



Legislation Text

File #: 13-0346, **Version:** 5

An Ordinance to Amend Sections 4:51, 4:58, and 4:60 of Chapter 49 (Sidewalks) of Title IV of the Code of the City of Ann Arbor (Ordinance No. ORD-13-15)

Approval of the proposed ordinance will amend the definition of sidewalk in section 4:51 to include improved pathways in locations other than public rights-of-way that have been taken by the City, or that have been dedicated or granted to and accepted by the City, for public use as pedestrian, bicycle or non-motorized pathways. It also distinguishes sidewalks in or parallel to public street rights of way with improved streets from those that do not contain an improved street.

The amendment to section 4:51 to expand the definition of sidewalk will clarify for abutting property owners and for members of the public who use these pedestrian, bicycle or non-motorized pathways that they are sidewalks that the City can maintain with funds raised by the street and sidewalk millage.

Excepted as noted below, amendments to Sections 4:58 and 4:60 specifically exempt abutting property owners from responsibility for repair and snow and ice removal for sidewalks in public rights of way without an improved street and those that lie within or upon an easement or strip of land that is not adjacent and parallel to a public right of way, and that was taken or accepted by the City or dedicated to and accepted by the City for public use by pedestrians, bicycles, or other non-motorized travel.

Section 4:58 was previously revised to provide for City repairs of certain sidewalks during the five years that the millage that covers sidewalk repairs is in place. The proposed amendment to subsection (B) of section 4:58 provides that the City will not have a responsibility to repair any sidewalks for which covenants, restrictions or other documents of a subdivision or condominium have placed the responsibility for care or maintenance on lot or unit owners, a homeowners association, condominium owners association, or a similar entity.

Owners of parcels abutting sidewalks impacted by this ordinance have been notified by staff of the proposed ordinance change. The notice included an invitation to an informational session on September from 6:30-7:30 p.m. At second reading of the proposed ordinance, requested for the second meeting in October, a companion resolution will propose public acceptance of certain sidewalks affected by this change.

Approval of this ordinance is recommended.

Prepared by: Deborah Gosselin, Systems Planning Engineer IV

Reviewed by: Craig Hupy, Public Services Area Administrator, Abigail Elias, Chief Assistant City Attorney

Approved by: Steven D. Powers, City Administrator

ORDINANCE NO. ORD-13-15

First Reading: October 7, 2013

Approved: October 21, 2013

Public Hearing: October 21, 2013

Published: October 24, 2013

Effective: November 3, 2013

SIDEWALKS

AN ORDINANCE TO AMEND SECTIONS 4:51, 4:58, and 4.60 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 4.51, 4:58, and 4:60 of Chapter 49 of Title IV of the Code of the City of Ann Arbor be amended as follows:

4:51. - Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this Chapter shall be as follows:

(1) "Sidewalk" shall mean any concrete or bituminous walkway, or walkway of other materials that is designed particularly for pedestrian, bicycle, or other non-motorized travel and that is constructed (a) in a public right of way that contains an improved street or in an easement adjacent and parallel to a public right of way that contains an improved street, (b) in a public right of way without an improved street, or (c) within or upon an easement or strip of land that is not adjacent and parallel to a public right of way, and that was taken or accepted by the City or dedicated to and accepted by the City for public use by pedestrians, bicycles, or other non-motorized travel. As used in this Chapter, "sidewalk" includes walks and ramps leading to a crosswalk.

(2) "Administrator" shall mean the public services area administrator of the City or his or her designee.

4:58. - Sidewalk maintenance.

(A) Except as provided in subsections (B), (C), (D), and (E) of this section 4:58, 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 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 to 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), except that if covenants, restrictions, an agreement, easement, or other documents of a subdivision, condominium or development specifically make the property, lot or unit owners, a homeowners association, condominium owners association or similar entity, or the successor in interest of any of the foregoing, responsible for the care or maintenance of such sidewalks, then the exemption in this subsection (B) from the requirements of subsection (A) shall not apply. 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) Sidewalks as defined in Section 4:51 (1) (b) or (c) shall not be the responsibility of the owner of the land adjacent to and abutting upon the same.

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

4:60. - Snow and ice

All snow and ice which has accumulated prior to 6:00 a.m. on a public sidewalk adjacent to property not zoned residentially shall be removed by the owner or occupant by noon. Immediately after the accumulation of ice on such sidewalk it shall be treated with sand, salt or other substance to prevent it from being slippery and the ice shall be removed within the time limits of this paragraph.

Except for sidewalks defined by Section 4:51 (1) (b) and (c), within 24 hours after the end of each accumulation of snow greater than 1 inch, the owner or occupant of every residentially zoned property shall remove the accumulation from the adjacent public sidewalk and walks and ramps leading to a crosswalk. The accumulation may be from any source including precipitation and drifting. Immediately after the accumulation of ice on such sidewalk, it shall be treated with sand, salt or other substance to prevent it from being slippery and the ice shall be removed within 24 hours after accumulation.

All property zoned PL (public land) shall have snow and ice removed as if it held the same zoning classification as the adjacent property. The removal of snow and ice shall mean free of snow and ice for the entire constructed width and length of the sidewalk, including walks and ramps leading to a crosswalk.

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 October 21, 2013.

Jacqueline Beaudry, City Clerk

John Hieftje, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on October 24, 2013.

Jacqueline Beaudry, City Clerk