

ORDINANCE NO. 10-39

AN ORDINANCE AMENDING CHAPTER 909 OF THE CITY OF DELAWARE CODE OF ORDINANCES ESTABLISHING GENERAL RULES AND REGULATIONS FOR THE MAINTENANCE AND REPAIR OF SIDEWALK WITHIN PUBLIC RIGHT OF WAY.

WHEREAS, the City of Delaware includes over two-hundred and fifty miles of concrete sidewalk constructed within public right of ways, and

WHEREAS, the sidewalks deteriorate over time such that repairs are required to maintain a safe pedestrian access network throughout the community, and

WHEREAS, Section 729.01 of the Ohio Revised Code specifies that property owners with sidewalks and curbing abutting their property are responsible for the maintenance and repair thereof, and

WHEREAS, Chapter 909 of the City of Delaware STREETS, UTILITIES AND PUBLIC SERVICES CODE shall be modified to include updated language pertaining to the responsibilities of the property owner in the maintenance and repair of sidewalk abutting their properties and details of an annual sidewalk maintenance program administered by the City,

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That Chapter 909 is hereby amended to read as follows:  
(See Sections 909 attached hereto)

SECTION 2. That existing Chapter 909 is hereby repealed.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

PASSED: 6/28, 2010

YEAS 7 NAYS 0  
ABSTAIN 0

ATTEST: Christineshaw  
CITY CLERK

[Signature]  
MAYOR

# GENERAL RULES AND REGULATIONS FOR CITY CHAPTER 909

SUBJECT: SIDEWALK & CURB MAINTENANCE & REPAIR	EFFECTIVE DATE:	PENDING APPROVAL
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## RULE:

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### 1. General Provisions:

**909.01 Authority:** Chapter 903 of the Delaware City Code authorizes the City Manager to adopt and update standard construction specifications as required. Chapter 909 of the Delaware City Code and the provisions of section 729.01 of the Ohio Revised Code, require property owners to be responsible for the maintenance, repair, and if necessary, replacement of that portion of sidewalk and curb/gutter abutting their property line against any public street or alley in order that publicly accessible sidewalks be maintained in a safe condition.

**909.02 Responsibility:** The construction, maintenance and repair of sidewalks, handicap ramps, and curb/gutter is divided into specific responsibility:

## GENERAL RULES AND REGULATIONS

**(a) Existing Sidewalk & Curb:** Existing sidewalks and curbing within publicly dedicated right of way for public streets and alleys are the responsibility of the abutting property owner for all required maintenance, repair and replacement activities, and all associated costs thereof. Maintenance activities shall include, but not be limited to sweeping and the removal of leaves, snow, and ice as may be required to maintain a safe access for pedestrian movement.

**(b) Existing Handicap Ramps:** Existing handicap ramps constructed within publicly dedicated right of way are the responsibility of the City to repair and replace as required, including the inclined ramp, landing area, and transition section of sidewalk. Such repairs shall be performed by the City. The daily maintenance of the handicap ramps remains the responsibility of the abutting property owner as described in section (a).

**(c) New Development:** All new developments within the City are required to include the construction of sidewalks and handicap ramps within the public right of way along all public streets, and along private streets and parking areas per City specifications and as further required and defined within section 1111.10 of the City Code.

**(1) Single-Family Residential Development:** Residential subdivisions must include the construction of all required handicap ramps per plan as part of the initial infrastructure construction, prior to the acceptance of the public improvements by the City. The City will only inspect and approve completed handicap ramps, and will not inspect forms for handicap ramps prior to the placement of concrete. The construction of sidewalk fronting residential lots may be deferred until the construction of the associated residence on any particular lot; however, in no circumstance shall the construction of the walk be deferred for a period exceeding thirty months from the date of acceptance of public improvements for that development section.

**(2) Multi-Family Residential Development:** Multi-family developments shall include the design and construction of sidewalks that meet the current Americans with Disabilities Act Accessibility Guidelines (ADAAG) and conform to City requirements. Sidewalks shown on approved plans may be constructed in phases in association with the construction of specific buildings, and are to be completed, inspected, and approved by the City prior to the occupancy of any adjacent building.

**(3) Commercial Developments:** Commercial developments shall include the design and construction of sidewalks that meet the current Americans with Disabilities Act Accessibility Guidelines (ADAAG) and conform to City requirements. Sidewalks shown on approved plans are to be constructed, inspected, and approved by the City prior to the occupancy of any new facility associated with the development.

**(d) Street Tree Damage:** Sidewalk within existing public right of way or public access easements that has been damaged by the root system of a City street tree existing within the street tree planting area between the sidewalks and pavement edge shall be the responsibility of the City for necessary repair and replacement. In the event that the repair requires significant tree roots to be cut away so that in the opinion of the City Arborist, the tree will not survive and must be removed, the City shall have the tree removed, and replace the tree with a new tree of appropriate species as recommended by the City Street Tree Commission.

**(e) Enhanced Walkway Areas:** Property owners, whose individual properties abut an enhanced walkway that has been constructed by the City as part of an area enhancement project, are not responsible for the repair and replacement of the enhanced portion of the walkway. Enhanced walkways include exposed brick and paver sidewalks and ornamental tree gratings and castings.

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**(f) Asphalt Walkways and Bikeways:** Property owners, whose individual properties abut an asphalt pedestrian path or bikeway that has been constructed as part of the designated City bikeway and pedestrian pathway network, are not responsible for repair and replacement of the asphalt bikeways.

**(g) Utility Boxes And Appurtenances:** owners of utility access structures including meter pits, utility valve boxes, basement access doors, communication pull boxes, etc. That protrude more than ½-inch above the adjacent sidewalk surface are responsible for adjusting such appurtenance to be flush with the sidewalk section and if necessary, replacement of the sidewalk section.

### 2. Construction and Maintenance Specifications:

**909.03 Design and Construction:** All public and private sidewalk, curbing, and handicap ramps shall be designed and constructed in conformance with the current City Design and Construction Specifications as authorized under section 903.01 of the City code, and be in conformance with current Federal ADAAG requirements.

**909.04 Maintenance and Repair CRITERIA:** The City shall apply the following criteria singly, or in combination, in the determination of whether sidewalks shall be repaired or replaced.

- (a) Adjoining sections or parts thereof whose edges differ vertically by more than one-half inch.
- (b) Adjoining sections with open joints greater than five-eighths of an inch in width.
- (c) Sections that are cracked so that pieces are missing or loose.
- (d) Sections sloping away from the street unless so constructed by design.
- (e) Sections with cross-slopes exceeding three-fourths inches vertical per one foot horizontal.
- (f) Sections that cause an abrupt change in the longitudinal grade of the sidewalk.
- (g) Sections with deteriorating surfaces presenting loose aggregate.
- (h) Sections containing structures such as cellar doors, grates, water boxes, meter pits, which protrude above the sidewalk more than one-half inch so that they present a tripping hazard.
- (i) Sidewalk constructed without approval of the City.

### 3. Sidewalk Inspection and Repair

**909.05 General Purpose:** The City shall conduct annual evaluations of the condition of existing sidewalks within public right of way for the purpose of determining the presence of specific sidewalk deficiencies requiring repair per the criteria established in Section 909.04 of these regulations. The community shall be sub-divided into sidewalk evaluation zones which are inspected over a ten-year cycle; however any property in the city may be inspected for sidewalk deficiencies at any given time. A deficiency report shall be generated in association with the sidewalk inspections that identifies deficient sections of sidewalk on specific properties and the costs associated with making repairs. City Council shall consider passage of a resolution of necessity requiring property owners identified in the report to complete the required repairs within a specified timeframe. Notification shall be sent to the associated property owner requiring the repairs be completed.

**909.06 Repairs by Property Owner:** Property owners electing to complete the required repair of sidewalks identified in the notice from the City are responsible for following all current City right of way and construction policy, criteria, and specifications as follows:

- (a) Timeframe:** A property owner must have the required repairs completed by the date established in the Resolution of Necessity.

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**(b) Permits:** The property owner, or their contractor, is responsible for completing and submitting the required public way permits to work within the right of way. Permit and inspection fees are waived for property owners making repairs to existing sidewalk under the city safe walks program or on their own.

**(c) Inspections:** The property owner, or their contractor, is responsible for scheduling the required construction inspections for the necessary sidewalk repair work, including the initial sidewalk forms inspection and final finished inspection.

909.07 FAILURE TO COMPLETE REPAIRS: ~~Repairs by the City:~~ **In the event that any such abutting A property owner FAILS TO does not complete the REQUIRED repair OF DEFICIENT SECTIONS OF SIDEWALK of that portion of sidewalks which abut his or her property in accordance with the plans and specifications and within the timeframe prescribed BY THE RESOLUTION OF NECESSITY PASSED BY CITY COUNCIL, City Council shall pass a resolution that identifies the property and associated repair costs, and shall direct the City Engineer to THE CITY SHALL cause the work to be COMPLETED done. The entire cost of the repairs shall be INVOICED TO THE PROPERTY OWNER AND UPON FAILURE TO MAKE PAYMENT, assessed on AGAINST the property based upon the actual unit costs associated with the various improvements over five (5) years at the rate of 7%. the City is charged for financing such improvements plus one percent (1%).**

**909.08 Sidewalk Maintenance Program:** City Council may elect to instruct the Director of Engineering Services to initiate and administer an annual sidewalk maintenance and repair program, and to permit all property owners with identified sidewalk deficiencies requiring such repair, to electively be included and subsequently invoiced for the costs associated with completing repairs on their respective properties.

**909.09 Appeal Process:** The property owner may appeal the City's notice requiring the identified repairs to be made to sidewalk abutting their property by submitting a written request for further evaluation to the City.

**(a) Re-evaluation by Engineer:** Upon receipt of a written appeal, a meeting will be established between the property owner and City representatives at the identified property to review the findings of the initial inspection explain the evaluation criteria with the property owner and answer any questions regarding the required work.

**(b) Review by Public Works Committee:** If the property owner is not satisfied with the information presented during the meeting with the City representative, the property owner can request to be placed on the agenda of the next scheduled Public Works Committee meeting for additional consideration. The decision by the Public Works Committee shall be final.