

**CHARTER TOWNSHIP OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN**

ORDINANCE NO. 604

KALAMAZOO CHARTER TOWNSHIP SIDEWALK ORDINANCE

An Ordinance enacted pursuant to Michigan Public Act 246 of 1931 and Public Act 359 of 1947, as amended, to specify standards for construction, maintenance, repair, safety and use of sidewalks located in public road rights-of-way or dedicated easements; to establish requirements for obtaining permits to construct sidewalks; to designate sidewalk maintenance responsibilities; to establish enforcement procedures and penalties for violation of the Ordinance; and, to repeal all ordinances or parts of ordinances in conflict herewith.

**THE CHARTER TOWNSHIP OF KALAMAZOO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:**

SECTION 1

TITLE

This Ordinance is hereby designated as and shall be referred to as the Kalamazoo Charter Township Sidewalk Ordinance. Within the following text it may be referred to as “this Ordinance.”

SECTION 2

PURPOSE AND SCOPE OF APPLICATION

- A. Purpose.** The purposes of this Ordinance are to protect and promote public health, safety, and welfare by specifying standards for construction, design, maintenance, repair, safety and use of sidewalks located in public road rights-of-way; to establish requirements for obtaining permits to construct sidewalks; to designate sidewalk maintenance responsibilities; and to establish enforcement procedures and penalties for violation of the Ordinance. These regulations are the minimum standards deemed necessary to provide suitable and safe off-road accommodations for pedestrians.
- B. Scope of Application.** The requirements in this Ordinance shall apply to sidewalks constructed within a public right-of-way or a dedicated easement.

SECTION 3

DEFINITIONS

The following definitions are applicable throughout this ordinance:

- A. "Building Official" shall mean the officer or other authority designated by the Township Board to administer and enforce the Building Code.
- B. "Lot" shall mean any platted lot, site condominium unit or parcel of land.
- C. "Township" shall mean the Charter Township of Kalamazoo.
- D. "Township Board" shall mean the Supervisor, Clerk, Treasurer, and Trustees of Kalamazoo Charter Township.

SECTION 4

STANDARDS

A. Use of Sidewalks.

- 1. Pedestrian Use.** Sidewalks or pathways, as defined herein, are for pedestrian use, and are not intended for use by motorized vehicles, such as, but not limited to, motorcycles, mopeds or off-road utility vehicles. Travel by non-motorized bicycles is permitted. Bicycles shall yield to pedestrians.
- 2. Unlawful Damage.** It shall be unlawful to damage or deface a sidewalk by any means.

B. Construction Standards. All sidewalks or portions thereof hereafter constructed or repaired shall comply with the following specifications:

- 1. General Construction.** All sidewalks shall be constructed to grade established by existing adjoining walks or by the Township Engineer, in the absence of the foregoing, and, except as authorized in subsection 2 below, shall be paved with a single course of concrete, using limestone aggregate, with a compressive strength of not less than 3,500 lbs. per square inch, within twenty-eight (28) days of laying out.
- 2. Minimum Width.** All sidewalks shall be at least five (5) feet in width. Wider walks to a maximum of ten (10) feet may be required by the Township Engineer or Planning Commission in commercial, industrial or multiple-family areas due to anticipated traffic and the development of the area. Sidewalks shall be paved with concrete when the width is less than eight (8) feet. At the discretion of the Township Planning Commission, sidewalks eight (8) feet or wider may be paved with hot mix asphalt in lieu of concrete.
- 3. Surfaces.** Concrete sidewalk shall be constructed on a not-less-than 2-inch thick sand cushion and shall be at least four (4) inches in depth except across driveways, where concrete shall be at least six (6) inches in depth. Paving joints

are to be true to line and grade at intervals consistent with adjoining or abutting sidewalks. One inch expansion joints shall be placed through the walk at least every fifty (50) feet, and between walks and other rigid structures.

- a. The surface of a concrete sidewalk shall be roughened with mechanic's brush to prevent smooth and slippery surfaces.
- b. When approved by the Township Planning Commission, sidewalks eight (8) feet or wider may be paved with hot mix asphalt (HMA) pavement. The HMA pavement must be placed in two courses by a self-propelled paver (not a spreader box) with a combined thickness of at least two and one-half inches. The top course shall be at least 120 lb/sy MDOT 36A HMA and the leveling course of at least 165 lb/sy of MDOT 13A HMA. The asphalt performance grade shall be 58-28. A bond coat shall be applied between successive courses of HMA at an application rate of 0.1 gallons per square yard. The HMA pavement shall be placed over a prepared gravel base of at least six (6) inches thick, compacted-in-place, MDOT 22A gravel and a subbase of at least six (6) inches thick, compacted-in-place, MDOT Class II granular material or Township approved existing sand subbase. The gravel base and subbase shall be two feet wider than the HMA pavement, twelve (12) inches on each side. Prior to installation of the sidewalk all vegetation and topsoil shall be removed. Any fill required shall be MDOT Class II granular material, properly compacted. Placement and compaction shall conform to requirements of MDOT 2012 Standard Specifications for Construction, or a more current edition as approved by resolution of the Township Board.

- 4. Additional Specifications.** Additional specifications may be established by the Township Planning Commission or the Township Engineer in particular situations to make the same comply with good engineering and pedestrian traffic management practice.
- 5. Barrier-Free Design.** Sidewalks or pathways shall comply with all state and federal barrier free (ADA) requirements. Accordingly, ramps shall be provided at curbs and other locations involving a grade change.
- 6. Grading and Drainage.** Proposed sidewalks or pathways shall be designed to maintain the existing direction and flow of storm water and to avoid damming or flooding.

C. Maintenance Standards.

- 1. Maintenance Responsibility.** The owner or owners of any parcel within the Township shall keep the sidewalk(s) adjacent to the parcel in good repair. Failure to comply with any provision in this section shall be considered a breach of this duty. Any damages resulting from such a breach shall be the sole responsibility of the property owner. This regulation shall not apply to those sidewalks that are both government-owned and paved with asphalt.
- 2. Conditions of Disrepair.** A sidewalk shall be considered in disrepair for purposes of this Ordinance if any of the following conditions exist:

 - a. Potholes of one (1) inch or more in depth and more than 4 inches in diameter.
 - b. Loosened, crumbling or breaking surfaces.
 - c. Difference of two (2) inches or more in heights of adjoining sections of sidewalk.
 - d. Insufficient slope to adequately drain water from the surface.
 - e. Any condition which arises regarding a sidewalk which in the reasonable opinion of the Township Engineer, Zoning Administrator or Building Official would render the sidewalk unsafe for use or otherwise unfit for public travel.
- 3. Township Review.** Whenever the Township Ordinance Enforcement Officer, Zoning Administrator or Engineer shall find any of the above conditions in subsection “C2” above, he/she may proceed as herein provided. The Township may require the replacement or repair of such sidewalk according to the standards in subsection “C4” below within sixty (60) days of delivery of a Notice to Repair or Replace to the adjoining landowner who shall promptly replace or repair said sidewalk within said period. Where a sidewalk remains in disrepair for a period of sixty (60) days, the abutting property owner shall be deemed to have received notice as herein contemplated.
- 4. Township Board Right to Repair.** Under the Pavements, Sidewalks and Elevated Structures Act, Public Act 246 of 1932, as amended, (MCL 41.271, et seq) 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 on such order. Following the hearing, the Township Board may either construct, repair or maintain the sidewalk and assess the cost thereof over a five-year period against the abutting property owners or permit the owners within a specified time to have the sidewalks constructed, repaired or maintained according to Township

specifications at their expense. No such work shall be commenced until approved by either the Kalamazoo County Road Commission or the Michigan Department of Transportation having jurisdiction over the right-of-way within which the sidewalk is located or such agency waives the requirement of such approval. The Township Board, in its discretion, may also authorize collection of the cost of such construction, repair or maintenance by civil process, small claim or such other means that may be proper for the collection of debts by legal process.

5. **Obstructions.** No person having the care, either as owner or occupant, of a lot within the Township shall permit or allow to remain on any sidewalk adjacent to the lot any obstruction, encroachment, rubbish, broken glass, accumulated soil, and vegetation (including overgrown turf, forbs, shrubs and trees) that impede pedestrian use of the sidewalk for longer than twenty-four (24) hours. (See Section D for Snow Removal.)

D. Snow Removal Regulations. No person having the care, either as owner or occupant, of a parcel within the Township shall permit or allow:

1. Accumulation of snow exceeding a depth of 2 inches to remain for longer than a 24 hour time period or
2. Accumulation of ice to remain upon a sidewalk adjacent to the lot for longer than a 24 hour period without treatment (ice melt or sand to be applied every 8 hours).
3. This regulation shall not apply to those sidewalks that are both government-owned and paved with asphalt.
4. Removed snow shall not be placed into the street.

SECTION 5

ENFORCEMENT

A. Duties of the Township Zoning Administrator and Ordinance Enforcement Officer.

The Zoning Administrator shall have primary authority to enforce this Ordinance, as outlined in this Section.

1. Permits.

A. A permit is required from the Township Zoning Administrator prior to the construction, removal, or repair of a sidewalk or pathway. A permit may be obtained by submitting a completed application form, along with plans and specifications, and the required fee, to the Township Zoning Administrator. The Zoning Administrator shall be responsible for evaluating the application to determine compliance with Ordinance standards (and to determine compliance with the approved site plan, where applicable) and issuing the permit. The Zoning Administrator may consult with the Township Engineer as to compliance with

specifications. A separate permit shall not be required if the proposed sidewalk or pathway is part of a larger project that requires a building permit. A copy of the permit shall be kept at hand at the construction site.

B. The applicant shall be responsible for obtaining any permits required by the Kalamazoo County Road Commission related to sidewalk or pathway construction within a County road right-of-way.

1. Inspection. During construction, the Township Zoning Administrator or Ordinance Enforcement Officer shall be responsible for inspection. In fulfilling this responsibility, the Township Official shall follow the inspection guidelines set forth in the State Construction Code as administered and enforced by the Charter Township of Kalamazoo and within this ordinance. The Township Zoning Administrator or Ordinance Enforcement Officer may request inspection assistance from the Township Engineer and/or the Township Building Official.

2. Violations. The Zoning Administrator and/or Ordinance Enforcement Officer shall be responsible for investigating violations of this Ordinance. Whenever the Official determines that a violation exists, the Official shall pursue compliance following the enforcement procedures set forth in the adopted building code. If the owner of property where a sidewalk or pathway has fallen into a state of disrepair such that it is unsafe for use fails to complete repairs within next Township repair cycle after notification, then the Township may cause necessary repairs and charge the property owner for the costs of repair. If such costs are not paid by the property owner the costs shall become a lien against the property.

B. Site Plan Review. If a proposed sidewalk or pathway is part of larger development that requires site plan review, then the sidewalk or pathway shall be shown on the site plan, which plan shall be reviewed in accordance with the site plan review procedures set forth in the Zoning Ordinance.

SECTION 6

PENALTIES, SEVERABILITY, CONFLICTING PROVISIONS, AND EFFECTIVE DATE

A. Penalties. Any person, firm, association, partnership, corporation or entity that violates any of the provisions of this ordinance shall be deemed responsible for a municipal civil infraction as defined by Michigan statutes which shall be punishable by a civil fine determined in accordance with the following schedule:

	Fine
-1 st Offense within a 3 yr. period*	\$ 30.00
-2 nd Offense within a 3 yr. period*	\$ 60.00
-3 rd Offense within a 3 yr. period*	\$ 90.00
-4 th or more Offense within a 3 yr. period*	\$120.00

* Determined on the basis of the date of commission of the offense(s).

Additionally, the violator shall pay costs, which may include all expenses, direct and indirect, to which Kalamazoo Charter Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$10.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this Ordinance. Each day that violation of this Ordinance continues to exist shall constitute a separate violation of this Ordinance.

Notwithstanding the above, a person shall not be cited for a first offense violation of this Ordinance unless the person has first been given (either by personal service or by posting on the subject property) written notice of a violation of this Ordinance and has failed to cure the violation within 24 hours of such notice.

Initial citations for violation of §4D (snow removal regulations) of this Ordinance shall direct the violator to pay at the Township Ordinance Violations Bureau. The Township shall collect and retain such fine money in a “snow removal fund” to be used exclusively for snow removal by the Township.

- B. Severability.** Should any portion of this Ordinance be found invalid for any reason, such a finding shall not be construed as affecting the validity of the remaining portions of the Ordinance, which shall remain in full force and effect.
- C. Conflicting Provisions Repealed.** All other ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.
- D. Effective Date.** This Ordinance shall be thirty days after publication of a summary of the same, after adoption by the Township Board.

CHARTER TOWNSHIP OF KALAMAZOO

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