

CHAPTER 93: STREETS AND SIDEWALKS

Section

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CONSTRUCTION, REBUILDING, AND REPAIR OF SIDEWALKS

§ 93.30 DECLARATION OF NECESSITY.

Council hereby determines and declares that the regulations for the construction, rebuilding, or repair of sidewalks by special assessment in the village are a matter involving the public safety of the village, and accordingly, and pursuant to the general safety and welfare provisions of the statutes of the state, does hereby determine that the following regulations involving construction, rebuilding, or repair of sidewalks, provision for payment in full or in part by

the adjoining property owner, and provision for compelling payment in full or in part by the adjoining property owner by special assessment in the village, are a public necessity.
(Prior Code, § 1022.01) (Ord. 104-A, passed 3-10-1997)

§ 93.31 CONSTRUCTION IN NEWLY-DEVELOPED OR VACANT PROPERTY.

It shall be the duty of all owners of newly-developed or vacant real estate in the village to construct new sidewalks along the line of the streets next to and abutting upon the real estate if sidewalks do not already exist in the areas. Construction of the sidewalks shall be in accordance with specification of Council and shall be completed prior to issuance of an occupancy permit. The owner or owners of the property shall pay 100% of the cost of the construction of the new sidewalks.
(Prior Code, § 1022.02) (Ord. 104-A, passed 3-10-1997) Penalty, see § 10.99

§ 93.32 REBUILDING AND REPAIR; COSTS.

(A) No person shall permit the sidewalk which adjoins property owned or occupied by that person to fall into a state of disrepair or to be unsafe, in the opinion of Council.

(B) It shall be the duty of all owners of real property in the village to build, rebuild, or repair sidewalks along the line of streets abutting upon the real property whenever Council, in its judgment, decides that public necessity demands the construction

or repair of the sidewalk. Subject to the provisions of this subchapter, the village will pay to any person who constructs a cement sidewalk in the village, according to the specifications adopted by Council, the percentage of the cost of construction as follows.

(1) In nonresidential districts (as districts are defined in the zoning code), the village will pay 40% of the reasonable cost, and the adjoining property owned will pay 60% of the reasonable cost, for rebuilding or repair.

(2) In residential districts, the village will pay 50% of the reasonable costs, and the adjoining property owner will pay 50% of the reasonable cost, for rebuilding or repair.

(C) For purposes of this subchapter, sidewalks in commercial districts abutting Hancock Street shall extend the full distance from the building to the curb. Sidewalks in other areas of the village shall be at least four feet in width.
(Prior Code, § 1022.03) (Ord. 104-A, passed 3-10-1997) Penalty, see § 10.99

§ 93.33 NOTICE TO PROPERTY OWNERS TO CONSTRUCT, REBUILD, OR REPAIR.

Whenever Council, by resolution, declares the necessity for, and directs the construction of, any sidewalk in any street in front of or adjoining any private property, it shall be the duty of the Village Clerk to:

(A) Publish in a newspaper once each week for two consecutive weeks; and

(B) Mail by first-class mail to the owners as shown by the most recent tax assessment rolls, a notice dated on the first day of the publication, which shall notify the property owner:

(1) That Council requires the construction, rebuilding, or repair of sidewalks;

(2) Of the street and lot numbers or legal descriptions adjoining which the sidewalks shall be built;

(3) The time (not less than 30 days) within which construction should begin;

(4) That, upon failure to comply with the order, the village will cause the construction, rebuilding, or repair to be done, and the cost thereof, plus a penalty of 10% of the landowner's portion of the cost as provided herein and by statute, will be assessed against the property; and

(5) The estimated cost of the sidewalk construction, rebuilding, or repair if done by the village.
(Prior Code, § 1022.04) (Ord. 104-A, passed 3-10-1997)

§ 93.34 PERMIT REQUIRED; SUPERVISION.

Any person desiring to construct, rebuild, or repair a sidewalk on or adjacent to his or her property shall do so only upon a permit granted by the Zoning Administrator in accordance with the specifications established by the village. The sidewalk shall be constructed, rebuilt, or repaired under the supervision and direction of the Superintendent of Public Works who shall inspect the work and report to Council if the work has been done in accordance with the provisions of this subchapter, in full compliance with the specifications established by the village and to the satisfaction of the officer.
(Prior Code, § 1022.05) (Ord. 104-A, passed 3-10-1997)

§ 93.35 CONSTRUCTION BY THE VILLAGE; COSTS.

(A) If any person notified pursuant to § 93.04 has not constructed the sidewalk within the time mentioned, the village, under the direction of the Superintendent of Public Works, may construct or

cause to be constructed the sidewalk in front of or adjoining the premises of the person so in default, and, upon its completion, prepare a report and attach thereto an affidavit of publication and mailing of the notice ordering the sidewalk to be constructed, which report shall contain the cost of construction of the sidewalk, together with a penalty of 10% of the proportion due from the owner of each parcel of property adjacent to the sidewalk constructed, and a description of the parcels of land in front of or adjoining which the sidewalks have been constructed. The report shall be transmitted to the Village Clerk who, within 14 days after receipt, shall notify each of the persons who have had sidewalks constructed in front of or adjoining their premises, as shown by the report, by first-class mail at their post office address as shown on the most recent tax assessment roll, of the fact that the Village Treasurer will receive payment for the sidewalk construction and a 10% penalty for a period of 91 days from the date of the notice without further or additional cost. The Village Clerk shall further notify the persons that unless the construction costs and penalty are paid within 91 days, the fact of nonpayment will be transmitted in a report to Council for the purpose of levying a special assessment upon the property.

(B) Upon a special request in writing to the Village Clerk, any property owner may request an extended payment plan according to the following schedule for his or her portion of sidewalk construction.

(1) The schedule shall be as follows:

<i>Cost</i>	<i>Number of Equal Installments</i>	<i>Due in Full</i>
\$0 through \$400	1	July 1, the year following completion
\$401 through \$800	2	July 1, 2 years following the year of completion
\$801 through \$1,200	3	July 1, 3 years following the year of completion

\$1,201 through \$1,600	4	July 1, 4 years following the year of completion
Greater than \$1,600	5	July 1, 5 years following the year of completion

(2) The extended payments shall bear simple interest at 6% per year from the original due date to the date of payment. (Prior Code, § 1022.06) (Ord. 104-A, passed 3-10-1997)

§ 93.36 SPECIAL ASSESSMENT FOR NONPAYMENT OF COSTS.

The Village Clerk shall, within 42 days after expiration of the time provided in § 93.06 for payment to the Village Treasurer, proceed to prepare an assessment roll in the legal and proper form and assess the amount so reported against those who have failed to pay the assessment within the time above mentioned, together with a penalty of 10% of the proportionate cost due from the property owner as provided by law, and the special assessment shall be made upon the parcel, lot, or lots fronting or adjoining the sidewalks so constructed, rebuilt, or repaired, and in proportion to the total number of square feet constructed. (Prior Code, § 1022.07) (Ord. 104-A, passed 3-10-1997)

§ 93.37 NOTICE OF SPECIAL ASSESSMENT.

(A) Upon completion of the assessment roll, the Village Clerk shall:

(1) Cause to be published in a newspaper, once each week for two consecutive weeks, a notice as set forth in division (B) below; and

(2) Send the notice to the property owners by first-class United States mail, not less than ten days prior to the hearing, addressed to the owner at their last known post office addresses as shown on the most recent tax assessment rolls.

(B) The notice referred to in division (A) above shall:

(1) Notify the owners that a special assessment roll has been prepared and is open for inspection, revision, and correction in the office of the Clerk;

(2) Contain a description of the lots in the special assessment roll;

(3) Notify the owners of the date and time of the meeting at which the roll will be presented to Council for confirmation;

(4) Notify the owners that any person desiring to object to the assessment may do so by filing a written protest prior to the above meeting date;

(5) Notify the owners that protest at the hearing is required in order to appeal the amount of the special assessment to the tax tribunal. The protest may be either in person or in writing (an actual personal appearance is not required); and

(6) Notify the owners that they or any person having an interest in the real property may file a written appeal of the special assessment with the state tax tribunal within 30 days after the confirmation of the special assessment roll if that special assessment was protested at the hearing held for the purpose of confirming the roll. (Prior Code, § 1022.08) (Ord. 104-A, passed 3-10-1997)

§ 93.38 HEARING.

If no protest is filed, Council shall, at the meeting, confirm the special assessment. If a protest is filed, the same shall be heard or considered by Council at the time and place designated in the notice, and the same shall be considered, giving the protesting party an opportunity to be heard. Council, after consideration, may confirm the roll with or without

modification as it may deem proper. Upon confirmation of the roll, the same shall be transmitted to the Village Assessor and the Assessor shall spread the amount, together with the 10% penalty, upon his or her roll as a special assessment upon the lot(s) or premises, and the same shall be collected in the same manner as other village taxes.

(Prior Code, § 1022.09) (Ord. 104-A, passed 3-10-1997)

§ 93.39 LIEN; STATUS OF DEBT; COLLECTION.

From the date of confirmation of the roll levying the special assessment, the full amount of the assessment and any interest thereon shall constitute a lien on the premises subject thereto and that amount shall be a debt of the person(s) to whom it is assessed until paid and, in case of delinquency, may be collected as delinquent village property taxes or by a suit against the person(s).

(Prior Code, § 1022.10) (Ord. 104-A, passed 3-10-1997)

§ 93.40 ADDITIONAL AND EXCESS ASSESSMENTS.

Council may authorize additional assessments if the initial and prior assessment proved insufficient to pay for the improvement or if it is determined to be invalid in whole or in part. The village shall make a refund of excess assessments, provided, however, that if the excess is less than 5% of the total cost of the improvement with respect to that particular property, the amount may be placed in the General Fund for the village.

(Prior Code, § 1022.11) (Ord. 104-A, passed 3-10-1997)