

**BOROUGH OF GREENCASTLE
ORDINANCE NO. 2012-06**

**AN ORDINANCE OF THE BOROUGH OF GREENCASTLE, FRANKLIN COUNTY,
PENNSYLVANIA AMENDING CHAPTER 169, ENTITLED SIDEWALK AND CURB
REPAIR AND CONSTRUCTION, OF THE CODE OF THE BOROUGH OF
GREENCASTLE.**

WHEREAS, the Borough Council of the Borough of Greencastle has previously enacted provisions regarding Sidewalk and Curb Repair and Construction, which provisions are found in Chapter 169 of the Code of the Borough of Greencastle; and

WHEREAS, such provisions were enacted pursuant to the authority granted to the Borough of Greencastle in Article XVIII of the Borough Code (53 P.S. §46801-46806); and

WHEREAS, pursuant to such authority, the Borough Council of the Borough of Greencastle desires to amend various provisions found in Chapter 169 of the Code of the Borough of Greencastle; and

NOW THEREFORE be it enacted and 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:

SECTION I: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-16 thereof, entitled "Construction and repair required", shall be amended as follows:

- A. The title of Section 169-16 shall be amended to be entitled, "Conformity required".
- B. Section 169-16 shall be amended so that the section states as follows:

Any new construction, repairing, or relaying of sidewalks or curbs shall be in strict conformity with this chapter and these regulations; provided, however, that the Board of Appeals may make minor adjustments or alter these regulations where special or unusual topographic and/or physical conditions exist or where other physical circumstances or safety conditions render sidewalks impractical or infeasible. Decisions of the Board of Appeals shall be by a majority of its members and shall comply with the provisions of Chapter 11, Article V of this Code.

SECTION II: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-17 thereof, entitled "Concrete curbs required for new buildings." Shall be amended as follows:

- A. The title of Section 169-17 shall be amended to be entitled, "Responsibility of property owners".
- B. Section 169-17 shall be amended so that the section states as follows:

Every owner of land abutting any public street or public alley in the Borough shall maintain the sidewalks and curbs abutting such land in a good and safe condition as in the opinion of the Borough shall be appropriate and in conformity with standards and specifications that Borough Council may from time to time designate by resolution or written policy.

SECTION III: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-18 thereof, entitled "Supports under sidewalks and curbs", shall be amended as follows:

- A. The title of Section 169-18 shall be amended to be entitled, "Notice to construct, repair or relay".
- B. Section 169-18 shall be amended so that the section states as follows:

A. Every owner of property abutting any public street or public alley in the Borough shall construct, repair or relay sidewalk and/or curb upon service of a written notice to do so by the Borough.

B. Notice to construct, pave, repave and repair sidewalks, curbs or gutters shall be given by registered or certified mail to abutting property owners, and such owners shall have 30 days to comply with said notice in conformity with the standards and specifications established by resolution unless said notice shall specifically provide for a longer period of time to comply. However, if the sidewalks, curbs, or gutters may cause an immediate public danger, as determined by the Borough, the Borough may require immediate abatement. In no case shall the time period specified exceed ninety (90) days, except during inclement or unseasonable weather in which case the party responsible for the repair/replacement or installation shall post a financial guarantee in lieu of the repair period.

C. Upon failure of any property owner to comply with § 169-18 A and B above within 10 days after the expiration of a notice to construct, the Borough may cause such construction, repairing or relaying, as the case may be, either by letting the work to contractors after advertisements, if required, or by employees of the Borough. The cost thereof and an additional 10%, together with interest from the date of completion of the work at the rate of 12% per annum, attorney fees and court costs, shall be collected from such owner by filing a municipal claim/lien therefor and by action of assumpsit.

SECTION IV: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-19 thereof, entitled "Conformity to line and grade", shall be amended as follows:

A. The title of Section 169-19 shall be amended to be entitled, "New Construction."

B. Section 169-19 shall be amended so that the section states as follows:

A. All owners of real estate in the Borough of Greencastle who hereafter secure a land use permit for the construction of any building within the Borough shall, within six months after the securing of such permit, construct a concrete curb and sidewalk along the roadway of any street on which said real estate abuts, said curb and sidewalk to be constructed at the location designated by the Borough Manager or his/her designee. Said owners of real estate shall include with the building permit application a sidewalk permit application and curb/sidewalk deposit in an amount Borough Council may from time to time determine by resolution. Upon failure of the owner of the real estate to construct a concrete curb and sidewalk within sixty (60) days following issue of a certificate of occupancy, the Borough, after proper notice in accordance with Section 169-18 above, may cause the installation of curb and sidewalk to be done.

B. Unless required sooner by resolution or written policy, currently developed properties that do not have sidewalks or curbs shall install sidewalks and curbs, as required by this ordinance, in conjunction with a capital improvement to the property in excess of \$20,000 in value, as determined by the value of the improvement on the building permit, subject however to any other exemptions of this ordinance.

C. In the event of change in ownership of currently developed properties, the new property owner shall have three years from the date of the closing on the property to install sidewalks and/or curbs, as required by this ordinance, subject however to any other exemptions of this ordinance.

SECTION V: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-20 thereof, entitled "Notice to do work", shall be amended as follows:

A. The title of Section 169-20 shall be amended to be entitled, "Permits required."

- B. Section 169-20 shall be amended so that the section states as follows:

A permit must first be obtained from the Borough prior to any construction of new sidewalks or curbs and prior to any repairing or relaying of sidewalks or curbs.

SECTION VI: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-21 thereof, entitled "Inspection", shall be amended as follows:

- A. The title of Section 169-21 shall be amended to be entitled, "Permits conditions."
 B. Section 169-21 shall be amended so that the section states as follows:

A permit shall not be valid until such fees as Borough Council may establish from time to time by resolution have been paid. Any permit issued shall become invalid if the authorized work is not commenced within six (6) months after issuance of the permit or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work. The Borough may revoke a permit or approval issued under the provisions of this Chapter in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

SECTION VII: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-22 thereof, entitled "Municipality may do work and collect costs", shall be amended as follows:

- A. The title of Section 169-22 shall be amended to be entitled, "Inspections."
 B. Section 169-22 shall be amended so that the section states as follows:

All curbs and sidewalks, when formed, shall be inspected by the Borough prior to the pouring of concrete. A minimum 24 hours' notice shall be given prior to the start of concrete placement. Upon completion of the construction, repair or relay of the same, the Borough shall be contacted in order that a final inspection of the forms can be made for approval.

SECTION VIII: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-23 thereof, entitled "Emergency repairs", shall be amended as follows:

- A. The title of Section 169-23 shall be amended to be entitled, "Data furnished by Borough."
 B. Section 169-23 shall be amended so that the section states as follows:

The Borough shall provide line, grade and specifications for all new construction, repairing and relaying of sidewalks except that the Borough shall not be responsible for establishing line and grade in new developments.

SECTION IX: Article IV of Chapter 169 of the Code of the Borough of Greencastle, Section 169-24 thereof, entitled "Construction and repair done on owner's initiative without notice", shall be amended as follows:

- A. The title of Section 169-24 shall be amended to be entitled, "Conformance with specifications required."
 B. Section 169-24 shall be amended so that the section states as follows:

A. All curbing hereafter constructed or reconstructed shall be constructed or reconstructed, as the case may be, in conformity with the official specifications for curbing as adopted by the Borough Council from time to time by resolution.

B. All sidewalks hereafter constructed or reconstructed shall be constructed or reconstructed, as the case may be, in conformity with the official specifications for sidewalks as adopted by the Borough Council from time to time by resolution.

SECTION X: Article IV of Chapter 169 of the Code of the Borough of Greencastle, shall be amended to add a new Section 169-24.1, entitled "Violations and penalties; appeals" which shall state as follows:

A. Any person who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000, plus costs of prosecution, and, in default of payment thereof, to imprisonment of not more than 30 days. Each day the violation occurs shall constitute a new and separate violation.

B. An owner may, within ten (10) days of the Borough mailing notice in accordance with Section 169-18, or of receiving a notice of violation as set forth herein, notify the Borough Office, in writing, of an intent to appeal the notice or determination, and such appeal shall be reviewed by the Board of Appeals appointed by the Borough and such determination may be modified or reversed entirely by the Board in the event it appears that such work would either be impractical or unnecessary in view of the purpose of the sidewalk and curbing and under the topographical and other physical circumstances of the property in question. Decisions of the Board of Appeals shall be by a majority of its members and the Board shall render its decisions within fifteen (15) days of receipt of the appeal notice to the Borough. The notice of intent to appeal shall be in such form and contain such information as may be required by the Board of Appeals.

SECTION XI: Article IV of Chapter 169 of the Code of the Borough of Greencastle, shall be amended to add a new Section 169-24.2, entitled "Safety precautions" which shall state as follows:

During the excavation, construction, repair or relay, curing and backfilling of any curb and/or sidewalk, the owner shall place and maintain, or cause to be placed or maintained, adequate hazard warnings to vehicular and pedestrian traffic by means of barricades, flares, lights or similar means. The owner shall be solely responsible and liable for the adequate placement of such hazard warnings.

SECTION XII: Article IV of Chapter 169 of the Code of the Borough of Greencastle, shall be amended to add a new Section 169-24.3, entitled "Establishment of inspection program" which shall state as follows:

The Borough may, at its discretion, establish a program of inspecting sidewalks and curbs within the Borough to ensure that existing sidewalks and curbs are maintained in a safe and functional manner in conformity with the Borough's established grades, lines and specifications. Said program may provide for dividing the Borough into zones, with different zones being inspected periodically.

SECTION XIII: 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 which specifically includes, but is not limited to Chapter 169, Article VI of the Code of the Borough of Greencastle.

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

SECTION XV: 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