

**CITY OF MUSCATINE
ORDINANCE 2024-0077**

**AN ORDINANCE AMENDING SUBSECTION D, SECTION 2, CHAPTER 1, OF
TITLE 3 OF CITY CODE – SIDEWALK INSTALLATION AND REPAIR; RIGHT-OF-
WAY MAINTENANCE, DUTY OF OWNER TO REPAIR AND MAINTAIN**

WHEREAS, Chapter 1 of Title 3 of City Code primarily addresses the installation, repair, and maintenance of public sidewalks. However, it also includes unrelated regulations, in Subsection D of Section 2, regarding the maintenance of vegetation within the public right-of-way;

WHEREAS, In April 2022, the City Council approved an ordinance revising vegetation management regulations. This ordinance not only made specific revisions but also created Chapter 8 of Title 16 as a central location within the City Code for all regulations related to vegetation management;

WHEREAS, This ordinance inadvertently failed to relocate the portions of Section 3-1-2(D) addressing the adjoining property owner's responsibility for maintaining vegetation within the public right-of-way to Chapter 8 of Title 16; and

WHEREAS, These portions of Section 3-1-2(D) regarding adjoining property owners' responsibility for maintaining vegetation within the public right-of-way should be removed. Chapter 8 of Title 16 already covers this topic in greater detail, making this section redundant and potentially confusing.

NOW THEREFORE, be it ordained by the City Council of the City of Muscatine, in the State of Iowa, as follows:

SECTION 1: **AMENDMENT** “3-1-2 Sidewalk Installation And Repair; Right-Of-Way Maintenance” of the Muscatine Municipal Code is hereby *amended* as follows:

A M E N D M E N T

3-1-2 Sidewalk Installation And Repair; Right-Of-Way Maintenance

- A. Permit Required.** No person or entity shall construct or repair any sidewalk upon the streets of the City, unless such person shall first have obtained a permit therefore in accordance with the Schedule of Permit and Licensing Requirements in Appendix B to this Code of Ordinances.
- B. Specifications.** All sidewalks must be installed and repaired according to all applicable specifications established by the City Engineer.
- C. New Sidewalks.** In areas of the City where there are no sidewalks, they shall be installed as follows:
 - 1. New Construction.** New sidewalks shall be installed in accordance with Title

11 of this Code.

2. **Other Areas.** The City Council shall determine the necessity of installing sidewalks in the areas of the City where none exist after holding a public hearing in accordance with the special assessment provisions of the Code of Iowa.
3. **Cost of Installation.** If, as provided elsewhere in this Code of Ordinances, it is determined that a sidewalk should be installed, the abutting property owners shall share the cost of installing new sidewalks with the City of Muscatine in accordance with the special assessment rules and regulations for sidewalks as adopted by the City Council. If no such determination is made, abutting property owners may install a sidewalk at their own expense, as long as the sidewalk conforms to the specifications set by the City Engineer and the permit required has been obtained.

- D. **Duty of Owner to Repair and Maintain.** The abutting property owner shall maintain all public right-of-way located between the edge of the street or curb line and the property line, and shall keep such area in a safe condition free from defects, debris, nuisances, obstructions or any other hazard. The abutting property owner may be liable for damages caused by failure to maintain the public right-of-way located between the edge of the street or curb line and the property line. The abutting property owner shall maintain the sidewalk in a safe condition, in a state of good repair, and free from defects. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk. ~~Notwithstanding the obligations imposed hereunder, the property owner shall in no event remove diseased trees or dead wood or plant, trim, remove or treat any tree or plant material on public right-of-way without first obtaining permission from the City. Maintenance includes, among other things, timely mowing, trimming trees and shrubs and picking up litter.~~

(Code of Iowa, Sec. 364.12[2c])

- E. **Notice.** The City may serve notice on the abutting property owner, by certified mail to the property owner as shown by the records of the county auditor, requiring the abutting property owner to repair, replace, or reconstruct sidewalks.

(Code of Iowa, Sec. 364.12[2d])

- F. **Costs.** If the abutting property owner does not perform an action required within a reasonable time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2e])

SECTION 2: REPEALER CLAUSE All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

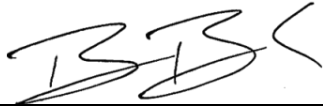
SECTION 3: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 4: EFFECTIVE DATE This Ordinance shall be in full force and effect from _____ and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE CITY OF MUSCATINE CITY COUNCIL APRIL 04, 2024.

Presiding Officer

Attest



Dr. Brad Bark, Mayor, City of
Muscatine



Carol Webb, City Clerk, City of
Muscatine

