City of Carroll

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-1000 FAX: (712) 792-0139

MEMO TO: Mike Pogge-Weaver, City Manager

FROM: Randall M. Krauel, Director of Public Works RMK

DATE: June 29, 2017, ***July 20, 2017***

SUBJECT: Sidewalk Regulations

Dave Bruner has reviewed the City Code of Ordinances sidewalk regulations. Attached is a proposed ordinance amending the Code of Ordinances Sections 136.02, 136.03, 136.04 and 136.05. The proposed amendments generally expressly impose liability for repair and maintenance of sidewalks on owners of property abutting sidewalks.

RECOMMENDATION: Mayor and City Council consideration, introduction and adoption of the Sidewalk Regulation Ordinance.

RMK:ds

attachment

Introduction and first reading of the proposed ordinance was completed on July 10, 2017. It is recommended to continue consideration, conduct second and third readings and adopt the ordinance.

ORDINANCE NO _____

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA, BY REPEALING AND REPLACING SECTIONS 136.03, 136.04 and 136.05 AND ADDING A NEW SUBSECTION TO 136.02 PERTAINING TO SIDEWALK REGULATIONS

BE IT ENACTED by the City Council of the City of Carroll, Iowa:

SECTION 1. NEW SUBSECTION. Chapter 136, section 02 of the Code of Ordinances of the City of Carroll, Iowa, is amended by adding a new subsection I which shall read as follows:

I. Noncompliance with the Americans With Disabilities Act (ADA) standards and requirements.

SECTION 2. SECTION REPEALED AND REPLACED. Chapter 136, section 03 of the Code of Ordinances of the City of Carroll, Iowa, is repealed and replaced with the following:

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the owner to remove snow, ice and accumulations promptly from sidewalks and the owner shall be liable for injuries and damages caused by the failure to use reasonable care in the removal of snow, ice and accumulations. If the owner does not remove snow, ice and accumulations within a reasonable time and after receiving notice by the City, the City may do so and assess the costs against the owner for collection in the same manner as property tax. If the City is required to remove snow, ice and accumulations after notice, this action shall not release or relieve the owner of liability imposed above. The owner shall further defend, indemnify, and hold harmless the City of Carroll, from and against any claim, arising out of the failure to remove snow, ice and accumulations.

SECTION 3. SECTION REPEALED AND REPLACED. Chapter 136, section 04 of the Code of Ordinances of the City of Carroll, Iowa, is repealed and replaced with the following:

136.04 RESPONSIBILITY FOR MAINTENANCE – LIABILITY OF ABUTTING PROPERTY OWNER. It is the responsibility of the owner to repair, replace, reconstruct or cause to be repaired, replaced or reconstructed, all defective sidewalks and to maintain in a safe and hazard free condition any sidewalk abutting their property. The owner shall be liable to any person who may incur injuries and/or damages as a result of or caused by the failure of the owner to use reasonable care in the repair, replacement or reconstruction of defective sidewalks. Defective sidewalks are declared a public nuisance. The owner shall further defend, indemnify and hold harmless the City of Carroll, from and against any claim, arising out of the failure to maintain the owner's sidewalk.

SECTION 4. SECTION REPEALED AND REPLACED. Chapter 136, section 05 of the Code of Ordinances of the City of Carroll, Iowa, is repealed and replaced with the following:

136.05 CITY MAY ORDER REPAIRS. If the owner does not maintain sidewalks as required, the City may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct defective sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as property tax. If the City is required to repair, replace or reconstruct defective sidewalks after notice, this action shall not release or relieve the owner of liability imposed by this Chapter.

SECTION5. REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 7. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved this _____ day of _____, 2017.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

_____
Eric P. Jensen

ATTEST:

_____
Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the _____ day of _____, 2017.

_____
Laura A. Schaefer, City Clerk

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