

**TOWNSHIP OF WEST EARL**

Lancaster County, Pennsylvania

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**ORDINANCE NO. \_\_\_\_\_**

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AN ORDINANCE TO AMEND THE CODE OF ORDINANCE OF THE TOWNSHIP OF WEST EARL, CHAPTER 152, STREETS AND SIDEWALKS, TO ADD A NEW ARTICLE V, SIDEWALKS, REQUIRING MAINTENANCE REPAIRS TO SIDEWALKS.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of West Earl, Lancaster County, Pennsylvania, as follows:

Section 1. The Code of Ordinances of the Township of West Earl, Chapter 152, Streets and Sidewalks, shall be amended by adding a new Article V, Sidewalks, which shall provide as follows:

**ARTICLE V**

**SIDEWALKS**

**§152-51. Short Title.**

This Article shall be known and may be cited as the West Earl Township Sidewalk Ordinance.

**§152-52. Definitions and Word Usage.**

The following words, when used in this Article, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

**BOARD OF SUPERVISORS** – the governing body of the Township.

**CODE ENFORCEMENT OFFICER** – the person appointed by the Board of Supervisors to administer and enforce this Article..

**TOWNSHIP** – the Township of West Earl, Lancaster County, Pennsylvania.

**§152-53. Township to Establish Streets Where Sidewalks to be Installed.**

The Board of Supervisors shall determine where sidewalks shall be constructed and surfaced along the public highway and streets of the Township.

**§152-54. Written Notice.**

Upon the enactment of an ordinance requiring installation of sidewalks along one or more identified streets, the Code Enforcement Officer shall serve written notice upon the owners of properties abutting on said public highways and streets, requiring them to construct and surface such sidewalk with 180 days from the date of such notice. The sidewalk shall be constructed in the manner and under the specifications as hereinafter set forth.

**§152-55. Repair of Existing Sidewalks.**

From and after the passage of this Article, all existing sidewalks within the Township found to be defective or in need of resurfacing or repairs shall be resurfaced and/or repaired by the owners of the lots fronting or abutting thereon, after receipt of and in accordance with the terms of a notice to be issued and served as hereinafter set forth.

**§152-56. Determination of Sidewalk Needing Repair.**

An existing sidewalk shall be deemed defective and/or in need of replacement, resurfacing or repair whenever, by reason of being uneven, cracked, broken or otherwise defective, such sidewalk becomes hazardous or presents a danger or risk in use by a pedestrian while walking or jogging and/or in the normal use of sidewalks with tricycles, baby strollers and the like.

**§152-57. Determination by Code Enforcement Officer.**

The need for and the type of repairs or resurfacing to be made to existing sidewalks under the provisions of this Article shall be determined by the Code Enforcement Officer.

**§152-58. Inspections.**

The Code Enforcement Officer shall make periodic, but at least annual, inspections of all existing sidewalks in the Township.

**§152-59. Type of Extent of Repairs.**

Upon determination of the need for resurfacing or repairs to existing sidewalks, the Code Enforcement Officer shall give notice of the type and extent of the sidewalk repairs and/or resurfacing required under the provisions of this Article. Such notice shall be served upon the owner of the property abutting the defective sidewalk. All resurfacing or repairs required shall be completed within six (6) months of the date of the notice. Construction standards and specifications will be provided with the West Earl Township Sidewalk Permit Application.

**§152-60. Service of Notice.**

The Township shall service notice required by this Article upon the owner of the subject property in any of the following manners: By delivering the same to such owner personally, by delivering the same to and leaving it with an adult person in charge of the property if the owner of the property resides at the property, by affixing the same in a conspicuous position upon said property if the owner of the property resides on the property, or by sending said notice by certified mail, return receipt requested, and first class mail addressed to the owner at the last known address of the owner. Service by mail shall be considered complete if the certified mail is accepted or if the certified mail is unclaimed and the notice sent by first class mail is not returned to the Township as undeliverable.

**§152-61. Contents of Notice.**

Notice to be served under the provisions of this Article by the Code Enforcement Officer shall set forth the defects found, the type and extent of the repairs required and that such repairs must be completed within six (6) months of the date of this notice.

**§152-62. Appeals.**

In the event that the owner of the premises for which the defective sidewalk notice has been given desires to contest the determination of the Code Enforcement Officer that the sidewalk is defective, such owner shall have a right within 5 days to appeal such determination to the Township Manager. Any appeal shall be in writing and shall contain all of the reasons for the appeal, together with any appeal fee established by ordinance or resolution. The Township Manager, after personal inspection, shall within seven (7) days of the date of any such appeal make a determination of approval or disapproval of the finding of the Code Enforcement Officer and shall note his/her determination by endorsement on a copy of the initial notice with notification thereof to the owner by mail.

**§152-63. Collection of Costs; Additional Penalties.**

The failure of the owner of the property to comply with the provisions of any notice served under the provisions of this Article within a period of 6 months shall be considered a violation of this Article, and the Township shall have the right to have the repairs and resurfacing required under the notice to be done at the cost of such owner and shall thereafter collect the cost thereof, together with the ten (10) percent penalty. The provision of this Section shall not be considered exclusive and the Township, in addition, may proceed for the violation of this Article as hereinafter provided.

**§152-64. Municipal Claim and Lien.**

The cost and charges together with penalties shall be collected from the owner either by the filling of a municipal claim and lien thereof in accordance with law or by civil action for the

collection of the same in accordance with the provisions of the Second Class Township Code and the Municipal Lien Law. Such claims shall bear interest at the rate of ten percent. A certificate as to cost, expenses and penalties from the Township Secretary shall be conclusive as to the costs of such repairs and resurfacing.

**§152-65. Proposals; Sealed Bids.**

In lieu of the procedure set forth above, the Township may prepare specifications for and obtain quotations by way of competitive proposals or sealed bids, if required by law, for the installation, resurfacing, repair or replacement of sidewalks required under the provisions of this Article. Such proposals and/or bids may be received and contracts let for work thereunder by the Board of Supervisors after notice to all affected owners of property that the Township intends to undertake such work and shall, in lieu of assessment for failure to perform such work by owner or owners of property, apportion the cost of such contract or contracts to each property owner in the proportion to their frontage. If any property owner fails to respond to such notice or refuses to participate in the owner's proportionate cost of such contract or contracts, the sidewalks situated on such owner's property shall be installed, resurfaced, repaired or replaced and costs assessed in accordance with other sections of this Article.

**§152-66. Tampering Without Permit Prohibited.**

It shall be unlawful for any person to tear up, destroy, remove, deface, excavate, install, repair or resurfacing any sidewalk along the public highway or streets of the Township, whether after notice by the Township to make repairs or resurfacing or otherwise, except in accordance with a sidewalk permit duly issued by the Code Enforcement Officer after written application to him/her.

**§152-67. Installation and Repairs to Be in Accordance with Specifications.**

The installation, resurfacing, repair or replacement of sidewalks required under the provisions of this Article shall be installed, completed and done in accordance with the specifications set forth in Chapter 155, Subdivision and Land Development.

**§152-68. Grading.**

Whenever any sidewalk is to be installed or resurfacing under the provisions of this Article at an intersection, and it is determined necessary and in the best interest of the Township for the benefit of commerce or the use by the handicapped, then, in that event, the resurfacing or installation required under this Article shall include the gradual grading of concrete from the established grade of the sidewalk to street level upon plans and specifications prepared by the Township Official.

**§152-69. Dangerous Conditions; Emergency Repairs.**

Notwithstanding the foregoing, when in the opinion of the Code Enforcement Officer, a dangerous condition exists on any sidewalk with the Township which has an immediate effect upon the safety or public welfare of the Township, a notice to make such repairs within 30 days shall be served upon the owner of the property abutting or fronting upon the defective sidewalk in the manner hereinabove set forth. In the event that such emergency repairs are not made within 30 days, the Township shall have the right to make such repairs and charge the costs thereof against the owner of the property, together with a penalty of ten percent of such costs, which charge shall be collected in the manner herein set forth.

**§152-71. Violation and Penalties**

Any person, firm or corporation who shall violate any provision of this Article, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 and more than \$1,000 plus costs and, in default of payment of said fine and cost, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Article continues shall constitute a separate offense, and each day that a violation continues constitutes a separate violation.

Section 2. All other sections, parts and provisions of the Code of Ordinances of the Township of West Earl shall remain in full force and effect as previously enacted and amended.

Section 3. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

Section 4. This Ordinance shall take effect and be in force five (5) days after its enactment by the Board of Supervisors of the Township of West Earl as provided by law.

DULY ORDAINED AND ENACTED this \_\_\_\_ day of \_\_\_\_\_, 2015, by the Board of Supervisors of the Township of West Earl, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF WEST EARL  
Lancaster County, Pennsylvania

Attest: \_\_\_\_\_  
(Assistant) Secretary

By: \_\_\_\_\_  
(Vice) Chairman  
Board of Supervisors

[TOWNSHIP SEAL]

**CERTIFICATE**

I, the undersigned, (Assistant) Secretary of the Township of West Earl, Lancaster County, Pennsylvania ("Township") certify that: The foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which duly was enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township of West Earl at a meeting duly held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; that such Ordinance has been duly recorded in the Ordinance Book of the Township; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township of West Earl met the advance notice and public comment requirements of the Sunshine Act, 65 Pa. C.S. §701 et seq., as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Township of West Earl or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township of West Earl, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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(Assistant) Secretary

[TOWNSHIP SEAL]