

BOROUGH OF WYALUSING
ORDINANCE NO. 36 Amendment

**AN ORDINANCE CHAPTER NO. 36, STREETS & SIDEWALKS OF
THE CODE OF THE BOROUGH OF WYALUSING, COUNTY OF
BRADFORD, COMMONWEALTH OF PENNSYLVANIA.**

The Borough of Wyalusing hereby ordains and enacts as follows:

ARTICLE I, General Provisions

§ 36-101. Title.

This shall be known and may be cited as the "Sidewalk Construction, Curb Construction, Paving and Surfacing Ordinance."

§ 36-102. Definitions and word usage.

A. Except where specified in the following definitions, all words used shall carry their customary meanings. The word "shall" is mandatory and not directory; the word "abut" shall include the words "directly across from."

B. As used in this Ordinance, the following terms shall have the meanings indicated:

CURB -- That concrete border forming part of the gutter of any street or state highway within the Borough of Wyalusing.

RESIDENTIAL PROPERTY -- Noncommercial property used for human residence having one or two living units.

SIDEWALK -- That area of any parcel of land regularly used by the pedestrian public for crossing said land and shall be that area that abuts any street or state highway within the Borough of Wyalusing.

STREET -- shall mean and include any street either for or intended for public use, and shall include the cartway, sidewalk, gutter, and/or the right-of-way area, whether or not such street, or any part thereof, is owned in fee by others than the borough. Streets shall be of two classes, opened and unopened.

OPENED STREETS -- shall mean and include all streets within the borough used as public passageways.

UNOPENED STREETS -- shall mean and include all streets within the borough not used, accepted or maintained, but placed on the borough plan for future or prospective use, or placed on the plan of a real estate project, or referred to in individual deeds.

§ 36-103. Minimum sidewalk widths.

Unless specifically designated otherwise in the particular ordinance affecting a street, the following classification of widths shall prevail, except where the width of the sidewalk herein designated is not in conformity with existing sidewalks on the street:

A. On residential streets and highways, the sidewalk shall be four (4) feet in width. The sidewalk shall be constructed of poured concrete.

B. On streets and highways of the primary business section of Wyalusing Borough, which shall encompass Main Street from the intersection with State Route 706 to the intersection with Route 6, the sidewalk shall be at least 6 feet in width and shall extend to the building line wherever a building abuts on the street line. The slope or grade from the property line to the curb shall be 1/4 inch per foot. The sidewalk shall be constructed of poured concrete.

C. On streets and highways of the secondary business section of Wyalusing Borough, which shall encompass Church Street from Senate Street to Main Street and Taylor Avenue from Pleasant Street to Main Street, the sidewalk shall be at least four (4) feet in width and shall extend to the building line wherever a building abuts on the street line. The slope or grade from the property line to the curb shall be 1/4 inch per foot. The sidewalk shall be constructed of poured concrete.

D. On the State Highway, Route 6, the sidewalk will be constructed of poured concrete and shall be at least four (4) feet in width. The Sidewalk shall be constructed of poured concrete.

§ 36-104. Conformance to grade required.

The Borough Council shall, at its own expense, furnish to the property owners a grade to which the property owners must conform in laying the sidewalk.

ARTICLE II, Construction, Replacement or Repair of Sidewalks

§ 36-105. Permit required; fee.

A. When any owner of any property within the Borough of Wyalusing shall construct, replace in its entirety or replace a portion of their sidewalk, or repair in conformance with the provisions of this article, or cause to construct, replace in its entirety or cause to repair a portion, or repair in conformance with the provisions of this article, any sidewalk abutting any street or state highway within the Borough, he or his representatives shall first make application for and obtain a permit to do so from the office of the Wyalusing Borough Secretary.

B. Every such application shall be accompanied by a fee in the amount set by the Borough Council by resolution for the processing of the application and issuance of the permit and, further, for the inspection of the completed repairs

C. Each application shall be in writing and shall either be on the approved application form for such purposes or shall specify and be in accordance with such information as is required by the approved form.

D. Construction shall not commence under this section until the application submitted has been approved and the permit has been issued.

§ 36-106. Conditions necessary for approval.

Approval under this article is contingent upon compliance with the following:

A. All sidewalks or repairs thereto shall be constructed of cement concrete material unless the existing sidewalk is flagstone, then the same material may be used to repair the sidewalk. Any sidewalk that is replaced in its entirety

shall be poured concrete except where the driveway intersects the sidewalk. Any existing flagstone, amecite, or asphalt may remain and does not have to be replaced.

B. Unless otherwise provided for, all sidewalks shall have a width of four feet and a minimum depth of four inches. Individual sidewalk sections may be up to a maximum length of five feet. Any exceptions to these dimensions shall be requested, in writing, at the time of application.

C. All sidewalks or repairs to existing sidewalks shall be required to have a four (4") base material compacted and a four (4") concrete sidewalk material or flagstone that has been placed on top of the properly compacted base.

D. All sidewalks shall conform to the approved specifications in effect at the time of application.

E. All sidewalk repairs constructed in the area that forms a portion of a driveway shall have a mesh and rebar reinforcement with 3,500 pound concrete and a four (4") inch concrete sidewalk material or flagstone that has been placed on top of a properly compacted base.

F. Any new sidewalk placed through a driveway area the sidewalk must have a 2B stone base, a concrete mesh, and six (6") inches of concrete.

G. Any flagstone sidewalk referred to in this Ordinance shall be a minimum of two (2") inches in thickness and shall be a block 4x4 in size unless a smaller size is required to go around an object (i.e., tree) or to fit the correct length of the sidewalk.

§ 36-107. Inspection.

A. Upon completion of construction, the property owner or his representative shall place a request with the office of the Borough Secretary to have an inspection made.

B. The Borough of Wyalusing reserves the right to reject any or all work if it is determined from inspection or otherwise that the required specifications have not been fully met, and the Borough of Wyalusing reserves the right to

require that the work be redone. If the work is not redone in a manner satisfactory to the Borough of Wyalusing, the Borough will exercise its discretion to impose sanctions under §§ 36-115 and/or 36-120.

§ 36-108. (Reserved)

ARTICLE III, Construction, Replacement or Repair of Curbs

§36-109. Permit required; fee.

A. When any owner of any property within the Borough of Wyalusing shall construct, replace in its entirety or repair in conformance with the provisions of this article or cause to construct, replace in its entirety or repair in conformance with the provisions of this article any curb abutting any street or state highway within the Borough, he or his representatives shall first make an application for and obtain a permit to do so from the office of the Wyalusing Borough Secretary.

B. Every such application shall be accompanied by a fee in the amount set by the Borough Council by Resolution for the processing of the application and issuance of the permit and, further, for the inspection of the completed repairs.

C. Each application shall be in writing and shall either be on the approved application form for such purposes or shall specify and be in accordance with such information as is required by the approved form.

D. Construction shall not commence under this section until the application submitted has been approved and the permit has been issued.

§ 36-110. Conditions necessary for approval.

Approval under this article is contingent upon compliance with the following;

A. All curbs or repairs thereto shall be constructed of cement concrete material unless otherwise required by a Borough Construction Project.

B. All curbs shall conform to the approved specifications in effect at the

time of application. Any exceptions to dimensions provided for by the specifications shall be requested, in writing, at the time of application. The curb shall be installed eighteen (18") inches below grade and eight (8") inches above grade.

§ 36-111. Inspection.

A. Upon completion of construction, the property owner or his representative shall place a request with the office of the Borough Secretary to have an inspection made.

B. The Borough of Wyalusing reserves the right to reject any and all work determined from inspection or otherwise wherein the required specifications have not been fully met, and the Borough of Wyalusing reserves the right to require that the work be redone. If the work is not redone in a manner satisfactory to the Borough of Wyalusing, the Borough will exercise its discretion to impose sanctions under § 36-115 and/or 36-120.

ARTICLE IV, Simultaneous Construction of Sidewalks and Curbs

§ 36-112. Action by Council.

Notwithstanding anything herein to the contrary, the Borough of Wyalusing reserves the right to initiate action and/or respond to requests for permits pursuant to § 36-113 herein by exercising its judgment in the best interests of the Borough of Wyalusing and by taking into account such factors as available financial resources and the adoption of any formal plans in selecting those Borough blocks wherein new and/or total replacement of curbs shall take place.

§ 36-113. Inspection; determination of necessity; costs.

A. Where any owner of any property within the Borough of Wyalusing shall apply for a permit within the meaning of §36-105 and/or 36-106 herein and pay the fee as provided respectively therein, the Borough of Wyalusing shall cause an inspection to be made to determine if there should be simultaneous construction and/or replacement of sidewalks and curbs and, for the purposes of said inspection, shall consider the condition of the sidewalks

and curbs in the full Borough block wherein the subject property is located.

B. If it is determined by the Borough of Wyalusing that simultaneous construction of curbs and sidewalks is not required, then the provisions of the applicable articles herein as to construction of sidewalks and as to the construction of curbs shall control.

C. If it is determined by the Borough of Wyalusing that simultaneous construction of curbs and sidewalks is required, then the property owner will cause to replace and/or construct the curb at their own expense, provided that each owner of any property affected constructs sidewalks and curbs in accordance with the provisions of this Ordinance.

ARTICLE V, Administration and Enforcement

§ 36-114. Construction of new sidewalks and curbs and Maintenance of existing sidewalks; notice.

A. Anywhere there is presently an existing sidewalk in Wyalusing Borough, that sidewalk must be maintained on the property and it can only be replaced with a sidewalk that conforms to this Ordinance, but it cannot be removed and not replaced. There must always be a sidewalk at the property unless otherwise directed by Council.

B. Any property that is the subject of new construction for a single-family residence that is not part of a new residential subdivision in the Borough where a sidewalk does not exist must install a sidewalk or sidewalks parallel to the area where the property abuts the street or streets if the property is abutted by a neighboring property that has an existing sidewalk. If the property that is the subject of the new construction does not have an existing sidewalk immediately abutting the property line, then the property owner will not be required to install a sidewalk.

C. Any property that is the subject of new construction that is part of a commercial development, new residential subdivision, or multifamily residential development in the Borough where a sidewalk does not exist must install a sidewalk or sidewalks parallel to the area where the property abuts the street or streets.

D. For purposes of interpretation of this section, a new residential subdivision as referred to in Subsection C, is defined as the new construction of two or more single-family residences on adjoining or contiguous lots or on the same parcel which may or may not be subdivided in the future.

E. Any property that abuts Route 6 that is a State Highway that is part of the Pennsylvania Department of Transportation improvement area shall be required to install a sidewalk and curb at the expense of the owner in accordance with the requirements of this ordinance unless Council authorizes the payment of the installation from Borough funds.

F. Once the owners has received said notice to construct a new sidewalk and/or curb.

The owner shall construct the sidewalk and/or curb on or before the date that the notice indicates the sidewalk should be completed. If the owner fails to construct the curb and sidewalk within thirty (30) days. The Borough may install the curb and sidewalk and may file a lien against the property in accordance with the provisions of this ordinance.

G. The sidewalks shall be maintained in a safe condition and in good repair and shall be kept free of obstructions. Any sidewalk that contains any of the following shall be deemed to be unsafe and in need of repair:

(1) The owner shall repair any block in the sidewalk is raised more than one inch higher than the adjoining block or is raised more than one inch within itself.

(2) The owner shall replace a sidewalk block if twenty-five percent (25%) of the surface area of the block is crumbled and deteriorated.

(3) The owner shall repair any block contains a crack that is more than one inch in width.

H. If the Borough of Wyalusing shall determine that a sidewalk should be constructed or repaired because it is unsafe as set forth in Subsection G or that an existing sidewalk should be replaced in its entirety, it shall cause a notice to

be sent to the property owner.

I. Said notice shall be in writing and served on the owner, specifying the time within which the sidewalk must be constructed, repaired or replaced, such time to be not more than 30 days from the date the notice indicates the repair must be commenced specifying the location and the manner of the sidewalk to be constructed or replaced and the manner of such proposed construction. The Borough through their designated representative, shall determine based on the time of year and weather conditions the date when the sidewalk can be repaired or replaced. That determination shall be placed in the notice indicating when the sidewalk must be repaired or replaced.

Once the owner has received said notice of the repair, the owner shall make the repair on or before the date that the notice indicates the repair should be completed. If the owner fails to comply and make the repair or replacement within six (6) months of the service of the notice to repair then the Borough may repair or replace the sidewalk and file a lien against said property in accordance with the provisions in this ordinance.

J. If the Borough of Wyalusing shall determine that a sidewalk is in need of immediate repair and presents a danger to the public, the sidewalk will be closed off and the Borough may proceed as follows: the property owner will be given a written notice of the need to repair or replace the sidewalk within ten (10) business days, the notice to specify the location of the sidewalk to be repaired or replaced in the manner of the proposed construction. Once the owner has received the notice of repair, the owner shall make the repairs immediately. If the sidewalk is not repaired or replaced within forty-five (45) business days then the Borough may repair or replace the sidewalk and file a lien against said property in accordance with the provisions in this ordinance.

§ 36-115. Failure to comply with order.

Upon failure of any of the abutting land owners to commence to lay any sidewalks, curbs, or repair the same within the above-specified times or with specified materials, the Borough of Wyalusing shall cause such sidewalks or repair of the same to be laid or repaired in accordance with this Ordinance and will collect from the owner or owners thereof the cost and 10% in addition, together with all charges and expenses, and may file a municipal claim

including attorney fees therefor or collect the same by an action in assumpsit.

§ 36-116. Exemption to Installation of Sidewalk and Curb.

A. The property owner may file with Wyalusing Borough for an exemption from the requirement to install a sidewalk and/or a curb based on the following criteria. The Council may grant an exemption, provided that one of the following findings are made where relevant in a given case:

(1) That there are a unique physical circumstances or conditions, including irregularity or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions of lot size or shape where the property is located.

(2) The location of the existing structures (bench, mailbox) between the building and the roadway may require a different size sidewalk in order to create a safe passageway for pedestrians.

(3) The location of existing utilities that would make the installation of the sidewalk or curb cost prohibitive.

(4) That the exemption, if granted, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations at issue.

B. In granting the exemption, the Council may attach reasonable conditions and the safeguards, as it may deem necessary to implement the purposes of this article.

(1) The property owner requesting the exemption would file the request with the Borough Council and be entitled to a Hearing under the Local Agency Law.

(2) Said property owner applying for the exemption may appeal the denial in accordance with the Local Agency Law to the

Bradford County Court of Common Pleas.

§ 36-117. Sidewalks to be cleared.

A. It will be the responsibility of each tenant and every property owner within the Borough to clear or have cleared any accumulation of snow and ice from sidewalks adjoining their property within a twenty-four-hour period after each accumulation occurs. The twenty-four-hour time period shall begin after the period of precipitation ends.

B. A person or person shall not plow accumulations into the street or right-of-way.

C. A person or persons shall not use natural drainage features, such as streams or waterways, for the disposition of snow and/or ice accumulations.

D. A person or persons shall not pile accumulations of snow or ice in the vicinity of a fire hydrant.

E. The following exceptions to obstruction-free sidewalks shall apply to all the owners of property located in commercially zoned areas and nonconforming commercial properties:

(1) They shall be allowed to display and sell merchandise or place temporary signs in front of their places of business in such space as to take up no more than 1/3 of the available sidewalk space beginning at the storefront.

(2) Wyalusing Borough shall accept no liability or responsibility for any display racks that will cause any injury to any pedestrians on said sidewalks, and the merchants that display said wares shall do so at their own risk and accept full responsibility for any injuries caused by their display that may occur to pedestrians using the sidewalk in front of their commercial establishment.

§ 36-118. Notice of Failure to Clear Sidewalk.

A. The Wyalusing Borough Ordinance Officer shall enforce the snow removal provisions of this ordinance.

B. A Wyalusing Borough Ordinance Officer or designee may issue to any person or other alleged violator of the snow removal provisions of intent to take action because of an alleged violation of the snow removal portions. A person or other alleged violator receiving said notice may avoid other legal action by performing what is necessary to comply with the snow removal portion within 24 hours of receiving this notice.

§ 36-119. Failure to comply.

If any property owners, including commercial and public establishments, fail to clear their sidewalk the Borough may use its employees and equipment to clear the accumulations and levy a charge based on the prevailing wage scale and prevailing rate per hour charged by local individuals using their own equipment for snow removal purposes. Computation of charges shall be based on portal-to-portal time. Should any bill or bills for clearing of snow and/or ice accumulations remain unpaid on or before the first day of June of each year, a penalty of 6% shall be added to such bills, and a lien may be filed against the premises in the same manner as other municipal claims are filed or other appropriate legal action may be taken against the property owner.

§ 36-120. Violations and penalties.

Any person, firm or corporation who or which shall violate or fail to comply with any of the provisions of this Ordinance shall, upon conviction, be sentenced to pay a fine of not more than \$600 and costs of prosecution and, in default of payment of such fine and costs, be imprisoned for a term not exceeding 30 days.

THIS ORDINANCE shall take effect immediately upon adoption.

ENACTED AND ORDAINED as an Ordinance of WYALUSING
BOROUGH, Pennsylvania, this 5th day of October, 2009.

George Anderson
George Anderson, President

ATTEST:

Stacy Hart
Stacy Hart, Secretary

APPROVED THIS 5th DAY OF October 2009.

Joan L. Cashin
Joan Cashin, Mayor