

## ORDINANCE 18-5707

### AN ORDINANCE OF THE CITY OF BILLINGS PROVIDING THAT CHAPTER 13, REVENUE AND FINANCE, BE AMENDED BY ADDING AN ARTICLE TO BE NUMBERED, 13-1200, AND SECTIONS, PROVIDING FOR FINANCING SIDEWALK REPAIRS

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Chapter 13, FINANCE AND REVENUE of the Billings, Montana City Code is hereby amended by adding an Article to be numbered 13-1200, and Sections, to read as follows:

#### **ARTICLE 13-1200. FINANCING SIDEWALKS REPAIRS**

##### **Sec. 13-1201. – Purpose.**

The purpose of this program is to provide financial assistance to real property owners by allowing alternative payment options to address the replacement or repair of a sidewalk which has been identified as posing a public hazard.

##### **Sec. 13-1202. – Scope.**

Upon receipt of notice to the real property owner where a sidewalk hazard has been located, the owner will have 30 days to execute the described remedy outlined in the notice. If the property owner fails to complete the required repairs then the City shall construct or cause such sidewalk to be constructed and shall assess the cost thereof against the property in front of which the same are constructed.

##### **Sec. 13-1203. – Sidewalk Construction Programs.**

All sidewalk repairs will be classified as appropriate for either the annual sidewalk construction program or the on-going sidewalk construction program by the City Engineer at the time the sidewalk defect is identified.

##### **Sec. 13-1204. – Payment of Construction Cost – Annual Sidewalk Program.**

Sidewalk repairs categorized in the annual sidewalk construction program will be ordered in by resolution by City Council. Payment for the construction costs including engineering, inspection, and administrative costs must be made by special warrants or bonds.

##### **Sec. 13-1205. – Payment of Construction Cost – Ongoing Sidewalk Program.**

Upon completion of construction of the sidewalk by the City for a repair categorized in the ongoing sidewalk construction program, an invoice for the total cost of the sidewalk including construction, engineering, inspection, and administrative costs will be sent to the real property owner. The real property owner will have sixty days to pay the assessed amount in whole.

**Sec. 13-1206. – Property Lien – Upon Nonpayment of Ongoing Sidewalk Construction Program Cost.**

If any portion of the assessed amount remains unpaid for a period of more than sixty days after the City has made proper notification, the City may impose the total amount due as a special assessment lien against the property. Interest will accrue and be assessed from sixty one days after the invoice date until the time all assessed costs are received by the City.

**Sec. 13-1207. – Payment of Assessment in Installments – Eligibility for Ongoing Sidewalk Construction Program Costs.**

If the total assessed amount is less than \$500.00 the assessment will be due and payable in one lump sum to be paid at the same time as other property taxes and assessments. The real property owner may apply for an exception with the Public Works Director or designee. For amounts \$500.00 or greater, the assessment may be payable in installments to be paid at the same time as other property taxes and assessments each year for five (5) years.

**Sec. 13-1208. – Application for Installment Exception.**

A real property owner who has received an assessment of less than \$500.00 being payable in one lump sum may request an exception from the Public Works Director or designee to have the assessment distributed over a period of five (5) years. An application will be provided upon receipt of request from the real property owner.

**Sec. 13-1209. – Security Agreement Requirement.**

If the assessment amount is to be imposed as a special assessment lien against the property and qualifies for payment in installments, the real property owner must execute a security agreement to be filed of record that the loan plus any accrued interest will be paid in full upon the death of the owner provided the spouse is not also a legal owner of the property or upon sale or any other disposition of property.

**Sec. 13-1210. – Failure to Execute Security Agreement.**

If the real property owner fails to execute the required Security Agreement, the assessed amount will become ineligible for payment in installments and the total amount owing will be due and payable in one lump sum to be paid at the same time as other property taxes and assessments.

**Sec. 13-1211. – Assessment of Unpaid Costs**

Annually the Public Works Director or designee shall prepare a list of all parcels of real property from which sidewalks were replaced or repaired and assessed costs have not yet been paid. The assessment list shall be incorporated into a special assessment resolution and presented to the City Council. Upon passage of the resolution, the assessments stated therein, together with interest costs shall constitute a special assessment lien upon the lot. Failure of the owner to pay the special assessment lien may be recovered according to the provision and authority of MCA 7-14-4122.

**Sec. 13-1212. – Interest Rate.**

A fixed interest will be charged on all costs remaining unpaid after a period of more than sixty days at the assessed interest rate as determined by the most recent bond issue sold for the annual miscellaneous sidewalk, curb and gutter improvements program.

**Sec. 13-1213. – Creation of Sidewalk Hazard Fund.**

There is hereby created a sidewalk hazard fund from which loans for the purposes of this ordinance shall be made. The City shall transfer moneys from the gas tax fund to the sidewalk hazard fund as required up to the budgeted amount authorized by City council. The City shall disburse moneys from the sidewalk hazard fund to the Contractor on behalf of the property owner. All proceeds from the assessment payments and accrued interest shall be deposited in the sidewalk hazard fund. At any time, the Public Works Director or designee determines that there is more money in the sidewalk hazard fund than is necessary to carry out the intent of this ordinance the excess shall be returned to the gas tax fund as repayment of the advance. It is intended that the sidewalk hazard fund will eventually be supported by interest earnings.

**Section 2. Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of these ordinances are declared to be severable.

**Section 3. Repealer.** All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

**Section 4. Effective Date.** This ordinance shall be effective thirty (30) days after second reading and final adoption as provided by law.

APPROVED on first reading this 14th day of May, 2018.

ADOPTED and APPROVED on second reading this 29th day of May, 2018.

CITY OF BILLINGS



By William A. Cole  
William A. Cole, Mayor

ATTEST:

By Denise R. Bohlman  
Denise R. Bohlman, City Clerk