
Sec. 42-36. Duty of abutting property owners to construct and maintain sidewalks.

- (a) *Generally.* Excluding property owners within Hideaway and Key Marco PUD's and Olde Marco (north of the centerline of Old Marco Lane), it shall be the duty of every owner of abutting property to construct or reconstruct, maintain and keep in good condition and repair, sidewalks in front of or abutting upon each parcel of the owner's property.
- (1) *Vacant lots.* Sidewalk construction shall not be required for vacant lots until the lot is developed (or partially developed), unless the city council determines a sidewalk is needed to complete a safe route to school, in which case sidewalk construction shall be required to be properly permitted and completed by the property owner within nine months (or less if so determined by council) from the date of council's determination of need. Where there is no sidewalk abutting several adjacent vacant lots, to complete a safe route to school, the city may design and construct the required sidewalk and assess the abutting properties for the costs in accordance with section 42-39.
- (2) *Improved lots.* Upon issuance of a notice of violation pursuant to chapter 14 of this code, the property owner of an improved lot shall be required to properly permit and construct a sidewalk within 12 months (or less if so determined by the city's special magistrate) for residential properties and within 18 months (or less if so determined by the city's special magistrate) for commercial properties. Sidewalks must comply with the city's current construction standards at the time of permitting. Where there is no sidewalk abutting several adjacent improved lots, the city may design and construct the required sidewalk and assess the abutting properties for the associated costs in accordance with section 42-39.
- (b) *Maintenance.* It is unlawful for any property owner to allow a sidewalk in front of or abutting such property to remain in a condition that renders it unsafe, dangerous or detrimental for the purpose for which it is intended.
- (1) If more than 50 percent of the total linear footage of sidewalk needs repair (as determined by the city), the property owner must replace the abutting sidewalk in total to the city's current standards at the time of permitting.
- (2) If 50 percent or less of the abutting sidewalk needs repair (as determined by the city), the damaged sections may be replaced in kind with similar construction and material. Concrete leveling with a flowable material will be permitted as an alternate to replacement. Sidewalk grinding will be considered on a case by case basis. A property owner may use asphalt to repair an existing asphalt sidewalk, but when a new building is built on the abutting lot, the asphalt sidewalk must be replaced with a concrete sidewalk in compliance with the city's current construction standards at the time or permitting.
- (c) *Damage.* Any sidewalk damage during new construction or renovation is presumed to be caused by the owner or the owner's agent undertaking construction or renovation. It shall be the owner's responsibility to promptly repair or replace any sidewalk damaged during construction or renovation at the owner's expense.
- (d) *Duty to inspect.* The property owner is responsible for ensuring the inspection of all sidewalks in front of or abutting upon the owner's property for unsafe conditions. Where a sidewalk is in the public right-of-way, and is in an unsafe condition, the property owner shall immediately notify the city of any unsafe condition by written notice. Upon investigation and determination by the city that the condition was not caused by action of the owner, occupant or agent thereof, or third party, the city will not charge the owner if the city repairs the condition. If it is determined that the owner, occupant or agent thereof, or third party caused the damage, then the property owner shall be required to repair or replace the damage in the manner provided in this article for the construction of new sidewalks at the owner's own cost; or pay the city to make such repairs or replacement. If the property owner fails to notify the city of any unsafe condition caused by a third

party, the property owner cannot raise the defense to a claim of liability that the unsafe condition was caused by a third party. If the owner does not repair or replace the damage or otherwise pay the city, the city shall assess the owner of the property for costs incurred by the city for repairs or replacement.

(e) *Encroachments.* It is the duty of each owner of abutting property to maintain the area encompassing the entire width of the sidewalk and driveway apron by seven and one-half [feet] in height in such a way that it is free of overgrowth of grass, weeds, sand, debris, and all encroachments including vegetative encroachments.

(Ord. No. 99-2, art. IV, § 5, 2-1-1999; Ord. No. 05-10, § 2, 9-19-2005; Ord. No. 19-13, § 2, 5-20-2019; Ord. No. 24-15, § 2(Exh. A), 9-9-2024)