

STEWARTSTOWN BOROUGH

York County, Pennsylvania

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**ORDINANCE NO. 2003-003**

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**AN ORDINANCE**

**AN ORDINANCE OF THE BOROUGH COUNCIL OF STEWARTSTOWN BOROUGH, YORK COUNTY, PENNSYLVANIA, WHICH REPLACES ORDINANCE NOS. 1991-04 AND 1991-05 SPECIFYING WHERE SIDEWALKS ARE TO BE INSTALLED, WHEN EXISTING SIDEWALKS SHOULD BE GRAND FATHERED INTO COMPLIANCE, MAINTENANCE REQUIREMENTS, CONSTRUCTION STANDARDS, UNIFORM WIDTH, AND PROVIDES FOR SPECIAL EXCEPTIONS**

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**BE IT ORDAINED AND ENACTED** by the Borough Council of Stewartstown Borough, York County, Pennsylvania, as is hereby ordained and enacted by the Authority of the same as follows:

Section 1. Definitions. As used in this Ordinance, the following terms have the meaning indicated, unless a different meaning clearly appears from the context:

**Borough** – the word Borough shall refer to the Borough of Stewartstown, located in York County, Pennsylvania.

**Owner** – any person, firm, partnership, association or corporation having a right of property.

**Public Property** – limited to any street, alley or alleyway, sidewalk or walkway, stairs, playground or other public area located in the Borough. This also includes the floors or stairs of any building or place used by the public.

Private Property – any property that is owned by a person, firm, partnership, association or corporation that is located within the Borough. This includes private streets, roads, and alleys.

Commercial Property – shopping centers, professional buildings, single standing retail establishments, banks, churches, funeral homes, and any other building or lot, which is used for business purposes including the parking lots.

Driveway Aprons - the driveway apron shall be considered a part of the sidewalk if it is adjacent to one or more existing sidewalks. Its construction requirements shall be the same or greater as a sidewalk.

**Section 2. Sidewalk Construction Requirements.** Each sidewalk shall have a minimum width of four (4) feet, plus the width of curb, plus any unpaved areas located between the curb and sidewalk. The sidewalk shall be constructed of five (5) inches of concrete over six (6) inches of crushed stone for new construction. Replacement sidewalks shall have a minimum of four (4) inches of concrete over six (6) inches of crushed stone. All curbing whether new or replacement shall be in compliance with the standards set forth in the Stewartstown Borough Subdivision Ordinance, which is in effect at the time of construction or replacement. Other paving materials may be substituted for concrete provided that the substitute material is required to maintain historical preservation or aesthetic purposes or is necessitated because of the use of the property. Substitutions must be approved by the Borough engineer to ensure pedestrian safety and for durability.

**Section 3. Waivers.**

- a. The Borough Engineer may, upon application of the property owner, grant a deviation in a minimum width if it is necessitated by encroaching buildings or other extreme topographic difficulties.

- b. No sidewalk constructed prior to the effective date of Ordinance No. 1991-004 (12/02/91) shall be required to meet the construction standards or minimum width requirements set forth until the sidewalk is replaced or repaired
- c. The Borough Council may waive the requirements for sidewalks/curbs or alter the construction standards if it finds that they are not keeping with the Borough's storm Water Management Plan or is not aesthetically in keeping with the neighborhood.
- d. The Borough Council may after consultation with the engineer waive the requirements for sidewalks, but not for curbs in cases of extreme topographic difficulties or because of encroaching buildings or improvements.

**Section 4. Maintenance.** All Property owners must make reasonable efforts to

tie their sidewalks to adjacent sidewalks, minimize drops, steps or width variances.

- a. Sidewalks must be maintained in a safe condition and shall include but not be limited to repairing of holes and cracks having a width in excess of one-half (1/2) inch at any one point along a length of one (1) foot or greater.
- b. Constant Grade: Repairs shall be made when one or more sections of the sidewalk rises above or drops below the grade of the edges of the immediately adjacent sections resulting in an irregular surface with a depression of one-half (1/2) inch depth.
- c. Repairs shall be made when the curb is out of horizontal alignment with the adjacent curb in excess of one-half (1/2) inch.
- d. Any sidewalk that has twenty-five (25%) percent or more of its surface broken up or where the surface is chipped away (spalling).
- e. All sidewalks and curbs constructed after the effective date of Ordinance No. 1991-04 (12/02/91) shall be built or rebuilt in a manner to afford handicapped and wheelchair access.

**Section 5. Sidewalk Location Requirements & Dates.**

- a. All properties abutting Main St. without curbing must immediately construct curbing in compliance with Ordinance No. 1991-04 and this Ordinance.

- b. Property owners abutting Main Street shall not be required to install sidewalks where no sidewalks previously existed or other property owners required to install curbs and sidewalks where no sidewalks previously existed as such time as a subdivision is granted or site plan approved for further residential, commercial or industrial development of the property or building permit is issued for new construction of a single family home, duplex home or multi-family residence, commercial industrial construction, or a use certificate is granted for commercial or industrial use of the premises.
- c. All property owners will be required to construct curbing if mandated by the Pennsylvania Department of Transportation as a result of a state road constrictions or improvements.

**Section 6. Permits.** The property owner must obtain a permit prior to construction, replacement or repairs of new or existing sidewalks and/or curbs and pay all permit fees as fixed by Stewartstown Borough Council from time to time by resolution for said permit.

**Section 7. Reasonable Notice.** It shall be unlawful for any property owner to fail to bring his sidewalks and curbs into compliance with the maintenance standards of Section 4 hereof within ninety-six (96) hours of notice of an emergency and sixty (60) days notice of all other necessary repairs. The period of time from November 15 until April 30 shall not count toward the sixty (60) day limit, but shall count toward the ninety-six (96) hour limit.

**Section 8. Authorization to Fix after Notice.** The Borough may sixty (60) days after notice to a property owner of public, private or commercial property install, replace or maintain curbing and sidewalks. The Borough is authorized to charge the owner/owners one hundred and ten (110%) percent of the cost of construction, replacement or repairs of the curbing and sidewalk, which sum shall be a lien upon the property.

**Section 9. Notice.** The Borough will be deemed to have provided notice to all property owners when one joint owner is served with notice whether said joint owners are

tenants in common, joint tenants with rights of survivorship, tenants by the entireties, partners, limited partners or other joint owners. The property owners shall be deemed to have received notice required under Section 7 and 8 if the Borough employee or agent hand delivers to a property owner a copy of the notice requiring the performance or mails a copy of the notice requiring the performance to the property owner at his last known address via Registered or Certified First Class U.S. Mail, in which case the sixty (60) day and ninety-six (96) hour time limit provided for in Sections 7 and 8 shall run from the post marked date of the mailing. If the mailing is returned as refused, unclaimed or otherwise undeliverable or the address of the property owner is unknown, the Borough may post a notice of the necessary repairs on the property. The ninety-six (96) hour and sixty (60) day notices shall run from the date of posting.

**Section 10. Penalties.** Any owner in violation of any of the provisions hereof, shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of not less than twenty-five (\$25.00) dollars nor more than three (\$300.00) hundred dollars, together with the costs of prosecution and default thereof, to undergo imprisonment for a period not exceeding thirty (30) days. Each day that a violation of any provision of this Ordinance shall constitute a separate violation and shall be subject to a separate and distinct fine.

**Section 11. Enforcement.** This Ordinance may be enforced by the mayor, the Stewartstown Borough Police Department or any other duly constituted or authorized police agency, the Codes Enforcement Officer, Zoning Officer, and all authorized employees and agents of the Codes Enforcement Officer and Zoning Enforcement Officer.

Section 12. Repealer. All ordinances or parts of ordinances, which are inconsistent herewith, are hereby repealed.

Section 13. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of Stewartstown Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

Section 14. Effective Date. This Ordinance shall take effect immediately upon its passage.

ENACTED AND ORDAINED this 6<sup>th</sup> day of January 2003, by the Borough Council of Stewartstown, York County, Pennsylvania in lawful session duly assembled.

ATTEST:

BOROUGH COUNCIL OF THE  
BOROUGH OF STEWARTSTOWN

Susan M. Graw  
Secretary

BY: Shelbitha Gibbs  
President of Council

Approved this the 6<sup>th</sup> day of January 2003.

BY: Richard R. Hall  
Mayor