

# CHESTER TOWNSHIP OTTAWA COUNTY, MICHIGAN

## ORDINANCE #2003-02-01

An ORDINANCE to protect the public health, safety and general welfare by the adoption of regulations concerning the installation, snowplowing, maintenance, repair and safety of **public sidewalks** within the Township; imposing a duty on adjoining or butting land owners to snowplow, repair, maintain, or keep safe said sidewalks; to provide standards of proper sidewalk maintenance, construction, and repair; to require indemnification of the Township by adjoining or abutting land owners for failure to repair, maintain, or keep safe said sidewalks; and to impose liability on said adjoining or abutting land owners for injuries or damages caused by their failure to perform such maintenance or repair duties.

THE CHARTER TOWNSHIP OF CHESTER (“Township”) ORDAINS:

### SECTION 1.     Authority; Purpose.

This Ordinance is enacted pursuant to Public Act 359 of 1947, as amended, and Public Act 288 of 1967, as amended. The purpose of this Ordinance is to provide for the construction, maintenance, snowplowing and repair of sidewalks and general snow removal for the safety of the public; to provide for the imposition of liability upon abutting land owners for injuries or damages caused by a defective sidewalk; to provide for the establishment of sidewalk maintenance districts by the Township Board for the assessment of the cost of repairs to sidewalks in said districts; to provide standards of proper maintenance, repairs and construction of sidewalks; and to provide indemnification of the Township for costs of required maintenance and repair not accomplished by abutting or adjacent land owners.

### SECTION 2.     Title.

This Ordinance shall be known as the “**Chester Township Sidewalk and Snow Removal Ordinance.**”

### SECTION 3.     Definitions.

- A. **Alteration of Existing Principal Building** shall mean any alteration, construction, or reconstruction related to an existing principal building in the Township that (1) results in a change of twenty-five percent (25%) or more in the area or the value of said principal building, (2) results in a new principal building being built, or (3) results in the replacement of an existing principal building.

- B. **Abutting or Adjacent Property** shall mean any lot or parcel of land adjoining, bordering, or touching a street as defined herein.
- C. **Adjacent Sidewalk** shall mean that portion of the sidewalk located within the street right-of-way, public utility easement, or sidewalk easement next to an abutting or adjacent property as defined herein.
- D. **Building** shall mean 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.
- E. **Principal Building** shall mean a building in which is conducted the main or principal uses of the lot or parcel on which said building is located.
- F. **Paved Pathway** shall mean an asphalt paved surface, separated from the roadway by at least three (3) feet, and designed for non-motorized vehicle and pedestrian travel.
- G. **Sidewalk** shall mean that portion of the street right-of-way (or abutting easement) improved with concrete and designed for pedestrian travel.
- H. **Street** shall mean 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 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.
- I. **Lot** shall mean any platted lot, site condominium unit or parcel of land.
- J. **Township** shall mean Chester Township or its successors.

**SECTION 4. Required Sidewalk Installation and Construction.**

Sidewalks shall be installed and maintained by the owner of every lot within any area designated by the Township Board as requiring sidewalks. The owner of a lot within an area where sidewalks shall be required shall install sidewalks at the owner's own expense if any of the following is applicable regarding the lot:

- A. An existing principal building is altered (*i.e.* alteration of an existing principal building) after the effective date of this Ordinance; or
- B. A new principal building is built after the effective date of this Ordinance; or
- C. An existing principal building is connected to public water or public sewer after the effective date of this Ordinance.

Sidewalks required to be installed pursuant to this Section 4 shall be installed by the owner of the property within one (1) year of the commence of construction on or alteration of any principal building in conjunction with the issuance of a building permit or hookup to public water or sewer. Notwithstanding such time limits, the Township Board may require that sidewalks be installed in new developments before any building permits may be issued.

No sidewalk shall be installed until a permit has been issued by the Ottawa County Road Commission or its successor or designee. All new sidewalks shall be inspected and approved by the Ottawa County Road Commission or its successor or designee.

**SECTION 5. Construction Standards**

All sidewalks or portions thereof hereafter constructed or repaired shall fully comply with the requirements and standards of the Ottawa County Road Commission and the state of Michigan (or the more stringent of those restrictions should they conflict). Permits for the construction or alteration of sidewalks shall be obtained from the Ottawa County Road Commission (or its successor or designee) before work commences if such a permit is required.

**SECTION 6. Removal of Obstructions and Repair of Sidewalks**

It shall be the responsibility of the owner of every lot to keep the sidewalks adjacent to his or her lot at all times in good repair and condition and to promptly remove all obstructions and snow from such sidewalk(s). Furthermore, property owners, tenants, and other persons having authority and control over the removal of snow and ice from driveways and parking areas on their premises shall not permit the deposit of snow or ice on sidewalks, driveways, or parking areas to block or impede the use of sidewalks by pedestrians in any manner. Snow and ice must be removed within twelve (12) hours of the end of any significant snowfall.

Sidewalks shall be repaired or replaced by the lot 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:

- A. A vertical displacement of more than one (1) inch between any two (2) sections of sidewalk.
- B. More than two (2) cracks of one-quarter inch in width or more in any two (2) linear feet of section.
- C. Any section of sidewalk that is tilted in excess of one (1) inch per foot from inside/outside edge to outside/inside edge.
- D. Any five (5) foot linear section of sidewalk, where more than twenty-five percent (25%) of the surface has scaled off to a depth of one-quarter inch or greater.
- E. Interference by trees, roots or bushes.
- F. Impediments to drainage.

- G. Any condition which arises regarding a sidewalk which would render it unsafe for use or otherwise unfit for public travel.

Upon receipt of a written notice from the Township, the owner of the lot involved shall make the repairs or replacement necessary to conform with this Ordinance within sixty (60) days of receipt of said notice. The Township may extend said sixty (60) day period if weather conditions prevent such repair and/or replacement.

**SECTION 7. Use of Snow Removal Equipment**

No person shall use any mechanically driven vehicle for the removal of snow from sidewalks or other pedestrian easements in the Township which, by virtue of its use for such purpose, will cause damage to the areas from which snow/ice is being removed.

**SECTION 8. Responsibility of Commercial Removers**

If a lot owner or occupant has his or her driveway or sidewalk cleared by a commercially operated snow removal service, the owner or operator of such service shall have the same responsibility as the lot owner or occupant as specified in Section 7, above.

**SECTION 9. Construction, Repair by the Township**

If the owner or occupant of any lot fails to comply with Sections 4, 5, 6 or 7 above, the Township may remove or cause to be removed such snow, ice or other obstruction or may install, repair or replace such sidewalk and shall assess the costs thereof against the owner of the abutting lot, who shall reimburse the Township for such costs.

**SECTION 10. Obstruction of Vision**

A lot owner or occupant who cleans his or her driveway or sidewalk of snow shall not permit such snow to be deposited on the traveled portion of a street or sidewalk, or to be piled to such a height as to obstruct vision between any driveway and street or between any street and another street. Snow removal by a lot owner or occupant must be returned to the lot from which it was removed unless permission to deposit the snow on another's lot has been received by the owner of that lot.

**SECTION 11. Other Ordinances**

The provisions of this Ordinance shall supersede those of other ordinances where the provisions of this Ordinance may conflict with such other ordinance(s).

**SECTION 12. Severability**

If any section, paragraph, clause, phrase or part of this Ordinance is for any reason held invalid by any court of competent jurisdiction, or any agency, department or commission,

empowered by such purpose, such decision shall not affect the validity of the remaining provisions of this Ordinance; and the application of those provisions to any person or circumstances shall not be affected thereby.

**SECTION 13. Violation; Penalty, Remedies and Enforcement.**

A violation of this Ordinance constitutes a municipal civil infraction. Any person who violates, disobeys, omits, neglects, or refuses to comply with any provision of this Ordinance, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this Ordinance, shall be in violation of this Ordinance and shall be responsible for a civil infraction. The civil fine for a municipal civil infraction shall be not less than one hundred dollars (\$100.00) for the first offense and not less than two hundred dollars (\$200.00) for subsequent offenses, in the discretion of the court, in addition to all other costs, damages, expenses and remedies provided by law. For purposes of this section, "subsequent offense" means a violation of the provisions of this Ordinance committed by the same person within twelve (12) months of a previous violation of the same provision of this Ordinance or similar provision of this Ordinance for which said person admitted responsibility or was adjudged to be responsible. Each day during which any violation continues shall be deemed a separate offense.

In addition to the penalties provided for above, should any owner fail to make the repairs or maintenance within the time provided for in Section 6, above, then the Township may (but is not obligated to) make such repair and/or replacement. If the owner fails to pay the Township's costs thereof within thirty (30) days after billing by the Township, such costs shall be added to and made a part of the next Township tax bill against the subject premises and collected in the same manner as provided by law for the collection of Township taxes on real estate.

**SECTION 14. Liability of the Lot Owner.**

Any lot owner who shall refuse or neglect to comply with the provisions of this Ordinance or any notice to repair under Section 6 of this Ordinance, in addition to the penalties provided in this Ordinance 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.

**SECTION 15. Effective Date.**

This Ordinance shall become effective thirty (30) days after this Ordinance or a summary thereof has been published in a local newspaper, as provided by law.

The foregoing Ordinance was offered for adoption by Township Board Member Creager, and was supported by Township Board Member Berenbrock, the vote being as follows:

YEAS: Kelly, Redding, Joiner, Creager & Berenbrock

NAYS: None

ABSENT/ABSTAIN: None

ORDINANCE DECLARED ADOPTED.

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Janice Redding, Clerk  
Chester Township

**CERTIFICATION**

I hereby certify that the above is a true copy of an Ordinance adopted by the Chester Township Board at a regular meeting held at Township Hall on February 18, 2005, pursuant to the procedures required by law.

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Janice Redding, Clerk  
Chester Township

10591 (001) 103682.01