

HENRIETTA TOWNSHIP
JACKSON COUNTY MICHIGAN
SIDEWALK ORDINANCE
ORDINANCE NO. 42
JULY 2012

An Ordinance to protect the public health, safety, and general welfare by adoption of regulations concerning the maintenance, repair, and safety of public sidewalks within the Township; imposing a duty on adjoining or abutting land owners to repair, maintain, or keep safe said sidewalks; to provide standards of proper sidewalk maintenance, construction and repair; to require indemnification of the Township by adjoining or abutting land owners for failure to repair, maintain, or keep safe said sidewalks; and to impose liability on said adjoining or abutting land owners for injuries or damages caused by their failure to perform such maintenance or repair duties.

THE TOWNSHIP OF HENRIETTA ORDAINS:

SECTION I – NAME:

This Ordinance shall be known and cited as the Henrietta Township Sidewalk Ordinance.

SECTION II – PURPOSE:

The purpose of this Ordinance is to regulate the repair, construction, and maintenance of public sidewalks on or along a public road, to keep them in proper and safe condition for public use; to provide for the imposition of liability upon abutting land owners for injuries or damages caused by a defective sidewalk; to provide for the establishment of sidewalk maintenance districts by the Township Board for the assessment of the cost of repairs to sidewalks in said districts; to provide for proper sidewalk maintenance, repair and construction; and to provide indemnification of the Township for costs of required maintenance and repair not accomplished by abutting or adjacent land owners.

SECTION III – DEFINITIONS:

- A. *Sidewalk* – A walkway along the margin of a street designated and prepared for the use of pedestrians to the exclusion of vehicles. However, MCL 257.660(c) and 257.660(d) allow for travel on sidewalks or pathways by bicycle, provided they yield to pedestrians and do not impede traffic by pedestrians.

SECTION IV – REGULATIONS:

- A. The owner or owners of all lots, parcels, and premises within the Township are required to maintain, repair, and keep sidewalks adjacent to or upon their property and premises in or along the public street in the Township.
- B. It shall be the duty of all owners of premises within the limits of the Township to keep all sidewalks which have been heretofore or hereafter laid in front of, upon, or adjacent to

such premises, in or along any of the street rights-of-way, in good repair and free from dangerous ice, snow, or other dangerous obstructions and conditions. Any owner of any such premises who shall allow any such sidewalk to remain in disrepair or in a dangerous condition shall be responsible and liable for injuries and damages arising out of the disrepair or unsafe condition of said sidewalks. Such owner shall further indemnify and reimburse the Township for any and all liability, costs, and expenses which the Township may incur as a result of any such defective or dangerous sidewalks.

- C. As to winter snow maintenance, it is the responsibility of the property owner to clear accumulations of snow and ice that may cause a threat to public safety within 24 hours after a winter storm event. An accumulation of two or more inches of snow and any accumulation of ice are hereby determined to be considered a threat to public safety. If a sidewalk is not cleared, a representative of the Township may authorize clearing and the costs to be assessed against the premises.
- D. No person shall permit or cause any building material, dirt, sand, excavated material, wood, rubbish, or any article or other substance of merchandise to be dropped, delivered, piled, or placed in any way above or upon any sidewalk so as to obstruct the sidewalk, except by special permission of the Township. Merchandise necessarily delivered on the sidewalks shall be immediately removed to the interior of the address to which it was destined.
- E. Whenever any building material, dirt, sand, excavated materials, wood, rubbish, or any other thing, article, or substance is left in such condition or quality so as to obstruct or be dangerous to public travel, and shall be permitted to remain on any sidewalk during the whole or any part of the night, the property owner and the person who is responsible for such obstruction shall place a suitable number of caution lights and barricades on or about the same to indicate the location and extent of such obstruction to prevent injury to persons and property.

SECTION V- STANDARDS:

- A. All sidewalks or portions thereof hereafter constructed or repaired shall comply with the following specifications:
 - i. All sidewalks shall be constructed to grade established by existing adjoining walks, or shall be paved with concrete with a depth of at least four inches, except that sidewalks across a driveway or other vehicle crossing shall be reinforced and have a depth of at least six inches. Other types of paving may be permitted, subject to Township Board 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.
 - ii. The Township shall have the ability to require sidewalks to be constructed at a width determined by their intended function.

- iii. Sidewalks shall be allowed to wander around trees and other fixed objects without being overly rigid in placement.
 - iv. Sidewalks shall be designed to maintain the existing direction and flow of storm water and to avoid damming or flooding of adjacent parcels.
- B. Pursuant to the power authorized by Michigan P.A.80 of 1989, as amended (MCL 41.288[a]), the Township Board may construct, repair, or maintain; or may order the construction, repair, and maintenance of sidewalks for the health, safety, and general welfare of the residents of the Township after notifying the involved property owners of the time and place of a hearing of such order before the Township Board. Following the hearing, it may either construct, repair, or maintain the sidewalks and assess the costs to the property involved over a five year period, or permit the owners, within a specified time, to have the sidewalks constructed, repaired, or maintained according to Township specifications at the property owner's expense. No work shall be commenced until approved by either the county road commission or State Department of Transportation having jurisdiction over the rights-of-way within which the sidewalk will be located.
- C. The cost of replacement or repair of a sidewalk to be charged against a property owner shall be based upon actual costs or engineer's estimates, less public contribution, if any, as the Township Board may authorize.
- D. The Township Board, in its discretion, may also, after replacing a sidewalk, authorize collection of the costs of such replacement or repair by civil action and process, or such other means as may be proper for the collection of debts by legal process.

SECTION VI – OWNER-CAUSED DEFECTS:

Where sidewalks have defects creating pedestrian hazards which are caused by conditions existing upon an abutting property, such as but not limited to (a) trees or other growths; (b) surface drainage; (c) on-site construction or vehicular traffic; or (d) other on-site activities, the abutting property owner shall be responsible for its repair, maintenance, and safe condition, and liable for all consequential injuries, damages, expenses, or costs resulting from the condition and lack of repair or maintenance and unsafe condition. Such liability shall include full indemnification of the Township for any damages, costs, or expenses resulting from such owner-caused defaults, as well as liability to others. The foregoing liability and responsibility shall apply without notice or hearing on the same.

SECTION VII – SAVING CLAUSE:

Should any section or provision of this Ordinance be declared, by a court of competent jurisdiction, unconstitutional, unauthorized, or invalid, or in conflict with any other section or provision of any ordinance of the Township, such decision shall not be held to invalidate or impair the validity, force, or effect of any other section or provision of this Ordinance.

SECTION VIII – REPEAL OF CONFLICTING ORDINANCES AND EFFECTIVE DATE:

All ordinances or parts of ordinances in conflict herewith, are hereby repealed.
This ordinance shall take effect 30 days after publication following its adoption.

SECTION IX – PENALTIES:

Violation of this Ordinance shall be declared to be a civil infraction and shall be subject to the penalties as set forth therein.

Members present: S. Keene, A. Grimes, A. Faist, L. Bamm

Members absent: S. Dodge

Ayes: S. Keene, A. Grimes, A. Faist, L. Bamm

Nays: None

Larry Bamm, Supervisor

Sally Keene, Clerk

Dated: September 12, 2012

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