



**TOWNSHIP BOARD
PLAINFIELD CHARTER TOWNSHIP
KENT COUNTY, MICHIGAN**

ORDINANCE NO. 2019-898

**AN ORDINANCE TO AMEND CHAPTER 32, ARTICLE II, ENTITLED
"STREETS, SIDEWALKS AND OTHER PUBLIC PLACES; SIDEWALKS" OF THE
PLAINFIELD CHARTER TOWNSHIP CODE**

At a regular meeting of the Township Board for Plainfield Charter Township held at the Township offices on January 28, 2019 beginning at 7 p.m., the following Ordinance was offered for adoption by Township Board Member Postmus, and was seconded by Township Board Member Pfaff :

THE CHARTER TOWNSHIP OF PLAINFIELD ORDAINS:

1. Amendment of Chapter 32, Article II, Sections 32-31 through 32-41. That Chapter 32, Article II, Sections 32-31 through 32-41, inclusive, of the Code of Ordinances, Charter Township of Plainfield, Kent County, Michigan, is hereby amended to read as follows:

ARTICLE II. – SIDEWALK AND NON-MOTORIZED TRAILS

Sec. 32-31. Non-motorized transportation fund established

A non-motorized transportation fund is hereby established for the financing and payment of sidewalk and non-motorized trail interests as further provided for in this article.

Sec. 32- 32. Authority; Purpose

This article is enacted pursuant to, without limitation, Public Act No. 359 of 1947, as amended, Public Act No. 288 of 1967, as amended, Public Act No. 59 of 1978, as amended, and Public Act No. 33 of 2008, as amended. The purpose of this article is to protect the public health, safety and general welfare by adopting regulations concerning the installation, maintenance, repair, and safety of public sidewalks and non-motorized trails within the Township; imposing a duty to repair, maintain, or keep safe sidewalks; providing standards of proper sidewalk maintenance, installation and repair; and imposing liability for the failure to perform maintenance or repair duties.

Sec. 32-33. 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 a lot or development adjoining, bordering, integral to or touching upon a street.

Adjacent sidewalk means that portion of the sidewalk located within the street right-of-way, public utility easement, or sidewalk easement on or next to an abutting or adjacent property.

Alteration of existing principal building means any alteration, construction, or reconstruction related to an existing principal building that:

- (a) Results in an increase of more than 15% in the square footage of the building footprint or the value of a non-residential principal building;
- (b) Results in a new principal building being built; or
- (c) 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.

Development means any platted development, condominium development, commercial, institutional, recreational or industrial development, as well as a private road extension or similar type of development or land use, usually developed through or subject to site plan approval or similar review process.

Lot means any platted lot, site condominium unit, or parcel of land.

Non-motorized trail means a designated pedestrian and/or nonmotorized vehicle travel surface, other than a sidewalk, typically comprised of asphalt, coarse stone, concrete, planks, or similar materials.

Parkway shall mean the area between the sidewalk and the street curb or shoulder line.

Principal building means a building, including commercial, industrial, residential and institutional, in which is conducted the main or principal use of the lot or development on which the building is located.

Sidewalk means that portion of the street or highway right-of-way or abutting access easement generally beyond the curb or edge of roadway pavement, intended for the use of pedestrians and/or nonmotorized vehicles and constructed of concrete.

Street means a dedicated public right-of-way that is a state, county or municipal roadway, or a private road with easements affording the principal means of access to abutting or adjacent property. A street includes the land between the street right-of-way lines, whether improved or unimproved. A private road includes the land within the required easements.

Township Superintendent means the Plainfield Charter Township Superintendent or designee.

Sec. 32-34. Required sidewalk or non-motorized trail installation

A developer or an abutting or adjacent property owner shall install sidewalks or non-motorized trails on the subject lot, at the owner's expense, where such sidewalk or non-motorized trail is provided for in the Township's Non-motorized Pathways & Trails Plan and where any of the following circumstances is applicable:

(a) Existing buildings: When an existing principal commercial industrial, residential, or institutional building is altered (i.e., alteration of an existing principal building) or connected to public sanitary sewer or connected to public water after the effective date of the ordinance from which this article is derived; or

(b) New buildings: When a new principal residential, commercial, industrial or institutional building is built; or

(c) Developments: When a development (including but not limited to platted developments, site condominiums, clustered rural developments, private road and service drive extensions) is built.

Sec. 32-35. Relation to planned development zoning districts

Modifications from the requirements of this article are permitted in planned development zoning districts when such modifications are expressly approved by the relevant Township body or officer.

Sec. 32-36. Timing of construction

(a) Sidewalks or non-motorized trails required to be installed for buildings or developments pursuant to sections 32-34 and 32-35 shall be installed within one (1) year of the issuance of a building permit or connection to public sanitary sewer or public water.

(b) No sidewalk or non-motorized trail shall be installed in a public right of way until a permit has been issued by the applicable governing jurisdiction (e.g., county road commission, state highway department, successors and/or the Township). All new

sidewalks or non-motorized trails abutting a public street shall be inspected and approved by the county road commission, state highway department or successors.

(c) No sidewalk or non-motorized trail shall be installed in a private road right of way or open space until approved by the Township Engineer.

(d) The installation of sidewalks or non-motorized trails required herein shall be in strict compliance with the standards and requirements set forth in or referred to by this article.

(e) The installation of sidewalks or non-motorized trails required herein may be postponed by the Township Superintendent upon application in writing for a period of one (1) year due to seasonal, cost efficiency, infrastructure schedules, and similar timing constraints. A performance guarantee, development agreement, or similar type of security reasonably satisfactory to the Township Superintendent may be required where an extension is granted pursuant to this section.

Sec. 32-37. Payments in lieu of required sidewalks or non-motorized trails

(a) Sidewalks and non-motorized trails will be constructed on properties consistent with sections 32-34 through 32-36. However, unique circumstances may exist such that the installation of sidewalks or non-motorized trails in compliance with the Township's Non-motorized Pathways & Trails Plan may not be appropriate under particular circumstances. Accordingly, a developer or an abutting or adjacent owner may, in lieu of constructing a required sidewalk or non-motorized trail, request that it be permitted to contribute to the Township's non-motorized transportation fund upon application as set forth herein. Based on a review of an application, the Township Superintendent is authorized to approve a payment in lieu of required sidewalk or non-motorized trail installation in the following instances:

(1) Where it appears, based on a review of Township capital improvement plans, master plans, and similar documentation, highly unlikely that the required sidewalk or non-motorized trail will be directly linked with a future extension of the sidewalk or non-motorized trail within 10 years.

(2) Where strict application would result in practical difficulties, including, but not 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.

(3) Where the owner of a residential lot has greater than 150 feet of frontage on a public or private street (such as a corner lot).

(b) If a property owner makes a payment in lieu of installing sidewalk or non-motorized trail along a street segment, then the property owner and/or successor

owners of the same property will not be assessed in the future for new sidewalks or non-motorized trails for the segment in which the payment in lieu was provided.

(c) The Township Engineer shall annually review and recommend to the Township Board a proposed fee schedule for the average linear foot cost of installing sidewalks, subject to Township Board approval.

(d) If a court of competent jurisdiction should invalidate a payment in lieu or order the refund of any monies paid by property owners pursuant to this section, the affected property owner or its successor shall proceed to install sidewalks or non-motorized trails consistent with the Township's adopted Non-motorized Pathways & Trails Plan at its own cost pursuant to sections 32-34 through 32-36.

Sec. 32-38. Non-motorized transportation fund

(a) Payments in lieu shall be deposited into a non-motorized transportation fund established in accordance with section 32-31. This fund is to be used exclusively for the construction, installation, maintenance, and repair of sidewalks and non-motorized trails as provided for in the Township's adopted Non-motorized Pathways & Trails Plan. To the extent permitted by law, the fund may be used to match and supplement other funding sources for these purposes.

(b) When used for the construction of new sidewalks, the fund may be used to complete gaps in the sidewalk system and in areas that are developed but do not have sidewalks in place.

(c) The payment in lieu shall be a contribution equal to the current linear foot cost as provided for in Section 32-37(c) multiplied by the numerical length in feet of required sidewalk or non-motorized trail. Sidewalk responsibility shall not exceed the cumulative length of the eligible street frontage of the lot or development (excepting U.S. 131 and other limited access frontages as determined by the Township Superintendent) or 150 feet, whichever is lesser.

(d) Any abutting or adjacent owner desiring to finance the repair or replacement of existing sidewalks or non-motorized trails may apply for funding to the Township in order to obtain a short-term loan from the non-motorized transportation fund. Application shall be made on forms supplied by the Township and shall be accompanied by an application processing fee as established by the Township Board. The maximum amount that may be requested is \$2,500. If such application is accepted and approved, the Township and the owner shall enter into an agreement, which may include a security interest satisfactory to the Township, which shall be recorded with the Kent County Register of Deeds. The property owner shall be obligated to repay the Township within a period not to exceed five years from the date of the agreement. An express condition of any loan may be that the property owner agrees to the creation of a special assessment for the improvement to be assessed.

Sec. 32-39. Sidewalk construction standards

(a) Sidewalks shall be constructed of concrete, and shall be five (5) feet wide, four (4) inches thick in general and six (6) inches thick across driveways. Sidewalks shall incorporate dub-downs, also known as handicapped sidewalk curb cuts, consistent with adopted governmental policies and requirements.

(b) Permits for the construction of sidewalks in the public right of way shall be obtained from the county road commission, state highway department or their successors or other appropriate governmental agency and sidewalks shall be built to meet or exceed the then-applicable requirements. No person shall install, construct, or repair any sidewalk except in full conformance of this article and with the prior written approval of the appropriate governmental agency.

(c) The Township Superintendent may approve alternative construction standards and/or locations for sidewalks and non-motorized trails based on the recommendation of the Township Engineer.

(d) If the Township Superintendent approves sidewalks outside of the public street right-of-way, a recorded easement in a form satisfactory to the Township shall be required for the sidewalk.

Sec. 32-40. Non-motorized trail construction standards

(a) Non-motorized trails shall be constructed of hot mix asphalt (HMA), and shall be eight (8) feet wide, or ten (10) feet wide if specified. The HMA surface shall consist of 165 lbs/sy MDOT 36A HMA (1½" top) over 165 lbs/sy MDOT 13A HMA (1½' level) placed in accordance with the section as indicated on the construction plans. The asphalt performance grade shall be 58-28. The HMA shall be placed with a self-propelled paver; spreader boxes will not be permitted. Non-motorized trails shall incorporate dub-downs, also known as handicapped sidewalk curb cuts, consistent with adopted governmental policies and requirements.

(b) The gravel base shall be ten (10) feet wide, or twelve (12) feet wide if specified and consist of six (6) inches of compacted MDOT 22A gravel in accordance with the section as indicated on the construction plans. Density of the gravel shall be ninety five (95%) percent prior to the application of the HMA surface.

(c) Permits for the construction of non-motorized trails in the public right of way shall be obtained from the county road commission, state highway department or their successors and sidewalks shall be built to meet or exceed the then-applicable requirements. No person shall install, construct, or repair any non-motorized trail except in full conformance of this article and with the prior written approval of the appropriate governmental agency.

Sec. 32-41. Removal of obstructions, snow removal and repair of sidewalks

(a) Property owners, tenants, and other persons having authority and control over abutting or adjacent property to Plainfield Avenue, between Four Mile Road and Northland Drive, or Northland Drive, between Grand River Drive and West River Drive/Cannonsburg Road, shall not permit the deposit of snow or ice onto sidewalks, non-motorized trails, driveways, rights-of-way, or parking areas which blocks, obstructs or impedes the use of sidewalks by pedestrians. Furthermore, naturally occurring snow and ice in these areas must be removed within 48 hours of the end of any significant snowfall of two inches or more.

(b) Except as otherwise provided herein, no provision of this article shall be construed to mean that naturally occurring snowfall and ice on residential sidewalks must be cleared by property owners or tenants of abutting or adjacent property.

(c) No person shall clear driveways, parking areas, right of way, or sidewalks of snow in a manner resulting in the snow being deposited on a sidewalk or non-motorized trail or being piled to such a height as to obstruct visibility between any driveway and street or between any street and another street.

(d) Snow removed from a lot or development must be returned to the lot or development from which it was removed unless permission to deposit the snow on another's lot or development has been received.

(e) Obstructions that are an immediate safety hazard including obstructions caused by vegetation or caused by improperly cleared or deposited snow and ice are violations of this article per se and may be prosecuted with or without prior notice to the responsible party.

(f) Except as otherwise provided herein, it shall be the responsibility of the abutting or adjacent property owner to keep the sidewalks adjacent to their lot in good repair and condition and to promptly remove all obstructions from such sidewalk, including overgrowth.

(g) Sidewalks shall be repaired or replaced by the abutting or adjacent owner when their condition is detrimental to the safety of the public. Conditions requiring repair or replacement include, but are not limited to, the following:

(1) A vertical displacement of more than one (1) inch between any two (2) sections of sidewalk.

(2) More than two (2) cracks of one-quarter inch in width or more in any two (2) linear feet of section.

(3) Any section of sidewalk that is sloped more than one (1) inch per foot from inside/outside edge to outside/inside edge.

(4) Any five (5) foot linear section of sidewalk, where more than 25 percent of the surface has scaled off to a depth of one-quarter inch or greater.

(5) Any condition that arises regarding a sidewalk that would render it unsafe for use or otherwise unfit for public travel.

(h) Non-motorized trails shall be maintained and repaired by the Township from funds dedicated to such purposes.

2. Amendment of Chapter 32, Article II, to add New Sections 32-42 through 32-50. That Chapter 32, Article II, is hereby amended to add new Sections 32-42 through 32-50, inclusive, to the Code of Ordinances, Charter Township of Plainfield, Kent County, Michigan, to read as follows:

Sec 32-42. Notice to repair

Whenever the Township Superintendent determines that a sidewalk is in a state of disrepair or is obstructed in violation of the provisions of this article, a notice shall be sent by first class mail to the owner of the abutting or adjacent lot or development to repair or remove obstructions from the sidewalk. The notice shall specify the period within which such work shall be completed. In no case shall the period allowed for the repair of a sidewalk exceed 60 days if such notice is issued between April 1 and August 1. The Township Superintendent may extend said 60-day period if weather conditions prevent such repair and/or replacement. Failure to receive notice as provided for in this section shall not waive a party's duty to comply with the provisions of this article.

If the abutting or adjacent owner or occupant fails to comply with section 32-41, the Township may remove or cause to be removed such snow, ice or other obstruction or repair or replace such sidewalk and shall assess the cost thereof and any associated administrative fee against the abutting or adjacent lot or development as provided for in section 32-43.

Sec. 32-43. Construction, repair by the Township

If an abutting or adjacent owner or occupant fails or neglects to construct, install, maintain, or repair any sidewalk adjacent to their lot or development of land within such time as herein required, the Township may cause the same to be done, and the cost of said construction, installation, maintenance, or repair may be paid by the Township, and the Township may pursue the means necessary to recover the cost of said construction or repair and any associated administrative fee from the owner including, without limitation, pursuing legal and equitable actions as authorized by law or establishment of a single-lot special assessment district. Developments and lots benefited by private open space shall be held collectively responsible for the cost of construction or repair.

Sec. 32-44. Use of snow removal equipment

No person, including commercial snow removers, shall use any mechanically driven vehicle for the removal of snow from sidewalks or non-motorized trails in the Township which, by its use for such purpose, will cause damage to the areas from which snow or ice is being removed.

Sec. 32-45. Authority of the Township Board

The Township Board or the Township Superintendent shall have authority to provide for the construction, installation, maintenance, or repair of sidewalks and non-motorized trails.

Sec. 32-46. Administration

It shall be the responsibility of the Township Superintendent to supervise and control all sidewalks and non-motorized trails and the construction, installation, repair, and maintenance thereof, including inspection, and the issuance of a violation notice or citation and to enforce the provisions of this article.

Sec. 32-47. Violation as public nuisance

Notwithstanding any other provision of this article, it is declared and affirmed that a violation of this article is deemed to be a public nuisance and subject to abatement in the manner prescribed by law.

Sec. 32-48. Violation a municipal civil infraction

Except as otherwise provided herein, upon determination that a violation of the provisions of this article exists, the persons believed to have committed the violation shall be notified of the nature of the violation. The notice shall specify the period in which the person shall come into compliance with the provisions of this article. The period in the notice to comply shall not exceed 90 days, provided that unsuitable weather conditions for construction or installation may require an extension of time. Violations of the provisions of this article, or failure to comply with any of its requirements shall constitute a municipal civil infraction. A person responsible for a municipal civil infraction under this article shall be subject to a fine of up to \$500 for each day or each violation in addition to the costs of prosecution to the full extent permitted by law as well as such other relief as determined by a court of competent jurisdiction.

Sec. 32-49. Liability of the lot owner

The owner of record or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or person who commits, participates in, assists in, or maintains who shall refuse or neglect to comply with the provisions of this article or any notice to repair under this article in addition to the penalties provided in this article shall be liable for and compelled to pay to the Township all damages to persons or

property for which the Township may be liable or sued by reason of injury or damages resulting therefrom, which sum may be recovered by the Township in proceedings brought for such purpose in any court of competent jurisdiction.

Sec. 32-50. Violation notices or citations

Except as otherwise stated in this article, after notice of violation is given to a person pursuant to the provisions of this article, which violation has not been corrected, the Township Superintendent is authorized to issue and serve a municipal civil infraction citation on any person with respect to the violation when there is reasonable cause to believe that the person has committed such an violation.

3. Effective Date. This Ordinance shall become effective upon the expiration of thirty days after its publication or thirty days after the publication of a summary of its provisions in a local newspaper of general circulation.

Yeas: Homan, Brinkman, Hagedorn, Morrow, Pfaff, Greene, Postmus

Nays: None

Absent: None

Ordinance No. 2019-898 declared adopted.



Robert Homan, Supervisor



Cathleen Postmus, Clerk