

## CHAPTER 95: STREETS, SIDEWALKS AND PUBLIC PLACES

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***SIDEWALK CONSTRUCTION***

**§ 95.001 SUPERVISION OF SIDEWALK CONSTRUCTION.**

The building and construction of all sidewalks within the limits of the city shall be done under the direct supervision of the City Manager or his or her duly appointed agent or designee.  
(Prior Code, § 12.08.010)

**§ 95.002 SPECIFICATIONS.**

(A) The construction of all sidewalks, whether by assessment through the city, direct contract with the city or by contract of owner, shall be performed strictly in accordance with specifications for sidewalks adopted by the City Commission and shall be constructed and composed of SD DOT M6 mix concrete four inches thick throughout with the exception of six inches thick through driveways having a minimum 28 day compressive strength of 4,000 pounds per square inch.

(B) All sidewalks so constructed shall be a minimum of five feet in width. All new and replacement sidewalks shall be a minimum of five feet in width and tapered in height in the last five-foot section to match the preexisting abutting sidewalk, unless otherwise specified by the city.

(C) All new and replacement sidewalks that abut upon a pre-existing sidewalk that is less than five feet in width shall comply with the following rules.

(1) The land owner constructing or replacing the sidewalk shall taper the last five-foot section to match the pre-existing sidewalk in height.

(2) The connection and transition to and with the adjacent pre-existing sidewalk shall be installed and constructed in form and manner as directed by the City Manager or his or her duly appointed agent or designee.

(D) In the business district of the city, a resolution of the City Commissioners shall specify the necessity and the width of the sidewalk. All sidewalks shall be laid in conformity to the lines and grades as ordered and established under the supervision and direction and subject to the approval of the City Manager or his or her duly appointed agent.  
(Prior Code, § 12.08.020) Penalty, see § 95.999

**§ 95.003 SAFETY BARRICADES.**

During construction and reconstruction of a sidewalk, the entire construction or reconstruction area shall be protected by safety barricades. The suitable safety barricades, fences, signs and signals, in accordance with the *Manual on Uniform Traffic Control Devices*, shall be approved by the city so as to prevent injury to persons, animals or vehicles on account of such work.  
(Prior Code, § 12.08.030) Penalty, see § 95.999

**§ 95.004 PERMIT REQUIRED.**

(A) Before any sidewalk is constructed within the limits of the city by any contractor, person for the owner of the property, or the owner, the contractor, the person performing the work for the owners of the property or the owner of the property must first secure a permit therefore from the city.

(B) Driveway approach permits will only be granted to bonded and insured contractors or individuals who provide to the city the proper bonding and insurance documentation that meets the city's minimum

requirements.  
(Prior Code, § 12.08.040)

**§ 95.005 NOTICE TO CONSTRUCT SIDEWALK; PROCEDURE ON FAILURE OR REFUSAL.**

When any sidewalk is required to be installed by city resolution or City Commission action or is required to be replaced by city resolution or City Commission action and the owner has failed to do so within the time frame established by the city, the City Commission may by resolution or otherwise direct that a sidewalk or sidewalks be constructed or replaced within a time limit set by a notice to construct from the city. In the event the property owner fails to construct or replace the sidewalk within the time specified, then in that event the City Commissioners shall cause the same to be constructed as follows: the City Commissioners shall fix a day on which they will receive bids for the construction and give notice thereof by publication in an official newspaper of the city in at least two publications thereof during two consecutive weeks. Such notice shall describe the lot or lots along which the sidewalk construction is to be made, the width thereof and the materials of which the sidewalk or sidewalks shall be composed. At the time fixed, the City Commissioners shall contract with the lowest and best bidder or bidders, but the City Commissioners may reserve the right to refuse any and all bids and fix another time and give another notice for receiving bids and entering into contract. The cost of sidewalks as aforesaid shall be assessed against the abutting lots as a special assessment.  
(Prior Code, § 12.08.050)

**§ 95.006 REMOVAL OF EXISTING SIDEWALK.**

It is unlawful for any person or property owner to remove an existing sidewalk without replacing the sidewalk in accordance with the specifications set forth in this chapter.  
(Prior Code, § 12.08.060) Penalty, see § 95.999

**§ 95.007 REMOVAL OF EXISTING SIDEWALK; REPLACEMENT.**

The property owner shall be responsible for the expense of removing any sidewalk that is ordered replaced by the city.  
(Prior Code, § 12.08.070) Penalty, see § 95.999

**§ 95.008 WHEELCHAIR CURB RAMPS.**

Any new or replacement sidewalk, curb or gutter installed in both business and residential areas shall be installed in such a manner as to make transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs in accordance with the provisions of the Americans with Disabilities Act, being 42 USC 1201 et seq., as amended from time to time. The property owner is responsible for the installation, maintenance and replacement of wheelchair curb ramps.  
(Prior Code, § 12.08.080)

**§ 95.009 NEW SUBDIVISIONS.**

Any new subdivision within the city shall provide sidewalks adjacent to all streets which shall be constructed in accordance with the specifications set forth in § 95.002.  
(Prior Code, § 12.08.090)

***STANDARDS FOR CURBS, GUTTERS  
AND PAVEMENT***

**§ 95.020 CURB AND GUTTER.**

The construction of all paving, curb and gutter, whether done by direct contract with the city or by contract with the abutting property owner, shall be done strictly in accordance with specifications for paving, curb and gutter adopted by the City Commission and all new or replaced curb and gutter shall be of portland cement construction, not less than 3,000 psi, with curb six inches in width, and extending six inches above the gutter. Gutter shall be of six and one-half inch thickness, extending 24 inches into the street. The city may direct that curb and gutter be constructed or replaced and that the cost be assessed against any abutting property owner.

(Prior Code, § 12.12.010) Penalty, see § 95.999

**§ 95.021 PAVING.**

All streets, roads and alleys constructed or reconstructed shall be surfaced to the appropriate specifications approved by the City Commission. The city may direct that paving be constructed or replaced and that the costs be assessed against the abutting property owner(s).

(Prior Code, § 12.12.020) Penalty, see § 95.999

**§ 95.022 PERMIT REQUIRED.**

Before any paving, curb and gutter is constructed within the limits of the city by any contractor or person for the owner of the abutting property, such constructor or person must first secure a permit therefore from the city.

(Prior Code, § 12.12.030) Penalty, see § 95.999

**§ 95.023 NOTICE TO INSTALL OR REPLACE PAVING, CURB AND GUTTER; PROCEDURE ON FAILURE OR REFUSAL.**

When any paving, curb and gutter is not constructed or replaced by the abutting owners, in cases in which the City Commissioners have by resolution or otherwise ordained or decided that paving, curb and gutter should be constructed within a time limit set by a notice to construct from the city, then in that event the City Commissioners shall fix the day on which they will receive bids for the construction and give notice thereof by publication in an official newspaper of the city in at least two publications thereof during two consecutive weeks. Such notice shall describe the lot or lots along which paving, curb and gutter construction is to be made, the specifications thereof and the materials of which the paving, curb and gutter shall be constructed. At the time fixed for the receipt of bids, the City Commissioners shall contract with the lowest and best bidder or bidders, but the City Commissioners may reserve the right to refuse any and all bids and fix another time and may give another notice for receiving bids and entering into the contract. The cost of paving, curb and gutter as aforesaid shall be assessed against the abutting lots as a special assessment.

(Prior Code, § 12.12.040)

**§ 95.024 REMOVAL OF EXISTING PAVING, CURB AND GUTTER.**

It is unlawful for any person or property owner to remove an existing paving, curb and gutter without replacing the paving, curb and gutter in accordance with the specifications set forth in this chapter.

(Prior Code, § 12.12.050) Penalty, see § 95.999

**§ 95.025 WHEELCHAIR CURB RAMPS.**

Any new or replacement paving, curb and gutter installed in both business and residential areas shall be installed in such a manner as to make transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs in accordance with the provisions of SDCL § 9-46-1.2 as amended.  
(Prior Code, § 12.12.060) Penalty, see § 95.999

**§ 95.026 NEW SUBDIVISIONS.**

Any new subdivision, within the city shall provide paving, curb and gutter which shall be constructed in accordance with the specifications established by the City Commission or city ordinance.  
(Prior Code, § 12.12.070) Penalty, see § 95.999

**§ 95.027 NOTICE TO REPAIR CURB AND GUTTER.**

When any curb and gutter is required to be installed by city resolution or City Commission action or is required to be replaced by city resolution or City Commission action and the owner has failed to do so within the time frame established by the city, the City Commission may by resolution or otherwise direct that curb and gutter be constructed or replaced within a time limit set by a notice to construct from the city. In the event the property owner fails to construct or replace the curb and gutter within the time specified, then in that event, the City Commissioners shall cause the same to be constructed as follows: the City Commissioners shall fix a day on which they will receive bids for the construction and give notice thereof by publication in an official newspaper of the city by two publications thereof during two consecutive weeks. Such notice shall describe the lot or lots along which the curb and gutter construction is to be made, the width thereof and the materials of which the curb and gutter shall be composed. At the time fixed, the City Commissioners shall contract with the lowest and best bidder or bidders, but the City Commissioners may reserve the right to refuse any and all bids and fix another time and give another notice for receiving bids and entering into contracts. The cost of curb and gutter as aforesaid shall be assessed against the abutting lots as a special assessment.  
(Prior Code, § 12.12.080) Penalty, see § 95.999

**§ 95.028 REMOVAL OF EXISTING CURB AND GUTTER.**

It is unlawful for any person or property owner to remove an existing curb or gutter without replacing the curb and gutter in accordance with the specifications set forth in this chapter unless otherwise authorized by the city in writing.  
(Prior Code, § 12.12.090) Penalty, see § 95.999

**§ 95.029 REMOVAL OF EXISTING CURB AND GUTTER AND REPLACEMENT.**

The property owner shall be responsible for the cost and expense of removing and replacing any curb and gutter that is ordered removed and replaced by the city.  
(Prior Code, § 12.12.100) Penalty, see § 95.999

**§ 95.030 REMOVAL OF TREE ROOTS DURING CURB AND GUTTER REPAIR.**

The property owner is responsible for replacement curb and gutter raised, pushed out of alignment or damaged by tree roots. In those instances where curb and gutter replacement is caused by tree root growth, the replacement and repair process requires the cutting and grinding of tree roots to a minimum depth of 12 inches below the bottom of the curb and gutter to allow for new root growth.  
(Prior Code, § 12.12.110) Penalty, see § 95.999

**EXCAVATIONS****§ 95.045 PERMIT REQUIRED.**

No person shall make or cause to be made, any excavation in or under any street, parking, sidewalk, alley or public ground, or remove any earth soil, paving, gravel or material therefrom, without first having obtained a permit therefore as hereinafter provided.

(Prior Code, § 12.16.010) Penalty, see § 95.999

**§ 95.046 BOND AND INSURANCE PROOF.**

Any person or firm, doing any excavation work on property owned by the city, shall provide evidence of bonds or insurance as provided in § 95.048. Sidewalk construction directly adjacent to the abutting property owner shall be the only work excluded from this provision.

(Prior Code, § 12.16.020) Penalty, see § 95.999

**§ 95.047 APPLICATION FOR PERMIT.**

Application for a permit shall be made to the City Manager who shall issue the permit subject to review of the Superintendent of Public Works. Fee for the application for all excavations shall be set by resolution of the City Commission. The application shall be filed and the fee paid before any work may begin.

(Prior Code, § 12.16.030) Penalty, see § 95.999

**§ 95.048 BOND OR INSURANCE.**

A bond or suitable insurance including:

(A) Collapse and underground coverage, frequently known as XCU coverage;

(B) Product liability and completed operations coverage for a period of three years after excavation; and

(C) Liability coverage providing a minimum of \$500,000, is to be approved by the City Manager, and certificate thereof is to be filed with the Municipal Finance Officer. The location, reason for excavation and extent of work will be part of the permit application.

(Prior Code, § 12.16.040) Penalty, see § 95.999

**§ 95.049 DEPOSIT FORFEITED.**

If, at any time within three years after the completion of excavation or work, subject to this chapter, the City Manager finds that the work for which the bond/insurance was provided, does not stand up satisfactorily, or has not been properly back filled, he or she shall notify the depositor/contractor in writing, that the work must be put in satisfactory condition within five working days or the City Manager will cause such work to be done and the expense thereof will be borne by the bonded/insured contractor(s).

(Prior Code, § 12.16.050) Penalty, see § 95.999

**§ 95.050 SUPERVISION OF EXCAVATIONS.**

The contractor shall notify the Superintendent of Public Works so that the Superintendent, under the general direction of the City Manager may supervise all excavations made for any purpose in the streets, alleys or public grounds. All excavations shall be backfilled in the manner herein specified. The contractor shall contact all utilities and locate all utility lines, prior to any work being done.

(Prior Code, § 12.16.060)

**§ 95.051 GUARDING EXCAVATIONS.**

Any person receiving a permit to make excavations, in or upon any streets, alleys, sidewalks, public thoroughfares or grounds, shall during the progress and continuance of the work, erect around the same, both day and night, suitable guards, fences, barricades, lanterns and signals, so as to prevent injury to persons, animals, or vehicles as a result of such excavations. Such lighting devices shall be kept lighted from sunset to sunrise.

(Prior Code, § 12.16.070) Penalty, see § 95.999

**§ 95.052 INTERFERING WITH BARRICADES.**

No person shall move, interfere with, break, destroy or carry away any barricades, lamp/lights used by the city or contractor in guarding unsafe or dangerous places in the maintenance or repair of streets, or, in any lawful work being carried on by the city or contractor.

(Prior Code, § 12.16.080) Penalty, see § 95.999

**§ 95.053 BACKFILLING EXCAVATIONS.**

All excavations will be backfilled with crushed gravel and be compacted with a mechanical tamper in six inch lifts to meet city compaction standards. These compaction standards are 98% compaction. If the Superintendent of Public Works or City Manager do not feel proper compaction is being attained, a certified testing company will be called in, and, if compaction is not to city standards, trench will be re-excavated and refilled, until it meets standards. The cost of this testing and refilling will be borne by contractor. If compaction standard was reached on first attempt, by contractor, cost of testing will be borne by the city. All excess dirt, gravel, rock, rubble will be removed to a suitable disposal area designated by the city. Work is to be left in as near original condition as is possible, and will be inspected by the Superintendent of Public Works on completion of work. All backfill gravel will be provided by the city and billed back to the contractor. Backfill gravel is stockpiled at the public works yard and will be picked up by the contractor at this location. All asphalt will be provided and installed by the city and be billed to the contractor at a price per square foot agreed upon prior to start of work by contractor.

(Prior Code, § 12.16.090)

**§ 95.054 MINIMUM CHARGE ASPHALT SERVICE CUTS.**

(A) The city will replace asphalt surface cuts at a minimum charge of \$100 for cuts up to two square yards and \$3 per square foot for each additional square foot.

(B) Any asphalt surface cuts that need to be made during the fall and winter months when only cold mix is available shall be charged an additional \$100 for cuts up to two square yards and an additional \$3 per square foot for each additional square foot.

(Prior Code, § 12.16.100)

**§ 95.055 SERVICE CUTS AFTER NOVEMBER 15 UNTIL FROST GOES OUT IN THE SPRING.**

Permits during this period will be on an emergency basis only. No excavations will commence until permit receives an approval given by the Superintendent of Public Works. There will be no exceptions.

(Prior Code, § 12.16.110)

**§ 95.056 EXCAVATIONS NEAR STREETS.**

It is unlawful for any person, owner, or any occupant of any lot to make or cause to be made any excavation on the lot adjacent to any street, alley, public thoroughfare or grounds, or traveled road, or roadway, except the same be securely guarded so as to prevent the injury of any person or animal passing upon or along the same.

(Prior Code, § 12.16.120) Penalty, see § 95.999

### ***SNOW AND ICE REMOVAL***

#### **§ 95.070 PERSON DEFINED.**

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**PERSON.** As used in this subchapter, means and includes one or more persons of either sex, natural persons, corporations, partnerships, associations, joint stock companies, societies or all other entities of any kind capable of being sued.

(Prior Code, § 12.20.010)

#### **§ 95.071 SNOW ON SIDEWALKS; REMOVAL OF.**

It shall be the duty of the lessee or occupant of first or ground floor or person having charge, or, if there be no lessee, occupant or person having charge, then the owner of each and every parcel of real estate in the city abutting or bordering upon any street, avenue, highway or other public place, to remove or cause to be removed all snow and ice from the sidewalk in front of or adjacent to such premises to the full paved width of such sidewalk, within 24 hours of daylight after such snow or ice shall have fallen or accumulated thereon unless because of excessive accumulation, the time for removal be extended by the proper authority.

(Prior Code, § 12.20.020) Penalty, see § 95.999

#### **§ 95.072 USE OF ASHES AND SAND.**

In case the snow and ice on the sidewalk shall be frozen so hard that it cannot be removed without injury to the pavement, the lessee, occupant, person having charge, or owner of every parcel of real estate shall within the time specified in the preceding section, cause the sidewalk abutting or adjacent to such premises to be strewn and to be kept strewn with ashes, sand, salt, sawdust or some other suitable material and shall, as soon thereafter as the weather shall permit, thoroughly clean such sidewalk.

(Prior Code, § 12.20.030) Penalty, see § 95.999

#### **§ 95.073 SNOW SHALL NOT BE PUT OR THROWN ONTO CITY STREETS; EXCEPTION.**

(A) It is unlawful for any person to throw or put, or cause to be thrown or put, any snow or ice into any street, avenue or other public place in the city except for business properties that exist in the central business district.



(B) For purposes of this section, the *CENTRAL BUSINESS DISTRICT* is defined as Cedar Street to the west, Dakota Street to the east, Fourth Street to the north and Seventh Street to the south. (Prior Code, § 12.20.040) Penalty, see § 95.999

**§ 95.074 DUTY OF POLICE.**

It shall be the duty of each police officer in case he or she finds that the snow and ice have not been removed from the sidewalks or in case of neglect of the person charged with such duty by this subchapter, to spread sand or other substance upon ice or snow when the same cannot be removed within the time required by this subchapter, immediately to notify the Chief of Police thereof. (Prior Code, § 12.20.050)

**§ 95.075 WHEN CITY IS TO DO WORK.**

(A) Whenever any owner, lessee, occupant or person having charge of any parcel of real estate shall fail or neglect to remove snow and ice from any such sidewalk, as provided in this subchapter, the Chief of Police without notice shall have the ice and snow removed therefrom. A bill for the expense incurred thereby shall be presented by the Chief of Police to the owner personally by leaving the same at his or her residence, or place of business, or if he or she is a nonresident, by mailing the same to his or her last known address by prepaid first class mail, or, if the name of such owner or his or her place of residence cannot be determined or ascertained after due diligence, by posting the same in a conspicuous place on his or her premises; and if he or she shall fail to pay the same within 30 days thereafter, the Chief of Police shall cause an account to be kept against each lot for the cost of doing such work, and the same shall be certified to the Finance Officer on or before September 15 of each year.

(B) The procedure for assessing such costs shall be as follows:

(1) The City Manager shall prepare an estimate of the assessment against each lot or parcel for such ice and snow removal work since the time of the last assessment made for such work, including therein the expense of levying such special assessment against each lot.

(2) Such estimates shall be submitted to the City Commission for its approval on or before October 1 of each year. (Prior Code, § 12.20.060)

**§ 95.999 PENALTY.**

(A) Any person violating any provision of this chapter, for which no other penalty is provided, shall be subject to the penalty provisions of § 10.99.

(B) Any owner, lessee, occupant or person in charge who shall fail, neglect or refuse to remove snow and ice or strew the same with sand or other substances as directed in §§ 95.070 through 95.075, or who shall violate any of the provisions of §§ 95.070 through 95.075, or who shall resist or obstruct the Chief of Police or his or her employees, in the removal of snow and ice shall, upon conviction thereof, be subject to a fine of the maximum amount permitted by law and each day on which such violation continues shall constitute a separate offense. (Prior Code, § 12.20.070)