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.

c. Option to use township contractor. Prior to the expiration of the 60 day compliance period noted above, the owner may commit to having the township contract the repairs without the assessment of the 25% administrative fee. The township board may allow the payment for such repairs to be made over time subject to terms and conditions set forth by board resolution.

(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.

(4) Township contribution to repairs and maintenance. The township board may authorize expenditures for repairs and maintenance. The township board shall periodically set the terms, conditions and contribution amount by resolution. A contribution by the township does not modify the responsibility of the adjoining property owners with regard to repair and maintenance of sidewalks.

(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.

CHARTER TOWNSHIP OF SHELBY

MACOMB COUNTY, MICHIGAN

ORDINANCE NO._____

AN ORDINANCE TO AMEND CHAPTER 58 ARTICLE IX OF THE CHARTER TOWNSHIP OF SHELBY CODE OF ORDINANCES BY ELIMINATING THE UNUSED SIDEWALK REPAIR FUND, PROVIDE AN INCENTIVE TO PARTICIPATE IN THE TOWNSHIP SIDEWALK PROGRAM AND ENABLE THE TOWNSHIP TO CONTRIBUTE TOWARDS THE EXPENSES FOR SIDEWALK REPAIRS IN CERTAIN INSTANCES AND FOR REPEALEAR, SEVERALABILITY, PENALTIES AND EFFECTIVE DATE.

IT IS HEREBY ORDAINED BY THE CHARTER TOWNSHIP OF SHELBY:

Section 1. Chapter 58, Article IX, Section 58-525 of the Code of Ordinances, Charter Township of Shelby, Michigan shall be deleted in its entirety.

Section 2. Chapter 58, Article IX, Section 58-528 of the Code of Ordinances, Charter Township of Shelby, Michigan shall be amended to read as follows:

(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.

c. Option use township contractor. Prior to the expiration of the 60 day compliance period noted above, the owner may commit to having the township contract the repairs without the assessment of the 25% administrative fee. The township board may allow the payment for such repairs to be made over time subject to terms and conditions set forth by board resolution.

(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.

(4) Township contribution to repairs and maintenance. The township board may authorize expenditures for repairs and maintenance. The township board shall periodically set the terms, conditions and contribution amount by resolution. A contribution by the township does not modify the responsibility of the adjoining property owners with regard to repair and maintenance of sidewalks.

(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.

Section 3. SEVERABILITY

If any section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance

Section 4. REPEAL

All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed

Section 5. EFFECTIVE DATE

This Ordinance shall be effective thirty (30) days from the date of publication hereof.

CERTIFICATION

I hereby certify the foregoing is a true and complete copy of Ordinance No. _____ duly adopted by the Board of Trustees of the Charter Township of Shelby at a Regular Meeting held on _____, 2014, pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, as amended, and that the minutes of said meeting were kept and will be made available as required by said Act.

_____

STANLEY GROT,
TOWNSHIP CLERK

Introduction Date:
First Publication Date:
Adoption Date
Second Publication Date:
Effective Date: