

VILLAGE OF LAKEVIEW

MONTCALM COUNTY, MICHIGAN

ORDINANCE NO 98-3

Adopted: October 12, 1998

Effective: November 1, 1998

an ordinance to provide for the construction, alteration, repair, maintenance, and general use of sidewalk, and to provide for minimum construction requirements.

THE VILLAGE OF LAKEVIEW ORDAINS:

Section 1: DEFINITIONS

The following terms and definitions, as used herein, shall be interpreted and construed as defined and shall apply in the interpretation and enforcement of this ordinance.

I. "Sidewalk" shall mean any sidewalk within a public right-of-way. The term shall not include any portion of any driveway between the street and the proposed or existing walk, or any cross walk.

II. "Person" or "Property Owner" shall mean any persons, land owner, tenant, firm, corporation, partnership, voluntary association or organization, as well as their agents and contractors.

III. "Construct," "construction," or "constructed" shall mean to install, place, or extend sidewalk to areas where sidewalk currently does not exist.

IV. "Replace" shall mean to remove large portions of existing sidewalk, that are beyond simple repair. Large portions shall mean more than twelve (12) feet or three (3) sections.

V. "Repair" shall mean to remove and replace only those small, specific sections of existing sidewalk

where total sidewalk replacement is not required.

VI. "Maintenance" shall mean to provide general care and cleaning of sidewalks including, but not limited to, removing snow, leaves, miscellaneous debris from trees, graffiti, and garbage from sidewalks, as well as the removal of other items that would impede pedestrian movement over the sidewalk. Normally the responsibility of the abutting property owner.

Section 2: CONSTRUCTION, REPLACEMENT, AND REPAIR COST

Any and all costs for the construction, replacement, repair, or maintenance of sidewalks within the Village shall be the sole responsibility of the abutting property owner unless herein specified. Nothing herein shall be interpreted or constructed as limiting the ability of the Village to assess such costs through the special assessment process.

Section 3: SIDEWALK REPAIR OR REPLACEMENT FOR WHICH PROPERTY OWNER IS RESPONSIBLE

I. Under no circumstances shall the Village pay for any portion of the cost of sidewalk construction, repair, or replacement where a sidewalk has been damaged due to misuse or neglect caused or permitted by an abutting property owner as could, by way of example only, occur due to improper excavation or heavy construction equipment, moving vans, personal vehicles or similar items on the sidewalk. For such costs, the abutting property owner shall be solely liable and responsible.

II. Under no circumstances shall the Village pay for any damage, unevenness or settling caused by tree growth, roots or falling limbs and branches from trees located outside of the road right-of-way or where a property owner has failed to maintain an abutting sidewalk as called for in this ordinance. For such costs the abutting property owner shall be solely liable and responsible.

III. Where construction, repair, or replacement of otherwise satisfactory sidewalk is desired by an abutting property owner for his convenience (for example, the lowering of grade to provide a more suitable driveway), for general appearance, or aesthetic concerns, the property owner shall be solely liable and responsible for all associated costs.

IV. The Village Manager shall have the authority to determine whether construction, repair, or replacement of any sidewalk is reasonably necessary based on the standards contained in this ordinance or by resolution adopted by the Village Council. In the event the Village Manager determines that construction, repair, or replacement of a sidewalk is necessary, he shall notify the property owner of such decision by first class mail, at least twenty (20) days prior to commencement of any proposed improvement. The property owner may object by submitting a written appeal of the Village Manager's decision to the Village Clerk within twenty (20) days of the original notice and appearing at the next regularly scheduled Village Council meeting. The Village Council shall then determine whether the proposed improvement is reasonably necessary.

Section 4: SIDEWALK REPAIR OR REPLACEMENT FOR WHICH VILLAGE OF LAKEVIEW IS RESPONSIBLE

The Village of Lakeview shall only be responsible for damage due to sidewalks settling or unevenness resulting

from tree growth, falling tree limbs and branches of trees located within the public right-of-way, activities of the Public Works Department, or activities of Contractors retained by the Village.

Section 5: NEW CONSTRUCTION/DEVELOPMENT WHERE SIDEWALK DOES NOT EXIST

All development/construction occurring within the Village which is adjacent to a public street, where sidewalk does not presently exist, shall include the construction of sidewalks in accordance with the requirements of this ordinance. Provisions for such sidewalk construction shall be included as part of site plan review, subdivision approval and/or as part of the plans submitted for obtaining a zoning permit. Such newly constructed sidewalk shall be paid for entirely by the property owner unless otherwise determined by resolution of the Village Planning Commission as established in the Village Capital Improvement Plan.

I. New Development/Construction: Development occurring where added sidewalk would not connect to or be a part of the existing sidewalk system will not be required as part of the

development plans unless the Planning Commission requires sidewalk during site plan review or future plans are in place to connect the development's property to the existing sidewalk system.

II. Existing Development Without Sidewalks: Construction and funding method, to install sidewalk, in existing developments will be based on the Village Capital Improvement Plan.

III. The Village expressly reserves the right to require, as a condition of zoning, subdivision, or other land use approvals, that the property owner files a performance guarantee, in a form approved by the Village, for the construction of sidewalk. The Village further reserves the right to pay for the construction of sidewalks through the special assessment process.

Section 6: REMOVAL OF MATERIALS, SUSPENSION OF OBJECTS

I. No person owning, building or repairing any house or other structures shall permit any lumber, brick, mortar, plaster, earth, clay, sand, stone, or other material to remain on the sidewalk after sunset of the day upon which it was placed there without sufficient safety precautions and written permission from the Village Manager.

II. No person shall suspend or cause to be suspended anything above the sidewalk or within any street right-of-way, unless expressly authorized by Village ordinances; provided, hereon, that an awning or marquee no part of which is less than seven (7) feet above the sidewalk grade is permitted.

Section 7: DRIVING ON SIDEWALKS

No person shall park, drive, or cause to be driven any vehicle or ride any animal on any pavement, sidewalk, curbing or gutter, except at a driveway constructed for such purpose.

Section 8: OBSTRUCTING PUBLIC SIDEWALK

No person or persons shall participate in a crowd or group activity that obstructs the sidewalk in such a fashion that would create a hazard, nuisance, disturbance or which otherwise impedes the intended free flow of pedestrian traffic on the sidewalk.

Section 9: PEDESTRIAN PASSAGE

An abutting property owner shall ensure at least four (4) feet of sidewalk space shall be kept clean and clear for free passage of pedestrians using sidewalk and if building operations, construction activities, functions or events are such that such free passageway is temporarily impracticable, a temporary sidewalk with substantial railing when required or sidewalk shelter built in compliance with applicable MIOSHA (federal/state) safety standards or as required by the Village, shall be provided around such obstruction.

Section 10: USE OF PUBLIC SIDEWALK FOR PRIVATE FUNCTIONS OR EVENTS

The use or temporary closing of any sidewalk, for the purpose of holding an event or function, or for construction activity, that inhibits and/or limits the intended use of public sidewalk, shall require authorization from the Village Council. Regardless of the event or function, at least four (4) feet of the sidewalk space will be kept clean and clear for free passage of pedestrians unless otherwise specified by the Village. The Village Council may require that a requesting party furnish Hold Harmless agreement as well as liability insurance naming the Village and its officers and employees as the beneficiaries of said agreements, for the duration of said event.

Section 11: SNOW AND ICE REMOVAL FROM SIDEWALK

- I. Refer to Village of Lakeview Ordinance #69, Snow and Ice Removal

Section 12: DEPOSITING SNOW AND ICE RESTRICTED

No person shall deposit or cause to be deposited any snow or ice on or against a fire hydrant or any sidewalk, roadway, public right of way; except that snow and ice may be deposited on curbs incidental to cleaning of sidewalks with in the Central Business District. No snow or ice shall be piled more than three (3) feet high as measured above the road surface within the right-of-way or on a private property which causes a sight restriction or impairs clear vision for vehicular traffic traveling in the established streets.

Section 13: PERMITS REQUIRED FOR WORK ON SIDEWALKS, DRIVEWAY CROSSINGS

No person shall construct, alter or change any sidewalk, driveway crossing or any opening in or through any

curb, adjoining any street or public right of way within the Village except in accordance with line, grade, slope and specifications established by the Village, nor without first submitting a proposed plan with specifications and obtaining a written permit from the Village Manager.

Section 14: MINIMUM SPECIFICATIONS, CURB CUTS, SIDEWALK CROSSING

All sidewalk specifications are subject to change. Such specifications shall be established from time to time by resolution of the Village Council.

Section 15: POWER TO ENTER INTO CONTRACT

The Village Council shall have the power to provide by resolution the mode of receiving proposals when entering into contracts for construction and repair of sidewalks, under the provisions of this ordinance, and the Village Council may, at its option or as required by law, require the contractor or person constructing or repairing the sidewalk to furnish a good and sufficient surety bond to insure proper construction thereof.

Section 17: PUBLIC LIABILITY INSURANCE REQUIRED

Before any permit is issued to the applicant, the Village Manager shall require such public liability and property damage insurance as shall protect the Village from claims for damages for personal injury, including wrongful death, as well as claims for property damage. Said policy shall name the Village as an additional insured, by means of certificate of insurance to the Village. Amounts of said insurance shall be as established by resolution of the Village Council, from time to time.

Section 18: PENALTIES

Any person, firm, corporation, trust, partnership or other legal entity which violates or refuses to comply with any provision of this Ordinance shall be responsible for a municipal civil infraction and shall be punished by a civil fine of Fifty dollars (\$50.00) for a first violation, One Hundred and Fifty dollars (\$150.00) for a second violation and Five Hundred dollars (\$500.00) for the third or any subsequent violation and shall be liable for the payment of the costs of prosecution in an amount of not less than Nine dollars (\$9.00) and not more than Five Hundred dollars (\$500.00).

I. Each day that a violation continues to exist shall constitute a distinct and separate offense, and shall make the violator liable for the imposition of a fine for each day.

II. The foregoing penalties shall be in addition to the abatement of the violation condition and injunctive or other relief prescribed by the laws of the State of Michigan for the abatement of a public nuisance or the violation of a Village ordinance as a municipal civil infraction.

Section 19: EFFECTIVE DATE

This Ordinance shall take effect twenty (20) days after its adoption as provided by law.

Section 20: PUBLICATION

This Ordinance shall be published by the Village Clerk as provided by law.

The foregoing Ordinance was offered by the Village Councilperson Schottle, supported by Village Councilperson Rasmussen, the vote being as follows:

YEAS: Burlison, Rasmussen, Earhart, McElhinny, Winter, Schottle

NAYS: None

ABSENT: None

ORDINANCE NO 98-3 DECLARED ADOPTED

Lee Burlison, President

L. John Kehl, Clerk

CERTIFICATION

I hereby certify the foregoing to be a true copy of an Ordinance adopted by the Village Council of the Village of Lakeview, Montcalm County, at a regular meeting held on October 12, 1998, at the Village offices, pursuant to the applicable statutory procedures.

L. John Kehl, Clerk

