

**JAMESTOWN CHARTER TOWNSHIP ORDINANCE NO. 02-003
SIDEWALKS AND BICYCLE PATHS ORDINANCE**

PREAMBLE

AN ORDINANCE to promote and provide for the public health, safety, and general welfare of persons and property by the adoption of regulations concerning the construction of public sidewalks and bicycle paths within the Township, restrictions and regulations for the use of sidewalks and bicycle paths in the Township, and providing penalties for the violation of the Ordinance and for certain administrative provisions.

THE CHARTER TOWNSHIP OF JAMESTOWN, COUNTY OF OTTAWA, AND STATE OF MICHIGAN, ORDAINS:

Section 1. Short Title. This Ordinance may be referred to as the "Charter Township of Jamestown Sidewalk and Bicycle Paths Ordinance."

Section 2. Purpose. The purpose of this Ordinance is to promote and provide for the public health, safety, and general welfare of persons and property by the adoption of regulations concerning the construction of public sidewalks and bicycle paths within the Township and restrictions and regulations for the use of sidewalks and bicycle paths in the Township.

Section 3. Legal Authority. This Ordinance is enacted pursuant to the authority granted by Michigan Compiled Laws Sections 42.15, 42.5(2), and 41.181.

Section 4. Rules Applying to Text. The following rules of construction apply to the text of this Ordinance:

1. The particular shall control the general;
2. The headings which title various sections are for convenience only and are not to be considered in any construction or interpretation of the Ordinance or as enlarging or restricting the terms and provisions of the Ordinance in any respect;
3. The word "shall" is always mandatory and not discretionary. The word "may" is permissive;
4. Words used in the present tense shall include the future, words used in the singular number shall include the plural, and words used in the plural number shall include the singular, unless the context clearly indicates the contrary;

5. The word "person" includes a firm, association, partnership, joint venture, corporation, limited liability company, trust, municipal or public entity or any other legal entity, or a combination of any of them, as well as a natural person; and
6. Any word or phrase not defined in this Section 4 or in Section 5 shall be considered to be defined in accordance with its common or standard definition.

Section 5. Definitions. The following listed words and phrases are defined for the purpose of their use in this Ordinance. These definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

"Bicycle" means a device propelled by human power upon which a person may ride, having either two or three wheels in a tandem or tricycle arrangement.

"Bicycle Path" means a paved surface paralleling and usually separate from the paved surface of a street or road, typically installed on one side of a street or road only, which is wider than a Sidewalk and is for use by bicycles with possible incidental use by pedestrians.

"Motorcycle" means a motor vehicle having saddle or seat for the use of a rider and designed to travel on not more than three wheels in contact with the ground.

"Motor Vehicle" means a vehicle which is self-propelled.

"Sidewalk" means a paved surface paralleling and separate from the paved surface of a street or road, typically installed on both sides of a street or road, for use primarily by pedestrians.

"Snowmobile" means a motor-driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

"Township" means the Charter Township of Jamestown, Ottawa County, Michigan.

"Vehicle" means a device in, upon or by which any person or property is or may be transported or drawn, except devices exclusively moved by human power.

Section 6. Use By Vehicle Restricted. No person shall operate a Snowmobile, moped, Motorcycle, or any other type of Motor Vehicle upon any Sidewalk or Bicycle Path within the Township except to enter or leave adjacent property. However, that this Section shall not be construed to prohibit the use of Sidewalks and Bicycle Paths by persons using motorized wheelchairs. A front-wheel drive power-assisted Bicycle shall be permitted on a Sidewalk or Bicycle Path when the power assistance is not being used.

Section 7. Pedestrian Right-of-Way. A person operating a Bicycle on a Sidewalk or Bicycle Path or who is skating with in-line skates or using a skateboard or riding a scooter, or some

other device with wheels on a Sidewalk or Bicycle Path, shall yield the right-of-way to a pedestrian and shall give an audible signal before overtaking and passing a pedestrian.

Section 8. Bicycle Operation. No person shall operate a Bicycle on a Sidewalk or Bicycle Path, skate on a Sidewalk or Bicycle Path with in-line skates or with a skateboard, or ride a scooter or other device with wheels, at a speed greater than is reasonable and prudent under the conditions then existing. Any person operating a Bicycle on a Sidewalk or Bicycle Path, skating on a Sidewalk or Bicycle Path with in-line skates or a skateboard or riding a scooter or other device with wheels, shall yield the right of way to motor vehicles that are crossing the Sidewalk or Bicycle Path.

Section 9. Horses. No person shall ride a horse on a Sidewalk or Bicycle Path, nor shall any person walk or lead a horse upon a Sidewalk or Bicycle Path.

Section 10. Damage. No person shall willfully or maliciously destroy, injure, mutilate, deface, paint on, write on, or otherwise damage or remove a Sidewalk or Bicycle Path or any sign related thereto.

Section 11. Parking, Burning, Depositing Materials. No person shall park any Vehicle, trailer, mobile home, motor home, camper or boat upon a Sidewalk or Bicycle Path so as to obstruct in any manner free passage over the entire paved surface of the Sidewalk or Bicycle Path. No person shall deposit or burn, or cause to be deposited or burned, on any Sidewalk or Bicycle Path any leaves, branches, grass, brush or other yard debris, or deposit, or cause to be deposited, on any Sidewalk or Bicycle Path, any earth, stone, sand, gravel, trash, rubbish, cans, bottles, broken glass, nails, garbage cans or other dangerous objects or debris.

Section 12. Deposit of Ice or Snow. No person, in removing snow, ice, or slush from private property or public property, such as a driveway or approach, shall dump or deposit, or cause to be dumped or deposited, such snow, ice, or slush, either temporarily or permanently, on any Sidewalk or Bicycle Path, without the express prior written authorization of an authorized Township officer or employee.

Section 13. Animals. Any person who owns or exercises any dominion or control over any animal shall, in the event that such animal deposits any fecal matter on any Sidewalk or Bicycle Path, immediately and completely remove such matter from the Sidewalk or Bicycle Path. This section shall not be interpreted to prohibit the presence of animals on Sidewalks or Bicycle Paths, except as otherwise prohibited in Section 9 of this Ordinance with respect to horses. No person shall permit any animal to walk on a Sidewalk or Bicycle Path without the animal being held securely on a leash.

Section 14. Vegetation. No person shall plant any trees, shrubs, or other vegetation in a location that obscures the view at intersections of a Sidewalk or Bicycle Path with a street or road or with an intersecting Sidewalk or Bicycle Path, and no person shall allow trees, shrubs, or other vegetation to grow to a size that obscures the view or obstructs passage along a Sidewalk or Bicycle Path.

Section 15. Irrigation. No person shall leave any garden hose, lawn sprinkler, or other irrigation device or implement unattended when such hose, sprinkler, device or implement is in contact with or runs across or over the paved surface of a Sidewalk or Bicycle Path.

Section 16. Construction Projects. If any construction project on lands adjoining a Sidewalk or Bicycle Path results in damage to a Sidewalk or Bicycle Path, then all such damage to the Sidewalk or Bicycle Path shall be fully repaired and the Sidewalk or Bicycle Path shall be fully restored to its former condition within ten (10) business days after the construction project is complete, provided, however, that if weather conditions prohibit full restoration of the Sidewalk or Bicycle Path to its former condition within such ten (10) business days, then the Sidewalk or Bicycle Path shall be temporarily patched and restored so as to permit reasonable utilization for its intended purpose within such ten (10) business days, and full repair and restoration to its former condition shall then be completed as soon as weather permits. If a person is unable to complete a full repair of and restoration of the Sidewalk or Bicycle Path to its former condition within ten (10) business days after the construction project is complete and, instead chooses to temporarily patch the Sidewalk or Bicycle Path, then such person shall provide the Township with adequate financial security in the form of a cash deposit, certified check, or letter of credit, satisfactory to the Township in amount and form, to guarantee full repair and restoration of the Sidewalk or Bicycle Path to its former condition as soon as weather permits.

Section 17. Sidewalk or Bicycle Path Cuts. Any person desiring to make a cut or opening in a Sidewalk or Bicycle Path shall obtain a permit therefore from the Township. A cut or opening shall not be made until a permit has first been obtained from the Township and a fee, to be established by Township Board resolution, has been paid in full. If an emergency requires an immediate cut or opening to be made, advance permit approval shall not be required, but the Township shall be notified and a permit obtained and the fee paid on the next business day during which the Township office is open.

A certified check or cash deposit in the amount of \$500 is required as a deposit for any cut or opening on a Sidewalk or Bicycle Path. The certified check or cash shall be returned after the Township has approved the full repair and restoration of the Sidewalk or Bicycle Path. The Township may increase the amount of the certified check or cash deposit that is required as a deposit if it is determined that the additional financial security is required because of the size or location of the proposed cut or opening.

Any cut or opening made shall be as narrow as possible. Cuts in a Sidewalk or Bicycle Path shall be made by saw to ensure straight side cuts. Cuts or openings shall not be made with a backhoe bucket or any other instrument which can create jagged edges and/or weaken the surrounding Sidewalk or Bicycle Path. All cuts and openings shall be suitably compacted, patched, and repaired so that the Sidewalk or Bicycle Path is fully restored to its former condition. No cut or opening shall remain open for more than 48 hours. During a period that a cut or opening exists, lighted barriers shall be erected around the cut or opening to protect the public.

If a Sidewalk or Bicycle Path is not fully restored to its former condition as is provided above in a timely manner, the Township may complete the repair and restoration of the Sidewalk or Bicycle

Path itself and utilize the deposit to pay the cost. To the extent the deposit is insufficient for this purpose, the difference shall be immediately paid by the person who has made the cut or opening.

Section 18. Banners. No person shall suspend any sign, banner, printed leaflet, or other similar object above a Sidewalk or Bicycle Path, nor shall any person tape or affix any sign, banner, printed leaflet, or other similar object to a Sidewalk or Bicycle Path, without the express prior written permission of an authorized Township officer or employee.

Section 19. Construction Requirements. The following construction requirements shall apply to all Sidewalks and Bicycle Paths.

The following construction requirements shall apply to Sidewalks:

1. All Sidewalks shall be of concrete construction.
2. All Sidewalks shall conform to the minimum requirements for Sidewalk construction as adopted and amended from time to time by the Ottawa County Road Commission.
3. Sidewalks located along minor subdivision streets shall be a minimum of five (5) feet in width.

The following construction requirements shall apply to Bicycle Paths:

1. Bicycle Paths shall be a minimum of eight (8) feet in width.
2. Bicycle Paths constructed of concrete shall be constructed in accordance with the same construction requirements as apply to sidewalks as provided above.
3. Bicycle Paths constructed with bituminous pavement shall have a compacted sub base of six (6") inches of MDOT class II sand, overlaid by six (6") inches of MDOT 22A aggregate compacted in place. The Bicycle Path shall be surfaced with two courses of bituminous pavement. The base course shall consist of 165#/sy (1 ½" thick) MDOT 13A bituminous mixture. The top course shall consist of 110#/sy (1" thick) MDOT 36A bituminous mixture. A bond coat shall be applied between successive courses of bituminous at a rate of 0.10 gallons per square yard.

Section 20. Penalties. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$500 and costs of prosecution or by imprisonment in the Ottawa County Jail for a period not exceeding 90 days, or both, such fine and imprisonment, in the sole discretion of the Court.

Section 21. Administrative Liability. No Township officer, agent, or employee, or any officer, agent, or employee of the Township shall render himself or herself personally liable for any damage that may accrue to any person, firm, association, corporation, partnership, joint venture, or

combination of any of them as the result of any act, decision or other consequence or occurrence arising out of the discharge of his or her duties and responsibilities pursuant to this Ordinance.

Section 22. Severability. This Ordinance and the various parts, paragraphs, sections, subsections, sentences, phrases and clauses thereof, are hereby declared to be severable. If any part, paragraph, section, subsection, sentence, phrase or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

Section 23. Repeal. All ordinances or portion of ordinances in conflict with this Ordinance are hereby repealed.

Section 24. Effective Date. That the foregoing amendment to the Jamestown Charter Township Subdivision Ordinance was approved and adopted by the Township Board of the Charter Township of Jamestown, Ottawa County, Michigan, on January 28, 2002, after introduction and a first reading on December 17, 2001 and publication after such first reading as required by Michigan Act 359 of 1947, as amended, in The Advance Newspapers-Grand Valley Edition on February 5, 2002 This Ordinance shall be effective on February 12, 2002



James Miedema
Township Supervisor



Ruth Pruis
Township Clerk

CERTIFICATE

We, James Miedema and Ruth Pruis, the Supervisor and Clerk, respectively, for the Charter Township of Jamestown, Ottawa County, Michigan, do hereby certify that the foregoing Jamestown Charter Township Ordinance was adopted at a regular meeting of the Jamestown Charter Township Board held on January 28, 200². The following members of the Township Board were present at that meeting: Brouwer, Miedema, Pruis, Rau, Shaarda & Sipe. The following members of the Township Board were absent: Nyenhuis. The Ordinance was adopted by the Township Board with members of the Board Brouwer, Miedema, Pruis, Rau, Shaarda & Sipe voting in favor and members of the Board None voting in opposition. Notice of Adoption and Posting of the Ordinance Amendment was published in The Advance Newspapers - Grand Valley Edition on February 5, 200². This Ordinance was filed with the Ottawa County Clerk on February, 200².



 Township Supervisor



 Township Clerk