

SIDEWALK NOTICE OF DEFECT

Frequently Asked Questions

Property owners are responsible for sidewalk in the City of Ithaca. Limited funds are available this year to reimburse owners for costs of tree-damaged sidewalk replacement work.

ABOUT THE NOTICE

I have received a sidewalk defect notice. What do “substandard” and “failed” mean? How much of the sidewalk do I have to fix?

The City Engineer’s Office has reviewed the condition of the public sidewalk adjacent to your property and has failed the condition of one or more panels. When sidewalk is inspected, each panel is rated substandard (“U”), failed (“F”), or left without comment.

Sidewalk defect notices are sent to each property with one or more failed conditions. **If the City of Ithaca performs repair or replacement work, both failed and substandard slabs will be fixed and billed to you.** If you arrange your own repairs, you may decide whether or not to fix the slabs classified as “substandard” (“unsatisfactory” on older notices). All failed slabs MUST be repaired to close out the defect notice. Work completed under a permit will be re-inspected and the sidewalk defect notice closed if no failed conditions are present at the time of inspection. The sidewalk notice and updated record of work completed and remaining substandard conditions will remain on file and accessible to any member of the public who submits a Freedom of Information Law (FOIL) request with the City of Ithaca. Records remain on file at the Office of the City Engineer for the required record retention period set by the State of New York, currently six years.

SIDEWALK CONDITION INSPECTION CRITERIA

Sidewalk inspectors use the following chart to classify sidewalk condition and identify defects.

	SUBSTANDARD (Recommended Repair)	FAILED (Must Repair)
Joints Offset	Less than ½” high	½” high or 1” gap
Holes	Less than 1” deep AND less than 1” diameter	1” deep OR 1” diameter
Spalling (Surface Deterioration)	Heavy foot traffic	Heavy foot traffic with loose gravel
Cracks	Level	High/low or pieces missing

Puddles are not a failed defect, but can be a hazard, especially if standing water freezes in cold weather. Standing water speeds up concrete aging. Grass in a joint can be removed and monitored to eliminate the tripping hazard. City of Ithaca encourages you to include these concerns in your repair planning.

What do I need to do to close out or clear my sidewalk defect notice?

WORK BY OWNER OR OWNER’S CONTRACTOR: All sidewalk work (including temporary patching) requires a \$5 sidewalk street permit from the City Engineer’s Office. You may obtain the permit yourself or have your contractor do it. You may do the work yourself or hire a contractor of your choice to do it. A list of contractors who have done sidewalk work in the City of Ithaca to acceptable standards, and permit application forms are available from the City Engineer’s Office and online at www.cityofithaca.org. You are not restricted to hiring a contractor from that list.

WORK BY CITY OF ITHACA: If you do not correct your sidewalk problems, the City of Ithaca’s sidewalk crew will complete the repairs when the opportunity arises and bill you. **If the City of Ithaca performs repair or replacement work, both failed and substandard slabs will be fixed and billed to you.** You will be billed for the City’s cost plus a 25% overhead fee, as required by City Charter. See the current Work Priority for City of Ithaca Sidewalk Crew for scheduling information.

2012 prices for work performed by the City of Ithaca are:

4” thick sidewalk per square foot	\$12.12 +25% = \$15.15
6” thick sidewalk per square foot	\$13.35 +25% = \$16.69
Grinding per joint	\$26.54 +25% = \$33.18.

Sidewalk bills are assessed and if unpaid, are treated as unpaid taxes. In the most extreme situation, unpaid sidewalk bills could result in the property being turned over to City of Ithaca. Arrangements for long-term financing of sidewalk assessments can be made with the City Chamberlain’s Office at a 12% annual interest rate.

Is the estimated quantity of sidewalk to be repaired usually accurate?

The estimated quantity of work is a rough approximation. No measurements are taken during inspection—a concrete panel of any size is usually estimated at 25 square feet. Property lines are estimated based on maps and visual clues. Some inspection maps attached to defect notices are years old and may not reflect current conditions. Sidewalk condition is always re-evaluated at the time of work. If further deterioration has occurred since the time of inspection, the quantity of sidewalk actually repaired could substantially increase beyond the quantity shown on the defect notice.

Why are there two different sidewalk thicknesses listed in the notice?

Standard public sidewalk is required to be at least four inches thick (and at least five feet wide). Sidewalk and driveway aprons that will be driven on with a vehicle are required to be at least six inches thick.

What does the City Code say about sidewalk? How do I review the City Code?

City Charter (C-73) assigns full responsibility for sidewalk maintenance, including repairs, to the owner of the property adjacent to public sidewalk. Correction of sidewalk problems is always your responsibility, whether you have received a sidewalk notice or not. Cracked, deteriorated, or heaved sidewalks put pedestrians at risk of injury and can impede or even block handicapped access. You should routinely check your sidewalk for problems and if you find any, you should take action immediately to minimize the possibility that a pedestrian will be injured.

Paper and electronic copies of sidewalk-related code are available upon request from the City Engineer's Office. The complete City of Ithaca Code is available at www.cityofithaca.org. Search for "sidewalk" and you will find all code references to sidewalk. Alternately, City Code books are available for viewing at the Office of the City Clerk.

What if I think my sidewalk is fine and that the Sidewalk Notice of Defect was sent in error?

Use a ruler to determine if any part of each sidewalk joint is at least ½" high or has a 1" gap. Use a ruler to determine if any hole is at least 1" deep or 1" in diameter. Look for loose gravel and surface deterioration. Look at cracks and note if the two edges of the crack are at different heights or have pieces missing. If any one of these conditions is present, then you have a failed condition.

If after careful consideration, you still think your sidewalk doesn't have any failed conditions, you may request a site visit from the Office of the City Engineer. If the inspector visits your property and does not find a failed condition, then your property will be removed from the repair work list and you will receive written notification.

I want to sell my property soon. How does a sidewalk defect notice affect the potential sale?

If you plan to sell your property in the near future, be aware that sidewalk defect notices appear on tax search documents that most prospective buyers obtain. Often sidewalk repairs are completed or funds for repair are set aside in escrow as a condition of sale. Any active sidewalk defect notice automatically transfers to the new owner when a property is sold.

Most sidewalks are worse than mine. How do I complain about another sidewalk?

The City Engineer's Office has a long list of sidewalk complaints and it is likely that a complaint has already been received about a given property. However, if you wish to check whether a given property is on the complaint list, you may call and ask. Formal complaints must be made in writing to the Superintendent of Public Works. Please include an address or at least the city block and side and a detailed description of the property.

ABOUT THE WORK

What am I responsible for?

Owners are responsible to maintain all areas between the front property line and curb, including sidewalks, driveways, walls, paved areas, lawn, steps, plants, hedges and vegetation, except city-owned street trees, in a safe condition and free from defects. You may choose to remove any of these features except the main public sidewalk and street trees. Short walks connecting public sidewalk with the curb are often removed by owners to increase tree lawn area. City of Ithaca sidewalk crew does not charge for removing small access walks while doing other work at a property.

Why should I replace or patch my walk soon?

The City Code assigns responsibility for sidewalk repair and maintenance to the adjoining property owner. The longer your walk has a problem and the more serious the problem is, the more chance that someone will fall and be injured. If someone is injured and pursues legal action against you, you and your legal representative will be looking to show the court that you took your responsibility seriously and that you were conscientiously and actively working on correction of the problem. You may wish to discuss this issue with your attorney and/or insurance agent. If repair is not an option, consider temporarily patching defects until you can make a permanent repair.

Is patching permitted?

Yes. Patching is permitted, but is recommended only if removal and replacement is not an option. If you patch a defect as a temporary emergency measure, plan to monitor and attend to the patch condition regularly until a more permanent repair can be made. Patches typically work best on small holes. Patches typically fail within a few months on larger holes and out of level joints. Many contractors will not guarantee patch work even for a year. Properly preparing a repair area and applying a patch is very labor-intensive and can cost nearly as much as replacement. Patches must comply with ADA accessibility standards. Sidewalk street permits are required for patching and serve as a public record of owner actions. Patched areas may be scheduled for follow-up inspections by City of Ithaca more frequently than replaced sidewalks.

Are any other repair methods available, aside from replacement and patching?

City of Ithaca performs grinding where appropriate and some local contractors do also. Out of level joints can be sliced or mud-jacked if you find a contractor willing to do that work under permit in Ithaca. All these methods leave obvious evidence of repair.

Can I hire my own contractor to fix the sidewalk?

Yes. The best way to ensure that your sidewalk problems are corrected promptly is to make your own arrangements for the work with a private contractor. A list of contractors who have done sidewalk work in the City of Ithaca is available from the City Engineer's Office, although you are not restricted to hiring a contractor from that list. You may hire anyone you wish. Note that you or your contractor is required to obtain a valid sidewalk street permit from the City Engineer's Office and do the work in accordance with City specifications.

How do I get a sidewalk or tree permit?

A \$5 fee, drawing of the planned work and application form is required to apply for a sidewalk street permit. Either property owners or contractors can obtain the permit. Property owners who apply provide a certificate of (property) insurance with the City of Ithaca listed as a certificate holder and a notarized form regarding Worker's Compensation coverage or lack of coverage. Contractors who apply for a permit must submit a certificate of (business) insurance with City of Ithaca listed as a certificate holder and Worker's Compensation forms provided and required by State of New York for each permit. For work under the drip line of a tree (under the canopy of branches), a tree permit obtained from the City Forester is required.

What happens if I do sidewalk work without a street permit or without a tree permit?

In the past, consequences for work without a permit were usually minor. Procedures and consequences for work without a permit have changed. Owners are advised to confirm that all required permits are in place.

If the work is in progress and permits were not issued or have expired, all work will be stopped and the Ithaca Police will be called to issue an appearance ticket to the contractor. Work will not be permitted to continue until valid permits are in place. Contractors with a pattern of violations will be denied permits. In some cases, Owners will need to hire a new contractor who is eligible to obtain permits in order to complete the job. If hazardous conditions are present, the Superintendent of Public Works may order city crews to immediately complete the work and bill the property owner.

If the work is complete and permits were not issued, the Ithaca Police will be asked to issue an appearance ticket to the property owner or to the contractor - if the contractor is known. If work does not comply with City specifications, a sidewalk defect notice will be issued to the property owner.

People given appearance tickets appear before a judge in court so that the appropriate penalty can be determined.

What if my sidewalk was damaged by a City-owned tree?

City Code assigns responsibility for the maintenance and repair of all sidewalk slabs to the adjacent owner, including tree damaged panels. Panels of sidewalk marked with a "T" on your inspection drawing were classified by City of Ithaca as "tree damage" caused by the root of a City-owned street tree.

This year, the City of Ithaca has limited funds available to reimburse owners who hire a contractor for tree damage repair. A VALID SIDEWALK PERMIT AND A PARTIALLY COMPLETED CITY VOUCHER FORM FROM THE STREETS & FACILITIES DIVISION IS REQUIRED to reserve your reimbursement funds. Funds are reserved for 60 days, and then made available to other owners if no reimbursement claim is submitted by the deadline. All tree damaged sidewalk at a property must be replaced or repaired and all work must comply with City codes and specifications to be eligible for reimbursement. No payment is made for patching.

You do have the option to omit work on tree-damaged panels until the opportunity arises for the City's sidewalk crew to do that portion of the work at City expense, however your sidewalk defect notice will not be closed unless all failed conditions have been corrected. If you choose to omit tree damage repairs, you will retain responsibility and liability for those defects. Replacing tree-damaged walks decreases the risk of injury, decreases the possibility of legal action against you, maintains a uniform appearance and minimizes the disruption associated with construction work. You may wish to discuss this issue with your attorney and/or insurance agent.

If the City of Ithaca sidewalk crew replaces sidewalk at your property, there is an ongoing informal custom of declining to bill adjacent property owners for repair work that City of Ithaca has classified as “tree damage.”

Who pays for corner curb ramps?

The City of Ithaca Code assigns this responsibility to property owners; however the City of Ithaca has a custom of building corner curb ramps and declining to bill the adjacent property owner. There are no funds available this year to reimburse owners for work performed by their contractors but the practice of declining to bill for replacement ramps will continue.

What if I’m unwilling or unable to hire my own contractor?

You should notify the Office of the City Engineer so that the work can be scheduled at the earliest convenient opportunity. In addition, you may wish to obtain a permit and temporarily patch problem areas yourself to minimize the chance of someone getting injured.

Are repairs done in the same order that notices are sent out?

No. Approximately 600 properties are currently flagged for inspection and repair.

Higher priority is given to work

- associated with an injury
- located near planned curb ramp work locations
- that originated with a complaint (although there’s hundreds)
- that forms a tight grouping with other properties for efficient work
- along busy pedestrian routes
- with multiple notices over several years without owner action
- with an eager owner

To learn where your property falls in the City crew’s schedule, request an updated Work Priority List at any time. Owners are informed of pending work by pink paint marks on the sidewalk one to four weeks prior to the work and announcements posted at the property (usually on doors) a few days before work begins. There are no additional mailings.

Do new sidewalks really need to be five feet wide?

Yes. When two or more adjacent slabs are replaced they must be constructed at a full width of five feet (a long-standing City Code requirement). Wider sidewalk improves accessibility and allows two people to easily pass or walk side-by-side. Very rare exceptions to this requirement may be approved by the City Engineer’s Office in order to protect an exceptionally large street tree or if a five foot wide sidewalk simply won’t fit within the available area.

ABOUT THE BILL (ASSESSMENT)

What will I be charged?

2012 prices for work performed by the City of Ithaca are:

4" thick sidewalk per square foot	\$12.12 +25% = \$15.15
6" thick sidewalk per square foot	\$13.35 +25% = \$16.69
Grinding per joint	\$26.54 +25% = \$33.18.

Sidewalk bills are assessed and if unpaid, are treated as unpaid taxes. In the most extreme situation, unpaid sidewalk bills could result in the property being turned over to City of Ithaca. Arrangements for long-term financing of sidewalk assessments can be made with the City Chamberlain's Office at a 12% annual interest rate.

You may call the City Engineer's Office to receive an estimate of costs at any step in the process.

Why does the City add 25% to its cost when calculating assessments?

The overhead fee is required by the City Code and helps compensate for the City's expenses associated with inspections, communication with owners, record keeping, construction management and the assessment process.

When will I get a bill for work done by the City?

Typically the construction season for sidewalk begins in late April or early May and can extend as late as November or December. Once sidewalk work (including restoration of the surrounding area) is completed, and final measurements are made and tallied, bills will be calculated and mailed out. Bills are sent out monthly. Sidewalk assessments that are unpaid after a year are added to tax bills and become liens against the property. Sidewalk assessments (and active sidewalk notices) transfer to the new owner when a property is sold. Bills include an option to pay for sidewalk assessments over five years at a 12% annual interest rate. Other terms can be arranged with the City Chamberlain upon request.

How do I protest a bill?

Bills may be contested by appealing to the Board of Public Works. To initiate the process, write to the Board of Public Works c/o Kathy Gehring.

CONTACT INFORMATION:

For further sidewalk information, site visit request, informal sidewalk complaint or document requests, contact:

Lynne Yost, PE
City of Ithaca Department of Public Works, Streets and Facilities Division
245 Pier Rd., Ithaca, NY 14850
607-272-1718 from 7:30am – 3:00pm
Lynney@cityofithaca.org (preferred – often away from desk)

To review the City Code, obtain a Street Permit Application, or obtain other information about sidewalk or the City of Ithaca:

www.cityofithaca.org or visit the Office of the City Clerk, 108 E Green St., Ithaca, NY 14850

To obtain a Street/Sidewalk Permit (\$5):

Tim Logue or Kent Johnson
108 E. Green St., Room 202, Ithaca, NY 14850
Fax 607-274-6587
Tim 607-274-6535 timlo@cityofithaca.org or Kent 607-274-6528 kjohnson@cityofithaca.org

To obtain a Tree Permit (no charge):

Jeanne Grace, ISA Certified Arborist
245 Pier Rd. Ithaca, NY 14850
Fax 607-272-4374
607-272-1718 from 7am – 3:30pm jgrace@cityofithaca.org

To place a formal sidewalk complaint, submit an exact address in writing to:

City of Ithaca - Superintendent of Public Works
108 E. Green St., Room 202
Ithaca, NY 14850
Fax 607-274-6587

To comment on sidewalk policy and record your opinion for consideration, email or write:

Board of Public Works c/o Kathrin Gehring
City of Ithaca – Office of the Superintendent of Public Works
108 E. Green St., Room 202
Ithaca, NY 14850
Fax 607-274-6587
kgehring@cityofithaca.org