

CHARTER TOWNSHIP OF DELTA  
7710 West Saginaw Highway  
Lansing MI 48917  
517/323-8500

**ADOPTION OF CODE OF ORDINANCE AMENDMENT 14-83  
SIDEWALK ORDINANCE, CHAPTER 34, ARTICLE II**

The Delta Township Board introduced the following Code of Ordinance Amendment at its regular meeting scheduled for 6:00 p.m. on June 16, 2014.

The Delta Township Board adopted the following Code of Ordinance Amendment at its regular meeting schedule for 6:00 p.m. on Monday, July 7, 2014.

THE CHARTER TOWNSHIP OF DELTA ORDAINS TO AMEND THE CODE OF ORDINANCE OF DELTA TOWNSHIP ADDING THE CHAPTER 43 AS FOLLOWS:

**CHAPTER 34, ARTICLE II  
Sidewalk Ordinance**

SEC. 34-19. DEFINITIONS.

THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

*ABUTTING OR ADJACENT PROPERTY* MEANS ANY LOT OR PARCEL OF LAND ADJOINING, BORDERING OR TOUCHING A STREET AS DEFINED IN THIS SECTION.

*ADJACENT SIDEWALK* MEANS THAT PORTION OF THE SIDEWALK LOCATED WITHIN THE STREET NEXT TO AN ABUTTING OR ADJACENT PROPERTY AS DEFINED IN THIS SECTION.

*ALTERATION OF EXISTING PRINCIPAL BUILDING* MEANS ANY ALTERATION, CONSTRUCTION OR RECONSTRUCTION RELATED TO AN EXISTING PRINCIPAL BUILDING THAT RESULTS IN A CHANGE IN SAID PRINCIPAL BUILDING OF 25 PERCENT OF THE FLOOR AREA OR MORE, OR THAT RESULTS IN THE REPLACEMENT OF AN EXISTING PRINCIPAL BUILDING.

*BUILDING* MEANS AN ENCLOSED STRUCTURE HAVING A ROOF SUPPORTED BY COLUMNS, WALLS, ARCHES OR OTHER DEVICES USED FOR THE HOUSING, SHELTER OR ENCLOSURE OF PERSONS, ANIMALS, CHATTELS OR PROPERTY OF ANY KIND.

*FLAG* MEANS A SECTION OF SIDEWALK, TYPICALLY FIVE FEET BY FIVE FEET, BETWEEN EXPANSION JOINTS.

*PRINCIPAL BUILDING* MEANS A BUILDING IN WHICH IS CONDUCTED THE MAIN OR PRINCIPAL USES OF THE LOT OR PARCEL ON WHICH SAID BUILDING IS LOCATED.

*PRIVATE STREET* MEANS ANY STREET, ROAD OR THOROUGHFARE FOR VEHICULAR TRAFFIC WHICH IS PRIVATELY OWNED OR MAINTAINED AND WHICH PROVIDES THE PRINCIPAL MEANS OF ACCESS TO ABUTTING PROPERTIES. A STREET INCLUDES THE LAND BETWEEN THE STREET RIGHT OF WAY LINES, WHETHER IMPROVED OR UNIMPROVED.

*PUBLIC STREET* MEANS A DEDICATED PUBLIC RIGHT OF WAY, WHICH IS A STATE OR COUNTY ROADWAY AFFORDING THE PRINCIPAL MEANS OF ACCESS TO ABUTTING PROPERTY. A STREET INCLUDES THE LAND BETWEEN THE STREET RIGHT OF WAY LINES, WHETHER IMPROVED OR UNIMPROVED.

*SIDEWALK* MEANS THAT PORTION OF THE STREET RIGHT OF WAY IMPROVED WITH CONCRETE AND DESIGNED FOR NON- MOTORIZED TRAVEL.

*STREET* MEANS A DEDICATED PUBLIC OR PRIVATE RIGHT OF WAY AFFORDING THE PRINCIPAL MEANS OF ACCESS TO ABUTTING PROPERTY. A STREET INCLUDES THE LAND BETWEEN THE STREET RIGHT OF WAY LINES, WHETHER IMPROVED OR UNIMPROVED.

#### SEC. 34-20. PURPOSE.

THE PURPOSE OF THIS ARTICLE IS TO PROVIDE FOR THE CONSTRUCTION, MAINTENANCE, AND REPAIR OF SIDEWALKS FOR THE PUBLIC SAFETY PURSUANT TO THE PROVISIONS OF PUBLIC ACT NO. 359 OF 1947 (MCL 42.1 ET SEQ.).

#### SEC. 34-21. SIDEWALK CONSTRUCTION REQUIRED.

- (A) ALL OWNERS OF LOTS AND PARCELS ABUTTING DEDICATED PUBLIC STREETS OR PRIVATE STREETS SHALL BE REQUIRED TO CONSTRUCT SIDEWALKS AT THE TIME OF CONSTRUCTION OF ANY NEW PRINCIPAL BUILDINGS, OR AT THE TIME OF ALTERATION OF EXISTING PRINCIPAL BUILDINGS ON SUCH LOTS OR PARCELS. THIS PROVISION SHALL NOT APPLY IN CONJUNCTION WITH THE CONSTRUCTION OR ALTERATION OF PRINCIPAL BUILDINGS ON LOTS OR PARCELS LOCATED WITHIN THE NR, A1, A2, RA, I1, AND I2 ZONING DISTRICTS, OR IN CONJUNCTION WITH THE CONSTRUCTION OF ONE AND TWO FAMILY DWELLINGS ON LOTS OR PARCELS CREATED PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE FROM WHICH THIS ARTICLE IS DERIVED. RESIDENTIAL,

OFFICE OR COMMERCIAL ZONED LOTS OR PARCELS LOCATED WITHIN SUBDIVISIONS THAT HAVE RECEIVED FINAL PRELIMINARY PLAT APPROVAL PRIOR TO SAID EFFECTIVE DATE SHALL HAVE SIDEWALKS INSTALLED AS REQUIRED BY THE BOARD AT THE TIME FINAL PRELIMINARY APPROVAL OF THE SUBDIVISION WAS GRANTED. ADDITIONALLY, RESIDENTIAL, OFFICE OR COMMERCIAL ZONED LOTS OR PARCELS CREATED PRIOR TO THE EFFECTIVE DATE OF THE ORDINANCE FROM WHICH THIS ARTICLE IS DERIVED SHALL HAVE SIDEWALKS INSTALLED AS REQUIRED BY THE PLANNING COMMISSION, TOWNSHIP BOARD, OR ZONING ADMINISTRATOR AT THE TIME OF FINAL SITE PLAN APPROVAL FOR THE CONSTRUCTION OF NEW, OR ALTERATION OF EXISTING, PRINCIPAL BUILDINGS ON SUCH LOTS OR PARCELS. SIDEWALKS REQUIRED TO BE CONSTRUCTED PURSUANT TO THIS SECTION SHALL BE INSTALLED WITHIN ONE YEAR OF ISSUANCE OF THE BUILDING PERMIT FOR CONSTRUCTION OR ALTERATION OF ANY PRINCIPAL BUILDINGS ON SAID LOTS OR PARCELS UNLESS OTHERWISE AUTHORIZED BY THE TOWNSHIP ENGINEER OR THEIR DESIGNEE. ALL SIDEWALKS CONSTRUCTED SHALL COMPLY WITH THE CONSTRUCTION STANDARDS REFERRED TO IN SECTION 34-27.

- (B) THE BOARD MAY, BY RESOLUTION, REQUIRE THE OWNERS OF LOTS AND PARCELS ABUTTING PUBLIC OR PRIVATE STREETS, TO CONSTRUCT SIDEWALKS WHERE THE PRESENCE OF SIDEWALKS MAY BE DECLARED BY THE BOARD TO BE NECESSARY TO PROVIDE SAFE AND CONVENIENT ROUTES FOR NON-MOTORIZED TRAFFIC. THE BOARD MAY ORDER THE CONSTRUCTION OF THE SIDEWALKS AND ASSESS ALL OR PART OF THE COSTS OF SIDEWALK CONSTRUCTION TO THE ABUTTING PROPERTY OWNERS INVOLVED, OR MAY PERMIT THE ABUTTING PROPERTY OWNERS TO PROVIDE FOR THE CONSTRUCTION OF THE REQUIRED SIDEWALKS ON THEIR OWN IN ACCORDANCE WITH THE CONSTRUCTION STANDARDS REFERRED TO IN SECTION 34-27, AND ANY OTHER SPECIFICATIONS REQUIRED BY THE BOARD. A RESOLUTION REQUIRING THE CONSTRUCTION OF SIDEWALKS SHALL NOTE THE TIME PERIOD IN DAYS IN WHICH THE OWNERS MUST CONSTRUCT THE REQUIRED SIDEWALK. THE CONSTRUCTION OF ANY SIDEWALK UNDER THIS SECTION SHALL BE IN COMPLIANCE WITH THE REQUIREMENTS OF PUBLIC ACT NO. 80 OF 1989 (MCL 41.288A), AS AMENDED.
- (C) PRIOR TO ADOPTION OF A RESOLUTION REQUIRING SIDEWALKS, THE BOARD SHALL HOLD A PUBLIC HEARING. THE TOWNSHIP CLERK SHALL CAUSE NOTICE OF THE TIME AND PLACE OF THE PUBLIC HEARING TO BE PUBLISHED WITHIN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE TOWNSHIP AT LEAST TEN DAYS PRIOR TO THE DATE OF THE HEARING.

- (D) IN ADDITION, ALL ABUTTING PROPERTY OWNERS AFFECTED BY SUCH A RESOLUTION SHALL BE GIVEN DUE NOTICE OF THE PUBLIC HEARING BY THE TOWNSHIP CLERK BY WAY OF REGULAR MAIL AT LEAST TEN DAYS PRIOR TO THE DATE OF THE HEARING. SAID NOTICE SHALL BE PREPARED AND THE PUBLIC HEARING CONDUCTED IN ACCORDANCE WITH MICHIGAN PUBLIC ACTS NO. 64 AND 65 OF 1989 (MCL 211.741 ET SEQ. 205.735).

SEC. 34-22. VARIANCES.

- (A) THE BOARD MAY, BY RESOLUTION, AUTHORIZE A VARIANCE FROM THE REQUIREMENTS OF SECTION 34-21 UNDER THE FOLLOWING CIRCUMSTANCES:
- (1) THE BOARD SHALL DETERMINE THAT THE PROPOSED VARIANCE WILL NOT IMPAIR THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE OF TOWNSHIP RESIDENTS.
  - (2) THE BOARD SHALL DETERMINE THAT A STRICT APPLICATION OF SUCH REQUIREMENTS WOULD RESULT IN PRACTICAL DIFFICULTIES TO, OR UNDUE HARDSHIP UPON, THE OWNERS OF SUCH LOTS OR PARCELS. PRACTICAL DIFFICULTIES MAY INCLUDE, BUT SHALL NOT BE LIMITED TO, SEVERE VARIATIONS IN TOPOGRAPHY, UNSUITABLE SOILS OR DIFFICULTY IN PROVIDING SAFE SEPARATION BETWEEN PEDESTRIAN AND VEHICULAR TRAFFIC DUE TO SITE LOCATION, LAYOUT OR EXISTING BUILDING ARRANGEMENTS. THE COST OF INSTALLING A SIDEWALK SHALL NOT CONSTITUTE THE SOLE BASIS FOR AN UNDUE HARDSHIP.
  - (3) A VARIANCE MAY BE GRANTED BY THE BOARD WHEN THE PREPONDERANCE OF LOTS OR PARCELS OF LAND ON THE STREET IN QUESTION ARE ALREADY DEVELOPED WITH NO SIDEWALKS EXISTING, AND ACCORDINGLY THAT A SIDEWALK WOULD NOT LIKELY CONNECT TO ANY OTHER WALK, AND THUS NOT SERVE THE PURPOSE OF A NON-MOTORIZED TRANSPORTATION SYSTEM.
- (B) A VARIANCE REQUEST SHALL BE FILED BY THE PROPERTY OWNER OR THEIR DESIGNATED AGENT. AN APPLICATION FOR A VARIANCE SHALL BE SUBMITTED TO THE TOWNSHIP CLERK ON A SPECIAL FORM FOR THAT PURPOSE. APPLICATIONS SHALL BE SUBMITTED AT LEAST TWO WEEKS IN ADVANCE OF A REGULAR MEETING OF THE BOARD. A FEE, AS ESTABLISHED BY THE BOARD, SHALL BE SUBMITTED WITH THE VARIANCE APPLICATION.

- (C) THE COMMUNITY DEVELOPMENT DEPARTMENT SHALL PREPARE A WRITTEN REPORT WHICH SHALL BE SUBMITTED TO THE BOARD PRIOR TO THE MEETING AT WHICH THE BOARD WILL CONSIDER A VARIANCE.

SEC. 34-23. REPAIR OF SIDEWALKS.

- (A) IT SHALL, BE THE RESPONSIBILITY OF THE OWNER OF EVERY LOT OR PARCEL OF LAND TO KEEP THE SIDEWALKS ADJACENT TO THEIR LOT OR PARCEL IN GOOD REPAIR. SIDEWALKS SHALL BE REPAIRED OR REPLACED WHEN THE CONDITION OF SAME IS DETRIMENTAL TO PUBLIC SAFETY. CONDITIONS REQUIRING REPAIR INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:
  - (1) A RISE OR DROP OF MORE THAN ONE INCH BETWEEN ANY TWO FLAGS OR A VERTICAL DISCONTINUITY OF MORE THAN ONE INCH ON ANY FLAG.
  - (2) MORE THAN TWO CRACKS OF ONE-QUARTER INCH IN WIDTH OR IN ANY TWO LINEAR FEET OF FLAG.
  - (3) ANY FLAG WHICH IS TILTED IN EXCESS OF ONE INCH PER FOOT FROM INSIDE EDGE TO OUTSIDE EDGE. (THE OUTSIDE EDGE BEING THE EDGE OF THE SIDEWALK NEAREST THE STREET LINE.)
  - (4) IF, IN ANY FLAG, MORE THAN 50 PERCENT OF THE SURFACE HAS SCALED OFF TO A DEPTH OF ONE-QUARTER INCH OR GREATER.
  - (5) AN UNDERMINED FLAG BELOW WHICH THERE IS A VISIBLE VOID CAUSING THE SIDEWALK TO ROCK OR SEESAW.
  - (6) ONE OR MORE FLAGS, OR A PORTION OF A FLAG, ARE MISSING DUE TO, BUT NOT LIMITED TO, CONSTRUCTION ACTIVITIES, DRIVEWAY REPAIRS, AND UTILITY REPAIRS AND INSTALLATIONS.
- (B) WHENEVER THE TOWNSHIP ENGINEER OR THEIR DESIGNEE DETERMINES THAT AN OWNER OF A LOT OR PARCEL ADJACENT TO A SIDEWALK HAS LEFT THE SIDEWALK IN A STATE OF DISREPAIR OR HAS NOT PROPERLY MAINTAINED THE SIDEWALK IN ACCORDANCE WITH SECTION 34-23 (A), A NOTICE SHALL BE SENT BY REGULAR MAIL TO THE OWNER OF THE ADJACENT LOT OR PARCEL TO REPAIR THE SIDEWALK. THE NOTICE SHALL SPECIFY THE TIME PERIOD WITHIN WHICH SUCH WORK SHALL BE COMMENCED. IN NO CASE SHALL THE TIME PERIOD ALLOWED FOR REPAIR OF A SIDEWALK EXCEED 30 DAYS UNLESS AUTHORIZED OTHERWISE BY THE TOWNSHIP ENGINEER OR THEIR DESIGNEE.

- (C) IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF EVERY LOT OR PARCEL OF LAND TO MAINTAIN THE SIDEWALKS ADJACENT TO THEIR LOT OR PARCEL. SIDEWALKS MUST BE MAINTAINED FREE FROM ENCROACHING OBSTRUCTIONS INCLUDING, BUT NOT LIMITED TO, OVERHANGING TREE LIMBS, BUSHES, VINES, FENCES, WALLS, AND STRUCTURES.

SEC. 34-24. SIDEWALK DEFECTS CAUSED BY NEGLIGENCE.

THE TOWNSHIP ENGINEER MAY ORDER A SIDEWALK REPAIRED BY PERSONS WHO HAVE CAUSED THE REPAIR TO BE NECESSARY THROUGH THEIR OWN ACTIONS BY EXCAVATING UNDER OR ADJACENT TO THE SIDEWALK, PLACING WEIGHT UPON THE SIDEWALK GREATER THAN ITS DESIGNATED CAPACITY, OR ANY OTHER NEGLIGENT ACT.

SEC. 34-25. CONSTRUCTION OR REPAIR BY THE TOWNSHIP.

IF ANY OWNER SHALL FAIL OR NEGLECT TO CONSTRUCT OR REPAIR ANY SIDEWALK ADJACENT TO THEIR LOT OR PARCEL OF LAND WITHIN SUCH TIME AS HEREIN REQUIRED, OR AS MAY BE REQUIRED BY A RESOLUTION OF THE BOARD, THE BOARD MAY CAUSE THE SAME TO BE DONE IN ACCORDANCE WITH THE PROVISIONS OF PUBLIC ACT NO. 80 OF 1989 (MCL 41.288A), AND THE BOARD MAY USE ANY LAWFUL MEANS AVAILABLE TO RECOVER THE COST OF SAID CONSTRUCTION OR REPAIR.

SEC. 34-26. SIDEWALK PERMITS.

A PERMIT IS REQUIRED PRIOR TO BEGINNING CONSTRUCTION, REMOVAL, OR REPAIR OF A SIDEWALK. THE PERMIT SHALL BE IN A FORM PROVIDED BY THE TOWNSHIP ENGINEER.

SEC. 34-27. CONSTRUCTION STANDARDS.

ALL SIDEWALKS HEREAFTER CONSTRUCTED, REPAIRED OR REBUILT SHALL BE CONSTRUCTED, REPAIRED OR REBUILT ACCORDING TO THE TOWNSHIP SIDEWALK CONSTRUCTION STANDARDS AS ADOPTED BY THE BOARD.

SEC. 34-28. AUTHORITY OF TOWNSHIP BOARD.

THE BOARD, OR THE BOARD'S DESIGNEE, SHALL HAVE AUTHORITY TO PROVIDE FOR THE CONSTRUCTION OR REPAIR OF SIDEWALKS AS WELL AS THE CLEARANCE OF ICE AND SNOW BY GENERAL CONTRACT, OR IN SUCH OTHER MANNER AS IT SHALL DETERMINE.

SEC. 34-29. ADMINISTRATION.

IT SHALL BE THE RESPONSIBILITY OF THE TOWNSHIP ENGINEER, OR THEIR DESIGNEE TO SUPERVISE AND CONTROL ALL SIDEWALKS AND THE CONSTRUCTION, REPAIR, AND MAINTENANCE THEREOF, INCLUDING INSPECTION.

SEC. 34-30. VIOLATIONS.

- (A) VIOLATIONS OF THE PROVISIONS OF THIS ARTICLE, OR FAILURE TO COMPLY WITH ANY OF ITS REQUIREMENTS, SHALL BE PUNISHABLE AS A MUNICIPAL CIVIL INFRACTION, SUBJECT TO A FINE IN THE AMOUNT OF \$50.00 IF PAID WITHIN TEN DAYS OF ISSUANCE, OR \$100.00 IF PAID AFTER TEN DAYS OF ISSUANCE.
- (B) MUNICIPAL CIVIL INFRACTIONS SHALL BE ISSUED AND SERVED TO THE OWNER OF THE PROPERTY UPON WHICH THE VIOLATION HAS OCCURRED.
- (C) THE IMPOSITION OF ANY FINE SHALL NOT EXEMPT THE VIOLATOR FROM COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE. EACH DAY A VIOLATION REMAINS IN EXISTENCE MAY BE TREATED AS A SEPARATE OFFENSE.
- (D) IF ANY FINES AND/OR COSTS ASSOCIATED WITH THIS SECTION ARE NOT PAID, THE CIVIL INFRACTION CITATION MAY BE FILED WITH THE DISTRICT COURT IN ACCORDANCE WITH SECTION 20-22 (G).
- (E) THE CIVIL FINE ASSOCIATED WITH THIS SECTION SHALL BE SET FROM TIME TO TIME BY THE BOARD BY RESOLUTION.

SEC. 34-31. VIOLATIONS DEEMED MUNICIPAL CIVIL INFRACTION.

FOR EACH VIOLATION OF A PROVISION OF THIS ARTICLE, OR FAILURE TO COMPLY WITH ANY OF ITS REQUIREMENTS, A TOWNSHIP APPOINTED OFFICIAL SHALL BE AUTHORIZED TO ISSUE AND SERVE A MUNICIPAL CIVIL INFRACTION CITATION, IN ACCORDANCE WITH ARTICLE II OF CHAPTER 20, ON ANY PERSON WITH RESPECT TO A VIOLATION OF THIS ARTICLE WHEN THERE IS REASONABLE CAUSE TO BELIEVE THAT PERSON HAS COMMITTED SUCH AN OFFENSE.

**SEVERABILITY.** If any clause, sentence, paragraph, or part of this Ordinance shall for any reason be finally adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance but shall be confirmed in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment is rendered.

**REPEAL.** All ordinances or parts of ordinances of the Charter Township of Delta inconsistent herein are hereby repealed so far as they may be inconsistent with the provisions of this Ordinance.

**EFFECTIVE DATE.** This Ordinance shall take effect upon final publication as required by law.

Copies of this ordinance may be purchased or inspected in the office of the Township Clerk from 8:00 a.m. to 5:00 p.m., Monday through Friday except holidays.

CHARTER TOWNSHIP OF DELTA

MARY R. CLARK, CLERK

KENNETH FLETCHER, SUPERVISOR



I, Mary Clark, Clerk of the Charter Township of Delta, Eaton County, Michigan hereby certify that the foregoing is a complete ordinance adopted by the Township Board at their regular meeting on Monday, July 7, 2014.

CHARTER TOWNSHIP OF DELTA

MARY R. CLARK, TOWNSHIP CLERK

Introduced by Township Board	June 16, 2014
Published following first reading:	
Grand Ledge Independent	June 22, 2014
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