

**BOROUGH OF GREENCASTLE  
ORDINANCE NO. 2012- 07**

**AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY, PENNSYLVANIA AMENDING CHAPTER 11 OF THE CODE OF THE BOROUGH OF GREENCASTLE, BY ADDING A NEW ARTICLE V, ENTITLED "BOARD OF APPEALS" WHICH BOARD WILL HEAR MATTERS PERTAINING TO THE CURB AND SIDEWALK PROVISIONS OF CHAPTER 169 OF THE CODE OF THE BOROUGH OF GREENCASTLE.**

**WHEREAS**, pursuant to its powers under the Borough Code, 53 P.S. §45101, et.seq., the Borough of Greencastle has enacted Ordinance Number 2012-06, entitled Sidewalk and Curb Repair; and

**WHEREAS**, said Borough Council deems it to be in the best interest of the public health, safety, and welfare to create a Sidewalk and Curb Board of Appeals to determine the suitability of alternate methods of construction, exemptions, requests for extensions of time, or interpretations of the provisions of said Ordinance.

**NOW THEREFORE BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Greencastle, Franklin County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

**SECTION I:** CHAPTER 11 of the Code of the Borough of Greencastle, entitled "Boards and Commissions" shall be amended to add an Article V, entitled "Sidewalk and Curb Board of Appeals" which shall include the following provisions:

§11-6. Creation and purpose.

In order to determine the suitability of alternate materials or methods of construction, exemptions, requests for extensions of time, or interpretations of the curb and sidewalk provisions of Chapter 169, as provided for herein, there is hereby created a Sidewalk and Curb Board of Appeals ("Board of Appeals") consisting of three members who are qualified by experience or training to pass upon matters pertaining to the curb and sidewalk provisions of Chapter 169.

§11-7. Powers and duties.

The Board of Appeals shall have all the powers and duties with regard to appeals from a decision of a Borough Official or body regarding suitability of alternate materials or methods of constructions, exemptions, requests for extensions of time, or interpretation of the curb and sidewalk provisions of Chapter 169. The Board of Appeals shall adopt and make available to participants guidelines and standards to be used in formulating and rendering decisions in proceedings before it.

§11-8. Membership.

A. The Board of Appeals shall consist of three members appointed by Borough Council, and appointments shall be as follows: one member to be appointed for five years, one for four years and one for three years, and thereafter each new member shall serve for five years or until a successor has been appointed. Each member shall serve at the pleasure of the Borough Council and may be removed by Borough Council at any time for any reason. Members of Borough Council, Zoning Hearing Board Members and code administrators employed by the Borough are prohibited from serving on the Board of Appeals.

B. Borough Council may appoint an alternate member to the Board of Appeals, such alternate member to be appointed for five years. The alternate member shall have the same qualifications as other members of the board. The alternate member may be seated

at any time as directed by the Chairperson to:

- (1) Constitute a quorum for a meeting.
- (2) Ensure three board members are available for a hearing.

§11-9. Officers.

The Board shall select one of its members to serve as Chairperson, and the appointing official shall designate a clerk from the municipality to serve as Secretary to the Board, who shall keep a detailed record of all proceedings on file with Borough Office.

§11-10. Disqualification from voting.

A member of the Board shall not pass on any question in which that member is engaged as contractor or material dealer or in which the Board member has any personal, professional or financial interest.

§11-11. Appeals and fees.

A. Any person aggrieved by a decision of any Borough official or body who or which is responsible for the enforcement of the curb and sidewalk ordinance shall file a written notice of appeal with the Board of Appeals within 10 days after the rendering of such decision.

B. A filing fee as Borough Council may from time to time determine by resolution shall accompany such notice of appeal.

§11-12. Notice of meetings.

The Board shall meet upon written notice of the Chairman given to the appellant and the Board members within 45 days of the filing of an appeal or at a stated periodic meeting if warranted by the volume of work.

§11-13. Conduct of meetings.

All hearings shall be public and conducted under the requirements of the Pennsylvania Sunshine Law. *Editor's Note: See 65 Pa.C.S.A. § 701 et seq.* The appellant, the appellant's representative, the relevant Borough official and any other person whose interest or may be affected by the subject appeal shall be given an opportunity to be heard.

A. The Board shall decide an appeal for alternate materials or methods of construction, exemption, request for extension of time or provide a requested clarification by reviewing documents and any written brief or argument unless the owner or owner's agent requests a hearing.

B. The Board shall only consider the factors established under the curb and sidewalk provisions of Chapter 169 (Streets and Sidewalks) of this Code.

C. The Board may:

- (1) Deny the request in whole or in part;
- (2) Grant the request in whole or in part; or
- (3) Grant the request upon certain conditions being satisfied.

§11-14. Adjourned meetings.

When three qualified members are not present to consider a specific appeal, either the appellant, the enforcing official or their representative may request a postponement of the hearing.

§11-15. Voting.

The Board shall affirm, modify or reverse the decision of the enforcing official by a concurring vote of a majority.

§11-16. Resolutions; filing of copies.

Every action of the Board shall be by resolution, and certified copies shall be furnished to the appellant within fifteen (15) days of the decision. A copy shall also be provided to the Borough Office. Decisions of the Board of Appeals shall be final and any appeal thereto shall be made to the Franklin County Court of Common Pleas within thirty (30) days of the date of the Board's decision as prescribed by law.

**SECTION II: REPEALER:** All provisions of previous ordinances of the Borough of Greencastle, or parts thereof, which are contrary or inconsistent to this Ordinance, are expressly repealed.

**SECTION III: SAVINGS CLAUSE:** In all other respects, the Code of the Borough of Greencastle shall remain as previously enacted and ordained.

**SECTION IV: EFFECTIVE DATE:** This Ordinance shall take effect immediately upon its enactment.

ENACTED AND ORDAINED this 4th day of June 2012 by the Council of the Borough of Greencastle, Franklin County, Pennsylvania.

ATTEST:

/S/ Kenneth W. Womack  
Kenneth W. Womack, Secretary

/S/ Charles R. Eckstine  
Charles R. Eckstine, President

/S/ Robert E. Eberly  
Robert E. Eberly, Mayor