

Appendix K – Maintenance of ADA Facilities in Public Right of Way Policy

Maintenance

Sidewalks/Curb Ramps/Trails

Sidewalk, curb ramp, and trail maintenance within the City of Brainerd corporate limits is generally the responsibility of the adjacent landowner to maintain. A copy of the City's ordinances pertaining to sidewalk, trail, and curb ramp maintenance can be found after this section. Maintenance activities performed by adjacent landowners generally includes, but is not limited to snow removal, mowing adjacent to sidewalk/trail/boulevard, replacing cracked sections in which a lip of greater than ¼" is present, tapering lips less than ¼". The City is responsible for replacing non-compliant curb ramps within the public right of way. These are generally upgraded to current ADA standards when capital improvement projects are done on the adjacent street or streets.

The City of Brainerd also has permits in place that landowners must obtain through the City for replacement or retrofitting of existing sidewalks. The permits require that City staff review plans, perform a pre-construction inspection of the forms/grade, and a site inspection after work is completed to ensure the private contractor has performed and constructed the work within ADA guidelines. All contractors performing work within City right of way must be licensed and bonded through the City. This ensures compliance with current City Code and ADA standards.

City Ordinances Pertaining to Maintenance

805.11 Repair of Sidewalks and Alleys. Subdivision 1. Duty of Owner. The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the Council and on file in the office of the Clerk-Treasurer.

Subd. 2. Inspections; Notice. The City Engineer shall make such inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein ordering such owner to have the sidewalk or alley repaired and made safe within ten days and stating that if the owner fails

to do so, the City Engineer will do so on behalf of the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

825.03 Removal of Obstructions and Hazards. Subdivision 1. General Rule. The owner and the occupant of any property adjacent to a public sidewalk and multi-use trail constructed within a street Right-of-Way to function as a sidewalk shall use diligence to keep such sidewalk and trail safe for pedestrians in accordance with this Section.

Subd. 2. Nuisance on a Public Sidewalk. An accumulation of dirt, debris, rubbish, or snow and ice on a public sidewalk more than 48 hours after its deposit thereon shall constitute a public nuisance. The owner of any property abutting a public sidewalk or any responsible person designated by the owner shall clean or cause to be cleaned such sidewalk so that it will be free of dirt, debris, rubbish or snow and ice. Sand and/or a chemical de-icer shall be applied on said sidewalk when ice or snow cannot be readily removed, so that such walkway can be made reasonably safe for use.

Subd. 3. Nuisance on a Public Trail. The owner of property or any responsible person designated by the owner abutting a public multi-use trail where constructed within a street Rightof-Way to function as a sidewalk shall clean or cause to be cleaned such trail so that it will be free of dirt, debris, rubbish or snow and ice within the time frame as outlined in subdivision 2 of this Section. Snow and ice shall be cleared from the edge of the grass adjacent to the trail toward the street to a width of at least six (6) feet. Sand and/or a chemical de-icer shall be applied on said trail when ice or snow cannot be readily removed, so that such walkway can be made reasonably safe for use.

Subd. 4. Notice and Assessment. If such owner or owner's designee fails to comply with the requirement to clean dirt, debris, rubbish or snow and ice within 48 hours of the date of the notice after such notice is provided by personal delivery or First Class mail, the City shall issue an Administrative Citation which carries a fine and shall cause such sidewalk and/or multi-use trail to be cleaned and the expense thereof shall be billed to the property owner and shall constitute a lien upon such property. For snow and ice removal, the first such notice shall serve as the only notice to the property owner for the winter season. Repeat offenses caused by the failure to abate the nuisance will automatically be abated without further notice to the property owner and subject to subsequent Administrative Citation issuance, with said abatement charges billed to the property owner.

Subd. 5. Collection of Charges. On or before September 1 of each year, the City Administrator or designee shall list the total unpaid charges for services performed against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the

charges against property benefited as a special assessment pursuant to the provisions under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection along with current property taxes the following year.