

CHAPTER 78 SIDEWALKS

- 78.010. Definitions
- 78.020. Grade and Alignment
- 78.030. Material
- 78.040. Width, Thickness, and Slope
- 78.050. Sidewalk Line; Variances
- 78.060. Installation as Part of Street Improvement Project
- 78.110. Petition for Prohibition of Construction of Sidewalks
- 78.120. Permit to Construct, Reconstruct, or Repair of Sidewalk Required
- 78.130. Permit and Service Fees
- 78.150. Inspection of Sidewalk Construction
- 78.152. Sidewalk Maintenance Standards; Rulemaking; Inspections
- 78.154. Sidewalk Repairs; Duties of Abutting Owner and City
- 78.156. Notice and Order to Repair; Action Upon Refusal; Appeal
- 78.158. Liability for Damages
- 78.180. Requirements for New Construction Abutting Improved Streets
- 78.182. Requirements for Undeveloped Lots Abutting Improved Streets
- 78.190. Construction Plans to Show Sidewalks
- 78.192. Deferral of Sidewalk Construction
- 78.210. Grade and Plant Materials Within the Right-of-Way
- 78.220. Duty of Property Owners to Keep Sidewalks Safe, Clean, Etc.
- 78.230. Deposit of Water, Oil, Etc., From Filling Stations
- 78.240. Sidewalk Cafes
- 78.250. Use of Space Below Sidewalk Level
- 78.280. Open Gratings, Etc., Prohibited
- 78.285. Sidewalk Benches Prohibited; Removal Required
- 78.290. Compliance with Chapter
- 78.300. Stop Work Orders; Permit Revocation; Civil Penalties; Enforcement
- 78.310. Violations

78.010. Definitions. Unless the context otherwise specifically requires, as used in this Chapter, the following mean:

- (a) Block. That part of one side of a street lying between the two nearest cross streets.
- (b) Director. Director of Public Works, or the Director's designee.
- (c) Driveway. All paved surface located between the curblines and the right-of-way line of a street that is used to facilitate vehicular access between the abutting property and the roadway.
- (d) Person. An individual, corporation, limited liability company, sole proprietorship, partnership, association, trust, cooperative, or any other entity in law or fact.
- (e) Public rights-of-way or rights-of-way. The present and future streets, roadways, alleys, public highways, avenues, and pedestrian ways in the City, which may be held by the City in fee, by easement, or by dedication.
- (f) Sidewalk. All paved surface, except walkways and driveways, lying between the curblines and the right-of-way line of a street or in a public easement.
- (g) Specifications. The City of Salem Standard Construction Specifications, including Design Standards, Standard Plans and any supplement thereto, issued by the Director.
- (h) Turnpike street. Any public street, road, or right-of-way which has been paved for vehicular movement and does not have curbs.
- (i) Walkway. All privately installed and maintained paved surface located between the curblines

and the right-of-way line of a street used primarily to provide pedestrian linkage between the abutting property and the curb. (Ord No. 4629; Ord No. 17-92; Ord No. 91-99; Ord No. 72-2002; Ord No. 99-07)

78.020. Grade and Alignment. Sidewalks constructed in the city shall be laid to the grade and alignment of the existing curb or as approved by the director. Sidewalks may be constructed on turnpike streets or where curbs do not meet specifications with approval by the director. (Ord No. 4629; Ord No. 17-92; Ord No. 72-2002)

78.030. Material. Sidewalks shall be constructed of materials as prescribed in the Specifications, except where other material, including pervious material, is specifically approved by the Director. (Ord No. 4629; Ord No. 127-77; Ord No. 17-92; Ord No. 99-07; Ord No. 34-13)

78.040. Width, Thickness, and Slope. Sidewalk width, thickness, and slope shall conform to the following standards:

- (a) All sidewalks shall be a minimum of five feet in width.
- (b) Sidewalks located within four hundred feet of, and that provide direct access to a school, shall be a minimum of eight feet in width.
- (c) For alternative street standards as described in SRC 803.065(a)(1) or SRC 803.065(a)(3), the Director may approve sidewalk width to be reduced to four feet and located on the property line.
- (d) In commercial or industrial zones and at public buildings, churches, or similar places, the Director may allow sidewalks more than five feet in width.
- (e) Sidewalks shall have an unobstructed clearance, four feet in width, around signs, mailboxes, and other similar facilities. (Ord No. 4629; Ord No. 5437; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07; Ord No. 31-13)

78.050. Sidewalk Line; Variances.

- (a) The edge of the sidewalk shall be one foot from the adjacent property line; provided, however, on streets having a right-of-way of fifty feet or less, the sidewalk shall be parallel to and abut upon the curb.
- (b) If topography or other conditions make the construction of a sidewalk impossible or undesirable in front of any premises, the Director may, upon the Director's own initiative or at the request of one or more abutting property owners, designate a different location for the sidewalk. Any such variance shall be by written order of the Director. All orders of the Director establishing a variance with the provisions of this section shall be filed with the City Recorder, and shall become effective from the date of such filing. (Ord No. 182-66; Ord No. 17-92; Ord No. 99-07)

78.060. Installation as Part of Street Improvement Project. Sidewalks shall be installed along with and as a part of a street improvement project. (Ord No. 4629; Ord No. 91-99)

78.110. Petition for Prohibition of Construction of Sidewalks.

- (a) Proceedings may be instituted by a petition of the majority of property owners along a block face to the Citizens Advisory Traffic Commission, for the purpose of prohibiting the construction of sidewalks within public right-of-way in any district or along a specified block or street.
- (b) The Citizens Advisory Traffic Commission shall hold a hearing on the petition. Notice of the hearing shall be given in the standard manner of the Commission. At the hearing petitioners must show:
 - (1) Pedestrian safety can be maintained, including access to nearby schools and parks, without sidewalks; and
 - (2) One or more of the following:
 - (A) The construction of sidewalks is impracticable given physical and topographical

constraints;

(B) Prohibiting the construction of sidewalks would result in the preservation of historic resources and heritage trees;

(C) Prohibiting construction would result in the preservation of unique historical or aesthetic characteristics of a neighborhood or properties; or

(D) Prohibiting construction of sidewalks is otherwise in the public interest.

(b) If the Citizens Advisory Traffic Commission finds in favor of the petitioners, the Director shall issue an order prohibiting the construction of any sidewalk in the district, block or street identified in the petition for a period of ten years. Upon expiration of the ten-year time period, a new petition, public hearing, and Commission approval is required to reinstate the prohibition.

(c) Any person who participated at the hearing may appeal the decision of the Citizens Advisory Traffic Commission to the Council by filing a notice of intent to appeal with the City Manager within fifteen days of the date of the decision. The City Manager shall set the matter for hearing before the Council, which hearing shall be held not more than thirty days of the filing of the notice of intent to appeal. The Council may affirm, reverse, modify, or remand the decision of the Citizens Advisory Traffic Commission.

(d) It shall be unlawful for any person to proceed with the construction of sidewalks in the district or along the specified block or street where such construction has been prohibited or while a petition to prohibit construction is pending. (Ord No. 4629; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07)

78.120. Permit to Construct, Reconstruct, or Repair of Sidewalk Required. No person shall construct, reconstruct, or repair any sidewalk without first obtaining a permit from the Director. (Ord No. 4629; Ord No. 17-92; Ord No. 99-07)

78.130. Permit and Service Fees. An application for the plan review and permits required by SRC 78.120 shall describe the location, width, length, and material proposed to be used, and shall include a plan view drawing with such other information as the Director may deem necessary to demonstrate compliance with this Chapter. The application shall be accompanied with an inspection fee in the amount as prescribed by resolution of the City Council. (Ord No. 4629; Ord No. 76-81; Ord No. 107-84; Ord No. 69-89; Ord No. 51-91; Ord No. 17-92; Ord No. 51-96; Ord No. 99-07)

78.150. Inspection of Sidewalk Construction.

(a) The owner, the owner's agent, or the owner's contractor shall notify the Director prior to placing concrete that the sidewalk forms are ready for inspection. After notification is given the Director shall make such inspection of the sidewalk forms as, in the Director's judgment, is necessary to establish full compliance with this Chapter, the Specifications, and other applicable laws, ordinances and regulations.

(b) If the sidewalk forms are not placed in accordance with this Chapter, the Specifications, and other applicable laws, ordinances and regulations, the owner or his contractor shall make all required corrections before placing concrete. After sidewalk forms are approved by the Director, concrete shall be placed and finished in accordance with this Chapter, the Specifications and any other applicable laws, ordinances and regulations. If the finished sidewalk is not constructed in accordance with this Chapter, the Specifications and other applicable laws, ordinances and regulations, the Director shall order the owner to comply within a time certain, and if the owner fails to comply, the Director shall to proceed against the owner in accordance with SRC 78.300. (Ord No. 4629; Ord No. 12-83; Ord No. 17-92; Ord No. 99-07)

78.152. Sidewalk Maintenance Standards; Rulemaking; Inspections.

(a) The Director shall adopt administrative rules prescribing sidewalk maintenance standards to ensure sidewalks remain in good repair and acceptable condition for safe use by the public.

(b) Whenever the Director learns of any sidewalk that may not conform to the standards adopted pursuant to subsection (a) of this section, the Director shall cause the sidewalk to be inspected and, if found to not conform with such standards, shall assign responsibility for repairs as set forth in SRC 78.154.

(c) The Director may inspect any sidewalk to determine whether the sidewalk conforms to the standards adopted pursuant to subsection (a) of this section and assign responsibility for repairs as set forth in SRC 78.154.

(d) If the Director determines a defect in a sidewalk presents an imminent hazard to the public, the Director may cause barricades or warning devices to be immediately placed to give warning of the hazard. It shall be unlawful for any person to remove or replace such barricades or warning devices without the Director's prior written authorization. (Ord No. 12-83; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07)

78.154. Sidewalk Repairs; Duties of Abutting Owner and City.

(a) **Duties of Property Owner.** Except as provided in this section, it shall be the duty of every property owner to maintain, in compliance with the standards adopted by the Director pursuant to SRC 78.152(a), all sidewalks that abut the owner's property in good repair and acceptable condition. It shall be the duty of every property owner to maintain in good repair and acceptable condition all walkways and driveways located between the curblines and the right-of-way line. It shall be the duty of every owner of property abutting a sidewalk, upon acquiring actual knowledge that a defective or dangerous condition in the sidewalk exists that may have been caused by trees located in public rights-of-way, to notify the Director of the existence, location and nature of the condition.

(b) **Responsibility for Maintaining Sidewalks Constructed Prior to September 1, 1992.**

(1) For sidewalks constructed prior to September 1, 1992, the property owner shall not have the duty to maintain sidewalks as set out in subsection (a) of this section until such time that the Director certifies that the condition of the sidewalks meets the standards adopted by the Director pursuant to SRC 78.152(a). For any sidewalks constructed prior to September 1, 1992, the City shall be responsible for repairing the sidewalks, subject to yearly appropriations and as prioritized by the Council, until such time that the Director certifies that such sidewalks meet the standards adopted by the Director pursuant to SRC 78.152(a).

(2) Notwithstanding the provisions of subsection (b)(1) of this section, where the sidewalks abut a City, County, State, or Federal government property, the property owner shall have the duty to maintain the sidewalks as set out in subsection (a) of this section regardless of when the sidewalks were constructed.

(c) **Duty of the City.** The City shall be responsible for repairs to correct damage caused by trees located in public rights-of-way, and all repairs to curb ramps at street corners and intersections, subject to yearly appropriations and as prioritized by the Council.

(d) **City Repair Program.** The Public Works Director shall implement as part of the inspection program as provided in SRC 78.152(c) the identification and certification of sidewalks constructed prior to September 1, 1992, that do not abut a City, County, State, or Federal government property, and which meet the standards adopted by the Director pursuant to SRC 78.152(a). The Public Works Director shall establish a sidewalk repair program that will identify and establish a schedule of repairs to sidewalks that are the City's responsibility. The Public Works Director shall bring a recommended schedule of repairs with an estimate of the costs for each repair to the City Council annually so that the Council may prioritize and identify funding for the repairs.

(e) Nothing in this Chapter shall preclude a property owner on his or her own initiative at the property owner's expense from undertaking the repair and maintenance of sidewalks to bring the sidewalks into compliance with the standards adopted by the Director pursuant to SRC 78.152(a). (Ord No. 12-83; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07)

78.156. Notice and Order to Repair; Action upon Refusal; Appeal.

(a) If, upon inspection as provided in SRC 78.152, the Director determines that a sidewalk does not meet the Specifications or the standards established pursuant to SRC 78.152, and the Director finds the repair of the sidewalk is the responsibility of the abutting property owner as provided in

SRC 78.154, the Director shall cause a written notice and order of the defect to be mailed to the owner of the property abutting the sidewalk. The notice and order shall:

- (1) Describe the defect;
 - (2) Require compliance as provided in SRC 78.154 and this section;
 - (3) Give notice of the property owner's liability pursuant to SRC 78.158;
 - (4) Give notice of the person's right to seek reconsideration of the notice and order under subsection (c) or appeal the notice and order under subsection (d) of this section;
 - (5) Require that a permit to undertake repair or reconstruction be obtained within thirty days, and that the work be completed within a reasonable period of time, considering limitations of weather and season, not to exceed one hundred twenty days; and
 - (6) Specify the nature and location of any barricades to be placed and maintained by the owner.
- (b) The property owner shall undertake repair or reconstruction within thirty days of the date of the notice and order. Repair or reconstruction shall be completed within a reasonable period of time, considering limitations of weather, but not to exceed one hundred and twenty days. Such period may be extended at the Director's discretion upon the applicant showing good cause.
- (c) The property owner may file a petition for reconsideration with the Director within ten days of the date the notice and order was mailed or delivered, whichever is the earlier date. The petition shall set forth the specific grounds for reconsideration. The petition shall stay the notice and order until such time that the Director acts upon the petition for reconsideration. Following reconsideration, the Director shall enter a new notice and order, which may be summary, and may affirm, modify, or rescind the original notice and order. A request for reconsideration is not a prerequisite for filing an appeal under subsection (d) of this section.
- (d) The property owner may appeal the notice and order to the Hearings Officer by giving written notice of appeal to the Director within fourteen days of the date the notice and order was mailed or delivered, whichever is the earlier date. The notice of appeal shall state one or more of the following grounds:
- (1) That the alleged defect is not in violation of the Specifications or standards adopted pursuant to SRC 78.152(a);
 - (2) That the alleged defect is not hazardous in fact because of special conditions in the particular case;
 - (3) That compliance within the one hundred and twenty-day period is impracticable for reasons beyond the owner's control;
 - (4) That an extension of the compliance period was unreasonably denied;
 - (5) That the placement of the warning devices or barricades specified in the notice are unreasonable;
 - (6) That the person to whom notice has been given is not the owner of the property adjacent to the allegedly defective sidewalk; or
 - (7) That the person to whom the notice has been given is not responsible for the repair.
- (e) Upon receiving a notice of appeal, the Director shall set the matter for hearing before the Hearings Officer and give notice of the hearing to the appellant. The Hearings Officer may affirm, reverse, modify, or remand the Director's action.
- (f) If no petition for reconsideration or appeal is filed within the time provided in this section and no permit has been obtained, or the repairs are not completed as required by the Director's notice and order, or if the direction of the Hearings Officer following an appeal is not complied with within the time set out in the Hearings Officer's order, the Director shall proceed as provided in

SRC 78.300. (Ord No. 12-83; Ord No. 95-84; Ord No. 51-91; Ord No. 17-92; Ord No. 51-96; Ord No. 72-2002; Ord No. 99-07)

78.158. Liability for Damages.

(a) The owner of property adjacent to a defective sidewalk shall be liable to any person suffering bodily injuries, property damage, or both, as a result of any breach of the duty imposed upon the owner under SRC 78.154.

(b) In the event any action naming the City or any of its officers, employees, or agents is brought as a result of any alleged defective condition in a sidewalk, the owner of property abutting the defective sidewalk shall indemnify and defend the City, its officers, employees and agents, if the defective condition was the result of the duty imposed upon the owner under SRC 78.154.

(c) Neither the City nor its officers, employees, or agents acting in the course and scope of their duties shall be liable to any person who asserts a claim based upon bodily injuries or property damage as a result of any breach of the duty imposed upon the owner under SRC 78.154. (Ord No. 12-83; Ord No. 17-92; Ord No. 99-07)

78.180. Requirements for New Construction Abutting Improved Streets.

(a) Except as otherwise provided by SRC 78.192, every property owner whose property abuts upon any street that has been improved with hard surface pavement and curbs, shall construct a sidewalk conforming to the provisions of this Chapter within one hundred days from the completion of construction of any building located upon the property. For the purposes of this section, sidewalks shall be required along the entire length of the property abutting any improved street. As used in this section, the term building shall not include accessory buildings, as defined in SRC 111.005, in a residential zone.

(b) Whenever any property owner refuses to perform any duty imposed under this section, the Director shall issue a notice and order the property owner to satisfy such duty, and if the property owner fails to perform such duty within such time as the Director may have specified in the notice and order, then the Director shall proceed as provided in SRC 78.300. (Ord No. 5816; Ord No. 6965; Ord No. 152-76; Ord No. 84-79; Ord No. 127-84; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07; Ord No. 31-13)

78.182. Requirements for Undeveloped Lots Abutting Improved Streets.

(a) Every property owner whose property abuts any street improved with hard surface pavement and curbs, shall construct a sidewalk conforming to the provisions of this Chapter, if:

(1) At least seventy percent of the property frontage is developed along that side of the block;

(2) At least seventy percent of the required sidewalks on that side of the block are already constructed; and

(3) It has been at least seven years since the abutting street was improved to hard surface pavement and curbs, beginning with streets constructed on or after January 1, 2003.

(b) For the purposes of subsection (a)(2) of this section, a property having a sidewalk construction deferral, granted pursuant to SRC 78.192, shall be counted as if a sidewalk were constructed, and shall be subject to having its deferral terminated and sidewalk construction required.

(c) The Director shall notify and order all property owners affected by the requirements of this section to be in compliance within twelve months of notification by the Director. Property owners failing to comply with the Director's order shall be subject to actions taken by the Director under SRC 78.300. (Ord No. 72-2002; Ord No. 99-07)

78.190. Construction Plans to Show Sidewalks. No building permit shall be granted for the construction of any building along any street that has been improved with hard surface pavement and curbs unless the construction plans provide for the construction of sidewalks as specified in this Chapter. (Ord No. 5816; Ord No. 152-76; Ord No. 84-79; Ord No. 17-92; Ord No. 99-07)

78.192. Deferral of Sidewalk Construction.

(a) A property owner may apply to the Director to enter into a deferral agreement with the City to defer the obligation to construct sidewalks as required by SRC 78.180 or required as a condition of land use approval under the following circumstances:

(1) In the case of all property other than industrial:

(A) The location of the sidewalk is not on a designated collector or arterial street in the Salem Transportation Systems Plan; and

(B) Less than one-half of the required sidewalks on that side of the block are already constructed.

(2) In the case of industrial property:

(A) The frontage considered for deferral is not on a major pedestrian route to a school, shopping center, park, church, or other pedestrian traffic generator;

(B) The deferral of the sidewalk construction does not pose a threat to the welfare and safety of the public based upon a review of the pedestrian/vehicular traffic, the width and condition of the street, and of the on-street parking; and

(C) There is an adequate combination of pedestrian, bike and transit facilities for employees to reach the property safely without using a vehicle, except that the Director may waive this condition if the property owner can show that imposing this condition would create a hardship.

(b) Whenever a sidewalk construction has been deferred, the property owner shall, unless otherwise specified in the deferral agreement:

(1) Grade and slope the area to the future sidewalk grade;

(2) Avoid planting trees in the sidewalk area, or building fences, retaining walls, steps, or other impediments to the future sidewalk;

(3) Note on the plans for the development that a deferment has been granted but that sidewalk construction may be ordered by the City Council at any time; and

(4) Record a copy of the deferral agreement in the deed records of the appropriate county.

(c) Sidewalk construction, which has been deferred pursuant to subsections (a) or (b) of this section, may be initiated at any time by the Director or by resolution of the City Council. (Ord No. 84-79; Ord No. 127-84; Ord No. 17-92; Ord No. 51-96; Ord No. 99-07)

78.210. Grade and Plant Materials Within the Right-of-Way.

(a) It shall be the duty of all property owners to maintain living plant materials in accordance with the Specifications for stormwater facilities that exist in the right-of-way in front of their property, except where prohibited by Salem Revised Code.

(b) Except as otherwise specified in subsection (a), it shall be the duty of all property owners to fill in the space between the curb and sidewalks in front of their property, and to the curb lines of the street at the intersections, with earth or other material approved by the Director to a level and grade with the curb and sidewalk. If such space is filled with earth, at least 75 percent of the surface area shall be covered with perennial living plant material which conforms to all other requirements of this Chapter, and which is kept free of noxious vegetation. (Ord No. 4629; Ord No. 12-83; Ord No. 17-92; Ord No. 34-13)

78.220. Duty of Property Owners to Keep Sidewalks Safe, Clean, Etc.

(a) It shall be the duty of the owners, lessees, and occupants of all property abutting upon or adjacent to any sidewalk to keep such sidewalk clean and clear of ice, snow, dirt, vegetation, debris, or obstructions for the safe use of the public at all times.

(b) The owners, lessees, and occupants shall be liable to any person suffering bodily injuries or property damage as a result of any breach of a duty imposed under subsection (a) of this section.

(c) In the event any action naming the City or any of its officers, employees, or agents is brought as a result of any failure to comply with the duty imposed under subsection (a) of this section, the

owner of the property abutting the defective sidewalk shall indemnify and defend the City, its officers, employees, and agents, in the event it is established in such action that the occurrence or condition giving rise to the action could have been prevented had such owner not breached a duty imposed under subsection (a) of this section.

(d) Neither the City nor its officers, employees, or agents acting in the scope of their duties shall be liable to any person having a remedy under subsection (b) of this section.

(e) Whenever any owner, lessee, or occupant of any property neglects to perform the duty imposed under subsection (a) of this section, the Director shall issue a notice and order the owner, lessee, or occupant to remedy such neglect, and in case the person then fails to make such sidewalk safe or to clean the same or to clear the same of ice, snow, dirt, vegetation, debris, or obstructions within such time as the Director may have specified in the notice and order, then the Director shall proceed as provided in SRC 78.300. (Ord No. 4629; Ord No. 12-83; Ord No. 17-92; Ord No. 72-2002; Ord No. 99-07)

78.230. Deposit of Water, Oil, Etc., from Filling Stations. It shall be unlawful for any person operating, conducting, or maintaining any gasoline filling station, service station, public garage or automobile repair shop to discharge or permit to be discharged from any pump, pipe, hose, radiator, automobile, or other device any water, oil, gasoline, cleansing fluid, or other substance upon any sidewalk or to permit the same to be discharged in such manner that such water, oil, gasoline, cleansing fluid, or other substance will run or flow upon, over, or across any sidewalk or parking strip in front of or adjacent to such gasoline filling station, service station, public garage, or automobile repair shop.

This section shall not be construed as prohibiting the washing or cleaning of any sidewalk or parking strip or any object permanently located therein. (Ord No. 3976)

78.240. Sidewalk Cafes.

(a) Any person owning or operating a restaurant or café that serves food, beverages or alcoholic liquor to patrons seated at tables located within the sidewalk area in front of the restaurant or café shall maintain a pedestrian pathway of not less than five feet wide and a vehicle buffer zone of not less than three feet wide within the sidewalk area. The pedestrian pathway and the vehicle buffer zone shall be kept clear of fixtures, tables, or chairs at all time. The pedestrian pathway shall begin either where the public sidewalk and the property line meet or between the sidewalk café and the street when the sidewalk café is placed next to a building or property line and then extends into or is placed entirely on the adjacent public sidewalk.

(b) It shall be unlawful for any person owning or operating a sidewalk restaurant or café to fail to maintain a pedestrian pathway or a vehicle buffer zone as required in subsection (a). (Ord No. 3390; Ord No. 52-84; Ord No. 72-2002; Ord No. 27-13)

78.250. Use of Space below Sidewalk Level.

(a) **Revocable Permit Required.** The space below the sidewalk level may be used by the abutting property owner upon securing a revocable permit from the Director pursuant to SRC 76.160. The occupation of this space may be revoked by the City at any time for good cause shown, and the owner of the building occupying such space shall, at the owner's sole cost, be required to cause such space to be restored to a condition acceptable to the Director. Any person occupying, in control of, or using, the space below the sidewalk level shall maintain such space in good and sound structural condition.

(b) **Sidewalk Openings.** Prior to constructing an opening in the sidewalk for fuel, stairs, elevators, or for other purposes, the property owner shall secure a revocable permit from the Director pursuant to SRC 76.160. All openings shall be located as close to the curb line as possible and in no case at a greater distance than two feet from the curb line. The inner edge of any sidewalk opening shall not be nearer to the property line than one-half of the established width of the sidewalk; provided, however, within the limits of Fire Zone No. 1, the space between any

sidewalk opening and the property line shall not be less than seven feet, and in all other districts of the City this space shall not be less than six feet. Any person occupying, in control of, or using any sidewalk opening shall maintain such opening in good and sound structural condition.

(c) Doors on Sidewalk Openings. All openings constructed in sidewalks shall be covered with doors constructed of heavy sheets of iron or steel that have a roughened top, or sheets of iron or steel covered with a non-slip durable material. The doors shall be attached to a substantial metal frame built into the sidewalk. The dimension of doors in any direction shall not exceed the dimension of the opening by more than six inches. The doors and frames shall be so constructed and maintained that there shall be no projection above the sidewalk exceeding one-fourth inch. The axis of the doors shall be perpendicular to the curb line. Sidewalk doors shall be kept closed when not in use and when open shall be provided with iron rods or chains that will hold the doors open and provide a guard to the sidewalk opening. Any person occupying, in control of, or using a door installed in a sidewalk shall maintain such door in good and sound structural condition.

(d) Notice and Order; Action Upon Refusal. Whenever any property owner refuses to perform any duty imposed under this section, the Director shall issue a notice and order the property owner to satisfy the duty, and in case the property owner then fails to perform such duty within such time as the Director may have specified in the notice and order, then the Director shall proceed as provided in SRC 78.300. (Ord No. 2823; Ord No. 72-2002; Ord No. 99-07)

78.280. Open Gratings, etc., Prohibited. No open gratings or openings of a similar kind shall be installed in a sidewalk for the purpose of obtaining either light, ventilation, or for any other purpose, except for use in street tree wells. (Ord No. 2823; Ord No. 72-2002)

78.285. Sidewalk Benches Prohibited; Removal Required.

(a) It shall be unlawful for any person except upon written consent of the City to place or maintain in any portion of any public street, sidewalk, or right-of-way any bench for public or private use.

(b) Upon request by the City, any bench placed or maintained in or on a public street, sidewalk, or right-of-way, shall be removed by the owner at owner's expense.

(c) Violation of this section is an infraction. (Ord No. 31-13)

78.290. Compliance with Chapter. It shall be unlawful for the owner, lessee, or occupant of any property, or for any contractor, agent or employee of such persons, to construct, reconstruct, or repair any sidewalk or area between the sidewalk and curb in any manner contrary to the provisions of this Chapter, the Specifications, or any permit or order issued under this Chapter. It shall be unlawful for the owner, lessee, or occupant of any property, or for any contractor, agent or employee of such persons to fail to maintain any sidewalk or area between the sidewalk and curb in accordance with provisions of this Chapter, the Specifications, any standard adopted pursuant to SRC 78.152, or any permit or order issued under this Chapter. (Ord No. 4629; Ord No. 193-79; Ord No. 17-92; Ord No. 51-96; Ord No. 99-07)

78.300. Stop Work Orders; Permit Revocation; Civil Penalties; Enforcement.

(a) Stop Work Orders and Permit Revocation.

(1) The Director may suspend work or revoke a permit required by this Chapter upon a finding that:

(A) The work is not authorized by a valid permit;

(B) Inaccurate information was used to obtain the permit;

(C) The applicant is not complying with the terms of the permit or the provisions of this Chapter; or

(D) The work is, or threatens to become a hazard to property or public safety; is adversely affecting or about to adversely affect adjacent property or rights-of-way; or is otherwise adversely affecting the public health, safety, or welfare.

- (2) The Director shall issue a written notice specifying the nature of the violation or problem which must be remedied prior to resuming other work on the project.
- (b) Permit / Inspection Fee Penalty.** In the event the owner or the owner's contractor fails to obtain a permit as required by SRC 78.120 or fails to call for a form inspection as required by SRC 78.150, the Director shall collect a fee double the normal fee currently prescribed by resolution of the Council.
- (c) Civil Penalty.** Any person who fails to comply with the requirements of this Chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this Chapter without first obtaining a permit, or who fails to comply with a stop work order issued pursuant to this Chapter, shall also be subject to a civil penalty not to exceed \$2,000 per violation. Each day that a violation continues shall constitute a separate violation.
- (d) Civil Penalties Against Agents.** Any person who acts as the agent of, or otherwise assists, a person who engages in an activity which would be subject to a civil penalty, may likewise be subject to a civil penalty.
- (e) Prohibition of Final Occupancy; Injunctive Relief.**
- (1) The City shall not issue a Notice of Final Occupancy for property on which a violation of this Chapter has occurred or is occurring, until the violation has been cured and any penalty imposed for the violation is paid.
- (2) The City may seek injunctive relief against any person who has willfully disobeyed a permit or order or has willfully engaged in a violation of SRC 78.110(d), 78.120, 78.150, 78.154(a), 78.156(b), 78.180, 78.182, 78.210, 78.220, 78.230, 78.240, 78.250, or 78.280, such relief to be in effect for a period not to exceed five years.
- (f) Remedy When Owner Refuses to Maintain, Construct or Repair.**
- (1) Whenever a person has been ordered to comply with SRC 78.150, 78.154(a), 78.156, 78.180, 78.182, 78.220, or 78.250 and the Director determines that the person subject to that order failed to act in accordance with the order within the time stated in the order, then the Director may proceed to construct, reconstruct, clean, repair, or take such action as is necessary to bring a sidewalk or the space below or around the sidewalk into conformance with this Chapter.
- (2) Where the Director takes action under subsection (f)(1) of this section, the Director shall keep an accurate account of the cost of labor, including inspection services, and material required for the construction, reconstruction, cleaning, repair, or other action necessary to bring the sidewalk into compliance with this Chapter. Such cost, plus an amount equal to ten percent of the cost of labor and materials to defray administrative costs, including, but not limited to preparing and serving the notice, engineering, and advertising, shall be a lien upon the owner's property. The lien shall be entered in the City lien docket and shall be collected and foreclosed as any other lien.
- (g) Remedies not Exclusive.** The remedies provided in this Chapter are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the City under any other provision of law. (Ord No. 99-07) (Original Section 78.300 was repealed May 20, 2003 by referendum Ballot Measure No. 24-104)

78.310. Violations. Violation of SRC 78.110(d), 78.120, 78.150, 78.154(a), 78.156(b), 78.180, 78.182, 78.210, 78.220, 78.230, 78.240, 78.250, 78.280 or 78.290 is an infraction. Each day that a violation continues shall constitute a separate violation. (Ord No. 99-07) (Original Section 78.310 was repealed May 20, 2003 by referendum Ballot Measure No. 24-104)