February 24, 2020

AN ORDINANCE TO Amend Chapter 12 of the Municipal Code Regarding Curb Cuts and Notice of Work Involving Sidewalks

Be it ordained by the City Council of the City of Newburyport as follows:

***Amend existing Section 12-5 regarding altering the grade, width, sidewalk, etc. of a public way as follows, with deletions double stricken-through, and additions double-underlined:***

Sec. 12-5. – Altering grade, width, sidewalk, curb cuts, etc.

No person shall change the grade of any such street, way or grounds, or of any sidewalk of any such street, way or grounds, or the width of any such sidewalk, including, without limitation, by installing or altering a curb cut,, or in any manner alter the grade, width or direction of any curbstone of such sidewalk without permission of department of public services. All proposed curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width; *provided, however*; that the department public services may require a curb cut to be up to 30 feet in width for commercial or industrial truck traffic. The location of driveway openings in relation to traffic and to adjacent streets must provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

***Amend existing Section 12-55 regarding notice of work involving city-owned sidewalks, as follows, with deletions double stricken-through, and additions double-underlined:***

Sec. 12-55. – Notice of work involving city-owned sidewalks.

1. *Administrative discretion*. Consistent with the city charter and the other provisions of this municipal code, the department of public services shall determine in its discretion the proper timing for the installation, construction, maintenance, repair, replacement, and reconstruction of any and all portions of city-owned sidewalk, including, without limitation, the installation or alteration of a curb cut.
2. *Notice of work*. No fewer than seven (7)fourteen (14) calendar days before undertaking the installation, construction, maintenance, repair, replacement, and reconstruction of any portion of a city-owned sidewalk, the department of public services shall cause written notice of such planned work to be posted within 20 feet ofdelivered to each residence and place of business abutting the affected portion of sidewalk proposed to be affected, as well as delivered by hand to the city councillors for all wards where such area of work is located.
3. *Notice of brick option.* Where the department of public services intends the use of cement or asphalt surface material in the installation, construction, maintenance, repair, replacement, or reconstruction of any portion of a city-owned sidewalk that is located outside of the Downtown Overlay District but within the Newburyport Historic District, no fewer than ninety (90) calendar days before undertaking any such work, the department shall cause written notice thereof to be mailed or delivered by hand to the owner of each parcel abutting the affected portion of sidewalk, as well as to the city councillors for all wards where such area of work is located.
   1. Such required notice shall include the estimated cost per square foot to install brick surface material instead of cement or asphalt, as the case may be. Such estimated cost shall exclude all costs that would also be incurred to use cement or asphalt surface material, as the case may be, including, without limitation, work involving grading, base material, and curbstones.
   2. Each owner of an abutting parcel shall have twenty (20) calendar days from the mailing or delivery of such required notice to deliver its own written notice to the department that such owner agrees to pay the incremental cost for the use of brick surface material, instead of cement or asphalt surface material, as the case may be, for the affected portion of sidewalk abutting its parcel. It shall be the responsibility of such owner to confirm delivery to the department of such owner’s agreement to pay, and to render such payment at such time as is reasonably required by the department.
   3. No later than twenty (20) days after the expiration of the period in which an abutting owner may agree to pay the incremental cost of brick surface material, the department shall review all such responses, determine in its discretion the feasibility of using brick surface material instead of cement or asphalt surface material, as the case may be, within the area of work, and cause written notice of its determination to be mailed or delivered to each owner that responded timely, as well as to the city councillors for all wards where such area of work is located. The department’s determination regarding the feasibility of using brick surface material shall be final. In all cases, work shall be performed by the department or a licensed contractor of the city supervised by the department.

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Councillor Jared J. Eigerman

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Councillor Christine E. Wallace