

## **TITLE 12**

### **Streets, Sidewalks and Public Places**

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## CHAPTER 12.04

### Sidewalk Construction

#### **12.04.010 Power of Board to order construction.**

Whenever the owners of one-half (½) of the frontage upon the sidewalk of any street, or any specified portion thereof, within the incorporated Town, shall petition the Board of Trustees for the construction of such sidewalks, or whenever a two-thirds majority of the members of the Board of Trustees decides that such improvements are necessary, it shall immediately order that such sidewalks be constructed. Power is conferred upon the Board of Trustees to cause the construction of sidewalks, according to the provisions of this Chapter, at any point in the incorporated Town, whenever a two-thirds majority of the Board of Trustees shall, by resolution duly passed and spread upon the minutes of any regular meeting of the Board, decide that the improvements are necessary. The resolutions should specify the time within which the same shall be constructed. The provisions of this Chapter shall be deemed and construed to be for the purpose of carrying into effect the police powers of the Town, as to the construction and repair of sidewalks, and shall not be construed as imposing a special tax under the taxing power. (Ord. 9 §1, 1906)

#### **12.04.020 Design and material specifications.**

(a) All sidewalks, except as otherwise provided in this Chapter, shall be four (4) feet in width and shall be constructed of either well-dressed and jointed sand stone, flagging, cement, asphaltum, vitrified tile or vitrified brick, and the same shall be laid with a firm and permanent foundation of suitable material, according to the specifications prepared by and under the direction and supervision of the Town Engineer.

(b) The inside line of sidewalks shall be located two (2) feet from the property line, and shall be laid strictly and accurately upon and in accordance with the grades and levels fixed by the Town.

(c) Sidewalks shall be repaired with the same kind of materials as that used in constructing the same. (Ord. 9 §2, 1906)

#### **12.04.030 Notice to construct or repair; service upon owner of parcel abutting sidewalk.**

Whenever the Board of Trustees orders the construction or repair of any sidewalk, the Street Commissioner shall forthwith serve a written or printed notice upon the owner or agent of each lot or parcel of land fronting upon the sidewalk, requiring him or her to construct or repair as much thereof as abuts the lot owned by him or her or for which he or she is agent, within fifteen (15) days from the date of service of such notice in case of the construction, and within five (5) days in case of a repair of the sidewalk, according to the plans and specifications provided by the Town Engineer and under the direction and to the satisfaction and approval of the Town Engineer. In case the owner of any such parcel of land or lot is a nonresident and has no agent in the Town upon whom the notice can be served, the Street Commissioner shall publish a notice of like tenor and effect for a period of two (2) weeks in the official newspaper of the Town. (Ord. 9 §3, 1906)

#### **12.04.040 Work by Street Commissioner; cost assessment and lien.**

(a) In case the owner or agent fails to construct or repair such sidewalk, within the time specified in such notice, the Street Commissioner may cause the same to be done under the direction of the Town Engineer and shall, upon the completion of such work, make out and deliver to the Clerk and Recorder of the Town a certificate showing the cost thereof, a description of the property in front of which the work

was performed, the name of the party or parties who performed the work or furnished the materials therefor, and the amounts owing to each.

(b) The Board of Trustees shall, at its next regular meeting, cause warrants to be drawn upon the Treasurer for such labor and materials and shall thereupon assess the cost of such construction or repair of such sidewalks against the land or parcel of land fronting upon such sidewalk, specifying the exact amount so assessed; and the expense of the construction or repair of such is assessed against the property and is made and declared to be a lien against the same until the same is paid. (Ord. 9 §4, 1906)

**12.04.050 Assessments; hearing.**

Upon the filing with the Clerk and Recorder of any such certificate, and the assessment by the Board of Trustees as provided in Section 12.04.040, the Board of Trustees shall designate and set a time and place when and where such land or lot owner may appear before the Board of Trustees and be heard as to the justness and correctness of the amount so certified and assessed against his or her lot, lots or parcels of land, and thereupon the Clerk and Recorder shall cause to be published in the official newspaper of the Town, or by posting notices in three (3) public places for a period of ten (10) days, a notice to such lot or land owner, setting forth the time and place so fixed when or where he or she may appear before the Board of Trustees. The Board of Trustees shall meet and hear and consider any and all complaints of any lot or land owner affected by such assessment and correct any and all errors and remedy any injustice so complained of in any such certificate and assessment. (Ord. 9 §5, 1906)

**12.04.060 Assessments; placement on tax list; lien.**

In case the owner of any lot, lots or parcel of land fails to pay any assessment to the Clerk and Recorder within fifteen (15) days after the meeting of the Board of Trustees mentioned in Section 12.04.050, the same shall be certified to the Clerk and Recorder of Otero County or to the officer then having custody of the tax list, to be by such officer placed on such tax list for the current year, to be collected in the same manner as other taxes are collected, with ten percent (10%) thereon to pay (defray) the cost of collection. Such assessment shall be and remain a lien upon such lot or parcel of land until paid by the owner thereof. (Ord. 9 §6, 1906)

**12.04.070 Appointment of Town Engineer; preparation of plans and specifications.**

Immediately after the passage of the ordinance codified in this Chapter, the Board of Trustees shall appoint a competent civil engineer to be Town Engineer for the Town, who shall receive such reasonable compensation as shall be decided by the Board of Trustees, not to exceed fifty dollars (\$50.00), for preparing the plans mentioned below in this Section, and not to exceed two dollars and fifty cents (\$2.50) to be paid by the property owner in case he or she constructs his or her own walk, and taxed against the property and owner thereof if constructed by the Town, for superintending the construction of each fifty (50) feet of walk laid under his or her direction and supervision, which Engineer shall prepare a set of plans and specifications for the construction and repair of all sidewalks, crosswalks and alley crossings in the Town, covering the various materials specified in this Chapter of which sidewalks may be constructed, which plans and specifications shall be kept on file in the office of the Clerk and Recorder of the Town, who shall permit a copy to be made thereof by contractors and others desiring the same. (Ord. 9 §7, 1906)

#### **12.04.080 Width of sidewalks abutting businesses.**

Whenever any store building, opera house, hotel or business house of any kind fronts on any street in the Town, the sidewalks abutting the property, instead of being four (4) feet in width, shall cover the whole of the street from the property line to the curbline; and there shall be constructed at the outside of the sidewalk a substantial stone curb, according to the plans and specifications prepared by the Town Engineer. Whenever in the Town any new building is constructed which, under the terms of this Section, requires a sidewalk extending from the property line to the curb, the old sidewalk shall be removed and a new one constructed, complying strictly with the plans and specifications and with this Chapter unless the sidewalk already constructed complies with this Chapter. All crosswalks and alley crossings shall be constructed by the Town, and it shall be the duty of the Board of Trustees to enforce this Section and the construction and repair of such sidewalks by any or all the means prescribed in this Chapter. (Ord. 9 §8, 1906)

#### **12.04.090 Sidewalk openings; construction of sidewalks by Board.**

(a) All openings in the sidewalks for the admission of fuel or light shall be securely covered with iron or iron and glass covers, the opening and covers to be constructed according to the plans and specifications prepared by the Town Engineer.

(b) The owner or occupant of any building used for business purposes in this Town may construct and maintain, so long as the building is used for such purposes, upon the sidewalk in front of the buildings or upon any public alley at the side thereof, an opening not projecting more than three and one-half (3½) feet from the outer edge of the building for the purpose of affording ingress and egress from the basement or cellar of such building for business purposes; provided that every such opening shall be covered with a substantial cover or grating of iron or, in case of a stairway, shall be maintained in the opening from the street or alley to the basement or cellar of the building, by a suitable and safe railing of iron, to be approved by the Town Engineer. In case any opening is constructed, maintained or permitted to exist in any sidewalk, except in strict compliance with this Section and Section 12.04.080, the owner or agent of the premises adjoining the same shall be liable to a fine not exceeding one hundred dollars (\$100.00) for the first offense and to a further fine of five dollars (\$5.00) for each day he or she neglects or refuses to properly enclose or protect the opening after the notice from the Town Engineer to do so. It shall be lawful for the Board of Trustees, should the Board deem it in the best interest of the Town, to enter into a contract with some person, association or corporation, to build all sidewalks to be constructed by the Town, the walks to be constructed according to the plans and specifications prepared by the Town Engineer; or all such walks may be constructed by the Street Commissioner as provided before in this Chapter, and in all cases it shall be the duty of the Street Commissioner to certify the cost thereof to the Board of Trustees as provided in Section 12.04.040. (Ord. 9 §9, 1906)