

Subpart A - GENERAL ORDINANCES  
Chapter 58 - SPECIAL ASSESSMENTS

ARTICLE III. REPAIR OR CONSTRUCTION OF STREETS AND SIDEWALKS

**ARTICLE III. REPAIR OR CONSTRUCTION OF STREETS AND SIDEWALKS**

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**Sec. 58-80. Duty of abutting property owners to repair.**

Sidewalks in the city that are broken, cracked or otherwise in such condition as not to present a smooth, continuous surface, are a nuisance. It shall be the duty of the owner of property abutting defective sidewalks to remedy such defective condition.

(Code 1958, § 28-12; Code 1991, § 22-46; Ord. No. 2007-25, § 2, 8-28-2007)

**Sec. 58-81. Failure of property owners to repair; lien on property.**

Upon the failure of the owner of the premises abutting upon defective sidewalks to remedy the conditions existing in violation of the requirements of this article within 30 days after service of notice so to do as provided herein, the city manager shall proceed as prescribed in section 58-82 to have such condition remedied, and the cost thereof shall be a lien against the abutting property to the same extent and character as are the liens for special assessments or improvements and with the same penalties and with the same rights of collection, foreclosure, sale and forfeiture as obtained in the case of liens for special improvements.

(Code 1958, § 28-13; Code 1991, § 22-47)

**Sec. 58-82. Procedure of enforcement; resolution; form of notice.**

- (a) The city manager shall institute the procedure for the enforcement of the requirements of this article, and the removal and remedying of conditions violative of the provisions hereof.
- (b) When it is found and determined that certain sidewalks are in such condition as to be in violation of the provisions of this article, the city manager shall serve notice to the owner or owner of lots, parcels or tracts of land whose abutting sidewalks are in defective condition. Such notice shall set

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forth a brief legal description of such lots, parcels or tracts of land abutting upon the defective sidewalk and the estimated cost of remedying the defective condition. The city manager shall notify the owners thereof to comply with the requirements of this article within 30 days after the service of such notice, and for such owners to proceed to have the condition of such sidewalk remedied, and, should such condition not be remedied within 30 days, the city manager is authorized to proceed to remedy such condition. The notice shall be given by registered mail addressed to the owners of the property described, as their names and addresses are shown upon the records of the county property appraiser and shall be deemed complete and sufficient when so addressed and deposited in the United States mail with proper postage prepaid. Such notice shall be in substantially the following form:

"Name of owner \_\_\_\_\_

Address of owner \_\_\_\_\_

Brief description of property \_\_\_\_\_

An inspection of the sidewalk abutting this property discloses, and the city has found and determined, that it is in such condition as to be in violation of this article because such sidewalk is broken, cracked and otherwise so defective as not to present a smooth, continuous surface, and the existence of this condition constitutes a nuisance which must be abated.

The chapter provides that it shall be unlawful for you to permit this condition to continue, and you are hereby notified that unless the condition is remedied so as to make it nonviolating of this article within 30 days from the date of service of this notice, the City of Coral Gables will proceed to remedy the defective condition, and the cost of such work will be imposed as a lien against this property. Our estimate of the probable cost is \_\_\_\_\_.

(Code 1958, § 28-14; Code 1991, § 22-48)

**Sec. 58-83. Method of repair by city.**

Upon the failure of the owners of such lots, parcels or tracts of land to remedy the condition of such sidewalks found to be violating this article, within the 30 days, then the city manager is hereby directed to have the condition remedied either by contract or direct labor or by a combination of both; provided, however, that the cost thereof chargeable to the owner does not exceed the amount of the cost estimated for the work in the initial resolution.

(Code 1958, § 28-15; Code 1991, § 22-49)

**Sec. 58-84. Sidewalk lien book.**

When the city manager determines that the sidewalk or sidewalks abutting certain described lots, tracts or parcels of land are in such condition as to be in violation of the requirements of this chapter, and upon serving the notice to respective owners, the finance director shall enter into a book, designated as "sidewalk lien book," which shall be kept for that purpose and which shall be kept open for inspection in his office, the legal description of the lots or parcels of land involved, the name of the owners thereof as shown on the records of the tax assessor of the city, the number and date of the initial resolution and the estimated cost of remedying the condition as described therein. Thereafter, as the procedure required hereby is accomplished, there shall be entered into such book the date of the completion of the work, the date of the publication, the final cost of the work, the payment or other disposition of the lien for such work and such other information as is pertinent; it may, if that be so, be noted that the owner of such premises has complied with the terms and conditions on his own behalf.

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(Code 1958, § 28-16; Code 1991, § 22-50)

**Sec. 58-85. Statement of costs, publication.**

As soon as practicable after completion of work performed under this article, if done by the city, the city manager shall file or cause to be filed with the city clerk a statement of costs and completion of the work, which shall certify the completion of work by the city, the date of completion and the costs thereof. The city clerk shall thereafter cause to be published in a newspaper of general circulation in the county or the city, a notice giving a description of the property, the cost of the work, the date of its completion and a statement that the costs thereof are a lien against the property. Such publication may include one or more parcels and one or more sidewalks abutting the same.

(Code 1958, § 28-17; Code 1991, § 22-51)

**Sec. 58-86. Dispute of lien by interested parties, procedure.**

The cost of repairing the defective sidewalk condition shall be and become a lien against the abutting property to the same extent and character as is the lien for special assessments or special improvements, as of the date of completion of work by the city; provided, that any person owning all or any interest in such property shall have the right at any time within 30 days after the publication of notice of completion of the work as set forth in the preceding section, to present to the city clerk a sworn petition setting forth his interest in the property and alleging that, in the opinion of the petitioner, the cost of the work as entered in the sidewalk lien book exceeds the actual cost thereof or is otherwise erroneous. Such petition shall thereupon be presented to the commission for its consideration at its next regular meeting, at which time and place the commission shall consider the same and make due inquiry into the questions involved. If it shall appear to the satisfaction of the commission that the cost as entered is erroneous or unfair, the commission by resolution shall so declare and shall have the entry thereof in the sidewalk lien book corrected, and shall fix and confirm the amount to be charged against such lot, parcel or tract of land as it shall find just and proper. The amount so fixed shall stand as the amount of the lien, effective as of the date of completion of the work aforesaid, or the commission may confirm the lien in the amount as originally entered in the sidewalk lien book.

(Code 1958, § 28-18; Code 1991, § 22-52)

**Sec. 58-87. Lien due and payable; delinquencies, interest rate, public sale.**

The lien for the cost of repairing sidewalks found to be violating this article shall become due and payable 30 days after publication of the notice of completion of such work, excepting only those cases in which a petition is filed as set forth in section 58-86 where, upon consideration thereof, the commission has changed and corrected the amount of the lien as entered in the sidewalk lien book; in such case the lien shall become due and payable after the final commission action. After the respective dates above fixed, all unpaid liens shall become delinquent, and shall thereafter bear interest at the rate of six percent per annum until sold at the next annual tax sale of the city; and at that time and thereafter such lien shall be subject to the same charges and penalties as provided by law in the case of general city taxes. All delinquent tax liens shall be offered for sale at the annual tax sale of the city, next following the date of their becoming delinquent.

(Code 1958, § 28-19; Code 1991, § 22-53)

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**Sec. 58-88. Installment payments; written assent to waiver of contest; interest.**

The lien for the cost of repairing any sidewalks under the provisions hereof, if the same is in excess of \$200.00 may be paid in seven equal installments due, respectively, on November 1 following the due date prescribed above, and on November 1 of the six following years, provided that the owner or owners of such lot, parcel or tract of land abutting such sidewalk shall file with the city manager on or before the due date, a written undertaking assenting to the correctness of the lien, and waiving right of contest thereof. Such deferred installments shall bear interest at the rate of six percent per annum from and after the due date of the lien, but any such lien or installment thereof may be paid at any time when accompanied by the payment of the interest due upon the entire unpaid balance of the lien to date of payment. Failure to pay any such installment when the same shall become due, shall, without notice or other proceeding, cause the entire balance of the lien to become due and payable forthwith; provided further, that if before the lien is sold at an annual tax sale, the amount of delinquency and all interest upon the entire unpaid balance is paid, then the further installment or installments shall again be due and payable at the time set forth in such written undertaking.

(Code 1958, § 28-20; Code 1991, § 22-54)

**Sec. 58-89. Work required in new building construction and/or alterations exceeding \$15,000.00 in value or exceeding 600 square feet in floor area.**

- (a) Sidewalks, curbs and/or gutters, shall be constructed, reconstructed or repaired when any property located within the corporate limits improved, altered or modified by the construction, reconstruction, renovation, remodeling or repair of any type of building, structure, or parking facility exceeding \$15,000.00 in value, or when such building to be constructed, reconstructed, renovated, remodeled or repaired exceeds 600 square feet in floor area, for which a building permit is required.
- (b) The public works director shall notify the applicant/qualifier for the building permit by noting on the approved plans that all sidewalks, curbs, and/or gutters adjacent to the lot or parcel to be improved, altered or modified, shall be constructed, reconstructed or repaired. Sidewalks, curbs and gutters shall be constructed in accordance to public works department standards. In the event that the surface of any sidewalk, curb and/or gutter is uneven, cracked, broken or marred, these portions of the sidewalk, curb and/or gutter shall be replaced by the applicant/qualifier.
- (c) The public works director is hereby directed to withhold or withdraw the certificate of occupancy or use until such sidewalk, curb and/or gutter are properly constructed, reconstructed or repaired as provided in subsections (a) and (b) of this section.
- (d) The public works director is hereby authorized to approve deferment of construction and allow variations and deviations from the above requirements of constructing, reconstructing or repairing the sidewalks, curbs and/or gutters, as he determines necessary, based on the conditions of the terrain and the existing sidewalk, curb and/or gutter, immediately adjacent to the property involved; provided that the property owner furnished the city with a properly executed covenant to run with the land in which the property owner agrees to construct or pay the cost of constructing the sidewalk, curb and/or gutter construction when such construction is required by the department of public works.
- (e) If the property owner fails to construct, reconstruct or repair the sidewalks, curbs and/or gutters as required by the public works department, the director of public works shall notify the applicant in writing that the applicant has 30 days in which to construct the sidewalks, curbs and/or gutters. If the sidewalk, curb and/or gutter are not constructed within the 30-day period, the public works director is authorized to cause the construction of the sidewalk, curb and/or gutter by either city personnel or by award of a contract under the provisions of this Code. An accounting of the total cost of sidewalks, curbs and/or gutters, certified by the director of public works, shall be recorded in the public records

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and thereafter shall constitute a lien against the property involved. The total cost shall include the construction cost, a ten percent fee for engineering services for the public works department, and any incidental expenses.

(Code 1958, § 28-25.1; Code 1991, § 22-55)

**Sec. 58-90. Private right of action.**

Any person, including the city, that is injured, aggrieved or against whom a civil action for damage, injunction or other relief is brought, to recover for injuries or damages arising out of a violation of this chapter, or to correct a condition in violation of this chapter, may bring a civil action in any court of competent jurisdiction against the adjacent or abutting property owner, occupant or agent of such property, or third party, who contributed to the violation of this chapter, for damages according to the percentage that the property owner, occupant, agent or third party's violation, negligence or wrongful acts or omissions contributed to any alleged injuries or damages. The city may assert as a defense to any action that a violation of this chapter caused or allowed to be caused by an adjacent or abutting property owner, occupant or agent of such property, or third party reduces the city's liability in whole or in part by such property owner, occupant or agent of such property, or third party's violation, negligence or wrongful acts or omissions.

(Ord. No. 2007-25, § 2, 8-28-2007)