

ORDINANCE NO. 548

AN ORDINANCE PROVIDING THAT THE OWNER OR OWNERS OF REAL PROPERTY SHALL CONSTRUCT, MAINTAIN AND KEEP IN REPAIR THE SIDEWALKS IN THE STREETS OF THE CITY OF WILLAMINA, WHICH ARE ADJACENT TO OR ABUTTING ON THEIR RESPECTIVE REAL PROPERTIES, PROVIDING FOR NOTICE TO BE GIVEN TO SUCH OWNER OR OWNERS TO REPAIR SAME, PROVIDING FOR THE CITY TO MAKE SUCH REPAIR AND LEVY THE COST THEREOF AGAINST SUCH ABUTTING PROPERTY, PROVIDING A METHOD OF FORECLOSING AS A LIEN UPON THE PROPERTY ANY SUCH COST, PROVIDING FOR THE LIABILITY OF PROPERTY OWNERS FOR PERSONAL INJURY DUE TO DEFECTIVE SIDEWALKS, REPEALING ORDINANCE NUMBER 416 AND DECLARING AN EMERGENCY.

THE CITY OF WILLAMINA, OREGON, ORDAINS AS FOLLOWS:

Section 1. Real property owners in the city of Willamina shall maintain and keep in repair all sidewalks in the streets, avenues, and alleys of the city in front of and that are adjacent to or abutting upon any such owner or owners' real property.

Section 2.

- (1) It is made the duty of all property owners in the City of Willamina to keep the sidewalks on the streets thereof, adjacent to, or abutting on their respective real property, in a good state of repair, in order to eliminate the hazard of injuries to pedestrians or others using the same. The City of Willamina has no responsibility for the maintenance or repair of sidewalks on the streets thereof, adjacent to, or abutting on property owners real property.
- (2) It is made the duty of every property owner whose property abuts upon any street that has been improved with hard-surfaced pavement, or along any street the grade of which has been established and which has been improved by excavating and bringing such street to an established grade, to construct a cement sidewalk conforming to the ordinances of the city within sixty days from the completion of any structure located upon the property of such owner.
- (3) (a) It is made the duty of every property owner whose vacant or nondeveloped property abuts upon any street that has been improved with a hard-surface pavement, or along any street the grade of which has been established and which has been improved by excavating and bringing such street to an established grade, to construct a cement sidewalk conforming to the city

ordinances at such time as the sidewalks have been installed and constructed along any one individual block to the extent of fifty percent of the lineal distance of such block, such sidewalk to be constructed within sixty days after notice by the city engineer or street superintendent. A property owner shall be eligible for a one-year delay in completing said construction upon application to and approval by the Council.

- (b) The owner of a structure or otherwise developed property which was built prior to the time fifty percent of the lineal distance of the block in which it is located has had sidewalk installed; shall construct a cement sidewalk conforming to the ordinance of the city within sixty days after notice has been given by the city engineer or street superintendent.

Section 3. It is the duty of an owner or occupant of land adjoining a street to maintain in good repair, and remove obstructions from, the adjacent sidewalk.

Section 4.

- (1) The owner or owners of real property, in the city of Willamina, shall be liable for any person suffering personal injury or property damage, by reason of any defect in the sidewalk adjacent to or abutting upon the property of the respective owner or owners thereof.
- (2) If the City is required to pay damages for an injury to persons or property caused by the failure of a person to perform the duty which this ordinance imposes, the property owner shall compensate the City for the amount of damages thus paid. The City may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

Section 5. Whenever any sidewalk becomes defective, or out of repair, the utility superintendent may, at his discretion, report the same to the city council, designating the description of the property upon which any such sidewalk fronts, is adjacent to, or abuts upon, the record owner or owners of any such property, and also the kind and nature of repair to any such sidewalk, and that in his judgment repair thereof is necessary for the safety of pedestrians and others using the same. Failure of the city to notify property owner of needed repairs shall not relieve the property owner of liability in the event of personal injury or property damage suffered by reason of any defect in the sidewalk adjacent to or abutting upon the property of the owner or owner.

Section 6. The city council, upon receipt of such report from the utility superintendent and deeming such repair necessary, may direct that such owner or owners repair such sidewalk by notifying such owner or owners in writing by mail, if the address of any such owner or owners is known; if not known, by posting notice thereof on the property involved. Such notice shall direct that such owner or owners make and complete such repairs, in the manner described in such notice, on or before 30 days after the mailing or posting of such notice. Such notice to be given or posted by, or under the direction of, the city recorder.

Section 7. In the event such owner or owners fail or refuse to make and complete such repairs to any such sidewalk within 30 days after the mailing or posting of such notice, then the city utility superintendent may proceed to cause such repairs to be made and shall report the cost thereof including 10 percent thereof for administrative costs, together with the name or names of the owner or owners of record of the real property abutting said sidewalk which was required to be repaired; and upon the approval of such reports of costs by the city council, the same shall become and shall be declared to be a lien against such adjacent real property, and in such proportion as the council shall, direct, and such lien shall have priority over all other liens against such property, save and except such liens or taxes as by law take precedence.

Section 8. The recorder shall enter all such liens in the lien docket as directed by the city council, and such liens shall bear interest at the statutory rate from 20 days after the date notice of assessment is mailed.

Section 9. At any time after such lien has been so docketed, the same shall be foreclosed and collected in the manner provided for the collection of assessments for local improvements.

Section 10. The procedure prescribed in this ordinance shall be in no wise deemed a repeal of any existing ordinance providing for the repair of any existing sidewalk within the city of Willamina, but is an alternative procedure, which in the sole discretion of the council may be invoked for the repair of sidewalks within the city. Failure of the city to notify property owner of needed repair shall not relieve owner of liability.

Section 11. Ordinance No. 416, enacted February 12, 1976, is repealed.

Section 12. The council desires and deems it necessary for the preservation of the health, peace and safety of the City of Willamina that this ordinance take effect at once, and therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the council this 31st day of May, 1990.

AYES: Councilors Greb, McNamara, Alger, Wooden, Hill

NAYS: None

ABSENT: Councilor Paterson

Submitted to and approved by the Mayor on this 1st day of June, 1990.

Francis C. Eddy  
Mayor

ATTEST:

L. Charlene Brown  
City Recorder