMENDATION: The full sidewalk inspection procedure, including an informal notice, be approved.

Dick Hierstein

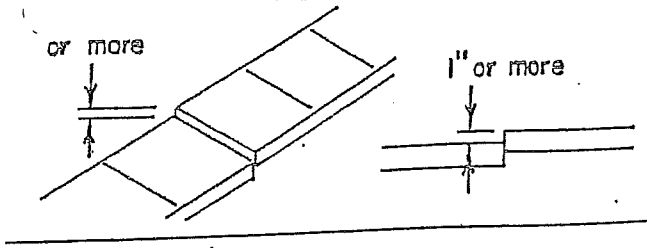
Dick Hierstein

DH:kas

attachment

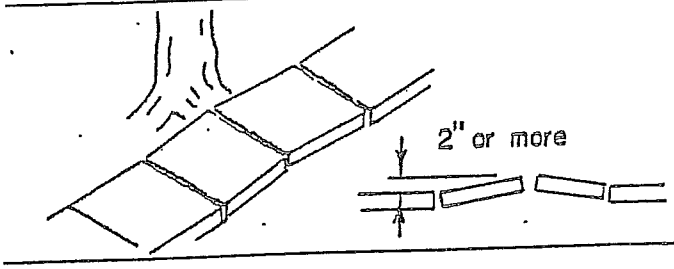
STANDARDS FOR DEFECTIVE SIDEWALKS

CITY OF CARROLL, IOWA



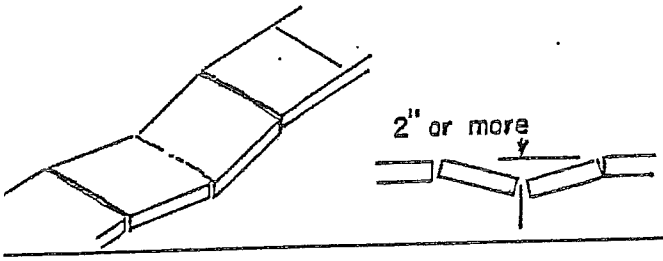
REPAIR CODE "A"

The sidewalk is cracked with a vertical edge existing of more than one inch high.



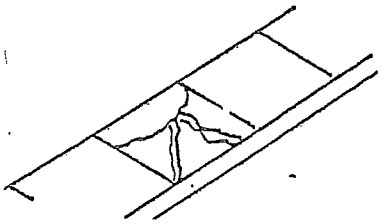
REPAIR CODE "B"

The sidewalk has raised more than two inches in a eight to ten (8'-10') foot area from the normal line of grade of the sidewalk.



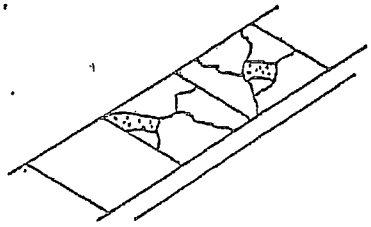
REPAIR CODE "C"

The sidewalk is depressed more than two inches in a eight to ten (8'-10') foot area from the normal line of grade of the sidewalk.



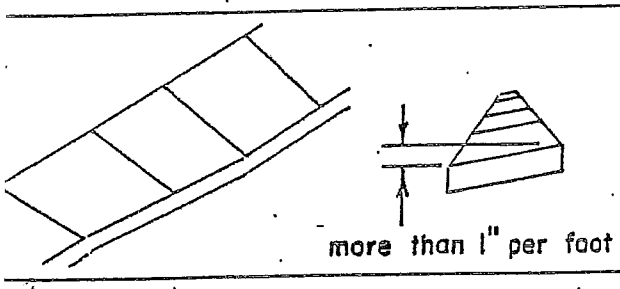
REPAIR CODE "D"

The sidewalk has cracked into more than three pieces per 4' x 4' square and sections are distorted or distressed with a vertical height difference of one-half inch or more or a horizontal separation of two inches or more.



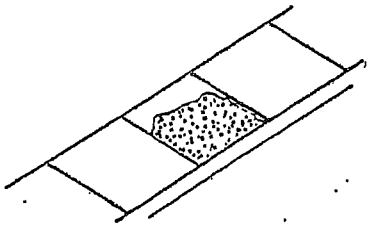
REPAIR CODE "E"

The sidewalk has cracked and part of the sidewalk is missing, forming holes.



REPAIR CODE "F"

The sidewalk has settled or for some other reason is sloped and tilted more than one inch per foot (toward either side).



REPAIR CODE "G"

The sidewalk has spalled and the surface is gone.