

CITY OF NEWBURYPORT



IN CITY COUNCIL

ORDERED:

AN ORDINANCE REGARDING ALTERATION AND MAINTENANCE OF THE PUBLIC RIGHT-OF-WAY INCLUDING, BUT NOT LIMITED TO STREETS AND SIDEWALKS

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

THE Code of Ordinances, City of Newburyport, Massachusetts, is amended to add the following:

Chapter 12 – Streets, Sidewalks, and Other Public Places

Article VII – Alterations and Maintenance

Section 12-200 – Definitions.

The following definitions apply to this Article VII:

- 1) **“Alteration”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean a change that affects or could affect the usability of all or part of a public street, sidewalk, or within the right-of-way. Alterations include activities such as construction, reconstruction, rehabilitation, resurfacing, widening, grade changes, and projects of similar scale and effect. Replacement or relocation of drainage and underground utilities shall also be considered alterations.
- 2) **“Maintenance”** shall be defined consistently with applicable U.S. Department of Justice and U.S. Department Transportation regulations to mean as activities on public streets, sidewalks, or within the right-of-way that do not significantly affect the public's access to or usability of the road. Maintenance includes smaller scale repairs such as pavement patching, crack filling and sealing, sidewalk or curb repairs, minor drainage and utility repairs, re-painting of existing markings, and projects of similar scale and effect.

Section 12-201 – Purpose.

Whereas the City of Newburyport Home Rule Charter provides at Section 2-5 that, except as otherwise provided by general law or by the charter, all powers of the City shall be vested in the City Council which shall provide for their exercise and for the performance of all duties and obligations imposed upon the City by law, and at Section 2-7 that the City Council may make investigations into the affairs of the city and into the conduct and performance of any city agency; and whereas the Newburyport Code provides at

Section 12-30 that the surveying and laying out, relocation or altering of a street, highway, or private way, or part thereof, shall be done under the supervision of the City Council and at Section 13-46 that the City Council is authorized, and as to those signs and signals required under such code it shall be its duty, to place and maintain or cause to be placed and maintained all official traffic signs, signals, markings and safety zones, the purposes of this Article VII include:

- 1) to provide a process for public participation and notification in the planning, design, and construction for work involving public ways;
- 2) to clarify the instances in which approval by the City Council is required for work involving public ways;
- 3) to standardize the timing and scope of information that city agencies must provide to the City Council annually about the planning, funding, and undertaking of work involving public ways;
- 4) to set minimum requirements for applications for design review; and
- 5) to ensure the public availability of all such information and design review applications.

Section 12-202 – Approval required.

- 1) Alteration of a public street, sidewalk, or right-of-way requires approval of an Order by the City Council. Types of projects that require approval include but are not limited to:
 - a) Street resurfacing or reconstruction, curb and sidewalk installation or reconstruction, drainage and utility installation or reconstruction;
 - b) Crosswalk changes, intersection improvements, complete streets projects or traffic calming retrofits;
 - c) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of an alteration.
- 2) Maintenance of a public street, sidewalk or within the right-of-way does not require City Council approval. Additionally, the following types of projects do not need approval under this section:
 - a) Sidewalk or curb reconstruction as part of the city sidewalk partnership replacement program;
 - b) Right-of-way, utility, trench work or driveway opening permits approved separately by the Department of Public Services.
 - c) Emergency work as determined by Department of Public Services.
 - d) Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of a maintenance.

Section 12-203– Project reporting and planning.

By November 1 of each year, the Department of Public Services, the Planning Department, and any other applicable city department shall submit in writing to the City Clerk the following information:

- 1) A list of street and sidewalk projects completed in the preceding fiscal year that includes scopes of work, total funds expended broken down by source, resources used (such as external or internal engineering services, contractor services, or in-house resources), and any other relevant details;
- 2) Any request-for-proposals and bid documents generated during the preceding fiscal year;
- 3) Any grant submissions or award documents generated or received during the preceding fiscal year; and

- 4) An up-to-date, street and sidewalk five-(5-) year project plan for the subsequent five calendar years that includes approximate scopes of work, schedules, costs, and funding sources.

Section 12-204– Project design submittals and review.

Prior to any alteration of a public street, sidewalk or within the right-of-way, the applicant (including, without limitation, when a City agency or officer is the applicant) shall submit in writing to the City Clerk the following:

- 1) Project Concept Plan that shows at a minimum:
 - a) To-scale, existing conditions base plan (surveyed or recent aerial) with property lines (surveyed or approximate GIS-based); and
 - b) Locations of proposed curb, sidewalk, limits of paving, materials, pavement markings, crosswalks, ADA ramps, signage, traffic controls, utilities (including if being relocated or replaced), trees and vegetated areas.
- 2) Project Summary that describes at a minimum:
 - a) Scope of work, project schedule, and project manager;
 - b) Project cost estimates and funding sources;
 - c) Compliance with MassDOT standards and City of Newburyport "Construction and Traffic Standard Details";
 - d) Compliance with the American Disabilities Act (ADA);
 - e) Compliance with the Complete Streets Policy adopted by order of the City Council on January 29, 2018, as it may be amended from time to time;
 - f) Traffic-calming elements;
 - g) Construction abutter notification and public communication methods;
 - h) Construction staging areas, pedestrian safety near work zones, detour routes and signage, and police details; and
 - i) City Engineer ~~approval~~ review (whether designed in-house or outsourced).

Section 12-205 – Transparency requirement.

Upon receipt, the City Clerk shall forthwith submit the information referenced in Sections 12-203 and 12-204 to the City Council in the form of a communication and to post the same to the City's Website.

Councillor Christine Wallace, Ward 4

Councillor James McCauley, Ward 5

In City Council July 12, 2021:

Motion to refer to Neighborhood & City Services by Councillor Tontar, seconded by Councillor McCauley. So voted.

In City Council October 25, 2021:

Motion to approve on 1st reading by Councillor Connell, seconded by Councillor McCauley.

Motion to amend by Councillor Wallace, seconded by Councillor McCauley to modify Sec. 12-202 1c to read: "Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of an alteration.", the insertion of 12-202 2c that would add "Emergency work as determined by Department of Public Services.", to add to Sec. 12-202 2d which would read: "Changes in signage, signals, pavement markings, or anything that changes traffic flow or on-street parking patterns done in the context of a maintenance.", and in Sec. 12-204 2i to replace the word "approval" with the word "review". Motion to continue to November 8th by Councillor Vogel, seconded by Councillor Connell. Motion withdrawn. Motion to refer back to Neighborhood and City Services with the condition to come out on November 8th by Councillor Connell, seconded by Councillor Vogel. Roll call vote 5 yes (BC, AK, HS, CT, BV), 6 no. Motion fails. Motion to postpone to a date certain, November 8th, by Councillor Zeid, seconded by Councillor Shand. Roll call vote 7 yes, 4 no (JD, BL, JM, JE). Motion passes.