

## 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 Public Works Commissioner or his or her duly appointed agent or designee.

(Prior Code, § 12.08.010) (Ord. 1051, passed 4-16-2018)

**§ 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 Public Works Commissioner 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 Public Works Commissioner or his or her duly appointed agent.

(Prior Code, § 12.08.020) (Ord. 1051, passed 4-16-2018) 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 CONSTRUCTION AND REPAIR BY CITY.**

The city may cause a sidewalk to be constructed or repaired, and assess the owner of the property abutting the sidewalk to pay their share of the costs pursuant to state law. (ORD. 1073, Passed 7/6/2020)

**§ 95.006 REMOVAL OF EXISTING SIDEWALK.**

An existing sidewalk shall not be removed from any property without replacing the sidewalk in accordance with the specifications set forth in this chapter. A variance may be granted from this requirement, except if the property is located in a residential, general business, or commercial district. (ORD. 1073, Passed 7/6/2020)

**§ 95.007 REPEALED (ORD. 1073, Passed 7/6/2020)**

**§ 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 INSTALLATION.**

If a property does not have exiting sidewalks, the owner of the property shall construct and install sidewalks on the property adjacent to all streets when a residence or building is constructed on said property. (ORD. 1073, Passed 7/6/2020)

**§ 95.009 VARIANCE.**

The owner of real property may apply for a variance from any of the requirements in this chapter. The city commission may grant a variance when it is not feasible or reasonable to enforce the specifications or other requirements of this chapter due to special conditions or circumstances regarding the property, and only if, granting the variance would not substantially affect the safety of the public. Any variance previously granted may be revoked or amended by the city commission if the use of the property or circumstances change in a manner that now justify enforcement of this chapter. (ORD. 1073, Passed 7/6/2020)

***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

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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 Finance Officer 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) (Ord. 1051, passed 4-16-2018) 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 Finance Officer, and certificate thereof is to be filed with the Finance Officer. The location, reason for excavation and extent of work will be part of the permit application.

(Prior Code, § 12.16.040) (Ord. 1051, passed 4-16-2018) 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 engineer 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 Commission 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) (Ord. 1051, passed 4-16-2018) 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 Public Works Commissioner 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) (Ord. 1051, passed 4-16-2018)

**§ 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.

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(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 Public Works Commissioner 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) (Ord. 1051, passed 4-16-2018)

### **§ 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 DUTY TO REMOVE SNOW AND ICE**

(a) The owner or person in possession of any property abutting on any sidewalk shall keep the sidewalk free from snow and ice and shall remove any snow or ice from the sidewalk within 48 hours after the termination of any snow fall, snow

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or ice accumulation.

(b) The owner or person in possession of any property abutting upon any sidewalk which ends at an intersection or crosswalk shall maintain the sidewalk free from snow and ice to the edge of the street. Snow and ice deposited on the sidewalk in the street removal process shall be removed within 48 hours of being deposited. (Ordinance 1064, passed 10/7/2019)

### **§ 95.071 NOTICE**

The city shall notify all owners or persons in possession of property abutting on sidewalks to keep the sidewalks free from snow and ice and to remove the same within 48 hours after every fall or accumulation of snow or ice. The notice need not be given personally but may be given generally through the official newspaper annually. The notice shall provide that each owner or person in possession is required to keep the sidewalk in front of the premises free and clear from snow and ice. It shall further provide that if the owner or person in possession fails to remove the snow or ice within 72 hours of the falling or accumulation hereof, that the city may cause the snow or ice to be removed and charge the cost to the abutting property. (Ordinance 1064, passed 10/7/2019)

### **§ 95.072 DISPOSAL OF SNOW AND ICE**

The property owner, person in possession or person removing snow or ice from any sidewalk, public or private driveway, parking lot or parking area shall dispose of accumulated snow and ice upon the property as follows.

- (a) Snow and ice shall not be deposited on any sidewalk or in any park.
- (b) Snow and ice shall not be deposited so as to obstruct or interfere with the passage or vision of vehicular or pedestrian traffic.
- (c) In the area designated Central Business District, snow and ice shall not be deposited upon any public street or alley that has been cleared of snow by the grading of snow away from the curb or the picking up and carrying away of snow by the city. Snow and ice may be deposited on the street until it has been cleared.

The Central Business District is defined as Cedar Street to Dakota Street and Fourth Street to Seventh Street.

- (d) In all areas outside of the Central Business District, no snow may be blown, pushed, or otherwise placed on any street at any time (both before and after the street has been plowed). (Ordinance 1064, passed 10/7/2019)

### **§ 95.073 CITY MAY REMOVE**

If the owner or person in possession of property fails to remove the snow or ice from the sidewalks within the time specified, the city may have the snow or ice removed and charge the cost thereof against the abutting property each time the snow or ice is removed. They will have the opportunity to pay the bill before it goes to the special assessment process described in 95.074. (Ordinance 1064, passed 10/7/2019)

### **§ 95.074 SPECIAL ASSESSMENT FOR SNOW AND ICE REMOVAL**

- (a) The cost to the city for the removal of snow and ice each year shall be certified to the city Finance Officer on or before the first day of September of each year.
- (b) The Finance Officer shall prepare an estimate of the assessment against each lot for the removal of snow and ice for the preceding season including the expense of levying the special assessment against each lot. The estimates shall be submitted to the City Commission.
- (c) Upon the filing of the assessment roll with the Finance Officer, the governing body shall fix a time and place of hearing upon the same, not less than 20 days from the date of filing. The Finance Officer shall then publish a notice of the time and place of hearing in the official newspaper at least one week prior to the date set for the hearing. The notice shall describe the reason why the special assessment is levied, the date of filing of the assessment roll, the time and place of the hearing thereon, and that the roll will be open for public inspection at the office of the Finance Officer, and shall refer to the special assessment roll for further particulars.



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(d) The Finance Officer shall also mail a copy of the notice, by first-class mail, to the owner or owners of any property to be assessed for the snow and ice removal, at the address as shown on the records of the assessor. The mailings shall be at least one week prior to the date set for the hearing. The owner or person in possession may appear at the hearing to protest the assessment and to give reasons why the assessment should not be levied.

(e) Pursuant to the hearing, the City Commission shall approve and file the assessment roll with the Finance Officer. After approval and filing with the Finance Officer, the assessment roll shall be a special lien against the property described and shall be collected in a like manner as for special assessments for public improvements. (Ordinance 1064, passed 10/7/2019)

### **§ 95.075 VIOLATION**

It is unlawful to violate any provision of this subchapter. (Ordinance 1064, passed 10/7/2019)

### **§ 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 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 City or their designee, 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) (Ordinance 1064, passed 10/7/2019)