

TEMPORARY ORDINANCE NO. 18-14*

PERMANENT ORDINANCE NO. 4-16

AN ORDINANCE TO AMEND LANCASTER CODIFIED ORDINANCE PART NINE – STREETS, UTILITIES AND PUBLIC SERVICES CODE, TITLE ONE – STREETS AND SIDEWALKS, CHAPTER 903 OF THE CODIFIED ORDINANCES OF THE CITY OF LANCASTER, TO REPEAL EXISTING PART NINE – STREETS, UTILITIES AND PUBLIC SERVICES CODE, TITLE ONE – STREETS AND SIDEWALKS, CHAPTER 903, AND TO DECLARE AN EMERGENCY

WHEREAS, the (ADA) Americans with Disabilities Act of 1990 has established guidelines for sidewalks, that such guidelines have been upheld in the courts, and that cities have been held liable for the enforcement of such codes; and

WHEREAS, ADA regulations require city ADA Transition Plans to include a schedule for the installation of curb ramps at intersections and a January 2004 court decision held that this requirement would be “meaningless if the sidewalks between curb ramps were inaccessible”; and

WHEREAS, the court’s decision reinforces that public entities are required to invest in or enforce codes on the repair of public sidewalks and maintain them free of barriers, physical defects and other conditions that may deny pedestrians with disabilities access to sidewalks.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO:

SECTION 1. That Chapter 903 be amended pursuant to Exhibit A, attached hereto.

SECTION 2. That existing Chapter 903 is repealed in its entirety.

SECTION 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective in order to properly regulate the sidewalks in ADA compliance, wherefore this Ordinance shall be in full force and effect immediately upon its passage and approval by the

Passed: 2/22/16 after 4th reading. Vote: Yeas 5 Nays 4

Approved: 3/3/16

Clerk: Jessica Lee Sandy

MA B. Hodge
President of Council

[Signature]
Mayor

Offered by: [Signature]

Second by: [Signature]

Requested by Code Enforcement & Zoning Committee

CHAPTER 903
~~Streets and Sidewalks~~

- 903.01 ~~Responsibility of property owner. Duty to keep sidewalks in repair, free from nuisance.~~
903.02 Encumbering streets or sidewalks.
903.03 Sidewalks to be cleaned of ice and snow.
903.04 Riding on sidewalks.
903.05 Sidewalks construction specifications.
903.06 ~~Duty to keep sidewalk in repair. Sidewalk Maintenance Requirements.~~
903.07 ~~Notice of Violation. Enforcement.~~
903.08 ~~Right to appeal. Appeal of Notice of Violation.~~
903.09 ~~Enforcement. Enforcement Measurers After Appeal.~~
903.10 ~~Remedies not exclusive. Cost of Abatement of the Violation.~~
~~903.11 Remedies Not Exclusive.~~
903.99 Criminal Ppenalty.

CROSS REFERENCES

Construction or repair at owner's expense - see Ohio R. C. 729.01 et seq.

Notice to construct or repair - see Ohio R. C. 729.03 et seq.

~~Sidewalk obstructions - see GEN. OFF. 553.03~~

~~Excavation permit - see S.U. & P. S. Ch. 901~~

~~Portland cement required at driveways - see S.U. & P. S. 905.03~~

~~903.01 SIDEWALKS RESPONSIBILITY OF THE PROPERTY OWNER. DUTY TO KEEP SIDEWALKS IN REPAIR, FREE FROM NUISANCE.~~

~~(a) The owner of any lot or land abutting upon any street shall be responsible for the maintenance, repair, and if necessary replacement of the sidewalk in front of such lot or land; provided, however, that such owner shall not be responsible for the maintenance, repair or replacement of any existing curb ramp or curb ramp structure required for crossing streets and alleys, including the inclined ramp, detectable warnings, landing area and transition section of sidewalk.~~

~~(b) The maintenance, repair or replacement of sidewalk in the public right of way shall require a permit in accordance with Chapter 901.~~

~~No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair and free from nuisance and obstruction, the sidewalk in front of such lot or land.~~

~~(Ord. 9-13. Passed 4-8-13)~~

903.02 ENCUMBERING STREETS OR SIDEWALKS.

~~(a) No person shall encumber any street or sidewalk, nor shall the owner, occupant or person having care or control of any building or lot of land bordering on any street or sidewalk permit the same to be encumbered, either temporarily or permanently so as to cause an obstruction of the travel path measured thirty-six inches (36") wide by eighty inches (80") high.~~

~~(b) Any person or entity wishing to use or occupy any portion of the sidewalk within the public right of way for the placement of amenities, including but not limited to artwork, seating or dining, removable railings, flower boxes, movable planters, benches, temporary signage or other barricades must comply with the requirements of Chapter 901.~~

~~_____ No person shall encumber any street or sidewalk or being the owner, occupant or person having care of any building or lot of land bordering on any street or sidewalk, permit the same to be encumbered with barrels, boxes, cans, articles or substances of any kind, and recreational equipment so as to interfere with the free and unobstructed use thereof. (Ord. 9-13, Passed 4-8-13.)~~

903.03 SIDEWALKS TO BE CLEANED OF ICE AND SNOW.

It shall be the duty of the owner of each and every parcel of real estate in the City abutting upon any sidewalk to keep such sidewalk abutting his or her premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve hours, after the abatement of any storm from which such snow and ice may have accumulated.

(Ord. 9-13, Passed 4-8-13.)

903.04 RIDING ON SIDEWALKS.

(a) No person shall ride a bicycle or skateboard upon a sidewalk within a Commerical District. ~~business district.~~

(b) Whenever a person is riding a bicycle or skateboard upon the sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before attempting to overtake and pass anysuch pedestrians.

~~_____ (c) _____ Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.~~

~~(Ord. 9-13, Passed 4-8-13.)~~

~~(Ord. Passed)~~

903.05 SIDEWALKS CONSTRUCTION SPECIFICATIONS.

All public and private sidewalks, curbing and handicap ramps shall be designed and constructed in conformance with the standards adopted by the City Engineer, and shall furthermore be in conformance with the guidelines set forth in the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

~~Any person constructing concrete walks upon any street or other public way in the City shall provide expansion and contraction joints as follows:~~

~~_____ (a) _____ All walks shall be cut into blocks not more than seven feet in either direction.~~

~~_____ (b) _____ Built up bituminous expansion joint material three-fourths of an inch thick and the depth of the concrete shall be placed as follows:~~

~~_____ (1) _____ At all lot lines where same are at intervals of fifty feet or less. Where more than fifty-foot intervals exist between lot lines, joints shall be placed every fifty feet of length.~~

~~_____ (2) _____ Around sections of walk which are in both of two intersecting walks.~~

~~_____ (c) _____ Built up bituminous expansion joint material three-fourths of an inch thick and the depth of the concrete shall be placed between the end of the walk and the back of the curb.~~

~~_____ All work shall be in accordance with the drawings on file in the office of the City Engineer. (Ord. 9-13, Passed 4-8-13.)~~

903.06 DUTY TO KEEP SIDEWALKS IN REPAIR, SIDEWALK MAINTENANCE

(a) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair the sidewalk in front of such land or lot. The following criteria shall be used to determine whether a sidewalk is in a state of repair:

(1) Adjoining sections or parts thereof whose edges differ vertically by more than one-half inch (1/2");

(2) Adjoining sections with open joints greater than five-eighths of an inch (5/8") in width;

 (3) Sections that are cracked so that pieces are missing or loose;

 (4) Sections sloping away from the street unless so constructed by design;

 (5) Sections with cross slopes exceeding three-fourths of an inch (3/4") vertical per one foot (1') horizontal;

 (6) Sections that cause an abrupt change in the longitudinal grade of the sidewalk;

 (7) Sections with deteriorating surfaces presenting loose aggregate;

 (8) Sections containing structures such as cellar doors, grates, water boxes, meter pits or hatches, which protrude above the sidewalk more than one-half inch (1/2") so that they present a tripping hazard; and

 (9) Sidewalks constructed without the approval of the City.

(b) All bushes, hedges and trees located on private property shall be kept trimmed by the owner or occupant of that property so as to prevent interference with the normal use of the sidewalks abutting that property.

(c) Structures including but not limited to retaining walls, fences, light fixtures, or planters shall be kept in repair by the owner or occupant of that property, so as to prevent injury and allow for the normal and obstructed use of the sidewalks abutting the property.

~~a) It shall be the duty of the owner of any parcel of land in the city abutting on a public street where a sidewalk has been constructed to maintain such sidewalk in good repair, free and clear of any obstructions (both vertical and horizontal passage space to accommodate 36" by 80" as specified in ADA)~~

~~b) Trees, bushes and hedges located on private property shall be kept trimmed by the property owner or occupant so that they do not interfere with the use of the sidewalks. Retaining walls, ditches, and fences shall be kept in repair and adequately safeguarded to prevent injury to users of the sidewalk.~~

~~c) Any owner, occupant or other person who shall take up, or cause to be taken up, the whole or part of any sidewalk, the property owner shall be responsible to repair or replace in a proper manner within 30 days after taking such sidewalk up, upon request, by written permit, time for such replacement may be extended for up to an additional 30 days.~~

~~d) The Service/Safety Director or his designee shall issue repair notices to owners or occupants of any property whose sidewalks shall require such repair or replacement to be accomplished within 60 days from the date of such notice, extension may be granted if the property owner has contracted with an approved licensed contractor and work will be completed within a reasonable timeframe, or based on weather (time of year).~~

~~e) The Service/Safety Director or his designee shall cause the repair (authorize a city approved contractor) to replace or repair all sidewalks of properties found to be in violation of the provisions of subsection (d) hereof and shall present to the owners of such properties for payment such administrative, construction and other charges as may be incurred in making such repairs.~~

~~f) If any such invoice delivered to the owners of such properties as set forth in subsection (3) hereof is not paid within 30 days of receipt, and if such owner has not contacted the Service/Safety Director or his designee to discuss and agree upon optional methods of payment within the original 30 day period, then the cost of such repair or replacement shall be charged against the real estate upon which the sidewalk is located and shall be in lien upon such real estate.~~

~~g) It shall be the duty of the City of Lancaster to keep all curb ramps, curb ramp structures in good repair.~~

(Ord. Passed)

903.07 DEFINITIONS NOTICE OF VIOLATION.

The Service-Safety Director or his authorized designee, upon finding that a person has violated any section of this Chapter, may order compliance by written notice of violation as set forth in Section 1303.12.

Any notice issued under this section shall allow the property owner a reasonable period of time, and in any event not less than 30 days, in which to abate the violation.

~~a) Obstructions in the pedestrian environment are defined as objects that limit the vertical and horizontal passage space, protrude into the circulation route, or reduce the clearance width of the sidewalk. ADAAG 4.3.3 states that a minimum clear width of 36" be preserved in the sidewalk area.~~

~~b) Obstructions come in a variety of forms, ranging from movable obstructions such as a car parked across a sidewalk, trailers, garbage cans, or an overgrown flowerbed to more durable obstructions like utility poles, or sidewalks that are too narrow to accommodate the 36" by 80" path of travel.~~

~~e) Obstructions with large overhangs that protrude into the path of travel can be hazardous for people with visual impairments if they are difficult to detect. Obstructions that reduce the minimum clearance width, such as mailboxes on a narrow sidewalk, can create significant barriers for wheelchair or walker users.~~

~~d) Vegetation is a subcategory of movable obstruction. When bushes or tree branches force pedestrians to turn back or move into the path of automobile traffic, they present serious obstacles to accessibility. Code requires property owners to trim back vegetation on their property so that it does not "obstruct or impair the free and full use of the sidewalk or street"~~

~~e) Changes in level are defined as vertical height transitions between adjacent surfaces or along the surface of a path. In the sidewalk environment, curbs with cracks, and dislocations in the surface material are examples of changes in level. The texture and continuity of sidewalk surfaces has a significant impact on sidewalk accessibility. People who use wheelchairs, crutches, canes, or walkers are particularly sensitive to tripping hazards. People with mobility impairments need to stable and regular surface for unimpeded access to sidewalks. (Reference ADA guidelines in relation to slope and level).~~

(Ord. Passed)

903.08 RIGHT TO APPEAL ENFORCEMENT

Any person effected by a decision of the Service-Safety Director or his authorized designee with respect to this Chapter shall have the right to appeal to the Structural Board of Appeals as set forth in Section 1303.06. Any appeal must be made, in writing, within 20 days following service of the decision, notice or order upon which the appeal is being made.

~~a) Notice of Violation. Whenever the Service Safety Director or his authorized designee finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the Service Safety Director or his authorized designee may order compliance by written notice of violation to the responsible person. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be assessed to the property taxes.~~

(Ord. Passed)

903.09 ENFORCEMENT, APPEAL OF NOTICE OF VIOLATION

(a) Upon the failure or refusal of a property owner to remedy or abate any violation within the time period set forth in the notice of violation or, in the case of an appeal, within 30 days of the decision of the Board upholding the decision of the Service-Safety Director or his authorized designee, the Service-Safety Director or his authorized designee may institute appropriate proceedings in law or equity to restrain, correct or abate the violation, and may assess the costs of those proceedings to the property owner, including any administrative processing fees.

(b) Whenever charges for correction or abatement remain unpaid for 60 days after a statement of costs has been mailed to the property owner, Council may by resolution certify the charges to the County Auditor to be placed on the tax duplicate, to be collected in the same manner as other taxes and returned to

the City. Such charges for correction or abatement expenses shall be a lien on the property from the date of entry upon the tax duplicate.

~~(a) Right to Appeal. Any person affected by a decision of the Service Safety Director or his authorized designee or a notice or order issued under this Chapter shall have the right to appeal to the Structural Board of Appeals provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.~~

~~(b) Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not apply, or the requirements of this code are adequately satisfied by other means.~~

~~(Ord. Passed)~~

903.10 REMEDIES NOT EXCLUSIVE. ENFORCEMENT MEASURES AFTER APPEAL

~~The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Service-Safety Director or his authorized designee to seek cumulative remedies.~~

~~(Ord. Passed)~~

~~If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Board upholding the decision of the Service Safety Director or his authorized designee, then the Service Safety Director or his authorized designee shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.~~

~~903.11 COST OF ABATEMENT OF THE VIOLATION Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal of the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the Service Safety Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.~~

~~Any person violating any of the provision of this article shall become liable to the city by reason of such violation.~~

903.12 REMEDIES NOT EXCLUSIVE

~~The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Service Safety Director or his authorized designee to seek cumulative remedies.~~

903.99 CRIMINAL PENALTY.

~~(a) _____ Whoever violates any provision of this eChapter is guilty of a misdemeanor of the third degree. minor misdemeanor. Every day the violation continues constitutes a new offense. A subsequent offense shall be a misdemeanor of the fourth degree.~~

~~(Ord. 9-13, Passed 4-8-13.)~~