



## Legislation Text

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**File #:** 12-0454, **Version:** 1

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An Ordinance to Amend Sections 4:58 and 4:59 of Chapter 49 (Sidewalks) of Title IV (Streets and Sidewalks) of the Code of the City Relative to Responsibility for the Repair of Adjacent Sidewalk (Ordinance No. ORD-12-20)

On November 4, 2011 Ann Arbor overwhelmingly voted in favor of a new 5-year Street and Bridge Resurfacing and Reconstruction and Sidewalk Repair Millage. The proposed amendments to the Sidewalk Chapter of City Code will relieve the owners of taxable properties outside the Downtown Development District and owners of single and two-family houses within the Downtown Development District from the responsibility for sidewalk repairs for the duration of the millage (July 1, 2012 through June 30, 2017). For all other properties within the Downtown Development District, the responsibility of the property owner for repair of adjacent sidewalks would remain the same unless the City and Downtown Development Authority (“DDA”) enter into a contract that would relieve the owners of taxable property from the responsibility for sidewalk repairs for one or more fiscal years during the life of the millage.

The amendment to Section 4:58 provide for two possible contractual arrangements. subsection 4:58 (D)(1) provides for the DDA to return to the City an amount equal to the share of 0.125 mill of the 2.125 Street and Bridge Resurfacing and Reconstruction and Sidewalk Repair Millage, as adjusted, that the DDA receives. The City will not be able to use those funds outside the Downtown Development District. The impetus for providing this option was to reduce costs by taking advantage of the City’s expertise and existing sidewalk repair program, while providing funding to the City for this purpose that otherwise went to the DDA.

The amendment to subsection 4:58(2) provides for the City to pay to the DDA an amount equal to the balance of 0.125 mill of the 2.125 Street and Bridge Resurfacing and Reconstruction and Sidewalk Repair Millage, as adjusted, that the DDA does not already receive. Although staff and the DA expect to enter into an agreement in accordance with subsection 4:58(D)(1), the option in (2) was provided, as it is consistent with the directive provided in City Council’s October 17, 2011, resolution (R-11-444) and Attachment A thereto.

The intent of the proposed modifications to Section 4:58 and 4:59 is to allow the Public Services Administrator to evaluate the condition of the sidewalks throughout the City, determine the need for the sidewalk repairs and proceed with the sidewalk repairs where the sidewalk is adjacent to the taxable properties. The Public Services Administrator will continue to inspect the sidewalks that are adjacent to the non-taxable properties and will order the property owners to repair the sidewalks that the Public Services Administrator determines must be repaired.

A proposed amendment to Section 4:58(A) clarifies the right of the City, through the Public Services Administrator, to require non-emergency repairs and to impose the costs on a property owner and assess the property if the property if the repairs are not made and the City, after notice, undertakes the repairs.

Consistent with the changes to sidewalk repair responsibility for the duration of the 5-year Street and Bridge Resurfacing and Reconstruction and Sidewalk Repair Millage, proposed amendments to Section 4:59 change the procedures for the City to make emergency repairs and assess costs.

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Reviewed By: Susan Pollay, DDA Director

Reviewed By: Craig Hupy, Interim Public Services Administrator

Approved By: Steven D. Powers, City Administrator

ORDINANCE NO. ORD-12-20

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Public Hearing: June 4, 2012

Effective: June 17, 2012

SIDEWALKS

AN ORDINANCE TO AMEND SECTIONS 4:58 and 4:59 OF CHAPTER 49 (SIDEWALKS) OF TITLE IV OF THE CODE OF THE CITY OF ANN ARBOR

The City of Ann Arbor ordains:

Section 1. That Sections 4:58 and 4:59 of Chapter 49 of Title IV of the Code of the City of Ann Arbor shall be amended to read as follows:

**4:58. Sidewalk maintenance**

(A) Except as provided in subsections (B), (C) and (D) of this Section 4:58, All all sidewalks within the City shall be kept and maintained in good repair by the owner of the land, adjacent to and abutting upon the same;, and if any owner shall neglect to keep and maintain the sidewalk or any walks and ramps leading to a crosswalk along the front, rear, side of the land, owned by her or him, in good repair and safe for the use of the public, the said owner shall be liable to the City for any damages recovered against the City sustained by any person by reason of said sidewalk being unsafe and out of repair. If the public services area administrator determines that the condition of a sidewalk is such that repair is required and the owner of land abutting or adjacent o the sidewalk fails to make the repairs after notice from the City, the City may proceed to repair the same and the cost of such repairs shall be charged against the land which said sidewalk adjoins and the owner of said land, and shall be collected as a single lot assessment as provided in Section 1:292 of this Code. As used in this subsection (A), "sidewalk" does not include curb ramps or any sidewalk flag that is both adjacent to the top edge of one or more curb ramps and at the corner of a property.

(B) From July 1, 2012 through June 30, 2017 all sidewalks within the City that are both outside the Downtown Development District's boundaries, as established by section 1:154 of Chapter 7, and adjacent to and abutting real property against which the City levies property taxes shall be exempt from the requirements of subsection (A). As used in this subsection (B), "sidewalk" shall have the same meaning as in subsection (A).

(C) During any period of time from July 1, 2012 through June 30, 2017 that the City and the

Downtown Development Authority do not enter into an agreement as provided in subsection (D)(2), all sidewalks that are both within the Downtown Development District's boundaries, as established by section 1:154 of chapter 7, and adjacent to and abutting a property with a single- or two-family house against which the City levies property taxes shall be exempt from the requirements of subsection (A). As used in this subsection (C), "sidewalk" shall have the same meaning as in subsection (A).

(D) During the period July 1, 2012 through June 30, 2017 the City may enter into an agreement with the Downtown Development Authority under which the City and the Downtown Development Authority would agree to the provisions in either subsection (D)(1) or subsection (D)(2) for one or more one-year periods running from July 1 to June 30:

(1) *Agreement for Sidewalks Within the Downtown Development District to Be Treated Like Sidewalks Outside the Downtown Development District*

(a) That the sidewalks that are both within the Downtown Development District's boundaries, as established by section 1:154 of Chapter 7, and adjacent to and abutting real property against which the City levies property taxes, including property with a single- or two-family house, would be exempt from the requirements of subsection (A). As used in this subsection (D)(1), "sidewalk" shall have the same meaning as in subsection (A);

(b) That the Downtown Development Authority would transmit to the City in each year during which the agreement is in effect, the portion of 0.125 mill of the 2.125 mill street and bridge reconstruction and resurfacing and sidewalk repair millage, as adjusted by any required millage roll backs, that is captured by the Downtown Development Authority, which the City may use to repair the sidewalks identified in subsection (D)(1)(a); and

(c) That the City may use the amount transmitted under subsection (D)(2)(b) only within the Downtown Development District's boundaries, as established by section 1:154 of chapter 7, but the agreement shall neither obligate the City to use the full amount transmitted under subsection (D)(2)(b) nor limit the City to using only the amount transmitted under subsection (D)(2)(b), for repairs of sidewalks identified in subsection (D)(1)(a).

(2) *Agreement for Downtown Development Authority to be Responsible for Keeping and Maintaining Sidewalks in Good Repair*

(a) That the Downtown Development Authority would to be responsible for keeping and maintaining in good repair, as required by subsection (A), the sidewalks that are both within the Downtown Development District's boundaries, as established by section 1:154 of Chapter 7, and adjacent to and abutting real property against which the City levies property taxes;

(b) That the City would transmit to the Downtown Development Authority in each year during which the agreement is in effect, 0.125 mill of the 2.125 mill street and bridge reconstruction and resurfacing and sidewalk repair millage, as adjusted by any required millage roll backs, that is collected from property located within the Downtown Development District boundaries, as established by section 1:154 of Chapter 7, and that is not otherwise captured by the Downtown Development Authority, for the Downtown Development Authority to use to fulfill the requirements of subsection (A) for the sidewalks identified in subsection (D)(2)(a);

- (c) That the City will notify the Downtown Development Authority of emergency repairs required under Section 2:59 of any sidewalk described in subsection 2:58 (D)(2) and the Downtown Development Authority will immediately proceed to perform those repairs. If the Downtown Development Authority does not immediately proceed to perform those repairs, the City will perform the repairs as provided in Section 2:59. The City will bill the Downtown Development Authority and the Downtown Development Authority will pay the City for the City's cost for such emergency repairs;
- (d) That if the public services area administrator determines that the condition of a sidewalk identified in subsection 2:58 (D)(2) is such that repair is required, and if the Downtown Development Authority fails to make the repairs after notice from the City, the City may proceed to repair the same and will bill the Downtown Development Authority, and the Downtown Development Authority will pay the City for the City's cost for such repairs;
- (e) That if the Downtown Development Authority neglects to keep and maintain any of the sidewalks identified in subsection (D)(2) for the cost of repairs in good repair and safe for the use of the public, the Downtown Development Authority shall be liable to the City for any damages recovered against the City sustained by any person by reason of said sidewalk being unsafe and out of repair.

(E) The sidewalk maintenance and repair required by this Section 4:58 does not include the snow and ice removal required by Section 4:60.

#### **4:59. Emergency repair.**

- (A) If the public services area administrator determines that the condition of any sidewalk is such that immediate repair is necessary to protect the public, he/she shall immediately proceed to repair the same without notice to the owner of the land abutting thereon or adjacent thereto. Except as provided in subsections (B) through (D), The the cost of such emergency repairs shall be charged against the land which said sidewalk adjoins and the owner of said land, and shall be collected as a single lot assessment as provided in section Section 1:292 of this Code.
- (B) Emergency repairs by the City from July 1, 2012 through June 30, 2017 of any sidewalk described in either subsection (B) or (C) of Section 4:58 shall not be charged against the land which said sidewalk abuts or adjoins or its owner.
- (C) Emergency repairs by the City of a sidewalk that is both within the Downtown Development District's boundaries, as established by section 1:154 of Chapter 7, and adjacent to and abutting real property against which the City levies property taxes, including property with a single- or two-family house, that are done from July 1, 2012 through June 30, 2017 during a year in which the City and the Downtown Development Authority have entered into an agreement in accordance with subsection (D)(1) of Section 4:58 shall not be charged against the land which said sidewalk abuts or adjoins or its owner.
- (D) Emergency repairs by the City of a sidewalk that is both within the Downtown Development District's boundaries, as established by section 1:154 of Chapter 7, and adjacent to and abutting real property against which the City levies property taxes, excluding property with a

single- or two-family house, that are done from July 1, 2012 through June 30, 2017 during a year in which the City and the Downtown Development Authority have entered into an agreement in accordance with subsection (D)(2) of Section 4:58 shall be charged to the Downtown Development Authority.

Section 2. That this Ordinance shall take effect on the tenth day following legal publication.

### **CERTIFICATION**

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of June 4, 2012.

Date

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Legal Notices Webpage on June 7, 2012.

Jacqueline Beaudry, City Clerk