



TO: Mayor and Council

FROM: Steven D. Powers, City Administrator

DATE: June 25, 2015

SUBJECT: Legistar File 15-0143 – Proposed Ordinance to Amend Sections 4:60, 4:61 and 4:62, and to Delete Section 4:63 of Chapter 49 (Sidewalks) of Title IV of the Code of the City of Ann Arbor (Ordinance No. ORD-15-04)

On City Council's July 6 agenda is a first reading of proposed amendments to City Ordinance Chapter 49, Legistar File #15-0143. Below is information in preparation for your consideration of the ordinance revisions.

Information from TheRide

Matt Carpenter, CEO, of TheRide provided the following information regarding how the City's proposed ordinance change regarding snow removal would affect TheRide.

Scale of AAATA Snow Clearing

- TheRide has over 1,200 bus stops in its service area and clears snow at 57 major bus stops with 50+ daily riders. All bus stops with 50+ daily riders have snow cleared every snow event.
- There are 800 stops in the City of Ann Arbor. Of these, 44 are cleared by TheRide.
- TheRide partners with commercial property owners through the "Adopt-A-Stop" program to clear an additional 80 stops, 48 of which are in the City of Ann Arbor. These partnerships have written agreements. In addition, AAATA works with other major property owners – particularly U-M that do snow clearing at AAATA bus stops. The University of Michigan clears snow at bus stops on University property, 23 of those are major stops served by The University as well as The Ride. Central Campus Transit Center, for example.

Ordinance

Here are some perspectives regarding the perspective change:

- All transit riders are pedestrians at some point during their trip, and would generally benefit from more diligent snow clearing from all sidewalks. The greatest benefit may be to anyone with a greater risks of falling (e.g. seniors, persons with disabilities, etc).
- A revised ordinance may result in a greater number of less-used stops being cleared.
- TheRide would likely continue to clear the heavily-used bus stops if the ordinance were changed in order to ensure a consistent level of clearing. We have noticed that plows can throw snow back on the bus stop after it has been cleared, requiring many of the stops to be cleared a second time for the same snow event.
- Ensuring residential property owners understand the need to clear the sidewalk, stop pad, and path to the curb would be important.

June 1, 2015 Caucus Questions and Responses:

In addition, below are the caucus questions and responses, from the June 1, 2015, when this item was postponed at first reading.

C-2 – An Ordinance to Amend Sections 4:60, 4:61 and 4:62, and to Delete Section 4:63 of Chapter 49 (Sidewalks) of Title IV of the Code of the City of Ann Arbor (Ordinance No. ORD-15-04)

Question: It was mentioned previously that AAATA now clears some of their bus stops. Can AAATA please provide details on snow removal for their bus stops in the City (how many AAATA now clears; how many bus stops in total) as well as what changes (if any) to their current practice they would plan if the revised ordinance were adopted? *(Staff response April 20 indicated AAATA would provide answer.)*
(Councilmember Lumm)

Response: Staff has not received a response from AAATA and cannot speak to their current practices and policies.

Question: One of the Commission on Disability Issues recommendations related to the curb cut build-up caused by city snowplowing. Specifically, the recommendation is that “the City be responsible for implementing a square dancing procedure, or one similar, where smaller plows follow the larger plow to ensure that curb cuts remain clear after a street has been plowed.” The Pedestrian Safety & Access Task Force also raised this issue of clearing intersections and mid-block crosswalks. Can you please provide a rough cost estimate for implementation of this recommendation (or estimate for an alternative the City would recommend instead to accomplish the same purpose). *(Staff response was that answer would be available by May 4th.)* (Councilmember Lumm)

Response: The estimated costs for clearing sidewalk ramps is \$3.7 million based upon a winter with 10 events (2" and greater of accumulation) with two clearings per event.

Question: Regarding the amount of time allowed to clear the snow/ice, the Pedestrian Safety and Access Task Force May 6 memo recommends "the ordinance stipulate, for all properties zoned residential or commercial, that all snow and ice be removed as soon as practicable after the end of each accumulation of snow or ice, but no later than 12 hours after the end of each accumulation." Currently, it's by noon for commercial and 24 hours for residential. How would this impact enforcement – in downtown where the timeframe is being extended and in the neighborhoods where the timeframe is being cut in half. (Councilmember Lumm)

Response: The impact on enforcement will depend on the amount of snowfall for the season and the number of complaints received. Community Standards is primarily complaint driven. There is no way to estimate how much more citizens will be inclined to report violations specifically due to the change in the amount of time allowed to clear snow/ice.

Question: Would a change in the "one warning per season" provision to the previous language or some other alternative (e.g., x # of notices/season) require the ordinance go back to first reading? (Councilmember Lumm)

Response: Depending on the nature of the change, a return to first reading could be required.

April 20, 2015 Caucus Questions and Responses:

In addition, below are caucus questions and responses from the April 20, 2015 Council meeting when this item was postponed at first reading.

C-1 – An Ordinance to Amend Sections 4:60, 4:61 and 4:62, and to Delete Section 4:63 of Chapter 49 (Sidewalks) of Title IV of the Code of the City of Ann Arbor (Ordinance No. ORD-15-04)

Question: It was mentioned previously that AAATA now clears some of their bus stops. Can AAATA please provide details on snow removal for their bus stops in the City (how many AAATA now clears; how many bus stops in total) as well as what changes (if any) to their current practice they would plan if the revised ordinance were adopted? (Councilmember Lumm)

Response: According to a previous inquiry to AAATA, they have an internal maintenance program that rotates through the shelters clearing the snow, however, we are unable to provide additional detail within this timeframe. We have reached out to the AAATA to provide an answer to this question.

Question: One of the Commission on Disability Issues recommendations related to the curb cut build-up caused by a city snowplowing. Specifically, the recommendation is

that: “the City be responsible for implementing a square dancing procedure, or one similar, where smaller plows follow the larger plow to ensure that curb cuts remain clear after a street has been plowed.” Can you please provide a rough cost estimate for implementation of this recommendation (or estimate for an alternative the City would recommend instead to accomplish the same purpose)? (Councilmember Lumm)

Response: We are able to provide a response to this question by the May 4, 2015 City Council meeting.

Question: It would be helpful if we could get clarification from the Commission on Disability Issues on what they are recommending in terms of the required timing for snow and ice removal. The resolution indicates the Commission believes the language “within 24 hours” in 4:60 (2) and “within 18 hours” in 4:60 (3) is too complicated and subjective, but it’s not clear to me what timing the Commission recommends. (Councilmember Lumm)

Response: At their May 6, 2015 meeting, the Pedestrian Safety and Access Task Force will be discussing the Commission on Disability Issues resolution. The Task Force will communicate their response to the resolution at the next Commission on Disability Issues meeting on May 20, 2015.

March 16, 2015 Caucus Questions and Responses:

In addition, below are the caucus questions and responses, from the March 16, 2015, which this item was postponed at first reading.

B-1 – An Ordinance to Amend Sections 4:60, 4:61 and 4:62, and to Delete Section 4:63 of Chapter 49 (Sidewalks) of Title IV of the Code of the City of Ann Arbor (Ordinance No. ORD-15-04)

Question: Regarding additional enforcement activity that would result from eliminating the 1 inch trigger, I understand it would be weather-dependent, but would like your best estimates of the impact on the following of removing the 1 inch requirement. And I’d like the data for two scenarios (1) no change in current practice of always issuing warning notices first and (2) change in process where there would be just one warning notice per season:

- Increase in staff hours spent on snow removal (and associated cost)
- Increase in number of notices
- Increase in number of citations
- Increase in number of instances where city had snow cleared
- Increase in city revenues from added fines

The amount of staff time and the number of citations issued to property owners are both very important considerations. You are the experts, so however you want to do the projections is fine (average winter, estimate ranges etc), but I do want your best assessment so that Council has a sense of these important impacts on residents and on city staff time of eliminating the 1 inch requirement. (Councilmember Lumm)

Response: In addition to enforcement activity being weather dependant, it is also dependant on the number of complaints received. Community Standards is primarily complaint driven. There is no way to estimate how much more citizens will be inclined to report potential violations specifically due to the elimination of the 1 inch requirement.

If there is a significant increase in complaints, there will be a need to assign additional Community Standards Officers to respond. These additional officers will be reassigned from parking enforcement duties and as a result, there may be a reduction in the number of parking citations issued and its resulting fines.

Question: Regarding the city's snow removal practices on city-owned land, can you please clarify the following for (1) park sidewalks along streets (2) interior park sidewalks and pathways (3) sidewalks at city-owned buildings:

- The city's snow removal obligations as defined under the current ordinance
- The city's snow removal obligations as defined under the new ordinance passed at first reading (e.g. no 1 inch rule)
- The city's current practices (and for this, I'm looking for what we actually are doing, not what we try to do)

There's also been a bit of discussion regarding the amount of discretion the Community Standards Officers (CSO) actually do have (and should have) and if/how that would change under the new ordinance. As I mentioned at the meeting, CM Petersen and I were contacted a year or so ago by 2nd ward folks – responsible folks who were trying to do what they were supposed to do – who felt they had been unjustifiably noticed and given a citation. CM Petersen/I met with police staff and the response was essentially that the ordinance didn't provide Community Standards Officers enough/the needed discretion. Anyway, I have a couple of questions related to the levels of discretion. (Councilmember Lumm)

Response: Regarding park sidewalks along streets and sidewalks at city owned buildings: Snow on sidewalks that abut non-residential parcels must be clear within 6 hours. Snowfall of 1" or more on sidewalks that abut residential parcels must be cleared within 24 hours. Regarding interior park sidewalks and pathways: the existing ordinance does not address these.

Regarding park sidewalks along streets and sidewalks at city owned buildings: Snow on sidewalks that abut non-residential parcels must be clear within 6 hours. Snow on City parcels that abut residential parcels must be cleared within 24 hours. Regarding interior park sidewalks and pathways: the proposed ordinance does not address these

When the snowfall event is <4" and when we are fully staffed, the City clears all paths within 24 hours. Many areas are complete within 8-10 hours. Downtown and heavy foot traffic areas are considered a priority and are cleared first. In snows >4", the majority of

the crew is diverted to street work and as such, clearing of the lower priority areas takes longer than 24 hours.

Facilities maintenance handles the Municipal Center complex, fire stations, dental clinic, 721 N. Main and a number of smaller lots (some in residential districts) owned by the City. Current ordinance – the bulk of the city buildings are in the non-residential districts and we comply with the ordinance. New ordinance - would not change our current practice and we would comply with it. Current practice – During the weekday, any accumulation of snow or ice is removed/treated. We strive to have these clear before 8am. On weekends, staff is called in on overtime to ensure we have the sidewalks cleared before noon. Because of the small size of Facilities staff, the Municipal Center and fire stations are first priority, followed by other non-residential district building and then residential district buildings/lots.

Question: How much discretion are the Community Standards Officers granted under the existing ordinance and how much latitude are they actually executing in practice? Do you believe that level of discretion is appropriate and if not, what changes do you think should be made? How would the level of discretion change (if at all) under the version of the ordinance Council passed at first reading? (Councilmember Lumm)

Response: Under our existing ordinance and current enforcement philosophy, there is limited discretion. Chief Seto believes there should be more discretion. Discretion will be based on safety and accessibility. Discretion will also be utilized when inspecting other residences on the same block as the original complaint. The current philosophy has been to enforce according to the ordinance and the 1 inch requirement. The new discretion will be based on safety and accessibility.

Question: Some now seem to be suggesting the city should eliminate the 1 inch accumulation requirement, but increase the amount of discretion in enforcement. Can you please clarify how that would work specifically and the criteria the Officers would use? And in addition to asking property owners to do a lot more work, wouldn't that also be sending a mixed message to property owners suggesting they too have some discretion (where none exists today) and isn't that likely to result in more problems, disputes and issues of interpretation? (Councilmember Lumm)

Response: As stated above, safety and accessibility will be used in determining the amount of discretion a C.S. Officer will utilize. We cannot speculate on what standard a homeowner will use in determining when they decide to clear their walks.

Question: While the responsibilities for homeowners in the new ordinance are pretty clear in terms of the regular residential sidewalks – shovel every time it snows vs. shovel if snow > 1 inch, the snow removal responsibilities regarding bus stops, ramps, walks, walkways, pathways that may be adjacent to a homeowners property are not well understood. Can you please clarify these other responsibilities under the existing ordinance, the ordinance passed at first reading, what's changed/new. (Councilmember Lumm)

Response: The Task Force inserted specific reference to bus stops in the ordinance amendment for all property owners. But under both the existing ordinance and the ordinance amendment all property owners are responsible for clearing the entire width and length of a sidewalk, walk, and ramp, which would include a bus stop that is a part of these areas.

Question: From the benchmark information provided, it's not clear how other municipalities handle the responsibility for clearing bus stops, crosswalks and/or the ramps leading to them. Can you please provide information on property owners' responsibilities in this regard. And specifically for bus stops, for those who require private property owners to bear this responsibility, how many of the municipalities also have a dedicated transit millage? (Councilmember Lumm)

Response: Neither staff nor the Task Force have polled benchmarked communities about the specifics of how their ordinances are managed or funded.

Question: There have been comments from Task Force members about advice they received from staff (legal and/or police) with regard to enforcement. Can you please share what advice (if any) has been provided. (Councilmember Lumm)

Response: Staff are not aware of advice from staff (legal and/or police) that has been shared with the Task Force with regard to enforcement.

Question: One alternative that was raised at the meeting was for the city to take on the responsibility for all sidewalk snow removal and a cost projection was requested. In developing the cost estimate, please identify any one-time costs as well as the recurring costs and please provide estimates under the two scenarios (1) accumulation > 1 inch and (2) any accumulation at all. (Councilmember Lumm)

Response: Start up costs for equipment: \$1,017,660.00. Annual costs, including FTE, materials and equipment maintenance: \$2,696,884.00. The cost does not change with the two scenarios.

Notes:

- This estimate is for the 427 miles of existing sidewalk. There are another 156 miles where no sidewalk currently exists but could be constructed (sidewalk gaps)
- The estimate does not include additional materials for repeat clearing or salting that may be needed to address drifting or plowing, or melt/freeze.
- The estimate does not include additional supervisor that may be needed for additional shift hours.
- The estimate does not include additional mechanic time that would be needed to maintain the extra 12 pieces of equipment.

Question: In assessing how much more work we are asking residents to do, can you please provide data on the number of Ann Arbor snowfall events in an average, heavy, and light snow year – how many are > 1 inch and how many <1 inch. Also, about how many private property owners are there in the city with sidewalks and how many of these are single-family residential properties? (Councilmember Lumm)

Response: According to the National Weather Service's UM Station, on average there are 17.6 days per year with >1 inch of snow accumulation. On average, there are 53.2 days per year with snowfall of any amount. We do not have data on the number of days of snowfall in heavy and light snowfall years. NOTE: This data does not factor in accumulation from drifting or melt/refreeze.

The City has an average of 70-80 days per year of material application.

251 miles are single family residential; 124 miles non-single family and approximately 52 miles City.

Question: Many property owners (including elderly and disabled) hire a contract service to clean their sidewalks and we have received anecdotal indications the cost of these services will increase dramatically if the 1 inch requirement is removed. Can you please informally survey a small group to obtain a sense of the increases that residents who currently contract this out might expect. (Councilmember Lumm)

Response: Staff do not review third party contracts.

Question: When the city has snow removed from the sidewalks of a residential homeowner, is it a standard charge or a function of the size of the sidewalk or amount of snow? For a residential homeowner who receives a citation and the city has the snow/ice removed, how much are they charged in total and what are the various pieces of the total charge? (Councilmember Lumm)

Response: The cost of the contractor depends on how long it takes and how many people it takes to clear the property. The current cost of the contractor is \$95 per hour and \$.40 per pound of salt. There is an additional \$50 administrative fee when a contractor is contacted. The cost of the citation is set by the Court.

Question: CM Briere provided language that would retain the 1 inch requirement for snow accumulation and adds a half inch "compacted snow" requirement. Can you please define "compacted snow" and indicate how that added element should be interpreted by property owners as compared to new snowfall and ice. Also, how would enforcement be handled for this added element? (Councilmember Lumm)

Response: Compacted snow could be interpreted as ice or snow that has been walked on and/or driven over with a vehicle. The dictionary definition of "compacted" is "closely packed or joined together."

Question: There are a number of sidewalks in the city adjacent to property owned by AAPS, UM, County. What are their current snow/ice removal practices, and how would they be impacted (if at all) by the ordinance passed at first reading? (Councilmember Lumm)

Response: Staff do not know the snow/ice removal practices of AAPS, UM or the county and do not know how they will be impacted by the city ordinance.

Question: Can you give specific examples of major problems that removing the 1" specification of the new ordinance would solve, assuming the other changes go through? Asked another way, could the existing ordinance solve the majority of the problems with greater reporting and staffing? (Councilmember Westphal)

Response: The Task Force's primary goal is to improve the community's ability to provide a safe and accessible network for people who walk.

The ordinance as it currently reads: "within 24 hours after the end of each accumulation of snow greater than 1 inch" results in, at least, two identified issues:

- Removing the "snow greater than 1 inch" rule, will help to reduce hazards on sidewalks in all snow/ice conditions. For example, this winter has illustrated how some of the most minor accumulations have created the most hazardous conditions for pedestrians of all abilities. If a snow event results in less than 1 inch of snow, the owner/occupant does not have to currently attend to their sidewalks which can cause accessibility issues under a number of conditions:
 - compacted snow that turns to ice
 - melting snow that turns to ice
 - unevenly compacted snow that creates trip hazards and/or makes a route inaccessible for people with mobility concerns
 - snow obscuring ice
- Removing the 1 inch rule and replacing it with "within 24 hours after the end of each accumulation of snow or ice " would require a owner/occupant to remove all snow from sidewalks, thereby, minimizing the potential for cumulative accumulations that add up to more than 1 inch, over time.

Question: Do you anticipate that residents would be fined for not removing a dusting of snow? (Councilmember Westphal)

Response: No.

Question: How much discretion are officers accorded? (Councilmember Westphal)

Response: Community Standards Officers have discretion which will be based on safety and accessibility. A dusting of snow would not be perceived as an issue of safety or accessibility.

Question: Would they prioritize major violations over minor? (Councilmember Westphal)

Response: Yes, Community Standards will prioritize enforcement.

Question: In general, is there an indication of whether Ann Arbor is in the majority or minority of peer communities when it comes to how we currently articulate expectations

for snow removal? Can you give examples of cities where there is no measurement criteria? (Councilmember Westphal)

Response: The attached document, which outlines practices for many snow-belt cities, was prepared by the Winter Maintenance subcommittee of the Task Force. According to this document, it appears that Ann Arbor is in the minority of peer communities.

Question: Will snow removal companies be able to fulfill obligations to their clients under the new rules? How is this accomplished in other communities? Are services deployed with every snowfall? (Councilmember Westphal)

Response: Staff do not review third party contracts.

Question: In cities with ordinances similar to the proposed one in place, what has the resident feedback been? (Councilmember Westphal)

Response: Neither staff nor the Task Force have polled benchmarked communities about resident feedback.

Question: Are there any resources or programs in place (or could be adopted) to guarantee that homeowners unable to afford to clear snow would not be assessed? Or have payment plans? (Councilmember Westphal)

Response: The sections that currently exists in the ordinance are **4:61. - Removal by city.** *If snow or ice is not removed or treated as required [section 4:60](#), the city may notify the owner or occupant of the violation of [section 4:60](#). This notification may be made in person, by telephone, by mail or by written notice left at the property. If the owner or occupant fails to remove snow or ice within 24 hours of the notification of violation of [section 4:60](#), the city may cause such snow or ice to be removed. The owner (as indicated by the records of the assessor) of the adjacent property shall then be charged the actual cost of the sidewalk clearance, plus an administrative fee of \$50.00. If that charge is not paid within 45 days, it may be assessed against the parcel under [section 1:292](#) of this Code. (Ord. No. 83-70, 10-13-70; Ord. No. 46-77, 1-23-78; Ord. No. 81-81, 12-7-81; Ord. No. 5-86, 2-20-86; Ord. No. 77-92, § 2, 12-21-92)* **4:62. - Financial hardship** Upon proof of financial hardship the Administrator may authorize charges under [section 4:61](#) to be paid in installments, to be reduced, or to be cancelled and will be subject to Council approval.(Ord. No. 11-75, 2-10-75; Ord. No. 5-86, 2-20-86)

There are currently no city-assisted resources or programs in place.

Question: There has been a dramatic uptick in sidewalk snow removal citations issued over the past two years. Do you anticipate that overall more citations will be issued under the new ordinance versus what would be issued with the old ordinance continuing in place? (Councilmember Westphal)

Response: One reason for the increase in citations issued in the past winters is due to the large amounts of snow fall and low temperatures. If the revisions of the ordinance

are adopted, yes, there could be more citations issued. However, it may also depend on how many more complaints are received. As stated above, discretion will also play a role on whether there will ultimately be an increase in citations issued.

Question: How much discretion do Community Standards officers currently have in issuing warnings and citations for snow/ice? (Councilmember Grand)

Response: Under our existing ordinance and current enforcement philosophy, there is limited discretion. Chief Seto believes there should be more discretion. Discretion will be based on safety and accessibility.