

**ORDINANCE NO. 2023 - 4**  
**OF THE BOROUGH OF PEMBERTON AMENDING**  
**CHAPTER 176 "STREETS AND SIDEWALKS" TO**  
**ADD**  
**ARTICLE III " SIDEWALK MAINTENANCE AND**  
**REPAIR"**

**WHEREAS, N.J.S.A.** 40:65-14 enables a municipality by ordinance to require the owner of a property abutting a sidewalk to maintain and repair the sidewalk in accordance with municipal standards; and

**WHEREAS,** the Borough Council has determined that to ensure the public safety and improve the appearance of the Borough, abutting landowners should be responsible for the expense of maintaining and repairing sidewalks.

**BE IT ORDAINED and ENACTED** by the Borough Council of the Borough of Pemberton, County of Burlington, and State of New Jersey, that Chapter 176 of the Code "Streets and Sidewalks" be amended to add Article III "Sidewalk Maintenance and Repair" as follows:

**SECTION ONE. Policy.**

It is the responsibility of the landowner of the property abutting the sidewalk to maintain and repair the sidewalk in a safe and structurally sound condition.

The adoption of this policy does not impose an obligation on the Borough, or any Borough officer or employee, to survey or inspect existing sidewalks for the purpose of determining whether maintenance or repairs are necessary, or to cause any sidewalk to be maintained or repaired.

**SECTION TWO. Landowner's Expense.**

Whenever the Borough Engineer certifies to the Borough Council that any sidewalk requires maintenance, repair or replacement, the expense of such maintenance, repair or replacement shall be the responsibility of the landowner of the property abutting the sidewalk.

**SECTION THREE. Duties of Borough Engineer.**

The Borough Engineer has the authority, upon receipt of a complaint from the Borough Administrator, to inspect a sidewalk to determine if it has become necessary for the public safety to require the maintenance, repair or replacement of the sidewalk. Prior to directing that any work be performed by

the abutting landowner, the Borough Engineer shall determine if the maintenance, repair or replacement results from the growth of roots from a tree planted by the Borough, or because of any action by the Borough, and if so, the condition shall be corrected by the Borough. Otherwise, upon the determination that maintenance, repair or replacement is necessary, the Borough Engineer shall notify and certify to the Borough Council the condition of the sidewalk and the work to be performed by the abutting landowner prior to the Borough Council serving notice on the landowner.

#### **SECTION FOUR. Sidewalk Specifications.**

Sidewalk repairs shall be performed using Portland cement concrete. The use of any other material shall only be permitted with the written approval of the Borough Engineer. The Portland cement concrete mix design shall be Class B concrete with a minimum 28-day design strength of 3,700 psi conforming to Section 903.03 of the NJDOT Standard Specifications for Road and Bridge Construction (2019), and Installation shall conform to Section 606.03.02 of the NJDOT Standard Specifications for Road and Bridge Construction.

Sidewalks shall have a minimum thickness of four inches, except concrete that will be subject to motor vehicle traffic shall have a minimum thickness of six inches and be reinforced with welded wire fabric or fiber mesh. New sidewalk panels shall be level with each adjacent panel and the vertical offset between panels shall not exceed one-eighth of an inch.

Sidewalks shall conform to all ADA and State accessibility requirements.

#### **SECTION FIVE. Notice to perform sidewalk work.**

The Borough Council, upon receipt of the certification from the Borough Engineer, shall determine the necessity of such improvement, and, if it deems that said improvement is necessary, it shall by resolution, cause a notice in writing to be served upon said abutting landowner, by both certified and regular mail, requiring the necessary specified work be done within thirty days from the date of service of the notice. The Borough Council may, at its discretion, due to inclement weather, extend the time period beyond thirty days, but in no event shall the period exceed one hundred and twenty days.

If the abutting land(s) are unoccupied and the owner(s) cannot be found within the Borough, the notice may be mailed, postage prepaid, to his or her post-office address, if the same can be ascertained. In case the owner is not a Borough resident, 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 circulating in the Borough.

**SECTION SIX.** Excavation permit.

Prior to commencing any repair or replacement of a sidewalk located within a driveway opening, the abutting landowner shall obtain an excavation permit pursuant to Code § 176-5.

**SECTION SEVEN.** Failure to perform sidewalk maintenance, repair or replacement.

If the abutting landowner fails to comply with the requirements set forth in the notice, the Borough Council shall cause to be filed with the Tax Collector proof of service or publication of the notice. Upon the filing of the proof of service the Department of Streets and Roads shall be authorized to cause the necessary maintenance, repairs or replacement to be made at Borough expense with costs to be paid by the abutting landowner(s).

**SECTION EIGHT. Collection of costs.**

The Borough Administrator shall certify to the Tax Collector the cost incurred to maintain, repair or replace the sidewalk. Upon the filing of the certificate, the amount of the cost of the work shall be and become a lien upon the abutting lands in front of which such work was done to the same extent that assessments for local improvements are liens and shall be collected in the manner provided by law for the collection of such other assessments, and shall bear interest at the same rate. The Borough Administrator may direct the Borough Attorney to commence an action in the Superior Court wherein a certified copy of the certificate shall be prima facie evidence of the existence of the debt. All funds recovered shall be credited by the Chief Financial Officer to the account out of which the cost of such work was paid.

This ordinance was introduced at a meeting of the Borough Council of the Borough of Pemberton held on May 15, 2023 and will be considered for final passage after a public hearing at the regular meeting of the Borough Council to be held on June 20, 2023 at the F. Lyman Simpkins Municipal Building, Burlington, Township, New Jersey at 6:30 p.m.

This will certify that the foregoing Ordinance was passed by a majority of the Borough Council on .

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Kathy Smick, RMC  
Municipal Clerk

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Harold C. Griffin  
Mayor