

ORDINANCE NO. 55-O-073

AN ORDINANCE CONTAINING DEFINITIONS; DECLARING JURISDICTION OVER SIDEWALKS; PROVIDING FOR THE ESTABLISHMENT OF THE GRADES THEREOF; PROVIDING FOR THE ISSUANCE OF PERMITS TO CONSTRUCT SIDEWALKS; PROHIBITING THE BUILDING OF NONCONFORMING SIDEWALKS; SETTING FORTH PROCEDURES FOR THE ENFORCEMENT OF THIS ORDINANCE; PROVIDING PENALTIES AND DECLARING AN EMERGENCY.

Sections:

Section 1.	Definitions.
Section 2.	Declaration of the city's jurisdiction over sidewalks.
Section 3.	Grade of sidewalks.
Section 4.	Prohibition of nonconforming sidewalk.
Section 5.	Prohibition for constructing sidewalk without permit.
Section 6.	Procedure to secure permit.
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The City of Brookings ordains as follows:

Section 1. Definitions.

A. For the purposes of this ordinance a "sidewalk" shall mean a raised walk or footway for pedestrians constructed out of some other material other than the ground traversed by the walk or footway.

B. For the purposes of this ordinance a "nonconforming sidewalk" shall mean:

1. Any sidewalk that is built or constructed upon any property within the corporate limits of the city of Brookings upon any grade which has not been previously established by the city of Brookings.

2. Any sidewalk for which a written permit has not been issued by the city to the owner of the property upon which any sidewalk has been built or constructed prior to the building or construction of said sidewalk.

3. Any sidewalk which is not built and constructed out of any material not approved by the city of Brookings, or surfaced in any manner not approved by the city of Brookings, or any sidewalk which has been built and constructed or maintained in such shape or condition or repair as to render the sidewalk dangerous, unsafe, or unfit for use of pedestrians.

4. Any sidewalk which, by its continuance, damages or adversely affects the use of any connecting sidewalk on the property of another or which shall obligate the owner or owners of any connecting sidewalk to the payment of any cost or expense by virtue of said damage or adverse effect.

Section 2. Declaration of the city's jurisdiction over sidewalks. The city of Brookings, for the protection of the public welfare, for the safety of the public, and for the best interest of the city, hereby declares that the city of Brookings, Oregon, possesses, claims, maintains, exerts, and reserves unto the City complete and full jurisdiction over and unto all sidewalks now, or hereafter, constructed or built within the corporate limits of the city of Brookings.

Section 3. Grade of sidewalks. The grade of each and all of the sidewalks constructed and maintained upon any property located within the corporate limits of the city of Brookings, shall be the grade thereof as the same is established under such rules and regulations as the council may, on its motion, provide. The council shall have the right to establish the grade of any sidewalk along any street or alley, and upon any block, or lot contained in said block, or upon any other property within the corporate limits of the city. Any sidewalk not constructed or maintained upon the grade here set forth shall be a nonconforming sidewalk.

Section 4. Prohibition of nonconforming sidewalk. From and after the date of passage and the effectiveness of this ordinance, no person, firm, or corporation shall build, construct, or maintain a nonconforming sidewalk upon any property, or along, adjacent to, or parallel to any street or alley, within the corporate limits of the city of Brookings.

Section 5. Prohibition for constructing sidewalk without permit. No owner or owners of property located within the corporate limits of the city of Brookings, or person, firm, or corporation shall build or construct a sidewalk, or excavate any ground for the purpose of building or construction of a sidewalk thereon, without first having applied for and received from the city works superintendent a permit for such building, construction, and excavating.

Section 6. Procedure to secure permit. Any owner of property located within the corporate limits of the city of Brookings, or any person, firm or corporation desiring to build, construct or excavate for a sidewalk within said corporate limits, shall substantially comply with the following procedure. An application in writing shall first be made to the city works superintendent, setting forth the description of the land upon which a sidewalk is to be constructed or built, and upon which the excavation, if any, therefor is to be made. This application shall also set forth the material to be used in the said

constructing and building together with a brief statement as to how the sidewalk is to be established. The city works superintendent shall consider the application, and if it appears to him that the provisions of this ordinance have been substantially complied with by the applicant, he shall issue a permit to the applicant to build, construct and excavate to the extent that such excavation is necessary to accomplish the purpose applied for, the said sidewalk.

Section 7. Duty of city works superintendent. It shall be the duty of the city works superintendent to periodically inspect the condition and shape of repair of all sidewalks in the city. He shall periodically make a report of such inspection to the council. He shall diligently, in his said report, set forth and describe all nonconforming sidewalks that he has discovered, prior to the date of his report, and submit the same to the council.

Section 8. Procedure to vacate nonconforming sidewalks. The council may, at its own motion, or upon the submission to it of a report by the city works superintendent, find that a nonconforming sidewalk exists and is being maintained within the corporate limits of the city of Brookings. Upon the adoption of such finding, or the acceptance of the report of the city works superintendent covering the existence of a nonconforming sidewalk, the council may, on its motion, order a notice to be prepared and personally served upon the owner or owners of the property upon which said nonconforming sidewalk exists or is being maintained. This notice shall be signed by the city recorder, and contain a brief statement of the complaint. This notice shall summon all adverse parties to appear at a date, time, and place which shall not be less than 10 days after the said date of said service, and show cause why the sidewalk constructed, built, or being maintained upon the property should not be declared a nonconforming sidewalk under this ordinance. In the event the party or parties upon whom this notice has been served shall appear before the council before the date set forth in said notice for them to appear and make a satisfactory showing to the council that the nonconforming sidewalk has been brought into the status of an approved sidewalk, and that all of the provisions of this ordinance have been obeyed and complied with, the council may, at its motion, vacate the proceedings. Otherwise the council shall hold its hearing upon the complaint on the date and at the time and place set forth in the aforesaid notice. From the evidence introduced before it at the said hearing of said notice, the council shall adjudicate the matter before it. If the council shall find that the sidewalk complained of in said notice is a nonconforming sidewalk as the same is defined in this ordinance, the council shall have issued its order commanding each and every person upon whom the said notice has been served, as hereinabove provided, to repair the sidewalk, reasonably described and complained of, under such conditions as the council shall set forth in said order, and to remove the said sidewalk from the status of a nonconforming sidewalk, or, at its motion, command each and every person, upon whom the said notice was served, to remove the said nonconforming sidewalk in its entirety. A copy of this order shall be served personally upon all of the parties named in the original notice to show cause, or, if it is impossible to make such service within the corporate limits of the city of Brookings, service of the said order may be made by and through the United States mails by addressing the order to the last known address of the party, or parties, hereinabove required to be served with a copy of said order. The time in which the party, or parties, shall be ordered to comply with the

said order shall not be less than 10 days or more than 15 days from the date of said order. This said order shall be signed by the mayor and the city recorder and shall be dated. For the protection of the public welfare and safety and pedestrians, and for the purpose of giving public notice that the said sidewalk complained of in the aforesaid notice, and commanded in said order to be repaired or removed, is a nonconforming sidewalk, and as a warning to the public that the said nonconforming sidewalk is dangerous to, and unsafe for, the use as a walk or footway; and in the event that the person or persons to whom the said order is directed shall either fail or refuse to fully comply with and obey the said order within the period of time therein set forth for the same to be obeyed, the city of Brookings shall have the right to build and erect a fence, of such height as the council shall decide, around the sidewalk described and set forth in said order, and to post not less than two signs thereon which shall substantially warn all pedestrians that this said sidewalk is a nonconforming sidewalk under this ordinance, that it is dangerous and unsafe to be used as a walk or footway, and that the city of Brookings denies that it has either approved of the said sidewalk or has consented that it be built or constructed and, further, that the city of Brookings shall not be obligated to, nor does it agree to, the payment of any sum of money whatsoever for injuries or damages sustained by any person or persons who thereafter are injured or damaged as the result of their use of the said sidewalk, so fenced in, as a walk, footway, or for any other purpose. No person, firm or corporation whomsoever, shall, in any manner or degree, move, relocate, break down, destroy, or remove this said fence erected by the city of Brookings, or attempt so to do.

Section 9. Material specifications. All sidewalks, curbs and curbs and gutters shall be constructed of concrete with the following minimum characteristics:

One part Portland cement
 Three parts sand
 Four parts gravel
 Five sacks transit or ready mix; 2,500 pound test mix

[Section 9 as amended by Ordinance No. 66-O-186]

Section 10. Minimum width of sidewalks. The minimum width of any sidewalk hereinafter built or constructed shall be five feet, except as the following states or as the mayor and the city council shall deem important and proper, now or hereafter:

<u>Street</u>	<u>From</u>	<u>To</u>	<u>Width</u>
Chetco Avenue (southerly side)	Alder Street	Easy Street	8 feet
Chetco Avenue	Oak Street	Arnold Lane	8 feet
Oak Street (westerly side)	Chetco Avenue	Pacific Avenue	8 feet
Easy Street (southerly side)	Fern Avenue	Pioneer Road	8 feet

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Easy Street (northerly side)	Fern Avenue	Pioneer Road	6 feet
Fern Avenue (easterly side)	Chetco Avenue	Easy Street	8 feet
Center Street	Chetco Avenue	Railroad Street	6 feet
Spruce Street	Center Street	Wharf Street	6 feet
Wharf Street	Spruce Street	Chetco Avenue	6 feet
Pacific Avenue (both sides)	Fern Street	Pioneer Road	8 feet
Azalea Park Road	Oak Street	Old Co. Road	6 feet

[Section 10 as amended by Ordinance No. 66-O-186]

Section 11. Sub-grade preparation for sidewalks.

A. The foundation of all sidewalks and curbs and gutters shall consist of thoroughly tamped earth brought to the proper grade to receive the construction it is intended to support. Should any filling be required it shall be of such a character and so placed and settled that it will not practically settle after construction shall be built on it. The top of the sub-grade shall extend six inches on either side of the sidewalk. The sub-grade shall be thoroughly wetted before the concrete is place upon it.

B. All sidewalks and curbs, curbs and gutters shall be built within forms of such size and character to support the concrete being formed.

[Section 11 as amended by Ordinance No. 66-O-186]

Section 12. Sidewalk construction minimums; curb construction minimums.

A. The minimum finished thickness of any sidewalk shall be 3-5/8 inches in all areas where normal pedestrian foot travel is in evidence. In commercial areas where heavy hand truck or power operated for lifts are used, the minimum finished thickness of the sidewalk shall be 5-5/8 inches; the minimum finished thickness of the sidewalk at all driveway approaches and the minimum thickness of all driveway approaches between the curbline and the right-of-way line shall be 5-5/8 inches.

B. All sidewalks shall be laid with a fall toward the curb of one-quarter inch per foot and shall meet the curb flush with the top thereof at all street intersections, if possible and practicable.

C. The minimum radius of curvature for all curb returns at street intersection shall be 10 feet.

D. The minimum curb dimensions are as follows:

Top of curb	six inches
Base of curb	eight inches
Height of curb	16 inches, plus
*Curb exposure, face	six inches
(See Figure 1 for standard curb section)	

*Adequate allowances must be made for the addition of up to two inches of either asphaltic concrete or concrete overlay upon the street if permanent paving has not yet been installed.

E. For a curb and gutter section, the portion of curb above the street surface is to be the same as for a curb as above stated. The gutter slab is to be 24 inches in width, measured from the back of the curb to the face of the slab. The gutter slab shall be six inches minimum in thickness and at all times not less than the thickness of the pavement, should the pavement thickness exceed six inches.

F. Approximately a two inch radius should be used between the slab section of the gutter and the curb section to provide for ease in cleaning. (See Figure 2 for standard curb and gutter section).

G. The gutter slab shall fall towards the curb with a slope of one inch in 12 inches.

H. The figures 1 and 2 above referred to are reproduced and attached to this ordinance as "Exhibit A", and hereby made a part of this ordinance as though set out in full and at length herein.

[Section 12 as amended by Ordinance No. 66-O-186]

Section 13. Miscellaneous data; finishing; expansion joints.

A. All sidewalks shall be divided into blocks not to exceed five feet by 10 feet in length; each joint shall be cut entirely through the walkway and all cuts shall be smoothly rounded and the surface of the slab shall be broom finished.

B. Expansion joints shall be placed along the sidewalk at intervals not to exceed 35 feet; the joints shall be made by means of a prepared bituminous felt material one-fourth inch thick, the top of the felt shall be flush with the surface and with the edges of the sidewalk.

C. Expansion joints shall be provided for at 15 foot intervals for curbs and curb and gutter sections; the expansion joint shall be made by means of a three-sixteenths of an inch premolded expansion material of paper (expansion) or bituminous felt material. Slip dowels in curbs or curb and gutter sections will be required upon requirements of the engineer in charge for the city.

D. Sidewalks shall receive a curing period of a minimum of 72 hours, during which time the concrete shall be protected against premature curing with burlap mats frequently sprinkled with water, sawdust frequently sprinkled with water, or by other methods approved by the engineer in charge for the city.

E. No sidewalks, curbs or curbs and gutters shall be constructed when the air temperature is below 35 degrees Fahrenheit.

F. All sidewalks, curb and curb and gutter work areas shall be adequately barricaded to prevent personal injury to persons or property.

G. The city reserves the right to take samples of any sidewalk, curb or curb and gutter for the purpose of examination and testing; the city may remove any section for the purposes above stated not to exceed one block removed for each 100 feet of walk or curb or curb and gutter. The contractor shall be responsible for the immediate replacement of such block or blocks removed within 48 hours. All removals by the city for testing and/or examination shall be made within three days after the completion of any part thereof.

[Section 13 as added by Ordinance No. 66-O-186]

Section 14. Reservation of the city's right to change specifications. The city reserves the right, by motion of the mayor and council, to revise, change, or require additions or alterations to any of the previously stated specifications, when in their judgment the health, safety, and welfare of the community warrant such actions. [Section 14 as added by Ordinance No. 66-O-186]

Section 15. New commercial building required sidewalks. When any new commercial buildings are erected or an existing commercial building is enlarged, remodeled, or altered at a cost of more than 50 percent of its fair market value at a location where there is a curb in the street facing the property on which the commercial building is erected or altered the sidewalk must also be installed across the property as a part of the construction, and the building permit shall be so conditioned. [Section 15 as added by Ordinance No. 66-O-186]

Section 16. Violations. The violation of any section of this ordinance shall constitute a separate offense and the violations of any section of this ordinance shall be cumulative. Each and every day whereon any of the sections of this ordinance shall be violated by any person shall constitute a separate offense. [Section 16 as added by Ordinance No. 66-O-186]

Section 17. Penalty. Any person found guilty of a violation of this ordinance shall, for each and every violation hereof, be punished by a fine of not more than \$100.00 or by imprisonment in the city jail for not more than seven days or by both such fine and imprisonment. [Section 17 as added by Ordinance No. 66-O-186]

Section 18. [Severability clause]

[Section 18 as added by Ordinance No. 66-O-186]

[EFFECTIVE MAY 24, 1955]