

**CITY OF UNION, KENTUCKY  
ORDINANCE NO. 2021-12**

**AN ORDINANCE OF THE CITY OF UNION, KENTUCKY, IN BOONE COUNTY,  
KENTUCKY CREATING CHAPTER 91A OF THE UNION, KENTUCKY CODE OF  
ORDINANCES UPDATING THE CITY OF UNION SIDEWALK MAINTENANCE POLICY  
AND PENALTIES FOR THE VIOLATION THEREOF AND REPEALING SECTION 91.06  
AND 91.07 OF UNION, KENTUCKY CODE OF ORDINANCES**

*WHEREAS*, the Union City Commission has the power and responsibility to maintain the sidewalks in the City and enact ordinances to provide for the safe and efficient passage on the sidewalks as well as to provide for the safe and efficient passage of pedestrians pursuant to K.R.S. 82.082; and

*WHEREAS*, the City of Union Sidewalk Policy is currently set forth in Chapter 91 Sections 91.06 and 91.07; and

*WHEREAS*, it is necessary to modernize the City Sidewalk Policy; and

*WHEREAS*, the provisions of the Ordinance shall be set forth and incorporated into the Union, Kentucky Code of Ordinances as Section 91A.

***NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF UNION, KENTUCKY AS FOLLOWS:***

The Union City Commission adopts a new chapter of the City of Union, Kentucky Code of Ordinances, to read as follows:

**§ 91A.01 REPEAL** – Sections 91.06 and 91.07 as set forth in Union, Kentucky Code of Ordinances are hereby repealed in their entirety.

**§ 91A.02 DEFINITIONS**

For the purpose of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY AUTHORITY.** Any government authority that is in charge of any department or branch of the government of the city relating to safety, health, building regulations or construction of concrete or asphalt surfaces in the city.

**CITY OFFICER.** The officer or officers who are authorized by ordinances and resolutions adopted by the City Commission to exercise the powers prescribed herein.

**GOVERNING BODY.** The City of Union Commission

**OWNER.** The holder of title in fee simple of the land over which the sidewalk is constructed and every mortgagee of record unless the sidewalk is located within the city and/or county right-of-way in which case **OWNER** means the holder of title in fee simple and every mortgagee of record of the land adjoining the right-of-way.

**PARTIES IN INTEREST.** All individuals, associations, corporations, or other entities who have an

interest of record in the land over which the sidewalk is constructed unless the sidewalk is located within the city right-of-way in which case ***PARTIES OF INTEREST*** means the individuals associations, corporations or other entities who have an interest of record in the land adjoining the right-of-way.

***SIDEWALK.*** Any permanent walkway or footpath constructed of a hard surface such as concrete or asphalt and located near or on the edge of a lot or in any location that the walkway appears to be for the convenience of the general public.

#### **POWER OF CITY TO REPAIR UNFIT SIDEWALKS.**

Whenever the City Commission of the city finds that there exists in the city sidewalks that are unsafe or hazardous due to deterioration, damage and/or disrepair that endanger the inhabitants of the city, the city may repair the sidewalks in the manner provided herein.

#### **RESOLUTIONS RELATING TO UNFIT SIDEWALKS.**

Upon finding that conditions of the character described hereinunder exist within the city. The City Administrative Officer shall file a complaint with the Union/Walton Code Enforcement Board. The Board shall hold a due process hearing and shall determine whether there is a violation/hazard and order remediation and/or fines in accordance with the terms of this Chapter.

#### **§ 91A.03 SIDEWALK CONSTRUCTION.**

It shall be the duty of the City Engineer to supervise construction or repair of sidewalks within the City. He shall cause specifications to be prepared for the construction of the various kinds of pavements and transmit the specifications to the City Commission for approval. When the specifications are approved, the City Commission shall advertise for proposal to do all the work which may be ordered by the city in construction and repair of sidewalks and shall contract therefor for a period not exceeding a year, with the best and lowest responsible bidder, who shall furnish good and sufficient sureties for the faithful performance of the work. The City Commission may make separate contracts for the different kinds of work with different parties.

#### **§ 91A.04 SIDEWALK REPAIR POLICY.**

(A) The repair or replacement of sidewalks is the responsibility of the adjacent property owner, but such repair or reconstruction has been done in accordance to city and/or Boone County specifications.

(B) This policy shall apply only to sidewalks within the boundaries of city rights-of-way, and the repair or replacement of all sidewalks on private property is the responsibility of the real property owner.

#### **§ 91A.05 STREETS AND SIDEWALKS – STATUTORY JURISDICTION**

KRS Chapter 100.277 (4) mandates cities to automatically accept "Any street"; but public sidewalks are not defined. While the space between the street curb and property owner's front property line is a public right-of-way, the city is not responsible to maintain grassed areas, driveways and aprons, sidewalks, trees or other utilities.

## **§ 91A.06 REPAIR OF UNSAFE SIDEWALKS**

### **EASEMENTS GRANTED FOR INSTALLATION AND MAINTENANCE OF SIDEWALKS.**

By installing a sidewalk in the city right-of-way the installer and all subsequent owners of the adjacent real property are deemed to have been granted an easement for purposes of installing and maintaining sidewalks as well as maintenance and repair of the sidewalk.

### **§ 91A.07 ANNUAL INSPECTION PROGRAM – SIDEWALK CONDITIONS**

As a part of the city's Annual Street Repairs Program, the city shall observe; and, in general, due to large number of sidewalks within the City boundaries document the location and conditions of sidewalks, having defects which infringe upon pedestrian safety as follows:

**Hazardous Sidewalks:** A concrete sidewalk or sections of sidewalk, having been originally constructed in accordance with the city's minimum standards of construction within the limits of a public right-of-way, shall be deemed to be unsafe when the surface of the sidewalk has deteriorated significantly due to excessive cracking and separations, and more specifically, a vertical settlement, deviation or deflection of at least one (1)-inch measured at a separation or at a construction joint.

**Non-Hazardous Sidewalks:** A concrete sidewalk or section of sidewalk which does not fully fall under the definition of a Hazardous Sidewalk, but is aesthetically unacceptable and has serious defects, which warrant improved pedestrian safety, repairs or replacements.

Any defects or conditions of Hazardous or Non-Hazardous Sidewalks shall not include any incidental, minimal and/or generally normal cracking over the life cycle of a sidewalk and/or occasional seasonal conditions including slippages caused by snow, ice and/or upheaving during freezing weather.

### **§ 91A.08 SIDEWALK CONDITIONS AND REPAIRS – RESPONSIBILITIES**

Following citizen complaints, observations and/or the annual inspection program, the city shall identify and list the following responsibilities:

1. Along KYTC Highways including US 42 and/or SR 536. The KYTC owns and maintains the state roadway infrastructure from back-of-curb to back-of-curb. However, the KYTC has deferred responsibility to 'regularly' maintain sidewalks or pedestrian ways to cities within the Commonwealth's Public Rights-of-Way. As such, it shall be the City's Responsibility to work directly with the KYTC regarding damaged and/or deteriorated sidewalks or pedestrian ways within the Commonwealth's Public Rights-of-Way. When such Hazardous or Non-Hazardous sidewalks or pedestrian ways including ADA Handicapped Curb Ramps, or in the absence thereof, have been deemed to be unsafe for pedestrians, the city shall cooperate with KYTC in order to adequately protect pedestrians using such public way within the corporate limits of the city.
2. Along Streets within Condominium Owner Associations (COAs). Sidewalks within COAs are outside of public rights-of-way and within the Associations' declared "Common Areas". Thus, COAs are solely responsible for maintaining sidewalks within COAs. When Hazardous or Non-Hazardous Sidewalks are observed and/or inspected, the city shall contact the COAs regarding the need for repairs.
3. Along Streets within Home Owners Associations (HOAs). Sidewalks within HOAs are

within public rights-of-way and border the Associations' declared "Common Areas". Thus, the HOAs are responsible for maintaining sidewalks within HOAs. When Hazardous or Non-Hazardous Sidewalks are observed or inspected, the city shall contact the HOAs and/or homeowners regarding the need for repairs.

4. Along Streets within a City public rights-of-way. Hazardous or Non-Hazardous Sidewalks (See §91A.07). The Property Owners fronting such sidewalks are responsible for repair or replacement of such sidewalks.

#### **§ 91A.09 POWER OF CITY TO HAVE PROPERTY OWNERS REPAIR SIDEWALKS**

1. When the city official finds sidewalks to be unsafe or defective, the city may proceed to have the abutting property owners repair or replace the sidewalks;
2. In the event the repairs and/or replacement had not been completed upon Notice to the property owner the City may refer the matter to the Union/Walton Code Enforcement Board.
3. In the event three (3) or more residents file a petition with the City Administrative Officer alleging a sidewalk is defective or unsafe. Upon city inspection determining a defective sidewalk, the city officer shall notify the adjacent property owner or owners of the complaint. In the event the property owner does not take remedial action within 15 days of being served the notice, the City may refer the matter to the Union/Walton Code Enforcement Board.
4. If the property owners fail to comply, the city may repair and place a lien on the adjacent property owner or owners fronting the subject sidewalk;

#### **§ 91A.99 PENALTY.**

The following penalties shall apply to violation of the Ordinance:

(1) Any person, firm or corporation who violates any provision of this Ordinance shall be subject to a civil fine of not less than \$50 per day, per violation but not more than \$500 per day per violation, or the cost to the City to abate the public nuisance, or both. Each day that a violation of this Ordinance continues after due notice has been served in accordance with the terms of this Ordinance may be deemed a separate offense to a maximum of \$10,000 per citation.

(2) As an additional alternative remedy to the above penalty, any violator who violates any provision of this Ordinance and has been previously issued two or more citations for violation of this Ordinance relating to the same property within a 12-month period may be assessed additional civil penalties of \$500 per day per violation to a maximum of \$5,000 per citation.

### **SECTION II**

This Ordinance shall be effective when read, passed and published according to law.

**SECTION III**

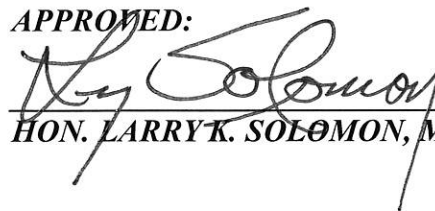
This Ordinance may be published in summary pursuant to KRS 183A.06(9)

Adopted this 7<sup>th</sup> day of June, 2021.

**FIRST READING APPROVED:            MAY 3, 2021**

**SECOND READING APPROVED:        JUNE 7, 2021**

**APPROVED:**

  
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**HON. LARRY K. SOLOMON, MAYOR**

**ATTEST:**

  
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**CHRISTY EVERMAN, CITY CLERK**