

SIDEWALK DISCUSSION NOTES

REFERENCES FROM CITY OF FERNDALE (COF) MUNICIPAL CODE

1. Section 12.16.060. It shall be the duty of the person having charge or control of any property abutting a sidewalk within the City to keep the walk or walks along the property in the street or streets adjacent thereto in a clean condition. (Ord. 618 § 1, 1980)
2. Section 12.16.080. It shall be the responsibility and duty of the abutting property owner to maintain, repair and reconstruct adjacent planting strips in an attractive and safe manner. Planting strips shall be maintained, repaired or reconstructed with an approved material and free of vegetation which tends to impair the utilization of the right-of-way for public purposes. Nonliving material shall be level with the top of the curb and the sidewalk and shall be contained within the planting strip so as not to be a hazard to the persons using the sidewalk or street or crossing the strip going to or from a vehicle. Living vegetation exclusive of street trees placed in the planting strip shall be of a height that does not interfere with the lawful and safe use of the public right-of-way and shall be maintained by weeding, spraying, fertilizing, watering and trimming. Approval shall be obtained from the City Engineer prior to the installation of materials within the planting strip. (Ord. 618 § 1, 1980)

NOTES FROM DISCUSSION WITH BO WESTFORD (COF-PUBLIC WORKS)

1. The COF standards for safe and acceptable conditions for sidewalks is derived from the Americans with Disability Act (ADA). The ADA quantifies acceptable slopes (pitch and roll), offsets, and height changes (e.g., between abutting concrete slabs, depth of pits, etc.). The maximum allowable variance in height or offset is ¼ inch. Greater variances must be repaired and brought into compliance with standards. The term "pits" is used here to refer to any pit in the concrete caused by impact, natural concrete erosion, or chemically induced erosion. See note at end about chemically induced erosion.
2. Variances include the "pitting" caused by ice prevention or de-icing agents.
3. The responsibility for maintaining sidewalks that abut privately-owned lots in clean and safe condition rests with the owners of those lots who are therefore responsible for the cost of repairs to those areas.
4. The responsibility for maintaining sidewalks that abut common areas rests with the HOA which is therefore responsible for the cost of repairs to those areas.
5. The responsibility for maintaining driveways in clean and safe condition rests with the owner of the property serviced by that driveway. This includes the portion of the driveway that traverses the sidewalk.
6. Homeowners and the HOA are responsible for removing loose gravel in those areas for which they are responsible in order to mitigate the potential safety hazard caused thereby.
7. Prior to commencing repair work on any sidewalk, the agent responsible for the repairs (owner or HOA) must acquire a Revokable Encroachment Permit from the COF. This permit will result in a COF inspector meeting on-site to discuss the proposed repairs within 24 hours prior to the commencement of work. The inspector may also monitor the in-progress repairs and is ultimately responsible for approving the repairs upon completion.
8. A copy of the Revokable Encroachment Permit can be accessed [HERE](#). This permit, once acquired, may be revoked at any time the COF determines that the work is not up to COF standards.

9. Any work in the city right-of-way must be performed by a licensed, bonded contractor, and with a valid City of Ferndale Business License. Work on private property is a decision for the owner, except if working on city utilities, then licensed contractors are required. Note: The city right-of-way is measured 30 feet in either direction from the centerline of a public street.
10. In cases where there is disagreement about responsibility for damage and/or adequacy of repairs, the COF inspector will prepare a report and submit it to the COF Director of Public Works who will either adjudicate the case or forward it to the City Council for adjudication.
11. If a homeowner commences or finishes mandatory repair work on a sub-standard portion of sidewalk without first acquiring an Encroachment Permit, the COF may start levying fines as soon as the omission is noted. The fines will continue until the issue is resolved and the repair work is certified to meet COF standards.
12. The aforementioned discussion is equally applicable to roadside curbing.
13. Whereas planting strips are maintained by the HOA, any damage caused by a lot owner or associated family members, guests, or contractors is the responsibility of that lot owner.
14. The HOA is empowered by the CC&Rs and COF Municipal Code to direct lot owners to repair or restore planting strips, sidewalks, and curbs where damage (a) is notable but not to the level that would trigger intervention by the COF, or (b) violates community standards as established in the CC&Rs and Rules and Regulations.

NOTE: Chemically induced concrete erosion. The primary villains here are ice prevention and deicing chemicals, including salt. Many such chemicals state that they are "concrete safe". Most are not – but the blame lies principally with the concrete, which has become progressively weaker with the imposition of environmental restrictions. Older concrete was stronger. New concrete is weaker and less able to stand up to impacts or the elements of erosion such as moisture coupled with freezing temperatures and applied chemicals. The desire to prevent or eliminate ice on sidewalks is understood, but it must also be understood that they will inevitably damage the concrete. The City of Ferndale recommends that they not be used. For ideas about salt-free alternatives to chemical deicers, click [HERE](#).