

§ C-73. Sidewalk improvement districts. [Added 9-4-2013 by L.L. No. 3-2013¹]

A. Establishment of sidewalk improvement districts; map.

- (1) The City is hereby divided into five sidewalk improvement districts ("districts" or "SIDs"): District No. 1, District No. 2, District No. 3, District No. 4, and District No. 5. The districts are bounded as shown on the map titled "Official Sidewalk Improvement District Map of the City of Ithaca, New York" (hereinafter "SID Map"), and which accompanies in printed format and is hereby made part of this section.²
- (2) The Superintendent of Public Works or his or her designee shall prepare, maintain, and keep current the SID Map in accordance with amendments made thereon pursuant to action of the Common Council.
- (3) Where uncertainty exists with respect to the boundaries of the aforesaid districts as shown on the SID Map, the rules established for interpreting the Official Zoning Map as set forth in § 325-6 of the City Code shall be used to interpret the SID Map.

B. Construction or repair of sidewalks in districts.

- (1) The Board of Public Works shall recommend, subject to amendment and approval by the Common Council, a budget and a schedule of sidewalk construction or repair to be performed in each SID as part of the City's budget for each fiscal year; provided, however, that the budget for the first fiscal year following the year of enactment of this section shall be recommended and approved on such schedule as deemed practicable by the Board of Public Works and Common Council. The Board shall have the authority to include in such budget all or any portion of the cost for past sidewalk construction or repair performed by the City on a property located in and subject to assessments as part of a SID, so long as said cost has not been assessed upon the abutting property owner prior to the effective date of this section. Along with such budget and schedule of work, the Board shall recommend to Council any adjustments it deems desirable to the assessment formula set forth in Subsection C hereof. Such budget may include the issuing of, and payment of the maturing principal of and interest on, any obligation issued pursuant to the Local Finance Law for the purpose of financing the construction or repair of sidewalks pursuant to this section.
- (2) Before the budget and schedule of work required by Subsection B hereof are given final approval by the Board, the City Clerk shall give notice by publication three times in a local newspaper of a public hearing thereon on a date specified, which date shall not be less than 10 days from the first publication. Before the date of public hearing, any person may file with the City Clerk written objections to such budget or schedule of work or any part

1. Editor's Note: This local law also provided for the renumbering for former § C-73 as C-73.1.

2. Editor's Note: A copy of the Sidewalk Improvement District Map is on file in the City offices.

thereof, which objections shall be presented to the Board before action shall be taken on such budget and schedule of work. At the time so appointed or at such other time to which it may adjourn for that purpose, the Board may hear the allegations of any person interested who shall have filed such objections and may take proof in relation thereto. Such allegations and proofs shall be confined to the matters stated in such written objections. The Board may thereupon alter or correct any assessment as justice may require, finally approve the same and file a schedule thereof with the Common Council, which may amend and confirm the same by local law after a public hearing, and if so confirmed, the amount of each assessment as derived from the assessment formula shall be a lien upon the real property so assessed. Such assessments and, if required, any reassessments, shall be collected in the manner provided in this Charter and the City Code for the enforcement, levy, and collection of City taxes.

- (3) The Board of Public Works or Common Council may include construction or repair of sidewalk curb cuts and curb accessibility ramps in the local improvements to be made in a SID. The Board of Public Works or Common Council shall not include construction or repair of driveway cuts or aprons, which shall remain the financial responsibility of the abutting property owner.
- (4) Work performed in a SID pursuant to this section shall be deemed a local improvement, and Common Council declares and finds that the assessment formula in Subsection C assesses each property in each district in proportion to the benefit received by that property from the construction and repair of sidewalks in its respective SID, and that such assessments are necessary to defray the cost of construction and repair of sidewalk in the respective SIDs.
- (5) Nothing herein shall be construed to modify or alter any power of the Common Council, Board of Public Works, or Planning and Development Board to require a property owner to bear the full cost of sidewalk construction or repair as part of the site plan review process pursuant to Chapter 276 of the City Code, regardless of whether said property is located within a SID.

C. Assessment formula. [Amended 3-5-2014 by L.L. No. 1-2014]

- (1) Definitions. As used in this section, the following terms shall have the meanings indicated:

ANNUAL MAINTENANCE FEE — The annual maintenance fee for nondevelopable lots and sliver lots is \$0; for low-foot-traffic lots, it is \$70; and for all other lots, it is \$140.

BUILDING SQUARE FOOTAGE — The total square footage of all buildings on a lot as recorded by the Tompkins County Department of Assessment.

COST OF PAST WORK — The total sum, including labor and materials, actually paid for past work; provided, however, that none of the following shall be included:

- (a) Costs exceeding \$15 per square foot of past work completed; or
- (b) Any overhead fee, interests or penalties imposed for failure to perform sidewalk construction or repair pursuant to the Charter or City Code, including but not limited to § C-73.1E of the Charter.

DOUBLE-LOW-FOOT-TRAFFIC LOTS — Those lots with a Property Class Code of 280 or 281, or substantially identical successor designations, and with two residences that each have a Site Class Code of 210, 215, 240, 250, or 270.**[Added 9-1-2015 by L.L. No. 2-2015]**

FRONT FEET — The length of perimeter, measured in feet, by which a lot abuts the line of the public street or streets, provided that, if a lot's perimeter along the line of the public street or streets is bisected such that a portion of the perimeter is within a SID and a portion of the perimeter is not located within any SID, only that portion of the perimeter within a SID shall be included, and provided further that a sliver lot's front feet shall be deemed to be the lesser of the lot's actual front feet or 110 feet.

LOT — Lot or parcel of land, as set forth by the current City of Ithaca Tax Maps on file with the Tompkins County Department of Assessment.

LOT SQUARE FOOTAGE — The total area of a lot measured in square feet, as recorded by the Tompkins County Department of Assessment, or as otherwise calculated by that department.

LOW-FOOT-TRAFFIC LOTS — Those lots, qualifying neither as sliver lots nor as nondevelopable lots, with a Property Class Code of 210, 215, 220, 240, 250, 270, 311, or 312, or substantially identical successor designations.**[Amended 9-1-2015 by L.L. No. 2-2015]**

NONDEVELOPABLE LOTS — Those vacant lots not qualifying as sliver lots with a lot square footage less than the lowest minimum lot size requirements for any development under the City of Ithaca Zoning Ordinance for the zoning district in which the lot is located, as certified by the Director of Planning and Development or his or her designee pursuant to Subsection C(3) hereof; provided, however, that if a zoning district has more than one minimum lot size, the relevant minimum lot size for this purpose shall be the smallest minimum lot size for that zoning district that is not subject to adjustments for residency or number of units.

PAST WORK — Sidewalk construction or repair performed on a lot located in and subject to assessments as part of a sidewalk improvement district, and permitted by and performed in accordance with the general drawings and specifications established by the Office of City Engineer, provided that such work is performed at the cost of the property owner of the lot upon which the work is performed or funded by documented contributions made to a business improvement district established by Chapter 149 of the City Code by the property owner of a lot located in said business improvement district for the sole purpose of performing sidewalk construction and repair, and provided further that work completed as required by a site plan review pursuant to

Chapter 276 of the City Code is excluded.

PROPERTY CLASS CODE — The property type classification code, as defined by the New York State Office of Real Property Services in the Assessors' Manual, or such other substantially similar documentation later produced by that office, assigned to a lot by the Tompkins County Department of Assessment, as may be updated by that Department from time to time.

SIDEWALK CONSTRUCTION OR REPAIR — Construction or repair of any public sidewalk or footpath intended for the use of pedestrians in a City park or approximately following along the line of the public street or streets upon which the lot fronts, including but not limited to sidewalk curb cuts and curb accessibility ramps, and other actions determined by the Board of Public Works to be necessary to the construction or repair of said sidewalk or footpath, including, but not limited to, any paving, earth work, drainage, and appurtenances; provided, however, that the construction or repair of driveway cuts, aprons, or a pedestrian mall (as that term is defined in § C-89B of the Charter) is excluded.

SITE CLASS CODE — The property type classification code, as defined by the New York State Office of Real Property Services in the Assessors' Manual, or such other substantially similar documentation later produced by that office, assigned to each residence on a lot with more than one residence by the Tompkins County Department of Assessment, as may be updated by that department from time to time. **[Added 9-1-2015 by L.L. No. 2-2015]**

SLIVER LOTS — Those vacant lots with a lot square footage equal to 2,000 square feet or less.

VACANT LOTS — Those lots with a Property Class Code between 300 and 399, or substantially identical successor designations.

- (2) Each lot in a SID shall be annually assessed for work to be performed in the district as follows: annual maintenance fee plus square footage fee plus frontage fee less past work reduction.
 - (a) Square footage fee. The square footage fee for all low-foot-traffic lots and double-low-foot-traffic lots shall be \$0. For all other lots, the lot's square footage fee shall be equal to the lot's building square footage times \$0.015. **[Amended 9-1-2015 by L.L. No. 2-2015]**
 - (b) Frontage fee. The frontage fee for all low-foot-traffic lots and double-low-foot-traffic lots shall be \$0. For all other lots, the frontage fee shall be \$30 for each 55 feet of front feet or portion thereof. **[Amended 9-1-2015 by L.L. No. 2-2015]**
 - (c) Past work reduction. A lot's assessment under this section shall be reduced as set forth herein.

[1] A lot is eligible for a reduction for the cost of past work for 20 years from the date the past work was substantially completed ("reduction

period"). In each year of the reduction period for which an assessment, if any, is made pursuant to this section, the lot's past work reduction shall be an amount equal to 1/20 of the cost of past work. Should the allowable reduction for the cost of past work be greater than a lot's assessment under this section in any given year, the lot owner shall not be entitled to the difference, and the difference shall not apply to the assessment for any other year.

[2] The lot owner must provide sufficient evidence to the Superintendent of Public Works or his or her designee of the nature and location of the past work performed, the cost of the past work, and the date the past work was substantially completed. Such evidence must be provided no later than May 1 of the year preceding the fiscal year for which the owner seeks a past work reduction; provided, however, that in the first fiscal year following the year of enactment of this section, such proof must be provided no later than the deadline, if any, established by the Board of Public Works, and if no such deadline is established, such proof must be provided no later than February 1 of that fiscal year. If the request is approved by the Superintendent of Public Works or his or her designee, the past work reduction shall automatically recur in each remaining year of the reduction period. The lot owner may appeal the determination of the Superintendent of Public Works or his or her designee to the Board of Public Works at an open meeting thereafter.

(3) Certification of nondevelopable lots. The owner of a lot may file an application with the Director of Planning and Development or his or her designee to have the lot certified as a nondevelopable lot. Such applications must be filed no later than the deadline for providing evidence for a past work reduction pursuant to Subsection C(2)(c)[2] above. Such certification shall be granted only to those lots not qualifying as sliver lots with a lot square footage less than the minimum lot size required for development by the City of Ithaca Zoning Ordinance for the zoning district in which the lot is located at the time of application. Once granted, the certification shall continue to be in effect for the lot, regardless of subsequent changes in ownership, until the end of the fiscal year during which the lot square footage increases for any reason to an amount in excess of the minimum lot size required for development; or the minimum lot size for development, as may be revised or amended from time to time, in the zoning district in which the lot is located, is reduced to an amount equal to or lesser than the lot square footage. The owner of a lot that has received a certification pursuant to this provision shall notify the Director of Planning and Development or his or her designee of any change in the lot square footage.

D. Appeals and reassessments.

(1) No action or proceeding to set aside, vacate, cancel, or annul any assessment for a local improvement shall be maintained, except for total want of

jurisdiction to levy and assess the same on the part of the officer, officers, board, or body authorized by law to make such levy or assessment or to order the improvement on account of which the levy or assessment was made. In the event that a court of competent jurisdiction finds such total want of jurisdiction, this section shall be deemed repealed, and the sidewalk assessment policy in § C-73.1 of the Charter shall automatically take effect.

- (2) No action or proceedings shall be maintained to modify or reduce any assessment for a local improvement, except for fraud or substantial error by reason of which the amount of such assessment is in substantial excess of the amount which should have been lawfully levied or assessed.
 - (3) Any person or persons, jointly or severally, aggrieved by any determination of assessment for a local improvement pursuant to this section may have the decision reviewed by the Supreme Court of New York in the manner provided by Article 78 of the Civil Practice Law and Rules.
 - (4) Whenever any assessments made under the provisions of this section shall be set aside or shall be decided by any court having jurisdiction thereof to have been improperly or illegally made or whenever it shall be ascertained that the proceedings under which said assessment has been made shall have been so far irregular and erroneous as to make the collection of such assessment illegal, then a reassessment shall be made with the same force and effect as if it had been an original assessment; provided, however, that in the event that no assessment is thereafter successfully levied, those properties affected shall be subject to § C-73.1 of the Charter.
- E. Duties of owner. Nothing herein shall modify or abolish the duty of the owner of lands abutting any street, highway, alley or other public place in the City to keep the sidewalks, approaches or street driveways adjoining such lands free and clear of and from snow, ice and all other obstructions, nor shall anything herein modify or abolish the liability of such owner for any injury or damage caused by reason of omission, failure or negligence to keep such sidewalk free from snow, ice or other obstructions as set forth in § 73.1(B)(1) of the Charter.