

ORDINANCE NO. 2022-04

**ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 170, "STREETS AND SIDEWALKS," ARTICLE VII, "SIDEWALK
MAINTENANCE," SECTION 170-27 THROUGH 170-30, TO PROVIDE FOR
MAINTENANCE AND REPAIR OF RESIDENTIAL AND NONRESIDENTIAL
SIDEWALKS BY OWNERS OF ABUTTING LAND OF THE BOROUGH OF
KENILWORTH MUNICIPAL CODE.**

WHEREAS, it is critical to the health, safety and welfare of residents and visitors to the Borough of Kenilworth (the "Borough") that all sidewalks be properly maintained and repaired; and

WHEREAS, N.J.S.A. 40:65-14 authorizes municipalities throughout the State to adopt a sidewalk maintenance ordinance that requires property owners whose properties abut public sidewalks to maintain and repair those abutting sidewalks; and

WHEREAS, the Mayor and the Borough Municipal Council have determined that it would be in the best interest of the Borough to amend its current ordinance addressing sidewalk maintenance to take full advantage of the current law for the repair of sidewalks for residential and non-residential properties by abutting property owners in order to protect the health, safety and welfare of the residents and taxpayers of the Borough.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, New Jersey as follows:

SECTION 1. RECITALS. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 170, "Streets and Sidewalks," Article VII "Sidewalk Maintenance," Sections 170-27 through 170-30 of the Revised Ordinances of the Borough of Kenilworth, Union County, New Jersey, is hereby replaced in its entirety with the following:

VII SIDEWALK MAINTENANCE.

§ 170-27 Purpose.

Pursuant to N.J.S.A. 40:65-14, the purpose of this Article is to set forth requirements standards and requirements for the construction, reconstruction, replacement, repair, alteration and maintenance of sidewalks and curbs within the Borough of Kenilworth.

§ 170-28 Necessity of Permit

- A. No person shall undertake any construction, reconstruction, replacement, repair, alteration or maintenance of a public curb or sidewalk, or any portion thereof, in the Borough without a proper permit from the Borough Construction/Building Department.

§ 170-29 Construction and maintenance standards.

- A. It shall be the duty and responsibility of the owner of any land abutting a public sidewalk or curb in the Borough to construct, reconstruct, replace, repair and maintain any curbs and sidewalks or any portions thereof abutting the land of the property owner at the sole cost and expense of such owner.
- B. Such upkeep shall include keeping abutting sidewalks in a proper condition of maintenance and good repair, including but not limited to, keeping such sidewalks free of obstruction, debris, cracks and crevices or other unsafe conditions.
- C. Sidewalks shall be constructed and maintained in conformity with the specifications in Residential Site Improvement Standards (N.J.A.C. 5:21-4.3; 5:21-4.5; 5:21-4.17 and 5:21-4.18 and Title 5, Chapter 21, of the New Jersey Administrative Code, as amended and supplemented).
- D. All sidewalks, curbing and other related improvements and appurtenances, including driveway aprons, ramps, cross walks, drainage structures or facilities, gutters, sewers, signs, markings, graded areas, pavement, streets and roads, must be in strict accordance

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with the Americans with Disabilities Act, the Barrier Free Subcode of the New Jersey Uniform Construction Code and all other applicable Federal, State, local or Borough design or construction standards. Any and all such work and materials furnished shall be subject to review and approval by the Borough Construction/Building Department.

- E. If any portion of the sidewalk or curb abutting or adjacent to the property for which a permit application is made is located on or along a County road or street under the control of the County, the property owner shall be required to seek and obtain approval from the County and comply with any and all County rules and regulations prior to applying for any concurrent or additional permit from the Borough Construction/Building Department.

§ 170-30 Restoration of site; cleanup.

Upon completion of sidewalk or curb construction, reconstruction, replacement, repair or maintenance, all equipment, unused materials and refuse shall be removed from the site of the work, and all public and private properties, appurtenances, signs, markings, ramps and related improvements damaged, disturbed or altered during the course of construction shall be replaced or repaired in accordance with all applicable Federal, State, local and Borough standards. The site shall be put as nearly as possible into conditions corresponding to that which existed prior to construction, all to the satisfaction of the Borough Construction/Building Department or his authorized representative.

§ 170-31 Sidewalk repair and maintenance; costs to become lien.

- A. Whenever an abutting or adjacent property owner fails to construct, reconstruct, replace, repair or maintain any curb or sidewalk abutting said property pursuant to this Article, the Borough may, by resolution, cause written notice to be served upon the owner or occupant of said lands requiring the necessary specified work to said curb or sidewalk to be done by said owner or occupant within a period of not less than 30 days from the date of service of such notice. Whenever such lands are unoccupied and the owner cannot be found within the Borough, or in such case as the owner is a nonresident of the Borough or his or her post address cannot be ascertained, then as provided by N.J.S.A. 40:65-14 the same may be mailed, postage prepaid, to his or her post-office address, if the same can be ascertained. In case such owner is a nonresident of the municipality or his or her post-office address cannot be ascertained, then the notice may be inserted for 4 weeks, once a week in some newspaper of such municipality or if none be published therein, then in some newspaper published in the State and circulating in said municipality.
- B. If the owner or occupant does not comply with the requirements of such notice as described in subsection A of this Section, then the Borough, upon filing due proof of service or publication of the aforesaid notice with the Borough Clerk, cause the required work to be done, and paid for out of the Borough funds available for that purpose, at the owner's expense.
- C. The cost of such work shall be certified by the Borough or such other person having charge thereof, to the Tax Collector of the Borough. Upon the filing of the certificate, the amount of the cost of such 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 in the Borough, 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.
- D. In addition thereto, the Borough may have an action to recover the same amount against the owner of the lands, in any court having competent jurisdiction thereof.

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E. The imposition and collection of a fine imposed for a violation of this Article shall be in addition to any other financial, legal or other recourse or remedy as may otherwise be available pursuant to Borough Ordinance or by law, and shall not anyway be construed to bar or limit any right of the Borough to collect the cost for construction, reconstruction, replacement, repair or maintenance of any sidewalk, curb or other related improvements or appurtenances in the manner herein authorized as provided by N.J.S.A. 40:65-14.

§ 170-32 Enforcement

This article shall be enforced by the Police Department and/or Borough Construction/Building Department of the Borough of Kenilworth.

§ 170-33 Violations and Penalties

Any person who shall violate or fail to comply with any provision of this Article shall, upon conviction, be subject to fine of not less than \$50.00 per day, nor in excess of \$200.00 per day.

The continuation of such violation of each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.


SECTION 3. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.



Linda Karlovitch, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				KAY CECERI			X			
		X				MARK DAVID			X			
X		X				JOSEPH FINISTRELLA	X		X			
		X				SCOTT PENTZ			X			
		X				FRED PUGLIESE			X			
	X	X				JOHN ZIMMERMAN		X	X			
Introduced: April 20, 2022						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: May 18, 2022												
						 Kathleen Moschitta, Deputy Borough Clerk						