

## SIDEWALK AND PATHWAY ORDINANCE

Ord. No. 2009-03

*An Ordinance enacted pursuant to Michigan Public Act 246 of 1931 and Public Act 246 of 1945, as amended, to specify standards for design, maintenance, and use of sidewalks or pathways located in public road rights-of-way; establish requirements for obtaining permits to construct sidewalks or pathways; designate sidewalk and pathway maintenance responsibilities; and, establish enforcement procedures and penalties for violation of the Ordinance.*

THE CHARTER TOWNSHIP OF UNION, ISABELLA COUNTY, MICHIGAN, HEREBY  
ORDAINS:

**Sec. 1. TITLE.** This Ordinance is hereby designated as and shall be referred to as the Charter Township of Union Sidewalk and Pathway Ordinance. Within the following text it may be referred to as this Ordinance.

### **Sec. 2. PURPOSE AND SCOPE OF APPLICATION**

**Sec. 2.01 Purpose.** The purposes of this Ordinance are to protect and promote public health, safety, and welfare by specifying standards for design, maintenance, and use of sidewalks and pathways located in public road rights-of-way; establishing requirements for obtaining permits to construct sidewalks or pathways; designating sidewalks or pathways maintenance responsibilities; and, establishing enforcement procedures and penalties for violation of the Ordinance. These regulations are the minimum standards deemed necessary to provide suitable and safe off-road accommodations for pedestrians.

**Sec. 2.02 Scope of Application.** The requirements in this Ordinance shall apply to sidewalks and pathways constructed within a public right-of-way.

### **Sec. 3. DEFINITIONS**

**Building Official:** The officer or other authority designated by the Township Board to administer and enforce the Building Code.

**Detectable Warning Surfaces:** Corrosion resistant grey iron in pavement that is installed to signal visually-impaired pedestrians where a sidewalk or pathway intersects a road.

**Pathway:** An off-road shared use, non-motorized path, usually asphalt, separate from the public road (though sometimes in the public right-of-way). All cyclists regardless of age are encouraged to use pathways.

**Planning Commission:** The Planning Commissioners of the Charter Township of Union, Isabella County, Michigan

**Sidewalk:** A paved path, usually concrete, located in a road right-of-way but away from the actual road surface, and designed, constructed, and designated for pedestrian travel. While Michigan law (MCL 257.660c and 257.660d) allows for travel on sidewalks or pathways by bicycle, provided they yield to pedestrians and do not impede traffic by pedestrians, adult cyclists are encouraged to use roadways or pathways as safer options.

**Township:** The Charter Township of Union, Isabella County, Michigan.

**Township Board:** The Supervisor, Clerk, Treasurer, and Trustees of the Charter Township of Union, Isabella County, Michigan.

## **Sec. 4. STANDARDS**

### **Sec. 4.01. Use of Sidewalks or Pathways.**

1. **Pedestrian Use.** Sidewalks or pathways, as defined herein, are for pedestrian use, and are not intended for use by motorized vehicles, such as but not limited to, motorcycles, mopeds, or off-road utility vehicles. Travel by non-motorized bicycles is permitted. Bicycles shall yield to pedestrians.

2. **Unlawful Damage.** It shall be unlawful to damage or deface a sidewalk or pathway by any means.

**Sec. 4.02. Construction Standards.** Sidewalks or pathways shall comply with the standards set forth herein and any supplemental engineering standards that may be adopted by the Township Board, and with Isabella County Road Commission (ICRC) standards (at the time of adoption of this Ordinance, ICRC enforces Michigan Department of Transportation (MDOT) sidewalk specifications on roads under the Road Commission's jurisdiction). In the event of a conflict between standards, the agency with roadway jurisdiction shall prevail if the sidewalk or pathway is located in a public road right-of-way. In the event of conflict between different standards, the more stringent standard shall apply.

1. **Minimum Width:** Sidewalks: Four (4) feet; Pathways: Eight (8) feet.

### **2. Location:**

a. Sidewalks shall be located one (1) foot off the property line in the road right-of-way, except where the planned right-of-way is greater than the width of the existing right-of-way, in which case the sidewalk shall be located one (1) foot inside the planned right-of-way.

b. Sidewalks shall be aligned horizontally and vertically with existing sidewalks on adjacent properties.

c. Pathways may be constructed in lieu of sidewalks or in locations that do not parallel roadways.

d. The Planning Commission may modify these width and location requirements upon finding that another location would be more appropriate because of the location of utilities, existing landscaping or trees, the location of connecting sidewalks or pathways on adjacent parcels, or other site considerations.

3. **Paving.** Sidewalks shall be concrete with a depth of at least four (4) inches, except that sidewalks across a driveway or other vehicle crossing shall be reinforced and have a depth of at least six (6) inches. Concrete shall be placed over 6" compacted sand. Pathways shall be 3" hot mix asphalt over 6" 22A gravel (minimum grade). A minimum of 6" top soil shall be removed under concrete or asphalt. Other types of paving may be permitted, subject to Planning Commission approval. Paving shall be placed on appropriate compacted fill to provide a proper base and to prevent the pavement from uneven settling, heaving, and/or cracking.

4. **Barrier-Free Design.** Sidewalks or pathways shall comply with all state and federal barrier-free requirements. Accordingly, ramps shall be provided at curbs and other locations involving a grade change.

5. **Grading and Drainage.** Proposed sidewalks or pathways shall be designed to maintain the existing direction and flow of storm water and to avoid damming or flooding.

6. **Detectable Warning Surfaces.** Detectable warning surfaces shall be installed wherever a sidewalk or pathway approaches an intersection with a road, and shall be constructed in accordance with the Michigan Department of Transportation Special Provision for Sidewalk Ramp, ADA, Modified, 06-09-06, and revised 07-13-06.

7. **Existing Sidewalks or pathways.** Unless required by other statutes, existing sidewalks or pathways shall not be required to conform to subsections 4 and 6 of Section 4.02. When an existing sidewalk or pathway section requires replacement, those portions being replaced shall conform to the standards of this ordinance.

#### **Sec. 4.03. Maintenance Standards.**

1. **Maintenance Responsibility.** It shall be the duty of the property owner to maintain public sidewalks or pathways on or adjoining said property in accordance with Section 4.03. Failure to comply with any provision in Section 4.03 shall be considered a breach of this duty. Any damages resulting from such a breach shall be the sole responsibility of the property owner.

A legally established homeowners association or condominium association may assume the responsibility for maintenance of public sidewalks or pathways within a subdivision or condominium under its jurisdiction. The terms under which such an association assumes such responsibility, including the method of funding sidewalk or pathway maintenance, shall be specified in the recorded subdivision covenants, conditions and restrictions or condominium association master deed and bylaws, as applicable. A Special Assessment District shall be established in the name of the association if the association at any time fails to meet the maintenance standards.

**2. Repairs or Restoration.** A sidewalk or pathway that becomes cracked or damaged to the extent that the sidewalk or pathway becomes potentially unsafe for use shall be repaired or restored in compliance with the construction standards specified herein. The following standards shall deem a sidewalk or pathway in need of repair or restoration:

- A. If the sidewalk has displacement of more than three-quarters (3/4) of an inch between any two (2) sections (flags) of sidewalk at the connection joint.
- B. If the sidewalk or pathway has more than two (2) cracks of one-quarter (1/4) inch in width or more in any two (2) linear feet.
- C. If the sidewalk or pathway has a crack more than three-quarters (3/4) inch in width.
- D. If any section of sidewalk is tilted in excess of one (1) inch per foot from edge to edge in a transverse direction.
- E. If, in any flag of sidewalk, more than fifty percent (50%) of the surface has scaled off to a depth of one-quarter (1/4) inch or greater.
- F. If the concrete or asphalt has settled, allowing water to pond to depth of one (1") inch or more.

**3. Obstructions.** Sidewalks or pathways shall be kept free of all obstructions, including but not necessarily limited to, obstructions from structures, vehicles, equipment, debris, and vegetation. This restriction shall not apply to temporary obstructions due to maintenance or construction work on or adjacent to the sidewalk or pathway, in which case appropriate barriers and signage shall be erected to maintain public safety.

**4. Snow and Ice Removal.** Sidewalks or pathways shall be kept free and clear of ice and snow. Snow shall not be piled in a manner that might obstruct the vision of drivers or that blocks or impairs travel on a sidewalk, pathway or road.

- A. Snow that has accumulated in or during the nighttime shall be removed by 6:00 p.m. of the following day;
- B. Snow falling or drifting during the day shall be removed before 12:00 noon of the following day.
- C. In the event of unusual circumstances, including holiday observances, prolonged periods of snow or ice storms, or other unforeseeable conditions, the building official or code enforcement officer may extend the time to remove ice or snow.

## **Sec. 5. SIDEWALKS AND PATHWAYS PLAN**

**Sec. 5.01. Duties of Sidewalks and Pathways Prioritization Committee.** The Planning Commission shall designate a committee to plan and prioritize new construction of sidewalks

and pathways. The Sidewalks and Pathways Prioritization Committee will meet as needed to review the plan and make recommendations to the Township Board.

**Sec. 5.02. Composition of Sidewalks and Pathways Prioritization Committee.** The committee shall consist of:

1. A representative of the Township Board.
2. A representative of the Planning Commission.
3. Two residents of the Charter Township of Union.
4. One member At-Large.
5. The Zoning Administrator (ex officio, non-voting)

The terms of each member shall be 2 years. The Township Board member, one township resident, and the At-Large member shall serve initial 2-year terms. The Planning Commission member and second township resident shall serve initial 1-year terms followed by subsequent 2-year terms.

## **Sec. 6. ENFORCEMENT**

**Sec. 6.01. Duties of the Building Official.** The Building Official shall have primary authority to enforce this Ordinance, as outlined in this Section.

### **1. Permits.**

a. A permit is required from the Township prior to the construction, removal, or repair of a sidewalk or pathway. A permit may be obtained by submitting a completed application form, along with plans and specifications, and the required fee, to the Township Building Department. The Building Official shall be responsible for evaluating the application to determine compliance with Ordinance standards (and to determine compliance with the approved site plan, where applicable) and issuing the permit. A separate permit shall not be required if the proposed sidewalk or pathway is part of a larger development that requires a building permit. A copy of the permit shall be kept at hand at the construction site.

b. The applicant shall be responsible for obtaining any permits required by the Isabella County Road Commission related to sidewalk or pathway construction within a County road right-of-way.

**2. Inspection.** During construction, the Building Official shall be responsible for inspection. In fulfilling this responsibility, the Building Official shall follow the inspection guidelines set forth in the adopted building code.

**3. Violations.** The Building Official shall be responsible for investigating violations of this Ordinance. Whenever the Building Official determines that a violation exists, the Building Official shall pursue compliance following the enforcement procedures set forth in the adopted building code. If the owner of property where a sidewalk or pathway has fallen into a state of disrepair such that it is unsafe for use fails to complete repairs within thirty (30) days after notification, then the Township may cause necessary repairs and charge the property owner for

the costs of repair. If such costs are not paid by the property owner the costs shall become a lien against the property.

**Sec. 6.02. Site Plan Review.** If a proposed sidewalk or pathway is part of larger development that requires site plan review, then the sidewalk or pathway shall be shown on the site plan, which plan shall be reviewed in accordance with the site plan review procedures set forth in the Zoning Ordinance.

**Sec. 6.03. Authority of the Township Board to Require Sidewalk or Pathway Construction or Maintenance.** In accordance with Michigan Public Act 246 of 1931 and Act 246 of 1945, as amended, the Township Board may order the construction, repair, or maintenance of, or may construct, repair, or maintain sidewalks or pathways in a designated area within the Township because of the health, safety, or welfare of the residents. The Township Board shall hold a public meeting relative to the ordering of the sidewalk or pathway construction, repair, or maintenance and shall notify property owners involved of the time and place of the hearing. If the Township Board determines that the construction, repair or maintenance of sidewalks or pathways is necessary, it may construct, repair, or maintain the sidewalks or pathways and assess the costs to the property involved, payable over no longer than a ten (10) year period, or permit the owners of the property involved to have the sidewalks or pathways constructed, repaired, or maintained according to Township specifications at their own expenses. The Township Board may also propose a cost-sharing mechanism either from general revenues or a township-wide sidewalk and pathway construction fund. In situations where a proposed sidewalk or pathway does not currently have connecting sidewalks or pathways on the adjacent properties on either side, the Township Board may require a property owner to post a cash deposit in lieu of construction, in an amount equivalent to the cost of construction, which would be held in deposit until the adjacent properties develop and install sidewalks or pathways.

## **Sec. 7. PENALTIES, SEVERABILITY, CONFLICTING PROVISIONS, EFFECTIVE DATE**

**Sec. 7.01. Penalties.** Any person who violates any provision of this Ordinance is responsible for a civil infraction, and shall be liable for a fine of not more than \$100 and the costs of prosecution for the first violation. Upon a finding of responsibility for a subsequent violation, such person shall be liable for a fine of not more than \$500 and the costs of prosecution. In addition, the Township may exercise those rights identified in Section 5.03 of this Ordinance or seek such injunctive or other relief as may be appropriate to abate a continuing violation, the Township's costs thereof to be borne by the responsible party.

**Sec. 7.02. Severability.** Should any portion of this Ordinance be found invalid for any reason, such a finding shall not be construed as affecting the validity of the remaining portions of the Ordinance, which shall remain in full force and effect.

**Sec. 7.03. Conflicting Provisions Repealed.** All other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

