

ARTICLE IX. - SIDEWALKS

FOOTNOTE(S):

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State Law reference— Township authority to order construction or repair of sidewalks, MCL 41.288a, MSA 9.585(4); installation of sidewalks along and over highways by township, MCL 41.288, MSA 9.585(3).

DIVISION 1. - GENERALLY

Sec. 58-501. - 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:

Enclosed structure means an addition or detached structure with walls and a roof.

Designated road means the following roadways: all Mile Roads (e.g. 21 Mile Road), Shelby Road, Schoenherr, Mound, Van Dyke, Hayes, Dequindre, Jewell, Ryan, Hall, Hamlin, West Utica and Auburn roads.

Owner of land means the record owner as disclosed through records at the county register of deeds' office and through the Township assessor's office. If more than one owner is shown, all shall be jointly and severally liable with the duty imposed by section 58-528(a).

(Ord. No. 220, § 5-10.02, 8-5-1998; Ord. No. 242, 5-6-2003)

Cross reference— Definitions generally, § 1-2.

Sec. 58-502. - Requirement established.

- (a) Sidewalks shall be required whenever a building permit is issued in connection with any of the following:
 - (1) Construction of a principal structure.
 - (2) Construction of an accessory structure with an enclosed area of 400 square feet or more.
 - (3) Additions to a structure resulting in an enclosed structure of 400 square feet or more.
 - (4) Improvements or modifications to any structure resulting in an increased enclosed area of 400 square feet or more.
- (b) Exclusions. A requirement of sidewalks shall not apply under the following circumstances:
 - (1) Subdivisions regulated under the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), where sidewalks have been excepted by the township.
 - (2) Existing subdivisions regulated under the land division act, Public Act No. 288 of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), which on August 5, 1998, have both final plat approval and no sidewalks shown on the final preliminary plat. Sidewalk requirements shall not be waived along portions of lots abutting a designated road.
 - (3) Existing parcels split prior to August 5, 1998, under applicable laws, which both do not have sidewalks and have frontage on a private road.

(Ord. No. 220, § 5-10.03, 8-5-1998; Ord. No. 242, 5-6-2003)

Secs. 58-503—58-520. - Reserved.

DIVISION 2. - CONSTRUCTION

Sec. 58-521. - Requirement established.

No person shall construct or repair any sidewalk in the township without a sidewalk permit or authorization granted in connection with another township permit.

Exception - A permit shall not be required for the replacement or repair of 100 square feet or less of an existing sidewalk.

(Ord. No. 220, § 5-10.04.01, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-522. - Issued by building department.

- (a) Application. Where not otherwise authorized under another township permit, the building department is authorized to issue a separate sidewalk permit upon application forms provided by such department.
- (b) Installation and identifying data. At the time of filing for a permit, the contractor or person installing such sidewalk shall furnish their true and correct address and any other identifying data as established and required by resolution of the township board.
- (c) Content. A sidewalk permit application shall contain at least the following information:
 - (1) Date of application and name and address of the owner of the property.
 - (2) Description by way of site or plot plan of the sidewalk to be constructed or repaired, including estimated square feet of construction work to be done, a description of location relative to public right-of-way, and proposed grades.
 - (3) A statement signed by the applicant and owner agreeing to conform to the specifications and regulations of this article.
 - (4) An estimate of the costs associated with installation of the sidewalk.

(Ord. No. 220, § 5-10.04.02, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-523. - Other approval.

Where the sidewalk to be constructed will be located in whole or in part in the right-of-way adjacent to the road under the jurisdiction of the state highway department or county road commission, the applicant shall be responsible for obtaining the approval from the applicable government entity.

(Ord. No. 220, § 5-10.04.03, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-524. - Fees.

The building department shall charge a fee for the issuance of any sidewalk permit in an amount as established by resolution of the township board. Driveway approaches, aprons or other areas of pavement to be used by the general public located within the street right-of-way shall not be included.

(Ord. No. 220, § 5-10.04.04, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-525. - Sidewalk repair fund.

- (a) Authorized. In addition to any other permits or fees required in this division, the township board shall establish by resolution a sidewalk repair fund fee charge. Upon the issuance of any permit under this division, in addition to the sidewalk permit fee, a sidewalk repair fund fee shall be required to be paid, which shall be deposited in a sidewalk repair fund which shall be used exclusively to repair sidewalks.
- (b) No relief or modifying of liability. Establishment of this fund does not modify the obligation of the adjoining property owners with regard to repair and maintenance of sidewalks, nor does it limit or relieve persons installing such sidewalk from liability for defects in workmanship, materials, or the like.
- (c) Authorization of repairs and maintenance. The township board, upon building official recommendation, may authorize expenditures for repairs and maintenance. With respect to appropriating the repair funds, the township board may but is not required to allocate 50 percent of the repair costs if the adjoining property owner agrees to pay half of the costs of the repair.

(Ord. No. 220, § 5-10.04.05, 8-5-1998)

Sec. 58-526. - Liability.

- (a) Of contractor. As a condition of permit issuance, the contractor shall remain liable for all defects and repairs for a period of 18 months, including both defects and repairs occasioned by settling, the weather, erosion, tree roots, or any other causes as determined by the township building department or enforcement officer.
- (b) Of adjoining property owner. This section does not relieve the adjoining property owner from liability as provided in this or other sections of this article.
- (c) Indemnification. The adjoining property owners shall be entitled to indemnification from such contractor for any repairs performed for a period of two years.

(Ord. No. 220, § 5-10.04.06, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-527. - Specifications.

- (a) Compliance. All sidewalks or their repair shall comply with the specifications of this section.
- (b) Generally.
 - (1) Dimensions. All sidewalks shall be constructed of concrete or other materials approved by the township board and shall be a minimum of five feet in width unless it is along a designated road or is on a bike path shown in the township master plan. Unless otherwise approved by the Board of Trustees, a sidewalk that is along a designated road shall be a minimum of seven feet in width. Unless otherwise approved by the board of trustees, a sidewalk that is on the bike path shall be a minimum of ten feet in width. However, the building department is authorized to permit variations of the sidewalk dimensions if the township engineer certifies a different width is consistent with the alignment of sidewalks in the area. The building department shall notify the township board of administrative variances that are granted for more than ten feet in sidewalk

length. The sidewalk shall be minimum four inches in thickness, except any portion of a sidewalk traversing a driveway or driveway approach shall be not less than six inches in thickness.

- (2) Concrete. The sidewalk shall be constructed having a minimum compressive strength of 3,500 pounds per square inch and containing a minimum of 517 pounds of air entraining cement per cubic yard of concrete. Fine aggregate in the concrete shall consist of state department of transportation 2NS sand. Coarse aggregate in the concrete shall be state department of transportation 6A, 6AA, or 17A. Concrete shall have a maximum slump of four inches when tested with a standard 12-inch cone and air content of 6 ½ percent plus or minus 1 ½ percent.
- (3) Embossed concrete and brick pavers. If, after reviewing the plan for a sidewalk, the building and planning departments determines it meets appropriate standards, the building and planning departments may, at their discretion, grant administrative approvals to sidewalks constructed of embossed concrete, brick pavers or similar materials.
- (4) Bike paths. Bike paths will be constructed with asphalt or other materials approved by the township engineer. However, parties on a bike path route shall only pay the cost of a seven-foot concrete sidewalk. Similarly, those on a bike path route that would have a five-foot sidewalk requirement have the option of paying the cost of the five-foot sidewalk as opposed to the asphalt bike paths that would be required by this section and not the cost of the asphalt bike path, should it be higher than the cost of the concrete sidewalk. The amount shall be determined by resolution of the township board based on an established lineal foot cost. The funds shall be paid to the township treasurer for application to the township bike path. Asphalt pavement materials and installation methods shall be approved by the township engineer.
- (5) River, drain and ditch crossings. All public sidewalks crossing a river, drain or ditch shall be accomplished with either a culvert, culvert extension or a bridge and shall be approved by the township engineer. Drainage culverts shall match the existing culvert size or shall be according to the size specified by the governing public agency. Bridges shall comply with the current applicable AASHTO Guidelines except as modified with the following:
 - a. All bridges shall be supported on foundations designed to carry the bridge loads taking into account the existing soil and site.
 - b. All approach ramps and structures shall meet barrier free design requirements.
 - c. Bridges shall be constructed of concrete or steel and designed to be substantially maintenance free. Wooden and other alternative material structures are not allowed unless specifically approved by the board of trustees.
 - d. Engineering. Structural design of the bridge and foundations shall be performed under the supervision of a professional engineer registered in the State of Michigan with signed and sealed shop drawings and calculations submitted for approval prior to fabrication and construction. Bridge designs shall be in accordance with the appropriate and current AASHTO standard.
 - e. Loading criteria. Bridges shall be structurally designed to accommodate a light duty vehicle (AASHTO H-5 loading), plus the dead load from a 5-inch thick concrete deck, plus the dead load from the structure, plus a 30 psf uniform wind load.
 - f. Bridge geometry. The clear inside width between the top chords or handrails shall be minimum 8 feet - 6 inches. The top chords or handrails shall be a minimum height of 42 inches above the top of concrete slab. The bridge shall be designed to maintain an appropriate positive camber for all dead and live load conditions.
 - g. Railings. Vertical safety rails shall be placed on the inside of the truss or handrail with a maximum clear opening of less than 4 inches, resulting in a non-climbable condition. The safety rails shall extend to a minimum height of 42 inches above the finished concrete deck. A 1 ¼" nominal diameter galvanized rail shall be placed 34 inches above top of concrete deck.

- h. Structural steel. The bridge structure shall be fabricated from high strength to low alloy, atmospheric corrosion resistant ASTM A847 cold formed welded square, rectangular tubing and other structural steel ($F_y = 50,000$ psi). The minimum corrosion index for atmospheric corrosion resistant steel shall be 5.8, in accordance with ASTM G101.
 - i. Performance guarantee. After plans have been approved by the township engineer, the person constructing the culvert, culvert extension or bridge shall enter into an agreement with the township guaranteeing the installation of the improvements.
 - 1. Agreement. Such agreement shall remain in effect for a period of two years after completion of the installation, guaranteeing that the installation conforms to all standards of this article and ensuring that the job is completed in a good workmanlike manner and that the site of the work is left in as good as a condition as before the job was begun, and agreeing to save the township harmless from all damages during the course of construction of the improvements.
 - 2. Security bond. The agreement is to be secured by a satisfactory maintenance and guarantee bond or cash deposit.
- (c) Base and fill.
- (1) There shall be a minimum four-inch Michigan Department of Transportation (MDOT) Class II sand fully compacted base under all sidewalks. A four-inch aggregate base (stone) is required where the sidewalk grade exceeds a three percent slope or when required by the township building department or Township engineer. Aggregate base materials shall meet the requirements of MDOT series 21AA. All bike paths shall have a minimum six-inch aggregate base.
 - (2) All fill material required below the base material shall consist of sand or MDOT class II granular materials. All fill and base material shall be thoroughly compacted to 95 percent of maximum density as determined by the modified proctor test.
- (d) Joints.
- (1) Contraction. Contraction joints shall be placed every five feet for a five foot sidewalk, and every seven feet for a seven-foot sidewalk.
 - (2) Expansion. Expansion joints shall be placed at least every 50 feet and between the sidewalk and all crossing driveways and at all places where the sidewalk abuts a curb. Such expansion joints shall consist of one-half-inch-thick premolded bituminous material and shall extend the full width and depth of that portion of the sidewalk where it is placed.
- (e) Surface preparation.
- (1) Finishing.
 - a. Concrete. All concrete shall be finished with a wood float and broomed to make a nonskid surface. A maximum cross slope of 1:48 shall be provided to facilitate drainage.
 - b. Joints and edges. All joints and edges shall be edged with a suitable edger trowel.
 - (2) Concrete protection. Concrete shall be placed and protected from rain and cold temperatures pursuant to MDOT standard specifications for construction. All concrete shall be covered and kept dampened for at least 72 hours after pouring or applying white curing compound, meeting MDOT specifications in the manner prescribed for such product application.
- (f) Alignment. All sidewalks shall conform to the following alignment requirements:
- (1) Within normal right-of-way. Sidewalks constructed within the street right-of-way shall be located in a manner such that the edge of the sidewalk parallel to and furthest from the roadway shall be one foot from the right-of-way line or at any other location as approved by the township planning department or township engineer and as permitted by the county road commission or MDOT.

- (2) Within easement or other right-of-way. No sidewalk shall be constructed within any portion of a street right-of-way which is 50 feet or less in width which does not have street pavement curbs, and in such event the construction of any sidewalk shall be within an easement or other right-of-way not less than one foot wider than the required width of the sidewalk and located adjacent to the street right-of-way. Where the right-of-way width varies along a roadway, a sidewalk may be required to be placed within an easement to provide compatible alignment with other existing and future sidewalks along the same roadway.
 - (3) Private roads. Sidewalk alignment on private roads shall be determined by the township engineer.
 - (4) Compatible with prior construction. In any such case where sidewalks have been constructed prior to April 26, 1989, any additional sidewalk to be constructed may be in alignment with the existing sidewalk to the roadway of the nearest intersection street, provided such alignment is approved by the township engineer.
 - (5) Determination of location. It is the duty of the contractor or other person installing such sidewalk to accurately survey or otherwise determine the location of the right-of-way line prior to installing such sidewalk. Satisfactory evidence of such right-of-way location shall be provided upon request.
- (g) Grades. All sidewalks shall conform to the following grade requirements:
- (1) Maximum right-of-way of 60 feet. For a 60-foot maximum right-of-way:
 - a. Roads with curbs. Where the adjacent road has a curb, the sidewalk shall be constructed to a grade established at a slope three-eighths inch per foot above the curb as measured from the curb to the nearest edge of the sidewalk to the curb.
 - b. Roads without curbs. When the road does not have a curb, the sidewalk shall be constructed in a manner such that the edge of the sidewalk furthest from the roadbed shall be established at an elevation midway between the elevation of the centerline of the street and the elevation of the adjoining houses subject to a minimum elevation of six inches below the outside grade of adjacent houses and not more than an elevation of nine inches above the centerline of the street, or as approved by the township engineer and/or building director.
 - (2) Right-of-way greater than 60 feet. For a right-of-way greater than 60 feet, the sidewalk grade shall be in accordance with a construction plan approved by the township or as established by the township building department and/or the engineer. The grades shall generally be consistent with the provisions set forth in subsection (g)(1) of this section and may be altered to accommodate the existing conditions. Alterations to these conditions will require the approval of the township building department or engineer and the applicable governmental agency.
 - (3) Private roads. The grades of sidewalks along private roads shall be determined by the township engineer.
- (h) Corner lots and lots on major roads.
- (1) Generally. Sidewalks shall be constructed on the front and side of corner lots and at the rear or other portion of any such lot abutting a public right-of-way. In those subdivisions that do not require sidewalks, only the property on a major road will require a sidewalk.
 - (2) Continued to roadway. Any sidewalk located upon or adjacent to any corner lot shall be continued in the same direction without interruption to the edge of the roadway adjoining the corner lot and shall be handicap accessible unless otherwise approved by the township building official.
 - (3) Culvert pipe or head wall installation. In addition to the other specifications set forth in this section, the contractor or other person constructing the sidewalk shall install any necessary length of culvert pipe or head wall in accordance with specifications provided by the township

engineer, MDOT, county public works office, or county road commission, as their interest may exist in the road ditch to enable the sidewalk to be constructed to the edge of the roadway.

- (i) Safety during construction. The permit holder shall provide suitable safety barriers and other protective measures during the construction and curing of sidewalks.
- (j) Safety after construction. The permit holder shall provide approved durable safety barriers and other protective measures along the edge and at the ends of raised sidewalks where determined necessary by the building department.
- (k) Sidewalk ramps and detectable warnings. At all pedestrian street intersection crossings, median and refuge islands, and pedestrian rail line crossings, sidewalk ramps shall be used to meet the existing street grade. If existing curb is in place, the curb shall be removed and the sidewalk ramped to meet the pavement. All sidewalk ramps shall conform to the latest MDOT sidewalk ramp and detectable warning detail and the latest American's with Disabilities Act (ADA) standards and requirements.

(Ord. No. 220, § 5-10.05, 8-5-1998; Ord. No. 242, 5-6-2003; Ord. No. 265, § 1, 4-16-2013)

Sec. 58-528. - Obligations and responsibilities.

- (a) Maintenance by landowner. It shall be the duty of every owner of land within the township to keep and maintain the sidewalk located upon the public right-of-way contiguous to such owner's property, or any other sidewalk located on such property of the owner that may be open to the public, in the following manner:
 - (1) Free from any and all defects of any kind and nature and maintained in a condition of good repair under guidelines promulgated by the Township building department.
 - (2) Free from any and all deposits of debris, rubbish or other objects, which might or could be hazardous to persons using the sidewalk.
 - (3) Free and clear from accumulations of snow, sleet, ice and water.
 - (4) Free from obstructions encroaching from adjacent property, including but not limited to overhanging tree limbs, bushes and the like.
 - (5) Free from obstructions from adjacent property interfering with sight distance lines, at driveways, and other sidewalks intersecting such sidewalk. A clear and unobstructed sight triangle must be created using a base leg from the sight obstruction to any sidewalk or driveways or sidewalks intersecting such sidewalk of 15 feet.

Exception - A property owner shall not be responsible for structural repairs to culverts, culvert extensions, and bridges constructed, designed and accepted by the Township in accordance with Section 58-527(b)(5).

- (b) Repair of damage by developer. Sidewalks provided by the developer, which are damaged prior to occupancy, shall be repaired by the developer prior to the date of final occupancy; or, in the situation where repairs cannot be made, an adequate cash escrow for repairs shall be posted with the township. Section 58-529(a) shall apply.
- (c) Repair or reconstruction by landowner. The owners of property jointly and severally shall, in accordance with subsection (a) of this section, maintain the sidewalk free from defects and encroachments and in good repair. When the sidewalk requiring repair or reconstruction is contiguous to more than one lot or parcel, costs of such repair or reconstruction shall be prorated on the basis of front footage repaired between the property owners. The failure of one abutting property owner to undertake such repair where such sidewalk abuts more than a single parcel shall not excuse the remaining property owners from the duties established in this section. Property owners jointly and severally are liable pursuant to the following:

- (1) Written notice. Upon determination by the township ordinance enforcement officer that any sidewalk or portion is in need of repair or elimination from encroachment, as described in subsections (a)(1) and (a)(5) of this section, the township ordinance enforcement officer shall serve a written notice upon the owners of the properties contiguous to the portion of such sidewalk requiring repair or elimination of encroachment, which notice shall be in substantially the form described in this subsection. Written notice shall not be required for matters described in subsections (a)(2), (a)(3) and (a)(4) of this section.
 - a. Determination of property owners. Owners of the property shall be determined from the most current township tax assessment roll.
 - b. Service of notice. Such owners shall be notified by delivery of a copy of such notice personally by leaving a copy of such notice with some person of suitable age and discretion who is a member of the household at the residence of such owner, or by mailing a copy of such notice first class mail, addressed to the owners of the property determined from the most current township tax assessment.
- (2) Action by property owners. It shall be the duty of any owner of property upon whom service of the notice shall be made to cause the repairs or elimination of encroachments in accordance with the notice within 60 days from the date of the notice.
 - a. Failure to comply. If the owner shall fail to cause such work to be completed within such time and has not otherwise agreed in writing to said repairs being performed in a method approved by the township, the ordinance enforcement officer shall notify the township board of such failure upon the expiration of the 60 day period; and the township board shall thereafter cause the repairs and/or elimination of encroachments to be made and shall certify the total cost, together with an additional fee of 25 percent for engineering supervision and general administrative expense, to the township supervisor, who shall levy such amount against the property on the next succeeding tax assessment roll.
 - b. Lien against property. From and after the date of certification to the Supervisor by the township board, such amount shall constitute a lien upon the premises; and such tax shall be collected by the township treasurer in the same manner as other taxes and other assessments under the state's general property tax laws.
- (3) Proration of costs. When the sidewalk to be repaired is contiguous to more than one lot or parcel of land, the total cost of such repair, if repair is completed under this section, shall be prorated for assessment purposes on the basis of front footage repaired of the lots affected.
- (d) Snow, ice, debris and other obstruction removal. Failing to maintain pursuant to sections 58-528(a)(2), (3) and (4). Upon determination by the township ordinance enforcement officer that any sidewalk or portion is not free from the matters prohibited in subsections (a)(2), (3) and (4), the township ordinance enforcement officer shall provide notice by mailing to or posting on a lot or premises prior to issuing a municipal civil infraction or clearing the prohibited materials at the owners expense. The notice shall advise the owner that if violations of subsections (a)(2) and (3) are not removed within 24 hours in residential zones and 48 hours in commercial and industrial zones, the township will abate the violation at the owner's expense. In regards to violations of subsection (a)(4), the notice shall inform the owner that if violations are not removed within seven days, the township will abate the violation at the owner's expense. Failure to receive a notice does not eliminate the owner's responsibility for removal of prohibited materials, municipal civil infractions or debts under this article.
 - (1) If any owner shall neglect or fail to clear the prohibited materials on sidewalks adjoining such lot or premises, as stated in subsection (a)(2), (3) and (4), the owner shall be responsible for a municipal civil infraction pursuant to section 1-7 of this Code.
 - (2) In addition to or in lieu of the municipal civil infraction being issued, the building official may cause the prohibited material to be cleared and or removed at the owner's expense. The expense of such work shall become a debt to the township and shall be collected as any other debt to the township.

- (3) Emergency. Notwithstanding the above provisions, if prohibited materials have accumulated as such that in the sole discretion of the building official or his designee, it becomes necessary to immediately remove the accumulations for the health, safety and/or welfare of the public, the building department shall be authorized to deploy its contractors to remove the accumulations as it deems necessary. The expenses of the clearing shall be billed to the property owner.
- (4) Waiver of payments. The building director or any other person authorized by the township board of trustees may, upon timely request of an owner, waive the payment of such expenses, cost and fees, or any portion, if such payment should and ought to be waived because of hardship.

(Ord. No. 220, § 5-10.06, 8-5-1998; Ord. No. 242, 5-6-2003; Ord. No. 265, § 2, 4-16-2013)

Sec. 58-529. - Temporary deferral.

- (a) Due to inclement winter weather. An owner of land may request a temporary deferral of the requirement for installation of sidewalks due to inclement winter weather.
- (b) Approval by building department. The township building department may approve such request.
 - (1) Time extension for completion. The building department may extend the time for completion of sidewalk installation for a period not to exceed nine months from the date a temporary certificate of occupancy is issued by the building department.
 - (2) Deposit of estimated cost. The building department shall require that a cash deposit, certified check, or performance bond acceptable to the township be posted by such owner with the township in an amount equal to the estimated cost of construction of the sidewalks which are temporarily deferred.

(Ord. No. 220, § 5-10.07, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-530. - Administrative deferral.

- (a) Deferral agreement. The township supervisor, upon the request of the owner of land, may administratively defer the requirement for the installation of sidewalks and execute an agreement on behalf of the township with such owner for such deferral, provided each of the requirements of this section are satisfied.
- (b) Deferral requirements.
 - (1) Application with reasons. Deferrals are discouraged; however, if the owner submits an application to the building department requesting such administrative deferral, it may be granted for any of the following reasons:
 - a. Physical characteristics of the area where the sidewalks would be installed make installation unusually difficult in either design or construction;
 - b. The absence of other sidewalks for a distance of one mile along the same road right-of-way in both directions and on the same side where the sidewalks would be installed except that on major road frontages if located within one-half mile of an approved development for which sidewalks have been approved but not constructed;
 - c. The sidewalk would be constructed along an unpaved road or one that lacks drainage improvements;
 - d. The sidewalk would be constructed in a subdivision that was platted prior to the effective date of the ordinance from which this article is derived and no other sidewalks exist in that subdivision; or

- e. The existence of practical difficulties or unnecessary hardships to such owner if the sidewalks were required to be installed.
- (2) Certification of reasons. The director of the building department and the planning commission coordinator certifies to the township supervisor one or more of the reasons set forth in subsection (b)(1) of this section do exist.
- (3) Agreement to construct when requested. The execution of an agreement in recordable form by all persons who hold a fee simple or equitable interest in the property in relation to which sidewalk installation is otherwise required by this article, to construct the sidewalks when the township board shall determine such sidewalks be installed in the interest of the health, safety or welfare of the residents of the township. The agreement must contain language to include the township's ability to install said sidewalks in the event the owner fails to do so upon the township's request. The agreement must also provide the township authority to place a lien upon the property in the event the township installs the sidewalk. Upon request of the township pursuant to section 58-527(f)(2), where the right-of-way width varies along a roadway, the property owner shall provide an easement to the township to provide compatible alignment with other existing and future sidewalks along the same roadway.
- (4) Payment of fees. Payment of any fees as may be established by resolution of the township board.
- (c) Recording of agreement and/or easement. The property owner shall record the agreement and/or easement with the county register of deeds. The planning department shall maintain a record of all administrative deferrals granted pursuant to subsections (a) and (b) of this section.
- (d) Annual review by board. Such deferrals shall be submitted to the township board by the planning department prior to its first regular meeting in February of each year to determine whether sidewalks should be installed in accordance with the term of the agreements.

(Ord. No. 220, § 5-10.08, 8-5-1998; Ord. No. 242, 5-6-2003; Ord. No. 265, § 3, 4-16-2013)

Cross reference— Administration, ch. 2.

Sec. 58-531. - Appeals to zoning board of appeals.

- (a) Variance or waiver grant after hearing. The zoning board of appeals shall be empowered to grant variances to or waive the requirements of this article upon a hearing held in compliance with the Open Meetings Act, Public Act No. 267 of 1976 (MCL 15.261 et seq., MSA 4.1800(11) et seq.).
- (b) Appeal procedure. Any person seeking an appeal from the provisions of this article shall submit an application for appeal upon a form provided by the zoning board of appeals and pay any fee established by resolution of the township board within the following time requirements:
 - (1) In the event of an appeal to vary or waive the requirement for installation of a sidewalk or portion of a sidewalk, such appeal shall be made within ten days of the application for a building permit or site plan approval, denial of a temporary deferral, or denial of an administrative deferral.
 - (2) An appeal relating to the requirements of this article to repair or remove encroachments shall be made within ten days from date of mailing or personal service of the defective sidewalk notice.
- (c) Factors to be considered. In making its determination, the zoning board of appeals shall consider the following:
 - (1) Any recommendation submitted by the building department;
 - (2) The provisions, intent and purpose of this article;
 - (3) The character and use of land and buildings in the general and immediate vicinity;

- (4) The effect of the proposed variance or waiver on the general and immediate vicinity;
 - (5) The number of persons residing or working in the general and immediate vicinity;
 - (6) The presence or absence of underground facilities beneath the area where the sidewalks would be installed and whether plans exist to install or repair underground facilities in such area;
 - (7) Physical characteristics of the area, which make the installation of sidewalks unusually difficult in design or construction;
 - (8) The existence of practical difficulties or unnecessary hardship if sidewalks were required to be installed; and
 - (9) Any other relevant evidence it may determine to be necessary and pertinent to its determination.
- (d) Temporary postponement of installation. If the zoning board of appeals determines that the installation of sidewalks be postponed for a period of one year or less, it shall establish a time for commencement within the one-year period and a time for completion of construction and shall order the following:
- (1) Performance guarantee. A cash deposit, certified check or performance bond acceptable to the township be posted by the applicant with the township in an amount equal to the estimated cost of construction of the sidewalks as determined by the township building department or the township engineer. The deposit shall be refunded to the applicant upon completion of the construction conforming to the standards and specifications of this article, after inspection by the building department and written notification of compliance is given by the building department to the zoning board of appeals.
 - (2) Failure to commence construction. If construction does not commence within the established time frame, any funds deposited with the township shall be deemed forfeited to the township without further notice to the applicant; and the township shall be entitled to use such funds for the installation of the sidewalks at the proposed location.
 - a. Unexpended funds. Any funds not expended for installation of the sidewalks shall be deposited in the general fund of the township.
 - b. Costs in excess of funds deposited. Any installation costs incurred by the township in excess of the funds deposited by the applicant shall be charged and collected against the owners of the property in accordance with provisions of section 58-528(c)(2).
 - (3) Failure to complete construction. If construction of the sidewalks is not completed within the established time frame, the funds deposited with the township may be used to complete the installation of the sidewalks.
 - a. Unexpended funds. Any funds not expended for such completion in excess of 20 percent of the original deposit shall be refunded to the applicant, and the balance shall be deposited in the general fund of the township.
 - b. Costs in excess of funds deposited. Any costs incurred by the township in excess of the funds deposited by the applicant shall be charged and collected against the owners of the property in accordance with the provisions of section 58-528(c)(2).
- (e) Indefinite postponement of installation. If the zoning board of appeals determines that the installation of sidewalks be postponed for a period greater than one year, it shall condition such determination on the applicant complying with the provisions of section 58-530(b)(3)-(b)(5).
- (f) Zoning board of appeals power limitation. The zoning board of appeals shall not be empowered to vary, modify, alter or waive any provision of subsection 58-530(a) and (b).

(Ord. No. 220, § 5-10.09, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-532. - Issuance of certificate of occupancy.

No certificate of occupancy shall be issued by the building department of the township until sidewalks required by and complying with the provisions of this article are fully installed, administratively deferred, varied or waived through the appeal provisions of this article or a performance guarantee is posted for the installation or a temporary certificate of occupancy is issued pursuant to section 58-529(b)(1).

(Ord. No. 220, § 5-10.10, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-533. - Construction contract notice.

All persons offering to construct, improve or sell any enclosed structure for which a building permit is required shall, unless the cost of construction of sidewalks is included in the contract price, include in a written contract the following notice in boldface type at least four points larger than the type of the body of the contract:

NOTICE

THIS AGREEMENT DOES NOT INCLUDE THE COST OF CONSTRUCTION OF A SIDEWALK. YOU WILL BE REQUIRED TO PAY FOR THE INSTALLATION OF A SIDEWALK AND OBTAIN A SIDEWALK CONSTRUCTION PERMIT FROM THE SHELBY TOWNSHIP BUILDING DEPARTMENT. YOU MAY RETAIN ANY QUALIFIED PERSON OR COMPANY FOR THE INSTALLATION OF THE SIDEWALK.

(Ord. No. 220, § 5-10.11, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-534. - Subdivision regulations applicability.

Sidewalks required to be installed pursuant to chapter 30 shall not be administratively deferred by the supervisor and shall be installed in accordance with the provisions of this article, with the exception of the separate permit requirements set forth in sections 58-521—58-523.

(Ord. No. 220, § 5-10.12, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-535. - Dedication.

The provisions of this article remain in full force and effect, notwithstanding any attempt to dedicate a sidewalk to the township or to the public in general by any owners. Unless the township board expressly authorizes by resolution the acceptance of the property attempting to be dedicated, the township shall not be deemed to have accepted any property dedicated for public use. Notwithstanding any such dedication, the terms and provisions of this article remain in full force and effect with regard to duties of adjoining property owners.

(Ord. No. 220, § 5-10.13, 8-5-1998; Ord. No. 242, 5-6-2003)

Sec. 58-536. - Penalty.

Violations of this article shall upon conviction be punished in accordance with the provisions of section 1-7.

(Ord. No. 220, § 5-10.14, 8-5-1998; Ord. No. 242, 5-6-2003; Ord. No. 257, § 13, 2-16-2010)