

BOARD OF PUBLIC WORKS AND SAFETY
CITY OF WABASH, INDIANA

SIDEWALK REPAIR AND DEAD TREE REMOVAL POLICY

WHEREAS, sidewalks in disrepair and dead or dying trees are the responsibility of the property owner on whose property such sidewalks or trees are located; and

WHEREAS, poorly maintained sidewalks and dead or dying trees pose a threat to the public at large walking upon the sidewalks or traveling upon the street adjacent to properties with dead or dying trees; and

WHEREAS, both the property owner and the City pursuant to Indiana law might share liability under certain circumstances to persons injured or to property damaged as a result of poorly maintained sidewalks and dead and dying trees; and

WHEREAS, the Board of Public Works and Safety finds that the City lacks the necessary manpower and financial resources to maintain a constant vigil over all of the sidewalks and trees found within the City's corporate limits; and

WHEREAS, the Board of Public Works and Safety finds that the city lacks the necessary manpower and financial resources to maintain every sidewalk free of any disrepair and to cut every dead or dying tree located within the City's corporate limits; and

WHEREAS, the City of Wabash through its Board of Public Works and safety is desirous of partnering with property owners to maintain the sidewalks and trees within the City's corporate limits as well as can be within the constraints of the City's limited manpower and financial resources; and

WHEREAS, the City has previously budgeted each year and informally followed a policy of providing the cost of material for the repair of sidewalks when the property owner is willing to provide the cost of labor;

NOW THEREFORE, BE IT RESOLVED that the following policy is hereby adopted with regard to the ADA Transition Plan, repair of sidewalks and the removal or trimming of dead or dying trees:

A. Budgeting.

1. Amount. The Mayor or Building Commissioner shall include at least \$75,000.00 in the Cumulative Capital Improvements Account annually in the budget request submitted to the Common Council of the City of Wabash, Indiana for approval. These funds shall be for projects undertaken pursuant to the ADA Transition Plan initially adopted in March 2012 as amended from time to time, for the payment of materials in the repair of sidewalks, and for help in the trimming and removal of dead and dying trees within the corporate limits of the City of Wabash.

2. Allocation. At the beginning of each construction season, \$60,000.00 shall be allocated for ADA Transition Projects, \$10,000.00 for sidewalk repair, and \$5,000.00 for tree trimming and removal. This Allocation can be adjusted by the ADA Transition Plan Task Force that meets annually to prioritize projects for the next budget year based upon the priorities previously set, public input about the condition of sidewalks, intersections and facilities. It is the intent that the City accomplish as much as it can in upgrading facilities, sidewalks, and intersections to comply with ADA and at the same time assure that unsafe and dangerous sidewalk conditions are addressed as much as possible based upon availability of funds and awareness of need. Any time after September 1 of each year it appears that the allocation for one use is too great or not enough, the allocation maybe shifted at the discretion of the task force, the Mayor or by agreement between the Street Department Superintendent, ADA Coordinator and Building Commissioner.

B. Sidewalks.

1. Inventory. At least once annually, the Building Commissioner shall make an inventory of the sidewalks needing repair in one of ten areas of the City, rotating the areas so that an inventory is conducted in each area at least once every ten years. Those areas are defined as:

- a. South Wabash west of Vernon Street and south of Chestnut Street.
- b. South Wabash east of Vernon Street and north of Chestnut Street.
- c. South of the mainline of the Norfolk Southern Railroad and east of Wabash Street.
- d. South of the mainline of the Norfolk Southern Railroad and west of Wabash Street.
- e. North of the mainline of the Norfolk Southern Railroad, west of Wabash Street and south of Stitt Street.
- f. North of the mainline of the Norfolk Southern Railroad, east of Wabash Street and south of Manchester Avenue and State Street.
- g. North of State Street and Manchester Avenue and East of Wabash Street.
- h. North of Stitt Street, west of Wabash Street and South of Harrison Avenue/Colerain Street.
- i. North of Harrison Avenue/Colerain Street and west of Wabash Street.

- j. Any area not covered by the areas 1-9 and any areas in 1-9 that were not completed when last inventoried.

The Building Commissioner shall convey the results of the inventory to the ADA Task Force so the Task Force may consider to what extent problem areas are to be handled as an ADA Transition Plan project coming out of the Transition Plan allocation, and to what extent the problem areas are to be handled as property owner issues to be handled as set forth in this section.

2. Arranging repairs.

a. **Cooperative Owners.** After completing the inventory each year, and to the extent that any problem area is not selected to be treated as an ADA Transition Plan Project, the Building Commissioner shall contact the property owner for each property with sidewalks in need of repair in the inventoried area. The Building Commissioner shall determine if the owner is willing to participate voluntarily in the City's sidewalk repair program. If the owner is willing to participate in the City's sidewalk repair program, the Building Commissioner shall instruct the owner to contact a contractor on the City's approved list of contractors to arrange to repair the sidewalk. The City will pay the cost of materials if the owner pays the cost of the labor.

b. **Uncooperative Owners.** If the property owner is unwilling to participate voluntarily in the City's sidewalk repair program, the Building Commissioner shall send a letter to the owner advising the owner that (i) the owner's sidewalk is need of repair, (ii) if the owner will not repair the sidewalk voluntarily, the City will bring an action for an unsafe building under the state law and city ordinance, following the procedures for such, (iii) if found by the Board of Works to be unsafe, the City will make the necessary repairs and bill the owner for the full cost of the repair, and (iv) if the full cost of repair is not paid, the City may either file suit in court or place a lien on the owner's property.

3. **Funding shortfall.** If the Building Commissioner believes that there are insufficient funds to repair all of the sidewalks needing repair within an area in the year that area is inventoried and it appears that a reallocation of the funds as set forth herein above either cannot be done or has already been done and there are still insufficient funds allocated for sidewalk repair, the repairs shall be made in the following order of priority:

- (1) Those determined by the Building Commissioner to be the most dangerous; then
- (2) Those for whom the property owner has offered or shown a willingness to repair even if the property is not within the inventoried area but located elsewhere in the City; then
- (3) Those within a two block area of a public building such as a school, church, clinic, retail establishment, or other building, whether owned publicly or privately, that is open to or invites in members of the public; then
- (4) Any other areas.

B. Trees.

1. Trees Subject to City Trimming. City funds may be used for the removal of dead or dying trees that pose a danger to persons traveling on the sidewalks or streets within the corporate limits of the City of Wabash. The City shall not be required to pay any cost toward the removal of a dead or dying tree which only poses a danger to the property of a neighbor or the property owner itself and not to the public at large.

2. Inventory. At least once annually, the Building Commissioner shall make an inventory of the trees along the sidewalks and streets within the corporate limits of the City in one of ten areas of the City rotating the areas so that an inventory is conducted in each area at least once every ten years. Those areas are defined as:

- a. South Wabash west of Vernon Street and south of Chestnut Street.
- b. South Wabash east of Vernon Street and north of Chestnut Street.
- c. South of the mainline of the Norfolk Southern Railroad and east of Wabash Street.
- d. South of the mainline of the Norfolk Southern Railroad and west of Wabash Street.
- e. North of the mainline of the Norfolk Southern Railroad, west of Wabash Street and south of Stitt Street.
- f. North of the mainline of the Norfolk Southern Railroad, east of Wabash Street and south of Manchester Avenue and State Street.
- g. North of State Street and Manchester Avenue and East of Wabash Street.
- h. North of Stitt Street, west of Wabash Street and South of Harrison Avenue/Colerain Street.
- i. North of Harrison Avenue/Colerain Street and west of Wabash Street.
- j. Any area not covered by the areas 1-9 and any areas in 1-9 that were not completed when last inventoried.

3. Arranging trimming.

a. **Cooperative Owners.** After completing the inventory each year, and to the extent that any problem area is not selected to be treated as an ADA Transition Plan Project, the Building Commissioner shall contact the property owner for each property with trees in need of removal or trimming in the inventoried area. The Building Commissioner shall determine if the owner is willing to participate voluntarily in the City's tree trimming program. If the owner is willing to participate in the City's tree trimming program, the Building Commissioner shall instruct the owner to contact a contractor on the City's approved list of contractors to arrange to remove or trim the tree. The City will pay 30% of the tree removal or trimming expense if the owner will pay 70%.

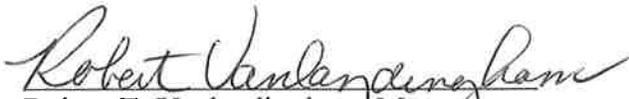
b. **Uncooperative Owners.** If the owner is unwilling to participate voluntarily in the City's tree trimming program, the Building Commissioner shall send a letter to the owner advising the owner that (i) the owner's tree needs removal or trimming, (ii) if the owner will not remove or trim the tree voluntarily, the City will bring an action for an unsafe property under the state law and city ordinances, following the procedures for such, (iii) if the property is found by the Board of Works to be unsafe, the City will remove or trim the tree and bill the owner for the full cost of the tree removal or trimming, and (iv) if the full cost of tree removal or trimming is not paid, the City may either file suit in court or place a lien on the owner's property.

4. **Funding shortfall.** If the Building Commissioner believes that there are insufficient funds to remove or trim all of the trees needing such within an area in the year that area is inventoried and it appears that a reallocation of the funds as set forth herein above either cannot be done or has already been done and there are still insufficient funds allocated for tree trimming, trees shall be removed or trimmed in the following order of priority:

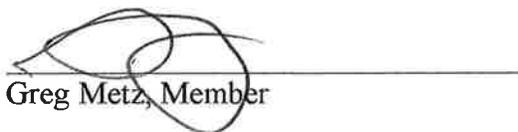
- (1) Those determined by the Building Commissioner to be the most dangerous; then
- (2) Those for whom the property owner has offered or shown a willingness to repair even if the property is not within the inventoried area but located elsewhere in the City; then
- (3) Those within a two block area of a public building such as a school, church, clinic, retail establishment, or other building, whether owned publicly or privately, that is open to or invites in members of the public; then
- (4) Any other areas.

DATED THIS 20 DAY OF MARCH, 2013

BOARD OF PUBLIC WORKS AND SAFETY
OF THE CITY OF WABASH, INDIANA


Robert E. Vanlandingham, Mayor


Dee Byerly, Member


Greg Metz, Member