

**AN ORDINANCE ESTABLISHING A SIDEWALK CONSTRUCTION
AND FINANCING POLICY**

Whereas, the City of Evansville desires to establish a policy concerning sidewalk replacement or repair;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Evansville, Indiana, as follows:

SECTION 1. AMENDMENT OF TITLE 5 OF THE MUNICIPAL CODE

Title 5 of the Municipal Code is hereby amended by establishing a new Chapter 5.55, which shall read as follows:

- Chapter 5.55 Sidewalks
- 5.55.01 Sidewalk Capital Policy
- 5.55.02 Priority for ADA-Approved Curb Ramps
- 5.55.03 City and Abutting Property Owner Share
- 5.55.04 Sidewalk Petitions
- 5.55.05 Priorities for Sidewalk Capital Program

5.55.01 Sidewalk Capital Policy

(A) It is the policy of the City of Evansville to provide safe and attractive sidewalks to abutting property owners with existing sidewalks to the extent allowed by the City budget. To implement this, the City hereby adopts the Sidewalk Capital Policy. The programs and incentives offered herein are subject to annual appropriation of funds to carry out said programs. It is understood that to correct all sidewalk and curb ramp issues is a long-term and on-going process. This policy is to be used as a guide for determining which sidewalk projects are to be financed within the funding sources available. Where sidewalks do not exist, it is the responsibility of the abutting property owner to pay for their construction.

(B) All sidewalk construction under this chapter shall be done in accordance with the Americans with Disabilities Act (ADA) and any other applicable federal, state and local laws and rules and regulations of the Board of Public Works.

(C) This program shall not prevent the city from replacing, repairing and/or installing sidewalks at its discretion at its own cost, including, but not limited to, repair or replacement as part of a major construction project.

5.55.02 Priority For ADA-Approved Curb Ramps

ADA-approved curb ramps will be the responsibility of the City. Priority will be given to any full block face sidewalk replacements and then in the priority contained in Section 5.55.05 (D)(3).

5.55.03 City and Abutting Property Owner Cost Share

- (A) For sidewalk petitions submitted to the Board of Public Works prior to January 1, 2006, the cost sharing will be 75% city and 25% abutting property owners.
- (B) For sidewalk petitions submitted to the Board of Public Works on or after January 1, 2006, the cost sharing will be 50% city and 50% abutting property owners.

5.55.04 Sidewalk Petitions

- (A) The Board of Public Works will adopt such forms as necessary for the abutting property owners to petition the city for sidewalk replacement and repair.
- (B) As part of the sidewalk replacement and repair petition, the abutting property owners shall agree to a ten- (10) year repayment schedule under the Barrett Law process.

5.55.05 Priorities for Sidewalk Capital Program

- (A) Existing sidewalks will be categorized into one of two categories:
 - 1. Sidewalk Spot repair (replacement of less than a full block face) and
 - 2. Full Block Face Replacement (replacement of one side of a street-sidewalk from intersection to intersection).
- (B) Sidewalk Spot Repair
Priority for sidewalk spot repairs shall be given to sidewalk blocks according to the following criteria:
 - 1. Level 1 (High Priority)
Level 1 priority shall consist of a sidewalk containing one or more of the following conditions:
 - (a) lift of over 1 inch lift or separation between sidewalk sections
 - (b) tilt or cross-slope greater than 1 inch per foot
 - (c) horizontal separation of 2.5 inches or more
 - (d) lift or settlement greater than 2 inches from the top of the curb

(e) spalling or other forms of deterioration over 50% of a sidewalk section.

2. Level 2 (Low Priority)

Level 2 priority shall consist of a sidewalk containing one or more of the following conditions:

- (a) lift or separation over ½ inch between sidewalk sections
- (b) tilt or cross-slope between ½ inch and 1 inch per foot
- (c) horizontal separation between 2 inches and 2.5 inches
- (d) lift or settlement between 1 inch and 2 inches from the top of the curb
- (e) spalling or other forms of deterioration over 25% of a sidewalk section.

3. If a sidewalk does not meet any of the criteria in 1 or 2 above, then such sidewalk spot repair will not be funded under this program.

(C) Full Block Face Replacement

Priority for full block face replacement shall be given to sidewalk blocks according to the following criteria:

1. Level 1 (Very High Priority)

Not less than 75% of the sidewalk sections of the block face that has one or more of the following conditions present:

- a. lift over 1 inch between sidewalk sections
- b. tilt or cross-slope greater than 1 inch per foot
- c. horizontal separation equal to or greater than 2.5 inches
- d. lift or settlement greater than 2 inches from the top of the curb
- e. spalling or other forms of deterioration over 50% of a sidewalk section.

2. Level 2 (High Priority)

(a) Not less than 50% of the sidewalk sections of the block face have one or more of the following conditions:

- 1. lift over 1 inch lift between sidewalk sections
- 2. tilt or cross-slope greater than 1 inch per foot
- 3. horizontal separation equal to or greater than 2.5 inches
- 4. lift or settlement greater than 2 inches from the top of the curb
- 5. spalling or other forms of deterioration over 50% of a sidewalk section

(b) Not less than 75% of the sidewalk sections of the block face have one or more of the following conditions:

- 1. lift over ½ inch lift between sidewalk sections

2. tilt or cross-slope between ½ inch and 1 inch per foot
3. horizontal separation between 2 inches and 2.5 inches
4. lift or settlement between 1 inch and 2 inches from the top of the curb
5. spalling or other forms of deterioration over 25 % of a sidewalk section.

3. Level 3 (Medium Priority)

(a) Not less than 25% of the sidewalk sections of the block face have one or more of the following conditions:

- (1) lift over 1 inch lift between sidewalk sections
- (2) tilt or cross-slope greater than 12 inch per foot
- (3) horizontal separation equal to or greater than 2.5 inches
- (4) lift or settlement greater than 2 inches from the top of the curb
- (5) spalling or other forms of deterioration over 50% of a sidewalk section

(b) Not less than 50% of the sidewalk sections of the block face have one or more of the following conditions:

- (1) lift over ½ inch lift between sidewalk sections
- (2) tilt or cross-slope between ½ inch and 1 inch per foot
- (3) horizontal separation between 2 inches and 2.5 inches
- (4) lift or settlement between 1 inch and 2 inches from the top of the curb
- (5) spalling or other forms of deterioration over 25 % of a sidewalk section

4. Level 4 (Low Priority)

(a) Not less than 25% of the sidewalk sections of the block face have one or more of the following conditions:

- (1) lift over ½ inch lift between sidewalk sections
- (2) tilt or cross-slope between ½ inch and 1 inch per foot
- (3) horizontal separation between 2 inches and 2.5 inches
- (4) lift or settlement between 1 inch and 2 inches from the top of the curb
- (5) spalling or other forms of deterioration over 25% of a sidewalk section

5. If a sidewalk does not meet one or more of the criteria listed above, such full block face replacement petition will not be funded.

(D) Cost Sharing

It is the policy of the City to cost share with the abutting property owner when requested to replace or repair the sidewalk under the procedure outlined below. This program is subject to funding by the City Council.

1. In the case of a Spot Repair, each abutting property owner desiring to have the public sidewalk traversing or bordering his property repaired shall petition in writing for a spot repair/replacement or for a full block replacement. The petition shall be signed by the person(s) requesting such repair. If there is more than one owner per lot, each such owner (or his authorized representative) shall sign such petition. The petition shall be submitted to the Office of the Board of Public Works for review, classification and prioritization.
2. In the case of a Full Block Replacement, abutting owners of over 50% of the lots contiguous to the full block sidewalk replacement area shall submit a signed petition to the Board of Public Works. If there is more than one owner per lot, each such owner (or his authorized representative) shall sign such petition. The petition shall be submitted to the Office of the Board of Public Works for review, classification and prioritization.
3. Upon receipt of a petition (Spot Repair or Full Block Replacement) as provided above, the Board of Public Works shall classify the petitions according to the priority levels listed above. Within each such Priority level, the Board shall then prioritize the priority levels according to the following priorities:
 - a. Priority 1: streets within 2 blocks of a school, church, publicly owned building or facility, or government office
 - b. Priority 2: streets with over 10,000 average annual daily traffic count
 - c. Priority 3: streets with 10,000 or less, but 5,000 or more average annual daily traffic count

Within the priority level classifications, Priority 1 shall be done first and then Priority 2 next and so forth, providing the necessary procedures are completed.

4. Payment by abutting property owner
 - a. The City shall use the Barrett Law process (I.C. 36-9-37 or 38) to finance the abutting property owner's share of the sidewalk costs. For purposes of illustration, assume the full cost of the repair is \$700. On a 50%-50% basis, the abutting property owner would be responsible for \$350. Under the Barrett Law, the abutting property owner would have a number of options to make the \$350 payment:
 1. The abutting property owner could pay a lump sum payment of \$350

2. The abutting property owner could choose to pay over a ten-year period in equal annual installments of \$35 per year.
 3. The abutting property owner could make payments for a number of years and then pay the balance off at any time.
 - b. Under the Barrett Law process, the amount owed by the abutting property owner is recorded as a lien to ensure payment by any subsequent owners.
5. Assessment
- An assessment is based on the number of frontage feet as provided by the Barrett Law divided by either 4 or 2 based on the appropriate cost sharing.
6. Under the Spot Repair petition process, the City may review the sidewalks in the block of the proposed spot repair, and do one of the following:
 - a. decline to make such sidewalk repair, or
 - b. request that a petition be circulated to all abutting property owners abutting the full block face for sidewalk replacement. If 50% or less of the abutting property owners request a full block sidewalk replacement, the City may decline to make such sidewalk spot repair.
 7. If utility obstructions including, but not limited to, poles, meters, or sign posts, are placed in the sidewalk, it shall be the responsibility and cost of said utility to assure that the sidewalk width around the obstruction is ADA compliant. The design approval of the solution shall be approved by the Board of Public Works.
 8. For corner lots which have sidewalks to be replaced on more than one boundary line of the lot, the following shall apply:
 - a. The abutting property owner will be responsible at the appropriate cost sharing level for the first sidewalk boundary that has a full block face sidewalk replacement. The City will have full financial responsibility for the other side of the lot for full block sidewalk replacement.
 - b. The abutting property owner will be responsible at the appropriate cost sharing level for any sidewalk spot repair on the lot.
 9. Property tax exemption
- If the abutting property owner has either a valid "Over 65 Property Tax Exemption" or a "Blind or Disabled Property Tax Exemption"

with the Vanderburgh County Auditor, such abutting property owner has the following payment options:

- a. the abutting property owner may pay the amount owed in full; or
- b. the abutting property owner may elect to pay over a ten year period in equal installments on the property assessment billing; or
- c. The City may place a lien on the property for the full amount which will be due and payable either upon transfer to another person or if the exemption is revoked.

10. Driveway curb cut

If an abutting property owner has an approved curb cut and the owner desires to redo the driveway or the abutting property owner desires to extend the walkway between the sidewalk and the curb, the abutting property owner shall be fully responsible for such improvements and must obtain all necessary approvals as provided under this Municipal Code. However, the costs of such improvements will be added-on to the sidewalk billing and may be paid in the same manner as the sidewalk billing. The City will not share in the cost of such improvement.

SECTION 2. EFFECTIVE DATE

This ordinance shall be in full force and effect on January 1, 2005, after its passage by the City Council and signing by the Mayor.

