

ORDINANCE NO. 03-14

**AN ORDINANCE AMENDING ORDINANCE 07-13 ESTABLISHING THAT  
SIDEWALKS BE CONSTRUCTED AND MAINTAINED IN ALL RESIDENTIAL  
AREAS OF THE VILLAGE OF BLUFFTON, OHIO**

WHEREAS: the Council of the Village of Bluffton finds that there exists a need in the Village of Bluffton, Ohio that residential areas of the Village have available for the public use and public good, properly constructed and maintained sidewalks; and

WHEREAS: the Council of the Village of Bluffton specifically finds that a comprehensive program of maintenance, repair, construction and reconstruction must take place and costs thereof be assessed against the several property owners and the Village of Bluffton as set forth herein; and

WHEREAS: the Council finds that a series of resolutions and ordinances may be required to complete this program, of which, this ordinance is deemed to be the initiating or primary ordinance; and

WHEREAS: the stated objective of this Ordinance shall be that: The residential areas of the Village should, as much as possible, be accessible by pedestrian traffic by means of sidewalks; The costs of any new construction shall be made by the Village; and Where sidewalks exist or have been newly installed, they shall be maintained by the property owners in compliance with the specification and standards of this ordinance;

WHEREAS: this ordinance has undergone several revisions and it has been deemed necessary to amend Ordinance 07-13 to read as follows:

IT IS THEREFORE ORDAINED BY THE COUNCIL OF THE VILLAGE OF BLUFFTON, OHIO THAT:

SECTION 1: any and all existing sidewalks within the Village of Bluffton Ohio shall be maintained and repaired in good order pursuant to the standards and designs as specified in Exhibit "A" that is attached hereto, which may be amended from time to time upon recommendation of the Village Administrator to the Village Council or by the Village Council at its discretion.

SECTION 2: the Village of Bluffton requires that any and all new subdivision developments or other construction developments within the Village corporation limit shall have sidewalks as specified in the Subdivision Ordinance for the Village of Bluffton.

SECTION 3: the Village of Bluffton intends to have sidewalks in every residential block, meaning a length of street between two intersections on which there is at least one residential structure; to that end the Village will designate, according to its financial ability and construction schedule, which sidewalks to construct at its expense; following their construction, maintenance of the sidewalks will be the responsibility of the property owner.

SECTION 4: OVERALL PLAN AND IMPLEMENTATION OF SIDEWALK CONSTRUCTION AND REPAIR:

A. EXISTING SIDEWALK REPAIR AND REPLACEMENT: Any and all existing sidewalks within the Village of Bluffton will be reviewed by the Village Administrator or his designee to determine if the said existing sidewalk is in need of repair or replacement. Should that sidewalk need repair or replacement, the same shall be completed within the times and manner as set forth in this ordinance. Any sidewalk constructed of brick that exists in the Village as of January 1, 2014 shall be considered a grandfathered sidewalk. Such grandfathered sidewalk may be maintained, repaired and rebuilt in brick; but, except for its composition in other than concrete, such sidewalk shall be subject to the same surface standards as set forth in Exhibit "A".

Any person who undertakes to replace or repair any existing sidewalk within the Village of Bluffton, Ohio when required by order under this Ordinance shall obtain from the Village of Bluffton, a sidewalk permit. Said permits shall be issued at no cost; however, the applicant for such a permit shall provide the Village the following information: name of the contractor, anticipated completion date, and any other relevant information as may be requested by the Village Administrator.

B. CONSTRUCTION AND INSTALLATION OF CONNECTING SIDEWALKS: Connecting sidewalk is defined as that section of sidewalk required to complete and make continuous existing sidewalk sections that have gaps in them. The Village Administrator or his designee shall designate missing sidewalks as either connecting sidewalks or new sidewalks based on the length of the gap between existing sidewalks -- or the non-existence of sidewalks altogether.

The Village Administrator shall provide a list and map of the parcels and areas where he believes Connecting Sidewalks should be built to the Streets and Alleys Committee of council for its review and recommendation. Within 45 days of the Village Administrator providing a list and map, the Streets and Alleys Committee of Council shall forward its recommendations and amendments to the Village Council as a whole for review and public comment. The Owner of any parcel that is considered for installation of a connecting sidewalk shall be notified by regular mail not less than 30 days prior to a public hearing of Council. Council shall accept any and all comments from those parcel owners submitted in writing before the date of the public hearing and any comments from parcel owners or the public at the public hearing. After the close of the public hearing, the Council shall determine, by majority vote, which parcels should have a connecting sidewalk pursuant to this ordinance.

C. CONSTRUCTION AND INSTALLATION NEW SIDEWALKS: New sidewalks consist of areas where sidewalk would benefit the Village but the gap between existing sidewalks is long or

sidewalks do not exist. The Village Administrator or his designee shall identify those residential areas of the Village of Bluffton where new sidewalks should be installed.

The Village Administrator shall provide a list and map of the parcels and areas where he believes New Sidewalk should be installed to the Streets and Alleys Committee of council for its review and recommendation. Within 45 days of the Village Administrator providing a list and map, the Streets and Alleys Committee of Council shall forward its recommendations and amendments to the Village Council as a whole for review and public comment. The Owner of any parcel that is considered for installation of a new sidewalk shall be notified by regular mail not less than 30 days prior to a public hearing of Council. Council shall accept any and all comments from those parcel owners submitted in writing before the date of the public hearing and any comments from parcel owners or the public at the public hearing. After the close of the public hearing, the Council shall determine, by majority vote, which parcels should have a new sidewalk pursuant to this ordinance.

#### D. Installation Phases for Sidewalks:

Phase One: the Village Administrator or his designee shall survey all existing sidewalks in the SOUTH EASTERN ONE HALF of the Village and determine whether they need to be repaired or replaced using the following criteria: Stumbling hazard from Cracks; Unevenness; Water pocketing; or Slipperiness.

Notice shall be provided in 2013 to each property owner of any existing sidewalk deemed in need of repair or replacement in the SOUTH EASTERN ONE HALF of the Village of Bluffton, Ohio. The Notice shall advise the property owner that they have until October 1, 2014 to complete any required repair or replacement of such existing sidewalk. If the said repair or replacement is not completed by October 1, 2014 then the Village shall undertake such repair and replacement and proceed to assess the property owner the costs thereof as described in Section 5 and Section 6 below. It is the goal to have Phase One completed at the end of the 2014 construction season.

Phase Two: the Village Administrator or his designee shall survey all existing sidewalks in the NORTH WESTERN ONE HALF of the Village and determine whether they need to be repaired or replaced using the following criteria: Stumbling hazard from Cracks; Unevenness; Water pocketing; or Slipperiness.

Notice shall be provided in 2014 to each property owner of any existing sidewalk deemed in need of repair or replacement in the NORTH WESTERN ONE HALF of the Village of Bluffton, Ohio. The Notice shall advise the property owner that they have until May 1, 2015 to complete any required repair or replacement. If the said repair or replacement is not completed by May 1, 2015 then the Village shall undertake such repair and replacement and proceed to assess the property owner the costs thereof as described in Section 5 and Section 6 below. It is the goal to have Phase Two completed at the end of the 2015 construction season.

Phase Three: Any and all Connecting Sidewalks and New Sidewalks within the Village of Bluffton will be constructed and installed in accordance with the procedure set forth above and funded pursuant to Section 4(E) below.

E. **INSTALLATION OF SIDEWALKS BY THE VILLAGE OF BLUFFTON:** The Village of Bluffton, after notice and hearings set forth herein, shall construct sidewalks on and in those areas as determined by the council at the cost to the Village of Bluffton at times and under such conditions that the Village Council shall deem appropriate. To that end, the Village will commit funds for the installation of sidewalks within the Village each year as deemed appropriate by Council. Said commitment shall be by appropriation made or motion made to designate the total funding for each fiscal year.

i. New construction of sidewalks shall be in compliance with the specifications that are made a part of this ordinance.

ii. The Village of Bluffton shall remain responsible for any defect in installation and workmanship for a period of ONE year from the date of construction.

iii. Thereafter, the Parcel Owner shall be responsible for any repair and replacement of any sidewalk installed by the Village in the future.

iv. The installation of sidewalks for each fiscal year, shall be determined by the Streets and Alleys Committee based upon the funding appropriated by the Village Council for that year.

v. Installation of new sidewalks by the Village shall be designed by the Village and shall typically include removal of obstructions, grading, and grass reseeding.

**SECTION 5:** when a property owner fails to undertake the repair or replacement of a sidewalk as required in Section 4.D. Phase 1 and Phase 2 above the Village of Bluffton shall thereafter undertake procedures pursuant to Ohio Revised Code Chapters 727, 729 or any other means provided by current or future law to finance and engage contractors to complete sidewalk repairs or replacement according to designs set forth in Exhibit "A."

**SECTION 6:** when a property owner undertakes construction to repair or replace their sidewalk pursuant to notice in Phase 1 or Phase 2 noted above; and without excuse of Acts of God or other factors beyond his or her control the owner does not complete repair or replacement within the time required; and as a direct result of such tardiness the Village of Bluffton fails to include that project in its contracted projects, the Village of Bluffton may assess that owner for front footage, a sum equal to an additional 10% of the total cost to the Village for that frontage to compensate for the additional change orders and amendments to the Village contracts.

**SECTION 7:** the Village Administrator or his designee shall provide a report to the Village council on a quarterly basis regarding the progress of the master sidewalk repair and improvement plan.

SECTION 8: the Mayor shall, designate two (2) members of the Council and one (1) elector of the Village of Bluffton, Ohio to act as a Review Board for the Sidewalk Project.

a) The Mayor may make such appointments on an ad hoc basis as required.

b) Any property owner who wishes to appeal the order or determination of the Village Administrator or his designee as to this project shall provide, in writing, such objections and deliver it to the Village Administrator within 90 days of receiving a notice to repair or replace sidewalks. Upon receipt, the matter will be scheduled for a hearing before the Review Board.

c) The Review Board shall have the power to review the orders of the Village Administrator and may, but is not required to make recommendations or modification as may be deemed appropriate. In determining what is appropriate, the Review Board shall consider any matter it deems proper and shall specifically consider the following: 1) the difference in cost per foot of the repair or replacement of a particular section of sidewalk from the average costs, and 2) financial hardship for a particular owner to complete the repair or replacement.

SECTION 9: it is found and determined that all formal actions of the Council concerning and relating to the adoption of this ordinance were made in open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public in accordance with all legal requirements of the Open Meetings Law including Section 121.22 of the Ohio Revised Code.

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by the Council of the Village of Bluffton, Ohio by the following vote:

Ayes: \_\_\_\_\_ Nays: \_\_\_\_\_ Abstain: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

Approved as to form:

\_\_\_\_\_  
F. Stephen Chamberlain  
Village Solicitor