

ORDINANCE NO. 10-487A

AN ORDINANCE REGULATING THE CONSTRUCTION AND MAINTENANCE OF PUBLIC SIDEWALKS WITHIN THE TOWN OF BATTLE GROUND, TIPPECANOE COUNTY, INDIANA

WHEREAS, sidewalks provide an important and safe method of transportation that is necessary to public transportation and infrastructure; and

WHEREAS, sidewalks promote a healthier community by encouraging exercise and reducing pollution discharged from vehicles; and

WHEREAS, sidewalks create a greater aesthetic appeal for the community,

NOW THEREFORE, BE IT ORDAINED, by the Town Council of Battle Ground, Indiana as follows:

SECTION A. STATEMENT OF INTENT

Section 1: Purpose The purpose of this ordinance is to promote the health, safety and general welfare of the Town of Battle Ground for the pedestrians traveling within the community. This ordinance shall ensure all sidewalks meet the standards and requirements set forth in the Americans with Disabilities Act of 1990 ("ADA") and establish the responsibility of property owners and the Town in matters of repair and maintenance of sidewalks.

Section 2: Definition

Sidewalk: the area between the street curb and adjacent property line, designed for the intended use and convenience of pedestrian access, which is normally located immediately within the public right-of-way.

Section 3: Standards and Requirements

All sidewalks made new or replaced shall be subject to the adoption and acceptance of the Town Council and all standards and requirements set forth in the ADA.

(a) Sidewalks shall be at least five (5) feet in width, or to match existing width, with at least thirty-six (36) inches of clearance in the sidewalk path. Wider walks, to a maximum of eight (8) feet, may be required along commercial areas due to higher volume of pedestrian traffic. Asphalt and slick-surfaced sidewalks are prohibited.

(b) All sidewalks shall include:

- (i) Ramps allowing access from street to sidewalk, either within the corner or curb area immediately adjacent thereto. Existing curbs and gutters may require removal to provide a smooth transition from street to sidewalk.
- (ii) Landscape strips, where practicable, of at least two (2) feet width between the sidewalk and the edge of the street or curb.

(c) Exceptions to this ordinance shall be made as allowed by federal law, and approved by the Town Council.

Section 4: Obstructions

The owner or occupant of property adjacent to any sidewalks within the town shall keep all adjacent sidewalks free from any obstructions including, but not limited to, structures, vehicles, materials, debris, vegetation, or other items. The owner or occupant shall also keep clear the area which is located directly over the sidewalk, up to a height of eight (8) feet, in a manner which will allow reasonable travel without interference from obstructions. The owner or occupant will be responsible for the removal of snow or ice from the sidewalk as provided in the Town Code.

Section 5: Repair and Maintenance

Whenever the Town Council determines a sidewalk within the town should be repaired, the Town Council shall forthwith give notice to the adjacent property owner by serving such notice by sending a copy thereof by registered mail to such property owner. If the address of such property owner is unknown, or such real estate is vacant or unoccupied, then the Town Council shall post a copy of the notice on the property in a conspicuous place, requiring the property owner to repair the sidewalk within thirty (30) days from the date of the notice.

Upon acceptance by the Town Council, the owner of the adjacent property and the Town will equally share the costs and expenses of the first repair to be performed on a particular piece of sidewalk on said property. The Town will only share the expense once, and any subsequent repairs needed by said property, as determined by Town Council, will be the sole responsibility of the property owner.

Prior to any action which may result in damage or removal of a sidewalk, the property owner must notify the Town Council and have the sidewalk evaluated by a town employee.

Further, in the event the property owner shall fail to repair any sidewalk after notice is given by the Town Council, the Town of Battle Ground shall proceed to repair such sidewalk and the Town will be entitled to file a lien on the property owner for the costs and expenses of any such repairs.

Section 6: Enforcement

The Town Council or Designee shall enforce this ordinance. The construction, repair, and maintenance of all sidewalks and the materials and components thereof shall not be deemed completed until approved and accepted by the Town Council or Town Council Designee.

Section 7: Penalty

Violation of any provision of this ordinance shall be enforced with a daily fine of twenty-five dollars (\$25.00) until the violation is corrected. Each day a violation of this ordinance occurs or continues is a separate and distinct violation of this ordinance.

Section 8: Appeal Process

All appeals regarding this ordinance shall be referred to the Town Council.

SECTION B. CONFLICTS

All ordinances or Resolutions of the Town of Battle Ground that conflict with the provisions of this Ordinance shall be hereby repealed.

SECTION C. EFFECTIVE DATE

This ordinance shall become effective and be in force from after its passage in the manner provided by law. The Clerk-Treasurer is directed to publish the Ordinance.

PASSED ON THIS 13th DAY OF December, 2010.

BATTLE GROUND COUNCIL PERSONS

Becky Holladay
Becky Holladay, Council President

Brian Brewer
Brian Brewer

ATTEST:

Phyllis Hall
Phyllis Hall, Clerk-Treasurer

Karen Pearson
Karen Pearson

Carolyn Roth

Steve Egly

Steve Egly