

ORDINANCE NO. 6-500

AN ORDINANCE REGULATING THE INSTALLATION, CONSTRUCTION, AND
REPAIR OF SIDEWALKS IN THE CITY OF ISHPEMING, AND PROVIDING
FOR THE COLLECTION OF THE EXPENSE THEREOF

THE CITY OF ISHPEMING ORDAINS:

Section 1. (a) No sidewalk shall be constructed, repaired, replaced, or relocated by any person, firm or corporation without first having secured a written permit to do so from the City Manager.

(b) The City Manager shall not issue any permit for any work referred to under subsection 1(a) above unless the person requesting the permit furnishes to the City Manager a written application setting forth the name, address and telephone number of the applicant, the location and nature of the proposed work, the name, address and telephone number of the contractor engaged to do the work, and when the work will be done. The application shall also contain such other information as the City Manager may require.

(c) Upon receipt of a permit, the permittee shall advise the City Manager when the work will be started so that the City can arrange to have an inspector present when the work is done. The inspector shall have the authority to stop the work at any time if the work violates the terms of the permit or does not comply with City requirements.

(d) This Section 1 shall not apply to sidewalk repairs or replacement undertaken directly by City personnel, or by a contractor hired directly by the City.

Section 2. (a) The City Manager shall establish written specifications for all new sidewalk construction in the City of Ishpeming, which specifications shall be approved by the City Council.

(b) All new sidewalks constructed or relocated in the City of Ishpeming shall comply with the specifications referred to in subsection 2(a) above, unless there are practical difficulties or other reasons why the specifications should not apply. A written waiver, signed by the City Manager, shall be required before any new sidewalk construction shall be allowed to deviate from the specifications established by the City.

(c) The specifications referred to in subsection 2(a) above shall apply, as near as may be practicable, to the repair or replacement of all existing sidewalks in the City of Ishpeming.

Section 3. (a) Any property owner or other person wishing to have a sidewalk installed or repaired by the City shall make a written request therefor to the City Manager.

(b) The City Manager shall refer such request to the Superintendent of Public Works, and the Superintendent shall cause the site of the proposed work to be inspected. A report shall be prepared and returned to the City Manager within ten (10) working days after the matter has been referred to the Superintendent, which report shall describe the current condition of the area where the work is proposed, whether or not an existing sidewalk is present and, if so, the condition thereof, whether the existing sidewalk is unsafe or hazardous, any unusual or peculiar characteristics of the area in question, and the approximate cost of the work.

(c) Upon receipt of the report, the City Manager shall review the report, inspect the site personally, and determine whether the proposed work should be done. If the City Manager determines that the proposed work is unnecessary or should not be done, the person making the request shall be so advised in writing. If the City Manager determines that the proposed work should be done, the City Manager shall make his own report to the City Council, which Manager's report shall include:

- i) Reasons why the work should be done;
- ii) A copy of the Superintendent's report;
- iii) The estimated cost of the work;
- iv) How the cost should be apportioned and whether the work should be done by creation of a special assessment district; and
- v) The recommendations of the City Manager.

(d) Upon receipt of the report from the City Manager under subsection (c) above, the City Council shall consider the request, the City Manager's report, and any other pertinent information, and the City Council may conduct a public hearing on the request, at which hearing all relevant information shall be considered.

(e) The City Council shall determine whether the whole or any part of the work should be done, how the cost should be apportioned or paid for, when the work should be done and any other matter related to the request. The Council need not specify a date certain for the work and may simply indicate that the work may be done at an unspecified date in the future, as finances, personnel, and other circumstances may dictate. If the City Council determines that the work should be done by formal creation of a special assessment district, then the provisions of Ordinance No. 11-1600 shall apply and the procedures therein shall be complied with. If the City Council determines that the work may be done on an informal cost-sharing basis with abutting property owners, a contract may be prepared and signed by all benefitted abutting property owners, and the entire cost thereof shall be collected in advance before the City does the work or awards any contract for the work.

(f) It shall be the policy of the City that all sidewalk repair, replacement, or relocation, including the installation of new sidewalks, when done by the City or by a contractor engaged directly by the City, shall be done on a cost-sharing basis, with the owner or owners of each abutting parcel of land to be responsible for an aggregate of fifty (50%) percent of the total cost of the work, on a pro-rata basis, based upon front footage. The City shall be responsible for the remaining fifty (50%) percent of the cost.

This policy shall apply in all cases unless it is made to appear, by specific facts, that the application of such policy would be unfair or would place an unfair burden upon the abutting landowner or owners. If such a showing is made to the satisfaction of the City Council, then the City Council may apportion costs on a different basis, as the equities may appear. Each request shall be decided upon its own merits, and no determination shall be binding in any other case or act as a precedent for any future request.

Section 4. The City Council may authorize the repair or replacement of any sidewalk or the construction of any new sidewalk, as it may in its discretion deem advisable, without regard to whether or not a request for such work has been made under Section

3 above. Sidewalk repairs or improvements initiated by the City shall be subject to the cost-sharing policy set forth at Section 3(f) above.

Section 5. The City Council, in the annual budget each year, may appropriate funds for sidewalk repair or replacement. Any sidewalks determined by the City Council as needing repair shall be improved during the budget year out of the funds so appropriated, if any, until the budgeted funds are exhausted.

Section 6. Any damage caused to any sidewalk as a result of any construction undertaken by the City or by any contractor on behalf of the City shall be repaired at no cost to the abutting property owners.

Section 7. (a) When any representative of the City inspects any sidewalks for purposes of enforcement of this ordinance, or for any other purpose, and observes overgrown brush, bushes or shrubbery that encroach upon the sidewalk, or any other encroachment, the City representative shall notify the City Manager thereof. The City Manager shall send written notice of the encroachment to each abutting property owner on whose property the encroachment exists or originates, with instructions or orders to immediately remove such encroachments. Upon receipt of such notice, the abutting property owner shall promptly comply with the order of the City Manager.

(b) It shall be unlawful for any person owning or occupying land or any premises abutting a sidewalk to cause, permit, allow or fail to remove any encroachment on, over, under or across said abutting sidewalk.

Section 8. Any person violating the provisions of Section 1 or Section 7 of this ordinance, or violating the provisions of any permit issued under this ordinance, or violating any order of the City Inspector under Section 1(c) is responsible for a municipal civil infraction. A person, firm or corporation determined to be responsible or responsible "with explanation" for a municipal civil infraction shall be subject to a civil fine of not more than One Hundred (\$100.00) Dollars plus costs, and if applicable, damages and expenses as provided by law. A municipal civil infraction action brought for any violation of this ordinance shall follow the procedures set forth in Act No. 12, P.A. 1994, as amended, and a Defendant charged with a municipal civil infraction violation shall have all of the rights, duties, responsibilities and obligations set forth therein.

Section 9. This ordinance shall take effect upon publication.

Adopted: August 18, 1993

Amended: June 8, 1994