

AN ORDINANCE BY

COUNCILMEMBERS MARY NORWOOD, YOLANDA ADREAN, HOWARD SHOOK, CARLA SMITH, NATALYN ARCHIBONG, KEISHA LANCE BOTTOMS, MICHAEL BOND, IVORY L. YOUNG, JR. AND ANDRE DICKENS

AS SUBSTITUTED (#4) BY CITY UTILITIES COMMITTEE

AN ORDINANCE TO AMEND PART 2, CHAPTER 138, ARTICLE 1, SECTION 138-14(D) TITLED "MAINTENANCE OF SIDEWALK AREA" CONCERNING THE FUNDING OF SIDEWALK MAINTENANCE AND REPAIRS; TO AMEND PART 2, CHAPTER 138, ARTICLE 4, SECTION 138-103 TITLED "INSPECTION AND REPAIR OF SIDEWALKS" CONCERNING THE FUNDING OF SIDEWALK MAINTENANCE AND REPAIRS; AND FOR OTHER PURPOSES.

WHEREAS, The City's sidewalks are public assets that provide benefits to the entire community, not just property owners or abutting property owners near sidewalks; and

WHEREAS, the maintenance and installation of sidewalk infrastructure throughout the City of Atlanta is a basic function of a local government in Georgia; and

WHEREAS, City Code Section 138-14(d) and certain provisions contained within Section 138-103 require that private property owners maintain sidewalks that abut their property; and

WHEREAS, sidewalks can improve pedestrian safety, encourage walkability, and enhance the quality of life in our neighborhoods; and

WHEREAS, safe and accessible sidewalks are essential to the health and mobility of Atlanta's residents; and

WHEREAS, the City of Atlanta does not have a sufficient system for prioritizing repairs, a sustainable funding source dedicated to sidewalk repair, or an effective approach to tackle the problems of repairs and replacements; and

WHEREAS, many neighborhoods and residents are unaware of the responsibility of maintaining the sidewalks or do not have the financial resources to do so; and

WHEREAS, the City is committed to allocating funding for sidewalk maintenance on a sustained yearly basis, including those funds recently established by Ordinance 14-O-1513 authorizing the creation of a Public Infrastructure Maintenance and Improvement Account that will incrementally collect 3.5% of the general fund budget by FY2020 for the repair and maintenance of public infrastructure; and



WHEREAS, when funding is made available for maintenance and repair, it shall be made a priority to allocate such funding to help maintain and repair sidewalks; and

WHEREAS, if this phased approach is successful and fiscally responsible, it may be possible for the City to undertake all maintenance and repair; and

WHEREAS, it is the specific intent of the City Council not to waive or abrogate the rights of the City to enforce any law whether provided by statute, ordinance, charter or common law by implementing this phased approach; and

WHEREAS, the only obligation that the City desires to undertake under this ordinance is to provide sidewalk maintenance and repair funding when it is identified and available.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS, as follows:

SECTION 1: Sec. 138-14 of the “Maintenance of sidewalk area” currently reads:

(a)

Removal of snow and ice from sidewalks. When there is an accumulation of ice, naturally or by artificial means, or snow sufficient to cover the sidewalks, the occupants or owners of the houses and other establishments fronting the sidewalks shall have the ice or snow cleared from the sidewalks in front of their establishments when an accumulation occurs, within a reasonable time after such accumulation.

(b)

Maintenance of unpaved portion of sidewalk space. Whenever a sidewalk is paved and not all of the sidewalk space is covered by the pavement, but a space is left between the sidewalk and the curbs or between the sidewalk and property line or both or where there exist planted materials in the ground or in planters within such unpaved portion, the owner of the abutting property shall be responsible for maintenance of that space and for keeping it free of holes and weeds, level with the sidewalk and sodded with grass and for watering, pruning and maintaining the planted materials, whether such materials are planted in the ground or in planters placed in or alongside the sidewalk area. Upon the failure of that person to do so, the commissioner of public works may give written notice to the person to do so within ten days, and upon the failure of that person to comply, the person shall be cited to appear for a hearing to show cause for noncompliance, after which the commissioner shall have the property put in a condition complying with this section and shall notify the chief financial officer of the costs thereof. Execution shall issue against the owner of the property for the full amount of costs, which



execution shall be collected by the chief financial officer as are all other executions issued by the city.

(c)

Paving of grass plots upon repaving sidewalks. Whenever a sidewalk is repaved on a street which has a grass or dirt plot between the curb and the pavement, the commissioner of public works shall be authorized to extend the repavement to the curblines. If the extension to the curblines is repaved, the grass or dirt plot so paved shall be paved with the same material as the new pavement.

(d)

Damaged sidewalk abutting the right-of-way. When the sidewalk abutting the right-of-way is damaged, it is the obligation of the abutting property owner to repair such sidewalk upon notice from the department of public works. If after receiving such notice, the abutting property owner fails to repair the sidewalk within a reasonable time, the department of public works is authorized to make such repairs and assess the abutting property owner for costs incurred.

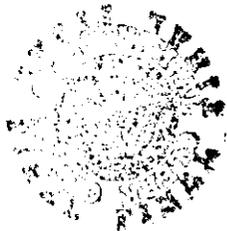
SECTION 2: Sec. 138-14 of the "Maintenance of sidewalk area" shall now read:

(a)

Removal of snow and ice from sidewalks. When there is an accumulation of ice, naturally or by artificial means, or snow sufficient to cover the sidewalks, the occupants or owners of the houses and other establishments fronting the sidewalks shall have the ice or snow cleared from the sidewalks in front of their establishments when an accumulation occurs, within a reasonable time after such accumulation.

(b)

Maintenance of unpaved portion of sidewalk space. Whenever a sidewalk is paved and not all of the sidewalk space is covered by the pavement, but a space is left between the sidewalk and the curbs or between the sidewalk and property line or both or where there exist planted materials in the ground or in planters within such unpaved portion, the owner of the abutting property shall be responsible for maintenance of that space and for keeping it free of holes and weeds, level with the sidewalk and sodded with grass and for watering, pruning and maintaining the planted materials, whether such materials are planted in the ground or in planters placed in or alongside the sidewalk area. Upon the failure of that person to do so, the commissioner of public works may give written notice to the person to do so within ten days, and upon the failure of that person to comply, the person shall be cited to appear for a hearing to show cause for noncompliance, after which the commissioner shall have the property put in a condition complying with this



section and shall notify the chief financial officer of the costs thereof. Execution shall issue against the owner of the property for the full amount of costs, which execution shall be collected by the chief financial officer as are all other executions issued by the city.

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Paving of grass plots upon repaving sidewalks. Whenever a sidewalk is repaved on a street which has a grass or dirt plot between the curb and the pavement, the commissioner of public works shall be authorized to extend the repavement to the curblines. If the extension to the curblines is repaved, the grass or dirt plot so paved shall be paved with the same material as the new pavement.

(d)

Damaged sidewalk abutting the right-of-way. When the sidewalk abutting the right-of-way is damaged, it is the obligation of the abutting property owner to repair such sidewalk upon notice from the department of public works. If after receiving such notice, the abutting property owner fails to repair the sidewalk within a reasonable time, the department of public works is authorized to make such repairs and assess the abutting property owner for costs incurred; provided however that where funding is identified, applicable and available for implementation of repairs by the city, such repairs not required due to damage directly attributable to action(s) of the abutting property owner or agents, contractors, or employees of the abutting property owner, shall be undertaken by the city upon a prioritized basis until the funding is exhausted. The absence of city funding shall not excuse the abutting property owner from the requirements of this section.

(e)

Reporting requirement. The department of public works shall update city council on a quarterly basis as to all sidewalk repairs conducted by location, responsible party, and dollar amount of each repair.

SECTION 3: Sec. 138-103 of the “Inspection and repair of sidewalks” currently reads:

“The commissioner of public works is authorized to inspect the sidewalks along public right-of-way, to see that the sidewalks thereon are in a safe and suitable condition for public use and travel, to condemn promptly pavements on such sidewalks that are unsafe or unsuitable for public travel, and to cause repairs to be made in accordance with city law and to charge the cost of the repair to the abutting property owner.”

SECTION 4: Sec. 138-103 of the “Inspection and repair of sidewalks” should read:

“The commissioner of public works shall inspect the sidewalks along public right-of-way, to maintain the sidewalks thereon in a safe and suitable condition for public use and travel, to condemn promptly pavements on such sidewalks that are unsafe or unsuitable for public

travels and to cause repairs to be made in accordance with city law and to charge the cost of the repair to the abutting property; provided however that where funding is identified, applicable and available for implementation of repairs by the city, such repairs shall be undertaken by the city upon a prioritized basis until the funding is exhausted. The absence of city funding shall not excuse the abutting property owner from the requirements of this section.

SECTION 5: The Commissioner of Public Works is hereby authorized to create a prioritized list of sidewalk maintenance and repair locations utilizing a portion of the Infrastructure Maintenance and Improvement Account and all other applicable and available funding sources to fund city sidewalk repairs and maintenance until such funding is exhausted.

SECTION 6: This ordinance shall become effective when signed by the Mayor or as provided by operation of law.

A true copy,

Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

JUL 20, 2015
JUL 29, 2015

2015-40 (14-O-1361)

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