

BOROUGH OF LIGONIER
COUNTY OF WESTMORELAND
COMMONWEALTH OF PENNSYLVANIA

Ordinance No. _____

AN ORDINANCE AMENDING CHAPTER 135 TITLED "STREETS AND SIDEWALKS"
OF THE CODE OF THE BOROUGH OF LIGONIER

BE IT ORDAINED, and it is hereby enacted and ordained by the Council of the Borough of Ligonier in session lawfully assembled as follows:

SECTION I

Article I and Article II of Chapter 135 of the Code of the Borough of Ligonier are hereby repealed.

SECTION II

The following Article I and Article II of Chapter 135 of the Code of the Borough of Ligonier are hereby adopted, enacted and ordained:

STREETS AND SIDEWALKS
ARTICLE I
Sidewalk and Curb Construction

§ 135-1. Purpose.

This Ordinance has been adopted in order to ensure all sidewalks in The Borough of Ligonier, and within the public rights-of-way, fronting or abutting all residential, commercial, industrial, public and semipublic properties, which serve as pedestrian walkways will be adequately maintained and kept in a good state of repair, in order to reduce or otherwise eliminate conditions that could constitute a hazard to, or result in possible injury to, a pedestrian.

- A. Short Title. This Ordinance shall be known and may be cited as the "Borough of Ligonier Sidewalk Ordinance."
- B. Purpose. This Ordinance has been adopted in order to:
- (1) Prescribe the general minimum condition or conditions which constitute a hazard in an existing sidewalk which would require remedial action by the property owner.
 - (2) Prescribe minimum standards and specifications for the construction of new sidewalks or sections thereof, and for the repair and/or reconstruction of existing sidewalks or sections thereof which may be required to be corrected under this Ordinance.

- (3) Prescribe a method for the equitable administration and enforcement of this Ordinance, including penalties for the violation thereof.
- (4) Generally promote, protect and facilitate the public health, safety and general welfare and to further promote the sound development of an important community facility.

§ 135-2. Definitions and Word Usage.

- A. Words and phrases in the singular number include the plural and vice versa. Words and phrases used in the present tense include the future. The words “used for” include the meaning “designed for.” The word “shall” is mandatory and not optional. The word “abut” shall include the words “directly across from.” The word “building” shall include the word “structure.”
- B. Unless otherwise expressly stated, the following words and phrases shall have the meaning given herein:
- (1) Code Enforcement Officer. The individual, or his delegate, who, in addition to other duties, shall have responsibility for administering and enforcing the provision of this Ordinance.
 - (2) Engineer. A registered professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the Engineer for the Borough.
 - (3) Borough Council. The Council of the Borough of Ligonier.
 - (4) Hardship. That there are unique physical circumstances or conditions peculiar to the property and that the unnecessary hardship is due to such conditions; and that because of such physical conditions there is no reasonable possibility that sidewalks can be installed on the property in strict conformity with the provisions of this Ordinance; and that such unnecessary hardship has not been created by the applicant; that the relief granted will not alter the essential character of the neighborhood or district in which the property is located and will represent the minimum relief and least modification of this Ordinance.
 - (5) Lot, Width. The horizontal distance between side lot lines at the front street property line.
 - (6) Municipality. The Borough of Ligonier.
 - (7) Obstruction. Any sign, post, structure, power cord, vegetation or debris which leaves less than four (4) feet of width to accommodate pedestrians passage, or otherwise would cause the pedestrian to take action to avoid physical contact, or causes a tripping hazard.
 - (8) Property Owner. The person, firm, company, corporation or individuals who are the owners in fee simple of property, whose name(s) appear last in the Recorder of Westmoreland County Tax Assessor’s office. For the purpose of this Ordinance, the “property owner” may also include any individual who is legal agent of the owner.

- (9) Sidewalk. That portion of the street, road or highway lying within the public right-of-way, primarily constructed for the use of pedestrians.
- (10) Sidewalk Permit. The legal permit issued by the Code Enforcement Officer upon application by a property owner or their authorized agent to open, repair, replace or extend an existing sidewalk, or any portion thereof, or construct a new sidewalk. No work on any of the above shall commence until such permit has been issued.
- (11) Sidewalk Standards and Specifications. The standards and specifications for the construction, reconstruction or repair of sidewalks contained in and hereby made apart of this Ordinance. See Exhibit A – Typical Details, Concrete Sidewalk.
- (12) Street. Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct and any other public rights-of-way used or intended to be used by vehicular traffic or pedestrians.
- (13) Violation, Notice of. The legal notice issued to a property owner by the Code Enforcement Officer informing said property owner of any violation of the provisions of this ordinance of a violation or departure from the sidewalk standards and specifications contained in this ordinance in cases where sidewalk construction or reconstruction has been commenced or completed.

§ 135-3. Responsibility of Property Owner.

- A. It shall be the responsibility of the owner of the abutting property to keep the sidewalk, together with any portion of his property paved and used as a sidewalk or public walk, immediately in front of his property in good order and repair and, at all times, free and clear of all obstruction to safe and convenient passage. This shall include keeping and maintain such sidewalks free and clear of all dirt, trash and similar debris, including the removal of snow and ice, and shall also include keeping and maintaining the sidewalk free of any merchandise, signs or other unauthorized structure or appurtenance when the removal of the same is ordered by the Code Enforcement Officer.
- B. The removal of leaves, tree limbs, grass clippings, debris, cinders, gravel, grits, or any other refuse on such sidewalk or projecting branches and other obstructions below six (6) feet, eight (8) inches above the sidewalk. The property owner shall be responsible for the prompt removal of any such items whether or not such items were deposited by the owner, his tenants, anyone acting under his direction, control, license, or any third person. Such leaves, tree limbs, grass clippings, debris, cinders, gravel, grits and other refuse shall be properly bagged and disposed of upon being removed from such sidewalk. The sweeping or other removal of such items onto Borough streets or state highways is prohibited except when pickup is scheduled by the Borough. The Property Owner shall contact the Borough Shade Tree Commission prior to cutting any trees or limbs.
- C. Sidewalks shall be kept free of obstructions, such as signs, posts, structures, power cords, or other obstructions of any kind except as otherwise provided by Borough Ordinance.

§ 135-4. Permit Requirements.

- A. No person, property owner, firm corporation or public utility shall open or remove, in part or in whole, any existing sidewalk or portion thereof for any purpose, including the repair and/or reconstruction of such sidewalk, until the property owner or their authorized agent or the public utility company legally authorized makes application and obtains a Sidewalk Permit from the Code Enforcement Officer.
- B. Any permit issued under this part shall be null and void unless work is commenced within six (6) months of its issuance. If work is commenced with said six-month period and abandoned within one (1) year of the date of issuance of the permit, said permit shall be null and void. One (1) or more ninety (90) day extensions of time may be granted by the Code Enforcement Officer for cause shown after written application therefore.

§ 135-5. Applicability.

- A. Sidewalk standards adopted by this Ordinance shall take effect immediately and be applicable in all previously developed lots within the Municipality which currently have sidewalks. Lots which can be documented as having sidewalks, but since have removed the sidewalks may be asked to reinstall the sidewalks if Council determines the existence of sidewalks fits the character of the abutting properties. Existing sidewalks constructed of alternate materials such as asphalt, flagstone or brick may remain in place as long as trip hazard standards are maintained, refer to §135-7. The sidewalk standards shall apply to all streets, boulevards or roadways except the following areas:
 - (1) Residential. Where, in the judgment of the Borough Council, applicable to simple subdivision only, the inclusion of sidewalks would be out of character with the abutting properties and with the provision that the owner of the simple subdivision would enter into a legal agreement with the Municipality stipulating that when sidewalks are required or put in on abutting property, the owner would agree to install sidewalks to current specifications within six months of notification by the Municipality and provide, within 30 days of notification, a bond, in a form approved by the borough Solicitor, sufficient to guarantee the installation of sidewalks.
- B. Obstructions. No person shall obstruct, or cause to be obstructed, any sidewalk by erecting, placing, or maintaining, signs, posts, structures, power cords, or other obstructions of any kind except as otherwise provided by Borough Ordinance.

§ 135-6. Hardship Appeals.

- A. Application. Upon submission of sidewalk hardship appeal application and fee to the Municipality, and providing support documentation demonstrating the allegations that strict compliance with these regulations will result in a hardship, the hardship appeal shall be referred to the Secretary-Treasurer, for an administrative investigative review, determining whether or not a hardship as defined herein has been established by the applicant. The Secretary-Treasurer shall review the hardship appeal, and if necessary, adjoin any municipal staff, Solicitor or consultants to review the hardship appeal, conveying those additional review costs for time and expenses to the applicant. Hardship shall be judged on a case-by-case basis and will be subject to final plan approval by Borough Council. However, such variation of the regulations will not have the effect of nullifying the intent and purpose of the spirit of this section. Such hardship appeals must be submitted to the Secretary-Treasurer 30 days prior to council action on the land development application. Failure to make such

appeal due to alleged hardships prior to such Council action shall constitute a waiver of any hardship then existing.

- B. Findings. Written findings regarding the hardship appeal shall be generated by the Secretary-Treasurer and forwarded to Borough Council for review and action prior to the final approval of the land development application.
- C. Denial of hardship appeal. Upon review of the findings of the Secretary-Treasurer, Borough Council may determine that a hardship, as defined herein, does not exist, and the applicant will be required to install sidewalks. Said findings and the location of sidewalks shall become part of the applicant's land development application and site plan.

§ 135-7. Conditions Requiring Replacement; Technical specification for new construction.

- A. If one or more of the following conditions is evidenced in an existing sidewalk or portion thereof, it shall constitute sufficient notice to the property owner that such condition(s) shall be corrected voluntarily by the property owner by making application for a Sidewalk Permit and performing the necessary work. In lieu of such action, the Code Enforcement Officer may in the course of conducting his normal duties or upon complaint, make inspection of such condition and issue a notice of violation to the property owner. Any property owner, agent of said owner or legal tenant of occupied premises may require the code Enforcement Officer to authorize an inspection of a faulty sidewalk and make a determination of the need and extent of any required repairs. The obligation of repair or replacement shall include but not be limited to:
 - (1) The removal of all or any portion of a sidewalk panel(s) for any reason.
 - (2) When holes or cracks having a width in excess of ½ inch at any one point along a length of one (1) foot or greater. This does not include hairline cracks that have not disturbed the grade and level of the sidewalk.
 - (3) When 50% or more of a sidewalk panel(s) is spalled, weathered or deteriorated, rendering the section(s) unsafe underfoot.
 - (4) When one or more edges of a sidewalk panel(s) rises above or drops below the grade of the edges of immediately adjacent sections by one (1) inch or more, whether such defect has been caused by frost action, root growth, cracking or actual breaking.
 - (5) When any other instance exists which may create a pedestrian safety hazard as determined by the Code Enforcement Officer.
- B. Sidewalks shall be constructed, repaired or reconstructed in accordance with the specifications and requirements of §135-7.
- C. If any sidewalk is constructed, repaired or reconstructed without conforming to the requirements of this Ordinance, or of any other ordinance or law, the code Enforcement Officer may require the Property Owner and party(ies) responsible for such construction to remove the faulty sidewalk as a nuisance, and replace it with conforming construction, and on failure of such person to do so within

such time as the Code Enforcement Officer provides, the Municipality may proceed to do so and collect the cost thereof according to §135-8.

D. Construction Requirements.

(1) Sidewalks.

(a) Dimensions for sidewalks shall be as follows:

[1] Sidewalk minimum width:

[a] Four feet regardless of right-of-way width.

[2] Minimum thickness:

[a] Four inches for walk only; four inches aggregate.

[b] Six inches at curb cut; Base 2A or 2B.

[3] Control joints:

[a] Contraction joints: Four feet center to center; four feet for walk.

[b] Formed or saw cut: Six feet to center, six feet for walk.

[c] One-half expansion joint: 12 feet center to center; four feet for walk; and 18 feet center to center, six feet for walk.

(b) Space between sidewalk and curb should conform to existing condition on each specific street. If change is desired it will be subject to the Council's approval.

(2) Curbs. Dimensions for curbs shall be as follows:

(a) Deep set: six-inch reveal with 18 inches buried equaling 24 inches total.

(b) Thickness: eight inches with on-inch batter at top.

(c) Curb gutter: See Detail.

(d) Thickness: six inches.

(e) Control joints:

[1] Contraction joints: 10 feet center to center.

[2] One-half expansion joints: 30 feet center to center.

(3) Grades; slope; curve radius.

- (a) Grades. Finish grades and location for sidewalk and curb will be approved, i.e., as established by the Borough Engineer, prior to issuance of sidewalk/curb permit.
 - (b) Sidewalks shall have no steps except six inches street to curb.
 - (c) The slope of the sidewalk shall conform to existing ground except at ADA ramps and transitions from old to new section. Maximum slope at transitions shall be one foot in 20 feet 5%.
 - (d) For curb cuts, see Article III, Excavations.
 - (e) Curve radii must be no less than five feet.
- (4) Materials. Materials shall be as follows:
- (a) Sidewalk and curb must be concrete of minimum 4,000 pounds per square inch at 28 days, 3% to 5% air entrained.
 - (b) Reinforcing must be WWF 6/6 to 10/10 or equal area of steel.
 - (c) Curb, plain. No reinforcement required.
- (5) Surface finish. Surface finishing shall be as follows:
- (a) Sidewalk: broom finish or equal [steel trowel smooth or roughness exceeding one-eighth inches is not acceptable].
 - (b) General sequence: screed, float and broom.
 - (c) Water curing recommended.
- (6) Sidewalk Curb Ramps in the public right-of-way. Sidewalk curb ramps complying with the American with Disabilities Act (ADA) and PennDOT Standards for Roadway Construction (RC Standards) are required to be installed when new sidewalks are being installed, and when existing sidewalks are being replaced. Refer to ADA and PennDOT Standards for Roadway Construction, latest editions, for applicable dimensions, slopes, available options, and related requirements. In the event that it is technically infeasible to meet the requirements for a curb ramp at a specific location due to the longitudinal roadway slope or other legitimate reasons, the applicant shall submit a PennDOT Technically Infeasible Form with photographs and survey information to the Borough Engineer for review. The Borough Engineer will either agree to eliminate the curb ramp if it is determined the installation would result in an unsafe condition or require installation of the curb ramp in a design can be achieved which complies or closely complies to the required criteria.
- (7) Permit Form. The form shall be signed by the Code Enforcement Officer and the Public Works Supervisor. Final Inspection shall be provided by Borough prior to closing the Permit.

§ 135-8. Enforcement; Correction of violations; time limits; Violations and Penalties.

- A. In the case of any sidewalk hereafter erected, constructed, reconstructed, altered, repaired or maintained in violation of this Ordinance or any ordinance or regulation made under authority conferred hereby, the Code Enforcement Officer or the Borough Council may, in addition to other remedies contained herein, institute any appropriate action or proceedings to prevent, remove or correct such violation.
- B. Upon being issued a notice of violation of sidewalk condition requiring maintenance, the property owner shall take the necessary steps to correct such violation(s) within a reasonable period of time, but in no case shall any violation remain uncorrected for a period of more than 60 calendar days beyond the date of receipt of such legal notice. If the sixty (60) days concludes after November 15, then said repairs shall be made on or before April 30 of the following year of said notice. However, where a condition exists of an emergency nature, such repairs shall be made within ninety-six (96) hours of said notice. Failure to comply shall subject such property owner to any or all penalties contained in this Ordinance.
- C. Upon being issued a notice of violation due to a sidewalk obstruction the property owner shall take immediate action to remove the obstruction. The Code Enforcement Officer may remove such obstruction eight (8) hours after notice to the owner or person in charge of the obstruction. If the owner or person in charge of the obstruction cannot be readily located for the purpose of providing notice, the Code Enforcement Officer may remove the obstruction to a suitable location and store the obstruction at the expense of the owner or person in charge of the obstruction.
- (1) The Code Enforcement Officer may enforce this subsection without notice in the event of an immediate threat to the public health, safety, or welfare.
- D. If a property owner fails to comply with the requirements of a notice of violation, the Code Enforcement Officer may serve a written notice requiring compliance. If such property owner continues to fail to comply with such notice within the time described in this section from the date and time of its service, the Municipality may make the necessary repairs, remove any obstruction or eliminate any hazard to pedestrian safety. The cost of the same, together with a penalty of 10%, shall be paid by the delinquent property owner and be collected by an action of assumpsit, or the enforcing authority may file a municipal lien against the property. The notice provided for in this section may be served on the property owner in person, by leaving the same at place of residence or, if they have no residence in the Municipality, then by posting the same on the premises and mailing a copy thereof to the owner at last known address as obtained from the Westmoreland County Tax Assessor's office. Notwithstanding the previous provisions and those of this Ordinance, in an emergency situation as determined by the Code Enforcement Officer and where the property owner cannot be immediately contacted, the Municipality may affect such necessary repairs or correct or abate any dangerous condition and collect the costs thereof in the manner described above.
- E. Additionally, any person, property owner, firm, corporation or public utility who or which shall violate any provisions(s) of this Ordinance shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine not exceeding \$300, plus costs of prosecution for each and every offense, and, in default of payment of such fine and costs not caused by indigence or lack of sufficient assets,

to imprisonment for not more than 30 days. Each day that a violation is continued shall constitute a new and separate offense punishable by like fine, penalty or imprisonment. All fines collected for the violation of this Ordinance shall be paid over to the general fund of the Municipality.

§ 135-9. Amendments.

This Ordinance may be amended from time to time, in whole or in part, by action of the Borough Council. Notice of such amendment shall be published per the Borough Code.

§ 135-10. Fees.

The fee for a Sidewalk Permit shall be according to the Permit Fee Structure.

STREETS AND SIDEWALKS
ARTICLE II
Obstructions and Encroachments

§ 135-11. Definitions and word usage.

A. As used in this article, the following terms shall have the meanings indicated:

PERSON – Any natural person, partnership, association, firm or corporation.

B. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

§ 135-12. Cellar openings; Stairs leading up.

A. Hereafter, it shall be unlawful for any person to construct any opening into a cellar which shall occupy or open into any portion of any street, public alley or sidewalk in the Borough of Ligonier. All cellarways, cellar steps and cellar doors constructed and located prior to the enactment of this article and occupying or opening into any portion of a sidewalk may continue to be maintained and used under the following conditions:

(1) All cellarways opening into and encroaching upon a sidewalk, where the direction of the steps is at right angles to the length of the sidewalk, shall be securely covered with iron doors closing flush with the surface of the sidewalk, and such doors shall at all times be kept in a safe and secure condition and shall be kept closed at all times between sunset and sunrise and at all other times when the cellar steps are not being used.

(2) All cellar steps located along a building, where the direction of the steps is parallel to the length of the sidewalk, shall be surrounded on two sides by substantial metal railings.

B. Hereafter, it shall be unlawful for any person to construct or locate or place any step or steps leading upward from a sidewalk to a porch or building where any portion of any such step shall be located upon the sidewalk, provided that any step or steps constructed and located prior to the enactment of this article may continue to be maintained and used, provided that no such step or steps shall extend more than four feet into a sidewalk, in the case of a sidewalk nine feet wide or wider, or more than two feet into a sidewalk, in the case of a sidewalk less than nine feet in width.

§ 135-13. Overhead, At grade, perpendicular and longitudinal obstructions.

- A. It shall be unlawful for any person to place or maintain any awning or similar structure, any part of which extends over or above any sidewalk, unless every part of such awning shall be at least three feet from the curblin and at least seven feet above the surface of the sidewalk.
- B. It shall be unlawful for any person to construct or locate any portion of a building or any porch, by or jut window, enclosure or other structure, or part thereof, except as specifically permitted by §§ 135-3 and 135-13 of this article, any part of which shall extend into or be located or encroach upon any sidewalk, street, or alley in the Borough of Ligonier.
- C. It shall be unlawful for any person to construct, erect or locate any fence or wall or to plant or maintain any hedge along any sidewalk, street or alley in the Borough of Ligonier when any part of such fence, wall or hedge shall be closer than one foot to the property line.
- D. It shall be unlawful to place or construct a sign or post which encroaches on or limits clearance above any sidewalk or Borough right-of-way, or to place a power cord, water hose or similar obstruction across or along a sidewalk.

§ 135-14. Removal of obstructions.

Any cellarway, cellar door, step, awning, porch, bay or jut window, enclosure, fence, wall or hedge or other structure or building, or part thereof, located or maintained in conflict with any of the provisions of this article, shall be removed by the owner of the property where such obstruction or encroachment is maintained within 10 days after notice from the Borough Council to do so, and, in default of such removal by such property owner, within such time limit, the Borough may cause the same to be removed and may collect the cost of removal, together with a penalty of 10%, from such defaulting property owner.

§ 135-15. Violations and penalties.

Any person who shall violate or fail to comply with any of the provisions of this article shall, upon conviction thereof before the Magisterial District Judge, be sentenced to pay a fine of not more than \$300 and costs of prosecution for each and every such offense and, in default of payment thereof, to imprisonment in the county jail for not more than 30 days, provided that each day that a violation or failure to comply shall continue shall constitute a separate offense.

SECTION III

All other provisions of Chapter 135 of the Code of the Borough of Ligonier shall remain in effect and unchanged.

SECTION IV

This Ordinance shall become effective upon enactment.

ENACTED and ordained this _____ day of _____, 2023.

ATTEST:

BOROUGH OF LIGONIER

Secretary

By: _____
Matthew S. Smith, President

Examined and approved this _____ day of _____, 2023.

Mayor