

Leland Township Sidewalk Ordinance

No. 2016-01

Replaces 1989-01

THE TOWNSHIP OF LELAND, LEELANAU COUNTY, MICHIGAN, ORDAINS:

Section 1: Name

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

Section 2: Purpose

The purpose of this ordinance is to keep public sidewalks in a proper and safe condition for public use and to regulate their repair, replacement, removal and/or construction when necessary and to provide for the payment of same by the Township and/or abutting and other benefited property owners.

Section 3: Regulations

A. A sidewalk may be found to be in disrepair upon an examination by an authorized Township representative during annual inspection or as a result of an inspection requested in writing to the Township Clerk.

B. A sidewalk shall be considered in disrepair if one or more of the following conditions exist:

1. Potholes of one inch or more,
2. Loosened, crumbling or breaking surface, or
3. Differences of one inch or more in heights of adjoining sections of sidewalks.

C. All sidewalk repairs, replacement and/or construction shall be undertaken by the Township or its designee in accordance with published standards by local, state and/or federal authority having jurisdiction for same.

Section 4: Cost, Notification and Responsibility

A. The Township may construct, repair, remove or replace or may order the construction, repair, removal or replacement of sidewalks within the Township upon determining that such work is necessary for the health, safety and general welfare of the residents of the Township.

B. If the Township Board determines that repair, replacement, removal and/or construction of a sidewalk or sidewalks is necessary, it may do so and assess the costs to the abutting property owner(s) on a shared basis which the township shall set forth by resolution. The Township Board at its sole discretion may also cause a Special Assessment District (SAD) of benefited owners to be formed to pay a share of cost set by the Township Board. The Township Board may also at its sole discretion elect to pay the entire cost if it deems the health, safety and general welfare of the project extends beyond the immediate area of the project and to the Township at large.

The cost of a repair, replacement, removal and/or construction of a sidewalk which is charged against a property owner shall be based upon the actual cost, including engineering fees, less such subsidy or credit as the Township Board may determine appropriate. The Township's subsidy toward repair, replacement, removal and/or construction shall be set and determined by Township

Board resolution. The Township's obligation to share a portion of the cost to repair, replace, remove or construct sidewalks extends only to a five-foot-wide sidewalk constructed to local, state and/or federal standards.

C. Prior to commencement of any work, the Township shall notify the involved property owner(s) in writing of the required work to be performed, the owner's share of cost and the projected total cost, terms (if any) and the date and place of the next Township Board meeting at which the property owner may request the repair, replacement, removal and/or construction be placed on the agenda for discussion.

Sidewalks repaired, replaced or constructed within the right-of-ways of state highways or county roads under this ordinance must have the approval of the state or county highway authority that has jurisdiction over the highway or road.

D. It shall be the duty of all owners of real property within the limits of the Township to keep all public sidewalks that have been heretofore or hereafter laid in front of, upon, or adjacent to such premises, in or along any of the street or alley right-of-ways, free of obstructions that impair or impede pedestrian use. Any owner of any such premises who allows any such sidewalk obstruction shall be responsible and liable for injuries and damages arising out of the condition of said sidewalk and shall indemnify and reimburse the Township for any and all liability, costs and expenses that the Township might incur as a result of any such failure. This section shall pose no duty to the natural accumulation of ice and snow to owners of residential and commercial property not abutting state trunk lines.

Section 5. Payment and Collection

Upon completion of the repair, replacement, removal and/or construction, the Township shall notify abutting or benefited property owner(s) of their share of the project cost and payment terms, if any. Balances unpaid after ninety days shall be considered in default and shall until paid constitute a lien on the owner's property. Default balances shall be subject to an annual interest charge set by resolution on the unpaid balance. If installment terms are allowed, an unpaid amount is considered in default based on payment due date.

Section 6: Owner-Caused Defects

Where sidewalk disrepair is caused by conditions existing upon an abutting property such as, but not limited to:

1. Trees or other growth sourced from owner's property;
2. On-site construction or vehicular traffic; or
3. Other on-site activities,

the Township shall correct the disrepair and the abutting property owner shall be responsible for the total cost of the repair or replacement. The foregoing liability and responsibility shall apply without notice or hearing.

Section 7: Saving Clause

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

Section 8: Repeal of Conflicting Ordinances and Effective Date

This ordinance replaces Ordinance 1989-01. This ordinance shall take effect 30 days after publication following its adoption. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

By: Jane M. Keen, Leland Township Clerk

By: Calvin R. Little, Leland Township Supervisor

CERTIFICATION

The foregoing is a true copy of Leland Township Ordinance 2016-01, which was adopted by the Leland Township Board of Trustees at a meeting held on June 13, 2016.

Published: June 23, 2016—Leelanau Enterprise

Effective: July 23, 2016