

ORDINANCE NO. 327

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF HAYTI, HAMLIN COUNTY, SOUTH DAKOTA:

SIDEWALKS

Section 1. Short Title

This Ordinance shall be known, and may be cited, as the "Sidewalk Repair Ordinance".

Section 2. Scope and Purpose

This Ordinance is designed to protect the public health, safety and welfare of the citizens of the Town of Hayti, concerning the construction and maintenance of sidewalks within the municipal limits.

Section 3. Definitions

- A. Adjacent/Abutting Property. Any lot or parcel of land adjoining, bordering or touching the street as defined herein.
- B. Adjacent Sidewalk. That portion of the sidewalk located within the street next to an abutting or adjacent property as defined herein.
- C. Driveway. An area of private property above the sidewalk for the purpose of parking vehicles and gaining access to the property.
- D. Driveway Approach. An area within the right-of-way located between the sidewalk and the edge of the improved roadway, for the purpose of gaining access to the driveway and access to the property.
- E. Flag. A Section of sidewalk the length of which usually equals the width of the sidewalk.
- F. Highway. Every public highway, road and street which is open for public travel and shall include sidewalks, crosswalks and culverts on any highway. The term highway does not include alleys, private roads and streets.
- G. Inspection Policy. A written policy adopted by the Town which defines procedures and material specifications for sidewalk inspection, replacement and repairs.
- H. DOT. Shall mean the South Dakota Department of Transportation.
- I. Owner. Owner shall mean the individual (s) holding title to the property adjacent to sidewalk along a street as defined herein.
- J. Privately Owned Sidewalk. Sidewalk, either asphalt or concrete, located on private property outside of a public right-of-way or easement.

- K. Private Property. Any property not belonging to a governmental agency.
- L. Public Property. Shall mean the dedicated right-of-way or right-of-way easement which may include public highways, streets and alleys
- M. Repair/Replacement. Means the adjustment, removal, realignment, mudjacking, patching or installation of any sidewalk in accordance with the inspection policy repair/replacement standards.
- N. Sidewalk. Any improved portion of the public right-of-way lying between the edge of the improved roadway and adjacent property line intended for the use of pedestrians. The sidewalk materials shall consist of concrete with widths generally ranging between three to five feet or asphalt ranging in width from five to eight feet in width.
- O. Street. A dedicated thoroughfare in the Township that is designated for public travel and transportation, affording the principal means of access the abutting property. This does not include any privately owned roads, streets or other means of access.
- P. Zoning Officials. The individual, appointed by the Town, in charge of administering and enforcing the provisions of the Sidewalk Ordinance.

Section 4. Responsibility of the Adjacent or Abutting Property Owner

1. The adjacent or abutting property owner is responsible for maintenance of any sidewalks on or abutting their property in accordance with this Ordinance. In the event that the adjacent property owner does not properly maintain the sidewalk in accordance with this Ordinance, the Town Board authorizes the Zoning Officials to provide for the replacement and repair to cause compliance with this Ordinance. The Zoning Officials will cause all costs of the replacement or repair of the sidewalk to be assessed to the adjacent or abutting property in accordance with this Ordinance.
2. The construction of a permanent sidewalk fronting or abutting all streets, highways and avenues shall be accomplished by the builder, owner or development of all new or relocated residential and commercial buildings within the city.
3. Before any sidewalk or private driveway approach is constructed within the right-of-way by any contractor or person for the owners of abutting property, the contractor or person must first notify the town building official (Finance Officer) of the details of the project.
4. Whenever any person make any installations of sidewalks, curbs or gutters, or improves or replaces existing sidewalks, curbs or gutters, in

both business and residential areas, they shall install ramps at crosswalks, to make the transition from street to sidewalk easily negotiable for a handicapped person in wheelchairs and for blind persons.

- A. All sidewalk inspections as indicated in this Ordinance and as set forth by the inspection policy shall be performed by the Zoning Officials or his/her Designee. The Zoning Officials will determine what sidewalks are in need of replacement based on the Criteria for Replacement or Repair of Sidewalks located in Section 4.B. of this ordinance.
- B. The owner or occupant of any lot or private ground abutting upon any public sidewalk shall not allow rubbish, debris or obstruction of any kind to be or remain on such sidewalk along such abutting property.
- C. Criteria for Replacement or Repair of Sidewalks. Sidewalks will be replaced/repared if the following conditions exist:
 - 1. If the sidewalk has displacement of more than three-quarters (3/4) of an inch between any two (2) sections (flags) of sidewalk at the connection joint.
 - 2. If the sidewalk has more than two (2) cracks of one-quarter (1/4) inch in width or more in any two (2) linear feet of sidewalk section.
 - 3. If the sidewalk has a crack more than three-quarters (3/4) inch in width.
 - 4. If any section of sidewalk is tilted in excess of one (1) inch per foot from edge to edge in a transverse direction.
 - 5. If, in any flag of sidewalk, more than fifty percent (50%) of the surface has scaled off to a depth of one-quarter (1/4) inch or greater.
 - 6. If the concrete has settled, allowing water to pond to depth of one (1") inch or more.

Section 5. Inspections, Notification, Invoicing and Payment

- A. The Zoning Officials shall be responsible for inquiries and investigation of complaints regarding the condition of sidewalks. The Zoning Officials shall keep a record of complaints and any action taken.
- B. It is the intention of this Ordinance to implement the replacement and repairs of sidewalks over a period of time by utilizing available resources. The funding of sidewalk replacement and repairs will be determined by the Town Council.
- C. It shall be the responsibility of the Zoning Officials to supervise all sidewalk construction and maintenance, including inspection, and to enforce the provisions of this Ordinance.
- D. The Zoning Officials will conspicuously mark any inspected sidewalk in need of repair. The Zoning Officials will send notification to the adjacent property owner of sidewalks in need of repair, giving one

hundred fifty (150) days to repair/replace the sidewalk. In the event that the sidewalk is not repaired/replaced within the one hundred fifty (150) day period except as noted in Section 8A, the Zoning Officials will cause the sidewalk to be replaced by the Town. In the event that an adjacent or abutting property owner disputes the finding of the Zoning Officials, an appeal may be directed to the Town Board. All appeals shall be filled with the Town Finance Officials within thirty (30) days of the date of the written notification that sidewalk repairs are required.

- E. The cost of repair/replacement of the sidewalks will be invoiced to the adjacent property owner with the following exception:
 - 1. Sidewalk ramps will not be assessed to the adjacent property owner.
- F. If the adjacent property owner does not make payment to the Town for sidewalk repairs/replaced as established by this Ordinance and the adopted policy, the Town Finance Officials shall add the amount to the next tax roll for the adjacent property.

Section 6. Hazardous or Decrepit Sidewalk to Be Replaced.

No person without proper authority shall tear up, break, or injure any pavement, crosswalk, sidewalks or other improvements in any street or public ground. Any pavement, sidewalk, or other improvement in any street or public ground removed, torn up or injured shall be replaced at the builder's, owner's or developer's sole cost.

- i. A single crack with a vertical rise of $\frac{3}{4}$ inch to 1 inch may be designated for removal and replacement.
- ii. Two or more cracks in a span of 10 feet with a vertical rise of $\frac{1}{2}$ to $\frac{3}{4}$ inch may be designated for removal and replacement.
- iii. Any sidewalk with multiple cracks which show signs of movement, or which show signs of vegetation which may themselves produce obstructions greater than $\frac{1}{4}$ inch vertical rise may be designated for removal and replacement.
- iv. Any sidewalk with transvers grades greater than $\frac{3}{4}$ inch to the foot, may be designated for removal and replacement (this may be due to settling, tree uplift or other causes).
- v. Any sidewalk constructed so as to hold water, which may turn to ice, by poor construction or poor grades, may be designated for removal and replacement.
- vi. Other conditions such as holes and ruts which can cause a hazardous condition may be designated for removal and replacement.

Section 7. Privately Owned Sidewalks or Driveways

This ordinance is not applicable to any sidewalks located on private property or within the right-of-way of a privately owned road or street.

Section 8. Violations and Penalties

- A. Whenever the Zoning Officials shall determine that a sidewalk(s) is in a condition that fails to meet the sidewalk criteria provided for herein, a notice shall be sent to the owner of the adjacent lot or parcel to repair the sidewalk. The notice shall specify the time period in which the person shall achieve compliance with the provisions of this Ordinance. In no case shall the time period specified exceed one hundred fifty (150) days, except during inclement or unseasonable weather in which case the party responsible for the repair shall post a financial guarantee in lieu of the repair. Said guarantee must be in the form of cash, a certified check or an irrevocable letter of credit.

- B. Any person, firm, corporation, or other entity who violates any of the provisions of this Ordinance, or who violates any lawful order of the Zoning Officials or Town Board, is responsible for a Class 2 Misdemeanor as defined by South Dakota law and is subject to a civil fine of not more than \$500.00, plus all direct and indirect expenses incurred by the Town in prosecuting said violation. However, in no case shall a fine of less than \$50.00 or more than \$500.00 per violation be ordered. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under South Dakota law. Each day a violation of this Ordinance continues to exist constitutes a separate violation.

- C. The Zoning Officials, together with any duly authorized police Officials or deputy sheriff of the Town, are the designated municipal officials authorized to issue municipal civil infraction citations and municipal civil violation notices for violations of this Ordinance.

Section 9. Severability I

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance, and the application of those provisions to any person or circumstances shall not be affected thereby.

Section 10. Savings

All proceeding pending and all rights and liabilities existing, acquired or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they are commenced.

Section 11. Repealer

All Ordinances or parts of the Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect. This Ordinance shall supersede all other Ordinances with respect to the areas covered herein.

Dated this 8 day of March, 2023.

Passed First Reading: February 8, 2023

Passed Second Reading: March 8, 2023

Passed and Approved: March 8, 2023

TOWN OF HAYTI

Chairperson – Print

Chairperson - Signature

Attest:

Town Finance Office – print

Town Finance Office - signature