

**ORDINANCE NO. 2353**

**AN ORDINANCE PROVIDING FOR NONLIABILITY OF THE CITY OF BAKER, OREGON, FOR DEFECTIVE SIDEWALKS, STREETS, AVENUES, ALLEYS AND OTHER PUBLIC WAYS; PROVIDING FOR THE PLACING OF THE RESPONSIBILITY OF SIDEWALK REPAIRS ON ADJACENT PROPERTY OWNERS; PRESCRIBING THE PROCEDURE TO BE FOLLOWED IN MAKING REPAIRS TO DEFECTIVE SIDEWALKS; PROVIDING FOR THE ASSESSMENT TO THE PROPERTY OWNERS AND TO THE PROPERTIES OF THE COSTS OF SIDEWALK REPAIR WHEN DONE BY THE CITY; PROVIDING FOR THE LIABILITY OF PROPERTY OWNERS FOR PERSONAL INJURIES AND PROPERTY DAMAGE DUE TO DEFECTIVE SIDEWALKS.**

Be it ordained by the city of Baker, Oregon:

Section 1. Nonliability for Defective Sidewalks, Streets, Avenues, Alleys and Other Public Ways, within the city of Baker, Oregon. No recourse shall be had against the city of Baker, Oregon, for damage or loss to person or property suffered or sustained by reason of the defective condition of any sidewalk, street, avenue, lane, alley, or other public way, whether any of said defects originally existed, or whether they were occasioned by construction, excavation or otherwise; nor shall there be any recourse against the city of Baker, Oregon, for want of repair of any sidewalk, street, avenue, lane, alley, or other public way; nor shall there be any recourse against the city for damage to person or property suffered or sustained by reason of accident or other casualty occurring in, upon, near or in any manner connected with any sidewalk, street, avenue, lane, alley, or other public way within the city of Baker, Oregon.

Section 2. Duty of owners to make sidewalk repairs and remove snow and ice, and power of City Council of the City of Baker, Oregon to require the same:

- a. It is hereby made the duty of all the owners of land adjoining or adjacent to any street in the city of Baker, Oregon, to maintain in good repair the sidewalks in front of such land. The Council shall have the power and authority to determine the grade and width of all sidewalks, and material to be used, and the specifications for the repair thereof, upon any street or part thereof, and within any district in the City of Baker, Oregon.

- b. No owner or person in charge of property shall allow snow to remain on the sidewalk for a period longer than the first twenty-four (24) hours after the snow has fallen. (As amended by Ord. 2925 11-14-85)
- c. No owner or person in charge of property abutting a public sidewalk shall permit ice or snow to remain on the sidewalk for more than twenty-four (24) hours after the ice has formed, unless the ice is covered with sand, ashes, or other suitable material to assure safe travel.
- d. No person shall place or deposit snow, except snow that has fallen on public sidewalks, on any street or sidewalk. (As amended by Ord. 2925 11-14-85; and Ord. 2927 12-8-86)

Section 3. Notice of Defective Sidewalks. If the owner of any lot or part thereof or parcel of land within the city of Baker, Oregon, shall suffer any sidewalk along the same to become cut of repair, it shall be the duty of the city engineer, or any person appointed by the council for that purpose, when ordered to do so by the council, to post a notice on the adjacent property headed "Notice to Repair Sidewalk" and said notice shall direct the owner, agent or occupant of said property immediately to repair the said sidewalk in a good and substantial manner, and the person posting said notice shall file with the city recorder an affidavit of the posting of such notice, stating the date when and the place where such notice was posted. The city recorder shall upon receiving the affidavit of the person posting said notice send by mail, with postage prepaid on the envelope; a notice to repair said sidewalk to the owner, if known, and directed to the post office address of such owner or agent, when such post office address is known to the city recorder of the city of Baker, Oregon, and if such post office address be unknown to the city recorder, such notice shall be directed to such owner or agent at Baker, Baker County, Oregon. A mistake in the name of the owner or agent, or a name other than that of the true owner or agent of such property, shall not render void such notice, but in such case the posted notice shall be sufficient.

Section 4. Permit for Repairs. The owner, agent, or occupant before making said repairs shall obtain from the city engineer a permit so to do, which shall prescribe the kind of repair to be made, the material to be used and specifications therefor, and the owner, agent or occupant shall make said repairs within 30 days from the date of the posting of said notice.

Section 5. Repairs by City, Record and Report. If the owner or agent of any such lot or part thereof, or parcel of land, shall fail, neglect or refuse to make the sidewalk repairs within the time designated, the city engineer shall make the same

and keep an accurate account of the cost of the labor and materials used in making the repairs in front of each lot or parcel of land, and shall report monthly to the council of the city of Baker, Oregon, the cost of such repairs and a description of the lot or part thereof or parcel of land fronting or abutting on the sidewalk upon which such repairs are made.

Section 6. Assessment for Sidewalk Repairs. The council shall, at least once each year, by ordinance assess upon each of the lots or parts thereof or parcels of land fronting upon sidewalks which have been so repaired or constructed the cost of making of such repairs or constructing the same, including legal, administrative and engineering costs attributable thereto. In each case all such assessments may be combined in one assessment roll and the same shall be entered in the docket of city liens and collected in the same manner as is provided by ordinance for the collection of special assessments for local improvements.

Section 7. Council Authority over Sidewalks. The council shall exercise the same general authority and supervision over the sidewalk repairs that it shall have in the matter of street improvements. The council of the city of Baker, Oregon, shall inspect the reports of sidewalk repairs and the cost thereof, as made by the city engineer, and if it deems the same to be reasonable it shall approve the same and make the assessments hereinabove referred to, in the event that the property owner does not pay for the same immediately after such repairs have been made and the costs determined and assessed in connection with the making of such repairs.

Section 8. Advances from the General Fund. Moneys to repair sidewalks when the repairs shall be made by the city engineer may, in the discretion of the council, be advanced from the general fund to be reimbursed by the special assessment when collected.

Section 9. Liability of Owners for Damages of Negligence.

(a) It is the duty of all owners of land within the City of Baker City, Oregon, to keep in repair and free of snow and ice all sidewalks, constructed or existing in front of, along or abutting upon the respective lots, or parts thereof and parcels of land owned by such owners, and such owners are hereby declared to be liable for all damages suffered or sustained by any person, whether to person or property, resulting or arising from, or incurred by reason of the failure or neglect of such owners to keep in repair and free of snow and ice as provided for herein, any such sidewalks, or by reason of any defect in any sidewalk adjacent to, abutting upon or along any property owned by such persons. (As amended by Ord. 2925 11-14-85)

(b) Said owner shall be liable to the City of Baker City for any judgment or expense incurred or paid by the City by reason of said owners failure to satisfy any obligations imposed by this ordinance. (As amended by Ord. 3007 adopted 1-8-91)

Section 10. Penalty. Any person, firm, or corporation violating Section 2 (d) of this ordinance shall, upon conviction thereof in the municipal court of the City of Baker, be punished by a fine of not more than \$100.00. (As amended by Ord. No. 2927 1-28-86)

Passed by the Council of the City of Baker, Oregon, this 24th day of May, 1954. Signed by the Mayor of the City of Baker, this 24th day of May, 1954.