

ORDINANCE #272
SIDEWALKS

Adopted: 09/27/01
Effective: 10/04/01

An Ordinance to protect the public health, safety and general welfare of the citizens of the Charter Township of Bangor by the adoption of regulations concerning the construction and repair of sidewalks within the Township.

THE CHARTER TOWNSHIP OF BANGOR, BAY COUNTY, MICHIGAN, HEREBY ORDAINS:

SECTION 1. Name. This Ordinance shall be known and cited as the Bangor Township Sidewalk Ordinance.

SECTION 2. Purpose. The Township Board hereby declares its intention to have constructed under certain circumstances within the Township at large or along certain designated roads of the Township, a sidewalk for the use, benefit, protection, safety, convenience and general welfare of the citizens of Bangor Township.

SECTION 3. Requirement to construct sidewalk; public hearing. Before the Township Board may require that a sidewalk be constructed along various public roads or approved private roads and within either the road right of way or the front yard setback area, the Township Board will first hold a public hearing relative to the requiring of sidewalk construction or replacement and shall notify all property owners involved of the time and place of the hearing by regular first class mail directed to the last known address of such owners as indicated by the Township tax rolls. The Township Board at the public hearing shall determine:

A. That a sidewalk is recommended as a condition of site plan approval for certain described uses by the Planning Commission; or,

B. That a new residential subdivision, condominium, or multiple-family dwelling development within the Township of Bangor is being constructed.

The Township Board may require the owners of any lot or premises to build or replace a sidewalk within such time and in such manner as the Township Board may require. Prior to issuance of a building permit, a performance bond or cash bond may be deposited with the Township. The amount of the bond shall be determined by the Township Building Inspector and shall be sufficient to cover the estimated cost of constructing the sidewalk. If the owner shall fail to build or replace a sidewalk as ordered, the Township Board may cause the sidewalk to be built or replaced and the expense thereof shall first be charged against the performance bond or cash bond and the balance, if any, may be assessed pursuant to Michigan Public Act 80 of 1989, as amended, against such property owner and shall be collected and treated in the same manner as taxes are assessed under the general laws of the State of Michigan.

(Amended by Ordinance #401, effective 11/16/22)

SECTION 4. Waiver of requirement to build a sidewalk; delayed construction. The Township Board may waive the requirement to construct a required sidewalk pursuant to Section 3. A. or 3.

B. above if a property owner proves there is a physical difficulty associated with the property which would prohibit the construction of a sidewalk or that the requirement for a sidewalk is not practical under the circumstances. The Township Board may also determine that the sidewalk need not be constructed with the current construction, but may determine that a sidewalk may be required to be constructed at some later date. If the Township Board determines that the sidewalk is not required during the current construction, it may:

- A. Agree in writing with the owner that the sidewalk may be required to be constructed in the future, and the circumstances of when it will be constructed shall be set forth in a written agreement. At the time when the circumstances defined in the writing are met, the Township shall give written notice to the owner that the sidewalks are required to be constructed and the owner will then install the sidewalk within 120 days after notice is given the owner by the Township.
- B. If the owner fails to timely install the sidewalk, the Township may proceed to install same and assess the cost of the installation against the subject site pursuant to and in accordance with the provisions of Michigan Public Act No. 188 of 1954, as amended. The written agreement will provide that it constitutes a petition pursuant to and in accordance with the above mentioned Public Act and thereby waives any and all hearings, notices or hearing and/or other requirements preliminary to the establishment of a lien against the land for recovery of the actual costs incurred by the Township for the design and installation of sidewalks as required by the above act and is pursuant to Michigan Public Act 80 of 1989, as amended.
- C. The agreement will be recorded in the Bay County Register of Deeds and shall be deemed to be a covenant running with the land binding upon the parties hereto, their successors and assigns. A fee equal to the County recording fee shall be charged to the property owner for recording the agreement with the Register of Deeds office.

SECTION 5. Requirements for completion. Prior to issuance of a certificate of occupancy the required sidewalk construction must be completed unless delayed pursuant to Section 4 above. If cold weather conditions do not permit sidewalk installation, the sidewalk shall be installed no later than June 30 of the following construction season. If construction is not completed by May 30, the Township Supervisor shall send a notice to the property owner stating that the work is to be completed by June 30 or the Township will undertake completion of the work at a cost to be set forth in said notice and the expense thereof shall be assessed against such property owner and shall be collected and treated in the same manner as taxes are assessed under the general laws of the State of Michigan. Any performance or cash bond will be utilized to construct the sidewalk. Any excess money remaining after the sidewalk is constructed will be refunded to the person who deposited the performance or cash bond with the Township.

SECTION 6. Determination of need to repair. The Township Building Inspector shall determine when a sidewalk is in need of repair based upon one or more of the following

conditions:

1. Vertical cracks - upheaval or settlement greater than one-half (½") inch.
2. Horizontal cracks or joint separation greater than one inch (1").
3. Tilted sections - if tilted greater than two inches (2") in any direction of a five foot by five foot (5' x 5') section.
4. Spalled or pitted sections - of greater than twenty-five (25%) percent of the surface or depressions that are greater than three (3") inches in diameter.

The Township Building Inspector will also determine if the cause of the defect was natural or if it was induced by the occupant of the abutting property. If the defect is caused by conditions existing upon the abutting property, such as, but not limited to:

1. Trees or other growth;
2. Surface drainage;
3. On-site construction or vehicular traffic;
4. Other on-site activities;

then the Township Building Inspector shall provide written notice of his findings to the property owner and indicate that the sidewalk will have to be repaired by a given date, which date shall not be less than fifteen (15) working days. In the event the property owner disputes the decision of the Building Inspector, the property owner will be required to appeal the findings of the Township Building Inspector to the Township Board within the time designated by the Building Inspector to fix the repair. The Township Board shall then hold a public hearing on the appeal, giving the property owner not less than five (5) days written notice of the time and date of the public hearing. At the public hearing the property owner will be required to prove to the Township Board as to why the property owner should not be required to repair the sidewalk defect. If the Township Board determines that the property owner is responsible for the repair, the Township will determine a date, which date will not be less than ten (10) days nor in excess of twenty-one (21) days following the determination of the Township Board, when the repair shall be completed. If the Township Board determines that the property owner is not responsible, it shall proceed to initiate the repair within ten (10) working days.

SECTION 7. Recourse for noncompliance; emergency repairs. If the property owner does not repair the sidewalk within the time limit specified or in a manner not in accord with this Ordinance, the Township Supervisor shall have the sidewalk repaired. If at any time the Supervisor determines that an emergency exists and that immediate repair is necessary to protect the public, the Supervisor may dispense with the notice and institute the repairs immediately. In any event the cost of the repair shall be paid by the owner of the property unless the owner is successful in an appeal to the Township Board pursuant to Section 6. If the property owner fails to pay the required amount upon notice from the Township Clerk, then the expense thereof shall be assessed against such property owner and shall be collected and treated in the same manner as taxes are assessed under the general laws of the State of Michigan

SECTION 8. Standards of sidewalk construction. All sidewalks or portions thereof hereafter constructed or repaired shall comply with the following specifications:

1. The locations of all sidewalks shall be approved by the Building Official

authorized to issue permits to construct sidewalks (“Building Official”). No sidewalk shall be approved until a pre-inspection is made by the Building Official who shall inspect the rails and subgrade and until a final inspection after all of the work has been completed;

2. All sidewalks shall be at least 5 feet in width on a sand bed of at least 4 inches in thickness;
3. Sidewalks shall be constructed of concrete at least 4 inches in thickness, except in locations accessible to motor vehicles which shall be at least 6 inches in thickness;
4. Concrete shall have a comprehensive strength of at least 3000 pounds per square inch;
5. Grade elevations for sidewalks shall be constructed to grade established by existing adjoining walks or, in the absence of the foregoing, approved by the Building Official;
6. Sidewalks shall meet Michigan ADA barrier free requirements;
7. All sidewalks constructed over filled trenches shall be 6 inches in thickness and shall be reinforced with 4 No. 8 bars at 12-inch centers;
8. The number and location of drainage structures shall be approved by the Building Official;
9. Fiber expansion joints shall be provided at intervals of not more than 50 feet and at all locations where sidewalks abut paved roads or driveways and where the thickness of the sidewalk changes from 4 to 6 inches; Contraction joints shall be placed at approximately 5 feet intervals and shall be a minimum of 3/4" in depth; and, any portion of a sidewalk crossing a private drive shall be constructed of concrete at least 6 inches in thickness.
10. The surface shall be roughened with a brush or other equipment to prevent smooth and slippery surfaces.

SECTION 9. Severability. If any section, clause or provisions of this Ordinance shall be declared to be inconsistent with the constitution and the laws of the State of Michigan and void by any court of competent jurisdiction, said section, clause or provision declared to be unconstitutional and void shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force.

SECTION 10. Effective date; repeal. This Ordinance shall become effective immediately after the last required publication following adoption. All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

The above Ordinance was adopted at a special meeting of the Township Board on the 27th day of September, 2001, and shall be published in the *Bay City Democrat Press, Inc.* on or before the 4th day of October, 2001.