

ORDINANCE NO.6-04

By: Helen MacMurray

An Ordinance to amend Chapter 1022 of the City of Bexley Codified Ordinances with regards to sidewalks.

Whereas, it is the desire of the City Council to have the City accept the responsibility for the repair of public sidewalks, and

Whereas, it is necessary to revise Chapter 1022 of the Bexley Codified Ordinances to allow this change;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section 1. That existing Chapter 1022 is amended to read as follows:

1022.01 CONSTRUCTION REQUIREMENTS.

All sidewalks constructed WITHIN THE PUBLIC RIGHT OF WAY OF ANY CITY STREET ~~in any street in the City~~ shall be of PORTLAND CEMENT concrete. ~~or such other materials as shall be approved in writing by the City prior to construction. Conditions for approval may be imposed by the City including, but not limited to, a consent hold harmless agreement.~~ Sidewalks shall be of a uniform width of four feet, ~~unless a different width is provided in any resolution of Council hereafter ordering sidewalks to be constructed in any one or more streets,~~ or unless a different width is ordered by the Mayor SERVICE DIRECTOR in order to conform to existing sidewalks AND SHALL BE LOCATED AS DIRECTED BY THE SERVICE DIRECTOR.

Sidewalks shall be constructed in accordance with the plans and specifications for sidewalks on file in the Building SERVICE Department, which shall at all times be kept on file and open to public examination. ~~They shall be constructed with a cross-slope of three eighths of an inch per foot and shall be placed with the inside edge, being the edge next to the lot line, two feet from the lot line, and at an elevation above the curb grade of three eighths of an inch for each foot that the sidewalk is distant from the curb, plus one inch rise at the curb, provided, however, that in order to conform to existing sidewalks or to meet special conditions, Council may, in its resolution ordering the construction of sidewalks, or the Mayor by special order may direct a different location with reference to lot lines, or a different elevation for any sidewalk, which resolution or special order shall prevail.~~ WHERE REQUIRED BY THE AMERICAN WITH DIABILITIES ACT sidewalks ~~on a corner~~ shall include handicap ramps which have been constructed in accordance with specifications on file in the Building SERVICE Department.

1022.02 LOWERING OF GRADE PROHIBITED.

NO DEPRESSION OR LOWERING OF THE LEVEL OR GRADE OF SIDEWALKS

SHALL BE PERMITTED FOR THE PURPOSE OF MAKING OR CONSTRUCTING A DRIVEWAY OR ENTRANCE TO PRIVATE OR PUBLIC PROPERTY OR PREMISES BOUNDING OR ABUTTING ON SUCH SIDEWALK UNLESS SUCH PROHIBITION PROHIBITS ACCESS TO THE PRIVATE OR PUBLIC PROPERTY AS DETERMINED BY THE SERVICE DIRECTOR.

1022.023 DUTY OF ABUTTING LANDOWNER TO REPAIR.

The owner of any lot or parcel of ground in the City shall cause the sidewalk, or any part thereof, in front of or abutting upon such lot or parcel of ground, to be paved—~~repaved~~ REPLACED WHENEVER ACTION OF THE OWNER OR HIS OR HER AGENT OR INVITEE CAUSES DAMAGE TO THE SIDEWALK. ~~or repaired whenever Council, by resolution, directs the same to be done, and he shall thereafter keep the same in good order and repair.~~

1022.034 ~~NOTICE TO CONSTRUCT OR REPAIR.~~ INJURIOUS MATERIALS PLACED OR DROPPED ON SIDEWALKS.

NO PERSON SHALL PLACE OR KNOWINGLY DROP UPON ANY PART OF A SIDEWALK, ANY MATERIAL OR ARTICLES WHICH MAY DAMAGE PROPERTY OF ANOTHER OR INJURE ANY PERSON OR ANIMAL TRAVELING ALONG OR UPON SUCH SIDEWALK.

NO PERSON SHALL WALK ON, OR ALLOW ANY ANIMAL UPON, OR INJURE OR DEFACE IN ANY WAY, ANY SOFT OR NEWLY LAID SIDEWALK PAVEMENT.

NO PERSON SHALL PLACE, DEPOSIT OR MAINTAIN ANY MERCHANDISE, GOODS, MATERIAL OR EQUIPMENT UPON ANY SIDEWALK SO AS TO OBSTRUCT PEDESTRIAN TRAFFIC THEREON EXCEPT FOR SUCH REASONABLE TIME AS MAY BE ACTUALLY NECESSARY FOR THE DELIVERY OR PICKUP OF SUCH ARTICLES; PROVIDED THAT IN NO CASE SHALL THE OBSTRUCTION REMAIN ON SUCH SIDEWALK FOR MORE THAN ONE HOUR.

NO PERSON SHALL UNLOAD UPON, OR TRANSPORT ANY HEAVY MERCHANDISE, GOODS, MATERIAL OR EQUIPMENT OVER OR ACROSS ANY SIDEWALK OR CURB WITHOUT FIRST PLACING SUFFICIENT PROTECTION OVER THE PAVEMENT TO PROTECT AGAINST DAMAGE OR INJURY.

NO PERSON SHALL ALLOW ANY OPENING IN ANY SIDEWALK TO REMAIN OPEN WITHOUT PROVIDING SUITABLE SAFEGUARDS TO PROTECT AND WARN PEDESTRIAN TRAFFIC OF THE CONDITION. ~~The Clerk of Council shall cause a written notice of the passage of a resolution such as is described in Section 1022.02, and written notice to construct or repair the sidewalk in accordance therewith, to be served upon the owner or agent of the owner of each parcel of land abutting upon such sidewalk, who may be a resident of the City, in the manner provided by law for the service of summons in a civil action, and shall return to the Mayor a copy of such notice with the time and manner of service endorsed thereon, signed by the officer serving it. If such parcel of land is owned by more than one person, service upon any one thereof shall be sufficient.~~

~~For the purpose of such service, if the owner is not a resident of the City, any person charged with the collection of rents or the payment of taxes on such property or having general control thereof in any way shall be regarded as the agent of the owner, and the return shall have the like~~

~~force and effect as the Sheriff's return on summons in a civil action.~~

~~If any such owners or persons are not residents of the City, or if it appears from the return that neither such owner or agent or his residence could be found, publication of a copy of the resolution in a newspaper of general circulation in the City, in one issue of such newspaper, shall be deemed sufficient notice to such owner, provided, however, that such notice may be served upon any such owner who is not a resident of the City by mail, registered or otherwise, and a return of the Clerk of Council indicating that a true copy of the notice was enclosed in an envelope with the return address thereon, deposited in the mail, registered or otherwise, addressed to such owner, shall be proof of service, provided that such address is the correct residence of the owner and that such envelope is not returned by the postal authorities as undelivered. (Ord. 14-48. Passed 5-11-48.)~~

1022.04 5 PERMIT REQUIRED.

~~No person shall construct OR REPLACE a sidewalk or replace fifty percent (50%) or more of an existing sidewalk on any one property, in any street in the City, either by himself or by private or public contract or agreement, until he has first obtained a permit from the City. CONSTRUCTION SHALL TAKE PLACE UNDER THE SUPERVISION AND CONTROL OF, AND TO THE SATISFACTION AND APPROVAL OF THE SERVICE DEPARTMENT. to do so, and thereafter such sidewalk shall be made and constructed under the supervision and control of, and to the satisfaction and approval of, the City, and no person shall be required to pay the cost and expense of making and constructing such sidewalks until the same have been accepted and approved by the City. A fee of twenty dollars (\$20.00) shall be paid for such permit to the City, which fee shall be deposited with the City Auditor to the credit of the General Fund~~

1022.05 6 PERMIT APPLICATION.

~~Applications for the permits required by Section 1022.04 shall be made to the SERVICE Building Department on blanks furnished for that purpose and shall be signed by the owner of the property involved or the construction contractor. However, when the sidewalks involved are being constructed in connection with building improvements being constructed upon any premises, such application may be made upon the same blanks upon which the building permits are applied for and issued. (Ord. 89-90. Passed 12-19-90.)~~

1022.067 EQUITABLE REMEDY. PENALTY.

~~WHOEVER VIOLATES OR FAILS TO COMPLY WITH ANY OF THE PROVISIONS OF THIS CHAPTER IS GUILTY OF THE FOURTH DEGREE MISDEMEANOR AND SHALL BE FINED NOT MORE THAN TWO HUNDRED FIFTY DOLLARS (\$250.00) OR IMPRISONED NOT MORE THAN THIRTY DAYS, OR BOTH. A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OR NONCOMPLIANCE OCCURS OR CONTINUES.~~

~~If sidewalks are not constructed, reconstructed or repaired within the time provided in the resolution referred to in Sections 1022.01 and 1022.02 and the notice requiring the same to be done, the Mayor may do the same or have the same done at the expense of the owner, and all such expenses shall be assessed and collected in the same manner with a penalty of five percent and interest for failure to pay at the time fixed by the assessing ordinance, as in cases of improvements as provided by statute. (Ord. 11-48. Passed 4-13-48)~~

constructed,

Section 2. That the existing Chapter 1022 is hereby repealed in its entirety. Without limiting the foregoing, Council shall no longer have the authority, by resolution, pursuant to former Section 1022.02 to direct a property owner to cause a public sidewalk to be replaced or repaired or to assess the abutting property the cost thereof, except when actions of the owner or his or her agent or invitee have caused damage to the sidewalk.

Section 3. That this Ordinance shall go into force and effect upon the earliest period allowed by law.

Passed: _____, 2004

President of Council

Attest: _____
Clerk of Council

Approved: _____, 2004

David H. Madison, Mayor

1/27/04 First reading
2/10/04 Second reading