

**TOWNSHIP OF DELANCO  
ORDINANCE 2017-5**

**CREATING CHAPTER 240 GOVERNING  
"SIDEWALK AND CURB REPAIR"**

**WHEREAS**, the Township of Delanco has had a policy of requiring sidewalk and curbs to be repaired by those property owners abutting the sidewalks and curbs; and

**WHEREAS**, N.J.S.A. 40:65-1, et seq. permits municipalities to adopt Ordinances requiring abutting property owners to repair sidewalks and curbs; and

**WHEREAS**, it is the further intent of the Township Committee to establish responsibility, throughout the Township for maintenance of the area within a public right-of-way between private property lines and the cartway of a street; and

**WHEREAS**, the Township Committee of the Township of Delanco desires to adopt this Ordinance pursuant to the Statute in order to codify the Township's existing policy and in the best interests of the health safety and welfare of the Township's residents and the public at large.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Township Committee of the Township of Delanco, County of Burlington, State of New Jersey, that the Township Code is hereby amended to add Chapter 240, governing "Sidewalk and Curb Repair" as follows:

**Chapter 240. Sidewalk and Curb Repair.**

**§ 240-1. Applicability.**

The owner(s) of every property abutting a public sidewalk and/or curb in the Township shall comply with the provisions of this chapter, whether or not the abutting property is vacant or such buildings thereon shall have been constructed, altered or repaired before or after the enactment of this chapter. Failure to comply with the provisions of this chapter shall be unlawful conduct by the abutting landowner. This chapter establishes minimum standards for abutting landowners regarding sidewalks and curbing and does not replace or modify standards otherwise established for the construction, repair, alteration or use of buildings or other improvements on abutting properties.

**§ 240-2. Enforcement.**

The "Township Enforcement Officer" shall be defined as the Zoning and Code Enforcement Officer or any other Township official so designated by the Township Administrator to enforce the provisions of this chapter. All Township departments shall cooperate fully with the Township Enforcement Officer in the enforcement of the provisions of this chapter. All violation complaints under this chapter may be brought by any resident or the Township Enforcement Officer.

**§ 240-3. Responsibility of owner for sidewalks and curbs between private property and cartway.**

Every property owner in the Township shall be responsible for the maintenance of the area within an abutting public right-of-way between the property lines of the premises in question, extended to the cartway line.

Maintenance responsibilities, regardless of cause, shall include but are not limited to the following:

- A. All sidewalks and curbs on any and all streets, roads and public places in the Township shall be repaired and kept in repair at the cost and expense of the owner or owners of the lands in front of which such sidewalks and curbs are constructed.
- B. Removal of any and all weeds, litter and other debris within a reasonable period of time of its occurrence, where such weeds, litter or other debris may create a hazard or unhealthy condition to the pedestrian public.
- C. Maintaining all surfaces in level and safe condition to avoid tripping hazards, (e.g. filling any depressions due to settling of earth, repairing uneven edges of concrete, brick or other hard surface material, etc.) as further set forth in general construction specifications referenced below.
- D. Repair or reconstruction shall be done in materials of like-kind and quality to those existing materials being repaired or replaced. For example, brick sidewalks shall be replaced with brick. Any proposed materials shall be approved by the Township Enforcement Officer, who may consult with the Township Engineer, prior to installation.

Such work shall also be done in accord with Chapter 238, governing Shade Trees and the Americans with Disabilities Act (“ADA”). Responsibilities shall not include maintenance of any streetlight, traffic signal, regulatory sign, public trash receptacle, public bench, bus shelter, public bicycle rack or any equipment or improvements owned and maintained by a public utility.

**§ 240-3.1. Exception for Heaving Caused by Municipally-Owned Street Trees; Municipal Contribution.**

- A. Exception. If a municipally-owned street tree is determined to be a contributing factor to a lifted or heaved sidewalk, prior to conducting the repair, the abutting property owner may submit a request to the Township for contribution to the cost of repair of those sidewalk panels impacted. By separate Resolution, the Township will establish a per panel contribution reimbursement intended to represent 50% of the cost of replacing a sidewalk panel, which Resolution may be amended from time to time to reflect changes in costs. For purposes of this section, a panel shall be a length of four feet (4’) of sidewalk. Requests for reimbursement shall identify the physical location of the tree and the affected sidewalk, the name and contact information for the owner of the abutting property who is responsible for the affected sidewalk, and repair cost estimates.
- B. Determination. Upon proper notice given by an abutting property owner, the Township Enforcement Officer shall make a determination as to whether the shade tree is a contributing factor, and if so, the number of sidewalk panels impacted. The Township Enforcement Officer may consult with the Township Engineer in making this determination.
- C. In the event that municipal funds are not available for a municipal contribution, the abutting property owner may proceed without the funds or be placed on a waiting list to receive municipal funds when available.

**§ 240-4. Enforcement program; Costs as lien.**

- A. The Township Enforcement Officer, or designee, shall determine the necessity of sidewalk or curb repair or improvement, and shall cause a notice in writing to be served upon the abutting landowners of said lands, requiring the necessary specified work to be done by the owner within a period of not less than 60 days from the date of service of the notice. The Township Enforcement Officer may, in his or her discretion and due to inclement weather or other good cause, extend the period for a longer period than 30 days, provided that the extended period shall not exceed 90 days.
- B. Whenever any abutting lands are unoccupied and the owner cannot be found within the municipality, the notice may be, mailed, postage prepaid, to his or her post office address, if the address can be ascertained.

In the event that the owner is a nonresident of the municipality or his or her post office address cannot be ascertained, then the notice may be inserted for four weeks, once a week, in a newspaper published in the State of New Jersey and circulated within the Township.

- C. In the event that the owner of the abutting land has not complied with the requirements of the notice, the Township Enforcement Officer shall certify the costs of repair and file same with the Tax Collector. The Township Committee shall, after the filing of said notice with the Tax Collector and upon completion of the work, cause the same to be paid for from the funds of the Township and the full amount of costs, including administrative costs, to be placed as a lien on the property.
- D. The Tax Collector shall credit all moneys from the performance of the work to an account to be established by the Tax Collector for performance of the work as set forth in this article by the municipality.

#### **§ 240-5. Alternate enforcement; Penalties.**

The Township Enforcement Officer, or such other designee(s) as may be established by the Township Administrator, may cite a property owner in accord with Chapter 222-9(D) of this Code, governing Property Maintenance, in accord with the process and procedures set forth therein.

Any person, firm or corporation who or which violates any provision of this chapter shall, upon conviction, be punishable as provided in Chapter 1, General Provisions, Article II, General Penalty. The Municipal Court of the Township of Delanco shall have jurisdiction to enforce the provisions of this chapter.

#### **§ 240-6. Standards Established.**

Sidewalks shall be constructed in accordance with and meet the following standards as well as any other additional standards as provided in the most current NJDOT Standard Specifications for Road and Bridge Construction (Section 606). Where any conflict may arise between the NJDOT Standard Specifications for Road and Bridge Construction standards and the following, the NJDOT Standard Specifications for Road and Bridge Construction standards shall prevail:

- (a) Concrete sidewalk specifications. Except as provided in Chapter 240-3.D above governing repair in like-kind materials, sidewalks shall be constructed with Class C. air-entrained, Portland cement concrete. The concrete proportion shall consist of one part Portland cement, two parts sand and four parts crushed stone or washed gravel and constructed to a thickness of not less than four inches. Where the sidewalk crosses over a driveway, it shall be six inches. Concrete shall not be less than 3,500 PSI with a 28-day cure rate.
- (b) Alignment and grade. Alignment and grade is to be determined by the established or existing grade in the area. If necessary, an abutting property owner can request review and approval from Township Engineer.
- (c) Transverse expansion joints. Transverse expansion joints, 1/2 inch wide, shall be provided at intervals of not more than 20 feet and shall be filled with prefabricated, bituminous, cellular-type joint filler.
- (d) Longitudinal joints. Longitudinal joints, 1/4 inch wide, shall be provided between curbs and abutting sidewalks and shall be filled with premolded, bituminous-type joint filler.
- (e) Transverse surface grooves. Transverse surface grooves shall be cut in the sidewalk between expansion joints at intervals equal to the sidewalk width.
- (f) Slope. The standard slope of the sidewalk or sidewalk area shall be 1/4 inch per foot rising from the top of the curb.
- (g) Type of finish. The finish shall be made with a wood float, followed by brushing with a wet soft-hair brush to a neat and workmanlike surface. All edges shall be neatly rounded to 1/4 inch.

- (h) Width. The minimum width of a sidewalk shall be four feet and shall be at grade and width of existing sidewalk panels. No sidewalk width or planting area located between the curb and sidewalk shall be narrowed without the permission of the Township Engineer or his/her designee.
- (i) Alternate upon review. Alternate materials may be considered and approved by the Township Engineer, provided that the material is as good or superior to the base specifications set forth above. For example, rubberized sidewalks may be appropriate replacement material in certain instances.
- (j) The Township Engineer, nor any other Township official or agent, shall be responsible for any deficiencies in sidewalks experienced by property owners following installation.

#### **§ 240-7. Removal of Existing Sidewalk Prohibited.**

Absent the formal approval of the governing body, no property owner or any other person shall cause to remove any sidewalk or curb under the jurisdiction of the municipality except for the repair or replacement of existing damaged sidewalk or curbing.

#### **§ 240-8. Municipal Sidewalk Inspection Program Established**

The Township Administrator, or his/her designee, in consultation with the Township Solicitor and Township Engineer, shall establish and provide for the implementation of a municipal sidewalk and curb inspection program to ensure that repair standards for sidewalk and curbs in the municipal right-of-way are met as provided for in this Chapter. The program shall require inspections to occur on a rolling basis such that all sidewalks are inspected at least once every five years.

Section 2. Repealer. Any Ordinances inconsistent with this ordinance is hereby repealed to the extent of its inconsistency.

Section 3. Severability. If any provision of this Ordinance is deemed unlawful by a Court is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect upon proper passage in accordance with the law.