

ORDINANCE NO. 4-2020

AN ORDINANCE ESTABLISHING A SIDEWALK MAINTENANCE AND REPAIR PROGRAM WITHIN THE CITY OF MT. STERLING, KENTUCKY

WHEREAS, the existing city Ordinances did not provide an adequate tool for sidewalk maintenance enforcement;

WHEREAS, the City Council desires to supplement the Mt. Sterling Code of Ordinances by establishing a program to set minimum maintenance requirements for sidewalks within the city limits;

NOW THEREFORE, PURSUANT TO KRS 178.290 AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE, WHICH THE CITY HAS ADOPTED, BE IT ORDAINED BY THE CITY OF MT. STERLING, KENTUCKY AS FOLLOWS:

SECTION 1 – SIDEWALKS – The term "sidewalk" in this section, shall mean that portion of a street between curb-lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians, including any strip of ground between curb and paved sidewalk. The term "sidewalk" is also used in this ordinance to refer to any pedestrian path located along the side of a road or street, which may or may not be separated from the road or street by a curb, and may be currently constructed by paved asphalt, poured concrete, brick pavers or brick. The term sidewalk in this section, shall mean that portion of a street between curb-lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians, including any strip of ground between curb and paved sidewalk.

(A) Unless otherwise indicated, maintenance of all existing sidewalks is the responsibility of the property deed holder or property owner listed at the Montgomery County Property Evaluation Administrator Office. If the owner cannot be found, it shall be the duty of his agent in charge of the property to make the repairs as herein required, or if there be no such agent, then it shall be the duty of the occupant of the property to make such repairs.

(B) On properties that abut a public street or road the property owner must keep any area free of fences or barriers within six feet from the edge of the street or road, and may not place any fence or barrier to impede a pedestrian from being able to walk along the right-of way.

(C) Sidewalks must be maintained in accordance with the International Property Maintenance Code, which has been adopted by the City Council.

(D) All newly built sidewalks must have surface textures which are firm, stable and slip-resistant. Care should be taken to ensure any concrete finishing meets these requirements. Additionally, any grates inset into the sidewalk must comply to ensure that mobility devices do not get stuck. Openings in the grate can be no larger than ½ inch across.

(E) The minimum width for any sidewalk is 36 inches (3 feet), and the maximum width for any sidewalk is 60 inches (5 feet).

(F) Whenever unsecured earth embankments abut on a sidewalk or street, it shall be the duty of the owner of such property to erect suitable barriers or retaining walls to prevent loose earth from falling on such sidewalk or street. Barriers or retaining walls located on private property, shall be designed by a professional engineer licensed in Kentucky and shall be submitted to the Building Inspector of the city with the application for a building permit.

SECTION 2- VIOLATIONS - PRACTICES THAT ARE VIOLATIONS OF THE PROPERTY MAINTENANCE CODE - PENALTIES FOR VIOLATION - IDENTIFIED VIOLATIONS AND NOTICE TO PROPERTY OWNERS – HEARING BOARD - LEINS

(A) It shall be unlawful for any person to park a vehicle of any size, whether registered with the Commonwealth of Kentucky or not, upon any sidewalk or along the public right of way.

(B) It shall be unlawful for any person to construct a fence or barrier of any size which would prevent a pedestrian from walking along the right of way along any public street or road. It shall also be unlawful to allow for any obstruction, to include tree limbs, tree branches, overgrowth, or foliage, to exist which would prevent a pedestrian from walking safely along the sidewalk.

(C) Sidewalks must be maintained in a safe and passable condition, free of trip hazards and obstructions. Sidewalks which have identified hazards must be repaired at owner expense. Hazards include holes, uneven surfaces and other defects in the sidewalk upon which the property abuts. Hazards may also include rock or brick walls which have fallen into a state of disrepair and block or obstruct the sidewalk in any manner.

(D) A building permit will be required from the City Building Inspector before removing an existing sidewalk and/or retaining wall or installing a new sidewalk and/or retaining wall. There will be no charge for a permit.

(E) The city Code Enforcement Officer shall be authorized to issue a notice of violation or failure to comply with any of the provisions herein. An inspection of a sidewalk by the city may be initiated by the city or by a citizen complaint.

(E) Penalties/fines for violations of this section are as follows:

- 1)-1st offense within 5 year period * \$25.00 to \$500.00
- 2)-2nd offense within 5 year period * \$150.00 to \$1,000.00
- 3)-3rd offense within 5 year period * \$350.00 to \$1,500.00
- 4)-4th offense within 5 year period * \$500.00 to \$2,000.00

(F) Property owners shall be notified of any identified hazards on or along sidewalks and provided an opportunity to correct the violation, which shall be no less than 90 days and no more than one year. Failure to address the notice of violation will result in a penalty or fine, which will

be determined and assessed by the Code Enforcement Board. If multiple violations are identified on one property only one notice shall be given, with all identified violations listed.

(G) Once a notice of violation has been provided to a property owner and a time limit provided to correct the violation, the property owner shall not be issued another notice for the same violation until the time limit for addressing the violation has ended. Failure to address the notice of violation within the time limit provided will result in a fine or penalty. Failure to pay a penalty or fine will result in a lien being placed upon the property by the City of Mt. Sterling, Kentucky.

(H) Property owners who do not address the notice of violation within the given time period may be issued another violation for the same violation that was previously identified. This will be considered a repeat offense and may result in increased penalties and fines.

(I) Should the city be required to take action to address or correct a notice of violation, a lien will be placed on the property for the full amount of labor and materials used for repair. This amount will be added to any fines which had previously been assessed by the Code Enforcement Board.

(J) The city Code Enforcement Board shall have the authority to conduct hearings and hear appeals in order to fairly and effectively enforce penalties of those citations issued by the Code Enforcement Officer and to hear and determine any contest of violation filed therewith. If any violation is found of this ordinance or in the provisions of the International Property Maintenance Code, the property owner may be cited for the violation. The citing Code Enforcement officer shall note the violation and digitally record the violation. This information must be provided in writing to the property owner with a timeframe provided for the correction of the violation.

(K) The form of the notice of the sidewalk violation shall contain the following information:

1) A statement that the notice represents a determination that a violation of this ordinance has been committed by the owner of the property and that the determination shall be final unless contested through the Code Enforcement Board.

2) A picture of the violation, with a digital date stamp, and instructions for correcting identified violation identified clearly for the property owner or authorized representative.

3) A statement of the monetary penalty established for the violation if corrective action is not taken by property owner;

4) A date provided which corrective action must be completed by;

5) A statement of the options for responding to the notice and the procedures necessary to exercise these options;

6) A statement of the date, place, and time of the offense;

7) The employee number or name of the officer who witnessed the violation;

8) Information on available re-imbursement and incentive programs offered by the City to assist property owners with corrective maintenance.

(L) The notice of violation represents a determination that a violation has been committed, and such determination shall be final unless contested through a hearing with the Code Enforcement Board. Any property owner receiving a notice who wishes to appeal must notify the city in writing of a desire for a hearing within 30 days. A hearing will be scheduled at the monthly scheduled Code Enforcement Board meeting (2nd Thursday of every month at 4:00 PM.)

(M) If the property owner fails to comply with notice of violation and takes no corrective action, the Code Enforcement Board may assess a penalty on the property owner. A lien will be placed on the property of any unpaid fines or penalties. It shall not be in the best interest of the City to address violations if the property owner fails to comply and will avoid taking that action unless the violation is determined to be a public safety hazard to pedestrians.

SECTION 3- SIDEWALK REPAIR PROGRAM

(A) The City may set aside funds in the annual budget yearly to provide re-imbursement and incentives to property owners who have received a notice of violation or who wish to make additions or improvements to an existing sidewalk. The re-imbursement program shall provide no more than one half (1/2) the total cost of the project and may not exceed \$500. A minimum of two bids must be presented by property owner from licensed contractors. The City may reimburse up to ½ the total projected cost from the lowest bid received. No re-imbursement may take place until the Director of Public Works and Building Inspector have inspected the completed project. All submissions for this program will use the application included in Attachment (A).

SECTION 4- SEVERABILITY

Each word, phrase, sentence, section, and provision (each “portion”) of this Ordinance is hereby declared to be independent and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any portion of said Ordinance, the adoption thereof, or the application thereof to any person or circumstance is held to be invalid, the remaining portions and the application of such portions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is declared that such portions would have been passed independently of such portion or portions so held to be invalid.

SECTION 5-CONFLICTING CODE PROVISIONS REPEALED

Any provision(s) in the City of Mt. Sterling Code of Ordinances specifically in conflict with any provision in this Ordinance is hereby deemed inoperative and repealed.

SECTION 6-PUBLICATION

This Ordinance shall become effective upon passage and publication. Publication is authorized to be made in summary form as authorized in KRS 83.060 (9).

AL BOTTS, MAYOR

ATTEST:

JEANETTE BERTRAM
CITY CLERK

CITY OF MOUNT STERLING HAZARDOUS SIDEWALK REPAIR PROGRAM

The City of Mount Sterling recognizes that maintenance and repair of sidewalks within the city is necessary to protect the health, welfare, and safety of residents and visitors. The city code places the responsibility for sidewalk maintenance upon the property owner where the sidewalk is located.

The City of Mount Sterling may inspect sidewalks based on city initiation or by citizen complaint. If a sidewalk is determined to be hazardous, the City may issue a notice to the property owner. The notice will include the following information:

- 1) A written statement of address, date and time of violation, place of violation, and a picture of the violation.
- 2) A date of which corrective action must take place.
- 3) A statement of the monetary penalty established for the violation if corrective action is not taken by property owner.
- 4) Instructions for correcting identified violation identified clearly for the property owner or authorized representative.
- 5) Information on appeal process through the city Code Enforcement Board.
- 6) The employee number or name of the officer who witnessed the violation.
- 7) Information on available re-imbursement and incentive programs offered by the City to assist property owners with corrective action and repair.
- 8) Instructions for contacting the "Kentucky 811" program. The city will not accept liability or responsibility for damage done to public or private utilities by the homeowner.

Property owners wishing to request participate in the repair program must obtain two estimates from licensed contractors to submit with the application. No application will be considered unless the proper permit has been obtained through the Building Inspector, and only when a final inspection has been completed.

All residents wishing to participate in the program must be provided with a copy of the SIDEWALK MAINTENANCE AND REPAIR PROGRAM ORDINANCE and indicate that they have read and understand all provisions of the ordinance. Re-imbursements will not be provided for items not related to sidewalk installation or repair cost (tree removal or replacement, tree root removal, construction cosmetics such as rocks or shrubs, damage to other utilities or infrastructure, etc.)

After all work has been completed on the sidewalk and a final inspection completed, the property owner may be reimbursed at one-half (1/2) the cost of repair based on the lowest submitted project estimate or bid and no more than \$500. The city reserves the right to reject any or all bids and estimates submitted.

CITY OF MOUNT STERLING HAZARDOUS SIDEWALK REPAIR PROGRAM

APPLICATION RECEIVED ON THIS DATE _____

Name of property owner: _____

Address of property: _____

Phone/e-mail address: _____

I have read and understand the Ordinance: _____

Owner or Representative Signature

Sidewalk information (provide copy of notice of violation or digital picture of current sidewalk):

Bids and estimates are submitted from the following licensed contractors (provide copies)

Authorization to proceed on this date	
Final inspection conducted on this date	
Kentucky 811 contacted on this date	
Ordinance 4-2020 received by property owner	Initial
Re-imbursement provided to homeowner	

City Building Inspector certification and date that all work and inspection has been completed on this project.

Public Works Director certification and date that all work and inspection has been completed on this project.

Property Owner certification and date that all work has been completed.
