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Title: 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 Sidewalks (Ordinance No. ORD-18-13)

Sponsors:

Indexes:

Code sections: Chapter 49 - Streets

Attachments: 1. 18-13 Briefed and Approved.pdf, 2. 18-13 Streets and Sidewalks Ordinance Briefed.pdf, 3. Chpt 49 amend 2018.pdf

Date	Ver.	Action By	Action	Result
5/21/2018	1	City Council	Held and Closed	
5/21/2018	1	City Council	Adopted on Second Reading	Pass
5/7/2018	1	City Council	Approved on First Reading	Pass

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 Sidewalks (Ordinance No. ORD-18-13)

On August 2, 2016, Ann Arbor voters approved a new 5-year Streets, Bridges, and Sidewalks Millage, which replaced a similar millage that ended June 30, 2017. The proposed amendments to Chapter 49 of City Code bring current to match the millage dates (July 1, 2017 through June 30, 2022) the dates in certain provisions that apply to properties within the Downtown Development District. These include the sections with dates during which the City and Downtown Development Authority (“DDA”) can enter into a contract that relieves the owners of taxable property within the Downtown Development District from the responsibility for sidewalk repairs for one or more fiscal years during the life of the millage if the DDA agrees to return to the City an amount equal to the share of 0.125 mill of the 2.125 Streets, Bridges, and Sidewalks Millage, as adjusted, that the DDA receives..

Section 4:58 provides for two possible contractual arrangements. No changes are proposed for these provisions, other than to bring current the dates and the reference to the millage.

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 Streets, Bridges, and Sidewalks Millage, as adjusted, that the DDA receives. The City will not be able to use those funds outside the Downtown Development District. As was the case for the prior millage, the impetus for providing this option is to reduce costs by taking advantage of the City’s expertise and existing sidewalk repair program, while providing funding that otherwise would go to the DDA to the City for this purpose. This was done for all five years of the prior millage,

and is planned for the five years of the current millage.

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 Streets, Bridges, and Sidewalks Millage, as adjusted, that the DDA does not otherwise capture. Although staff and the DDA expect to enter into an agreement under subsection 4:58(D)(1), the option in (2) was provided at the time of the prior millage and is continued for the current millage.

The proposed amendments to continue these provisions in Section 4:58 are consistent with the directives provided in City Council's April 4, 2016, resolution (R-16-130) and Attachment A thereto.

Prepared By: Abigail Elias, Chief Assistant City Attorney

Reviewed By: Craig Hupy, Public Services Area Administrator

Approved By: Howard S. Lazarus, City Administrator

ORDINANCE NO. ORD-18-13

First Reading: May 7, 2018

Approved: May 21, 2018

Public Hearing: May 21, 2018

Published: May 24, 2018

Effective: June 4, 2018

STREETS AND 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), (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 1 **one** or more curb ramps and at the corner of a property.

(B) From July 1, 2012 **2017** through June 30, 2017**2022** 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**2017** through June 30, 2017**2022** 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** 2-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**2017** through June 30, 2017**2022** 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**1 or more **one** 1-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** 2-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 streets, and bridges, and reconstruction and resurfacing and sidewalks 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 streets, and bridges, reconstruction and resurfacing and sidewalks 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.

4:59. 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 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 1:292 of this Code.
- (B) Emergency repairs by the city from July 1, 2012~~2017~~ through June 30, 2017~~2022~~ 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~~2017~~ through June 30, 2017~~2022~~ 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~~2017~~ through June 30, 2017~~2022~~ 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 May 21, 2018.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's Webpage on May 24, 2018.

Jacqueline Beaudry, Ann Arbor City Clerk