

To: City of the Village of Douglas City Council
Date: August 29, 2024
From: Sean Homyen, Planning & Zoning Administrator
RE: Ordinance Amendment – Chapter 54. (Section 54.02 & 54.05), Chapter 93. (Section 93.003) (Second Read – Public Hearing)



The Village of Friendliness – Since 1870

Background. Last fall, we encountered challenges in enforcing the existing ordinance related to leaf and brush pickup, as well as addressing unsafe winter sidewalk conditions. This ordinance amendment aims to clarify and establish procedures for handling violations.

At the August 19th, 2024, City Council meeting, the first hearing was conducted. Both the public and Council Members provided input regarding the change. The Mayor advised the Council Members to provide feedback to me directly. As of 8/29/2024, no feedback was received.

Proposed Amendment. The current ordinance lacks a clear definition of 'brush,' leading to issues with large quantities or sizable tree parts, grass clippings, decorative grass, weeds, and similar items being left for pickup, which creates visual and traffic problems in road right-of-way. To address this, we propose adding a definition to Section 54.02 under Chapter 54 (highlighted in yellow below).

Brush. *Wood of small branches especially when cut or broken, a thicket of shrubs and small trees.*

The language in Section 54.05 required clarification and enhancement to include detailed procedures for addressing property owner violations. The following additional language will be incorporated:

- Prohibition on Waste Place
- Penalties for Violation
- City Abatement Process
- Appeal Process

I have provided the original, proposed amended ordinance with the highlighted changes in yellow below:

§ 54.05 UNAUTHORIZED DUMPING AND LITTERING.

Except as permitted by the city's brush and leaf pickup policy, it shall be unlawful for any person to throw or deposit any refuse upon or into any street, right-of-way, alley or waterway. It is also unlawful to place or permit the placement of any portable or non-portable container upon another's property, public or private, without the permission of the owner, proprietor, occupant or agent in charge of such property. Even with such permission, portable containers not

belonging to a participating unit shall not be placed or permitted upon the property of a participating unit for disposal by the designated collector without the designated collector's express consent.

(Ord. 04-2012, passed 9-4-2012)

§ 54.05 UNAUTHORIZED DUMPING AND LITTERING.

Except as **authorized** by the city's brush and leaf policy, it shall be unlawful for any person to throw or deposit any **solid waste, leaves, or brush**, upon any street, right-of-way, alley, or waterway. **It shall be unlawful to permit or allow to be permitted the placing of any solid waste, leaves or brush, upon any street, right-of-way, alley or waterway within the City of the Village of Douglas limits.** It shall be unlawful to place or permit the placement of any portable or non-portable container upon another's property, public or private, without the permission of the owner, proprietor, occupant or agent in charge of such property. Even with such permission, portable containers not belonging to a participating unit shall not be placed or permitted upon the property of a participating unit for disposal by the designated collector without the designated collector's express consent.

Any person or entity found to have placed, or allowed solid waste, leaves, or brush to be placed, impermissibly on any street, right-of-way, alley or waterway within the City of the Village of Douglas shall be found to be in violation of this Chapter and subject to penalties. Where any person or entity is found to have violated any provisions of this Chapter, they shall be fined \$50.00 for their first offense, \$150.00 for their second offense, and \$300.00 for any further offenses. A separate offense is deemed to have occurred once a day where a violation is ongoing and continues unabated. The City of the Village of Douglas shall be permitted to issue citations for these violations as permitted under the laws of the State of Michigan.

Where a person or entity has been found to have violated this Chapter and fails or refuses to remove the solid waste, leaves or brush from their impermissible location, the City of the Village of Douglas is authorized to remove the solid waste, leaves or brush at its discretion through the abatement process as described in §95.58 of the Code of Ordinances. The City of the Village of Douglas is authorized to bill the person or entity violating this Chapter an amount not to exceed \$500.00 per removal incident.

Should the City of the Village of Douglas abate the violation in question, the person or entity that has been found to have violated this Chapter shall have 30 days from the issuance of the bill to pay any fine or costs associated with a removal incident. Any person or entity that has been found to have violated this Chapter and who fails to pay the associated costs shall have a lien placed upon the lot of parcel of land where the citation was issued or work was performed equivalent to the outstanding monies owed. Payment shall be due to the city within 30 days of the bill being sent to the owner, occupant or agent in charge for the performance of such services.

An owner assessed for abatement costs may appeal only the assessment itself to the Administrator, and not the citation itself. On appeal, the Administrator shall determine whether:

- (1) The lot or parcel of land was in violation of this subchapter;
- (2) Whether the owner, occupant or agent in charge were mailed notices of the violation at least seven days before the city abated the condition (except for emergency abatements); and
- (3) Whether the costs assessed against the owner were properly calculated. An appeal shall be filed within 21 days after the city mails notice to the owner, occupant or agent in charge that the costs will be assessed. In the event the owner, occupant, or agent in charge disagrees with the determination of the Administrator, an appeal may be filed with the City Council within three business days after the determination of the Administrator. The City Council shall hear the appeal at its next regularly scheduled meeting or, at the discretion of the Council, a special meeting called for such purpose. Except as otherwise determined by the Administrator, if payment is not received by the city within 30 days after such billing, the City Treasurer shall add an additional penalty of 1% per month to the delinquent bill. The City Treasurer shall annually, on May 1, certify any delinquent billing, or any part thereof, together with all accrued interest in penalty, to the Council; and, it shall be transferred and reassess, with an additional 15% penalty, on the next annual city tax roll. Such charges so says shall be collected in the same manner as general city taxes.

To improve safety on sidewalks during winter, a more specific and reasonable timeframe is needed for clearing ice and snow. While the current ordinance under Section 93.008(B)(5) identifies sidewalks with unsafe ice or snow accumulation as being in disrepair, it lacks a defined timeframe for removal. We propose that sidewalks be cleared of snow and ice within 48 hours following the end of a snow event. This will be added as a new subsection to Section 93.008 as (C). I have provided the original, proposed amended ordinance with the highlighted changes in yellow below:

§ 93.008 SIDEWALK MAINTENANCE.

(A) All sidewalks within the city shall be kept and maintained in good repair by the owner of the land adjacent to and abutting upon the sidewalks, and if any owner shall neglect to keep and maintain the sidewalk along the front, rear, or side of the land owned by him or her in good repair and safe for the use of the public, the owner shall be liable to the city for any damages received against the city sustained by any person by reason of the sidewalk being unsafe and out of repair.

(B) Disrepair of a sidewalk shall include, but shall not be limited to, the following conditions:

- (1) Potholes of one inch or more in depth;
- (2) Loosened, crumbling, or breaking surfaces;
- (3) Difference of two inches or more in heights of adjoining sections of sidewalk;
- (4) Insufficient slope to adequately drain water; and/or
- (5) The accumulation of ice or snow making the sidewalk unsafe for use by the public.

(C) Hereafter, when any sidewalk becomes out of repair within the city, the Superintendent of Streets shall give the owner of the premises in front of or adjacent to which the sidewalk is located, notice to repair the sidewalk within 30 days; provided, however, that during the period of 30 days; the owner may request that the notice of repair be reviewed by the Street Administrator within 30 days from receiving a request for review, shall make his or her recommendation. The Street Administrator shall forward the recommendation to the City President and Council for final decision. The City President and Council shall take the action

thereon as it deems in the best interest of the city and of the safety of the public. If no review of the Superintendent of Streets' notice is requested within 30 days of the date of the notice, the decision of the Superintendent of Streets shall be final.

(D) The notice, in addition to specifying the time in which the sidewalk shall be repaired, shall also state that work must be done in accordance with specifications for new work furnished by the Superintendent of Streets in repairing the sidewalk and shall also inform the owner of the right of review of the determination of the Superintendent, as provided in this section.

(E) If any person so notified shall not have repaired or reconstructed the sidewalk after final determination by the Superintendent or the City President and Council, it shall be the duty of the Superintendent, who may contract or hire the work done. The cost and expense of the repairs or reconstruction of the sidewalk shall be charged to the owner.

(1995 Code, § 50-34) (Ord. 121, passed 5-2-1988; Am. Ord. 06-2011, passed 9-6-2011)

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- (4) Insufficient slope to adequately drain water; and/or
- (5) The accumulation of ice or snow making the sidewalk unsafe for use by the public.

(C) All snow and/or ice must be removed from sidewalks by the owner of the land adjacent to and abutting any sidewalk and such sidewalks shall be made safe within 48 hours after the end of a snow event.

(D) Hereafter, when any sidewalk becomes out of repair within the city, the Superintendent of Streets shall give the owner of the premises in front of or adjacent to which the sidewalk is located, notice to repair the sidewalk within 30 days; provided, however, that during the period of 30 days; the owner may request that the notice of repair be reviewed by the Street Administrator within 30 days from receiving a request for review, shall make his or her recommendation. The Street Administrator shall forward the recommendation to the City President and Council for final decision. The City President and Council shall take the action thereon as it deems in the best interest of the city and of the safety of the public. If no review of the Superintendent of Streets' notice is requested within 30 days of the date of the notice, the decision of the Superintendent of Streets shall be final.

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(F) If any person so notified shall not have repaired or reconstructed the sidewalk after final determination by the Superintendent or the City President and Council, it shall be the duty of the Superintendent, who may contract or hire the work done. The cost and expense of the repairs or reconstruction of the sidewalk shall be charged to the owner.

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Procedures. City Staff has sent out a notice to be published on 8/15/2024 for the public hearing for the amendment proposal at the meeting held on 9/3/2024. Following the City Charter, Section 8.6 Ordinance – Enactment, Amendment, Repeal. States:

Section 8.6 Ordinance – Enactment, Amendment, Repeal.

(a) Unless declared to be an emergency ordinance by a vote of not less than two-thirds (2/3) of the council membership, no ordinance shall be adopted at the same meeting at which it is introduced.

This section of the ordinance requires two readings for approval: a first reading followed by a second reading with public notice. At the August 19, 2024, meeting, the City Council will conduct the first reading of the proposed ordinance amendment. The second reading (public hearing) is scheduled for the September 3, 2024, meeting for final approval. Although I have provided the ordinance and changes in the memorandum, separate drafts of the ordinance amendment have been prepared for the City Council's review during these meetings.

SUGGESTED MOTIONS:

*Motion to **adopt, table, or deny** Ordinance 07-2024, which amends Sections 54.02 and 54.05 of Chapter 54 (Garbage and Refuse) in the City of the Village of Douglas Code.*

*Motion to **adopt, table, or deny** Ordinance 08-2024, which amends Section 93.003 of Chapter 93 (Streets and Sidewalks) in the Code of the City of the Village of Douglas.*