

VILLAGE OF ELMORE

ORDINANCE NO. 15-21

AN ORDINANCE TO REPEAL ORDINANCE 011-99  
AND THEREBY ELIMINATE THE SIDEWALK SHARING FUND.

WHEREAS, Ordinance 011-99 created a sidewalk sharing fund; and

WHEREAS, said fund has not been used in years and the balance in said fund is now \$0.00; and

WHEREAS, said fund is no longer needed;

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ELMORE, OTTAWA COUNTY, OHIO THAT:

Section 1. Ordinance 011-99 which created a sidewalk sharing fund is hereby repealed. Said fund is hereby eliminated.

Section 2. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

PASSED:

To pass

Yeas 6 Nays 0

Date: 4/12/2021

[Signature]  
PRESIDENT OF COUNCIL

Approved: [Signature]

MAYOR

[Signature]  
FISCAL OFFICER

FISCAL OFFICER'S CERTIFICATE AS TO PUBLICATION

This is to certify that publication of the foregoing ordinance was duly made as provided in Ordinance 14-09, adopted June 8, 2009, by the following method.

By posting certified copies thereof in the five (5) public places specified in the Codified Ordinance No. 14-09 said posting having been accomplished on the following date:

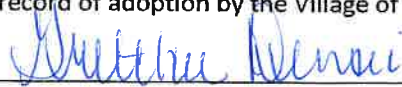
04/13/2021



FISCAL OFFICER

FISCAL OFFICER'S CERTIFICATE AS TO AUTHENTICITY

I hereby certify that the foregoing Ordinance is a true copy of the aforesaid Ordinance No. 15-21 together with a true and accurate record of adoption by the Village of Elmore, Ohio.



FISCAL OFFICER

**MEMORANDUM**

**TO:** David Hower, Village Administrator  
Gretchen Densic, Fiscal Officer

**DATE:** March 11, 2021

**SUBJECT:** Transfer of Sidewalk Sharing Fund

**FROM:** Mark E. Mulligan, Village Solicitor

Ordinance 011-99 (copy attached) created a sidewalk sharing fund. Evidently this fund has outlived its original purpose, and there has been no activity in this fund for a number of years. The State Auditor's Office was asked about terminating the fund with an appropriate transfer of the remaining \$738.00 balance in the fund.

While not providing a solution, the Auditor's office referred attention to Section 5705.14, O.R.C., and requested that the issue be submitted to the Village Solicitor for response to the issue.

Ordinance 011-99 does not indicate the source of the funding for the sidewalk sharing fund. Further inquiry has not disclosed the source of the \$738.00 balance. I considered possible sources for these funds and found the most likely candidates to be the General Fund or the Street Fund. Other funding sources would be legally improper because of the limitations imposed on the use of those sources.

While the street funds may at first seem a likely source, said funds are relegated to street purposes. Use of street funds for sidewalks would be inappropriate if not incidental to an underlying street project.

Thus, the sidewalk sharing fund, established to help property owners fix damaged or defective sidewalks, would not be eligible to accept and would not have received street funds. This is true regardless if the funds came from a street tax levy, gasoline tax, or vehicle registration fees.

Under these circumstances, Division (D) of Section 5705.14 O.R.C. applies. Since there are no outstanding obligations of this fund, no sinking fund or bond retirement fund relating to sidewalks, and none of the other exceptions apply; the \$738.00 should be transferred to the General Fund.

#### **CONCLUSION**

In order to close the sidewalk sharing fund, the remaining balance should be transferred to the Village's General Fund.

  
\_\_\_\_\_  
Mark E. Mulligan, Village Solicitor

Book 3, 27  
Page 2  
Filed 4-12-99

Ordinance No. 011-99

Passed May 10 1999

AN ORDINANCE CREATING A SIDEWALK SHARING FUND.

WHEREAS, it is necessary to create for the Village of Elmore a sidewalk sharing fund;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF ELMORE, OTTAWA COUNTY, OHIO:

SECTION 1: That there is hereby created a sidewalk sharing fund.

SECTION 2. It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public in compliance with all legal requirements of the Village of Elmore and the State of Ohio.

SECTION 3. This ordinance shall be in full force and effective at the earliest time permissible by Ohio law.

PASSED: May 10, 1999

Vote to Suspend the Rules

Yeas N/A

Nays N/A

To Pass: Tie vote passed by vote by Mayor

Yeas 3

Nays 3

ATTEST:

*Jane Turbyke*  
Clerk-Treasurer

*Richard Hannon*  
President of Council

*Donald R. ...*  
Mayor

P. MARTIN AUBRY  
VILLAGE SOLICITOR

CLERK TREASURE'S CERTIFICATE AS TO PUBLICATION

This is to certify that publication of the foregoing Ordinance was duly made as provided in Ordinance No. 17-95, adopted July 24, 1995, by the following method:

By posting certified copies thereof in the five (5) public places specified in Codified Ordinance No. 17-95, said posting having been accomplished on the following date:  
May 14, 1999

*Jane Turbyke*  
Clerk-Treasurer

CLERK TREASURER'S CERTIFICATE AS TO AUTHENTICITY

I hereby certify that the foregoing Ordinance is a true copy of the aforesaid Ordinance No. \_\_\_\_\_, together with a true and accurate record of the adoption by the Village of Elmore, Ohio.

\_\_\_\_\_  
Clerk-Treasurer