

TOWNSHIP OF HARDYSTON

ORDINANCE NO. 2022-10

AN ORDINANCE OF THE TOWNSHIP COUNCIL OF THE TOWNSHIP OF HARDYSTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY, AMENDING CHAPTER 155 OF THE TOWNSHIP CODE, "STREETS AND SIDEWALKS," CREATING ARTICLE V, "MAINTENANCE AND REPAIR OF SIDEWALKS," TO ESTABLISH SIDEWALK MAINTENANCE AND REPAIR REQUIREMENTS, AND AMENDING CHAPTER 104 OF THE TOWNSHIP CODE, "HOUSING," REPEALING SECTION 104-19 AND CREATING ARTICLE IV, "PROPERTY MAINTENANCE," TO ESTABLISH LAWN MAINTENANCE STANDARDS AND REQUIREMENTS

WHEREAS, it is critical to the health, safety, and welfare of the residents of the Township of Hardyston that all public sidewalks ('Sidewalks') be properly maintained and repaired; and

WHEREAS, N.J.S.A. 40:65-1 et seq. authorizes municipalities to adopt a Sidewalk maintenance ordinance which requires owners of properties that abut public Sidewalks to maintain and repair those abutting Sidewalks; and

WHEREAS, the Mayor and Township Council find it in the best interest of the Township to adopt an ordinance establishing the responsibilities of the Township and of property owners with respect to the maintenance and repair of Sidewalks.

NOW THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Township of Hardyston, County of Sussex, State of New Jersey, as follows:

SECTION 1. Chapter 155, "Streets and Sidewalks," of the Municipal Code of the Township of Hardyston, is hereby amended to add the following Article:

ARTICLE V. Maintenance and Repair of Sidewalks

§155-21 Responsibility for Removal of Ice and Snow

The owner of premises abutting or bordering upon any public sidewalk in the Township of Hardyston ('Sidewalk') shall remove all snow and ice from the abutting Sidewalk within twenty-four (24) hours after the same shall have ceased to have fallen or have formed thereon or, in the case of ice which may be so frozen to the Sidewalks as to make removal impracticable, shall cause the same to be thoroughly covered with rock salt, sand or other suitable material.

§155-22 Throwing Ice or Snow upon Sidewalks Prohibited

No person, including the owner of any premises abutting or bordering upon any Sidewalk, shall throw, place or deposit any ice or snow into or upon any Sidewalk in the Township of Hardyston. This exempts the municipality and their agents removing snow from roadways adjacent to the Sidewalk.

§155-23 Removal by Township in Case of Noncompliance; Assessment of Cost

In any case in which ice or snow shall not be removed from any Sidewalk as required by § 155-21 or shall be cast, deposited, thrown or placed upon any Sidewalk in violation of §155-22, such ice or snow shall be forthwith removed by or under the direction of the Township Manager. The cost thereof shall be reviewed by the Township Manager and, upon validation, the Township Council, by resolution, shall cause such cost to be charged against the real estate so abutting upon such Sidewalk. The amount so charged shall thereupon become a lien and tax upon said real estate and be added to and part of the taxes next to be assessed and levied thereon, and enforced and collected, with interest at the same rate as other taxes, by the same officer and in the same manner as other taxes.

§155-24 Primary Maintenance and Repair Requirements

- A. The owner of any premises in the Township of Hardyston abutting a Sidewalk shall, at his/her own cost expense, keep and maintain said Sidewalk in good condition so as to prevent the same from becoming unsafe to walk upon.
- B. In the event that a Sidewalk or any part thereof becomes unsafe or hazardous to the public or unsafe to walk upon, the abutting owner at his/her own cost and expense shall, with expeditious speed, reconstruct or repair, as the facts may require, such Sidewalk or that part thereof which requires reconstruction or repair. All Sidewalks shall be maintained, constructed, reconstructed, and repaired in accordance with Township standards, and in compliance with N.J.A.C. 5:21-4.18.
- C. In the specific circumstance of a raised Sidewalk surface caused by tree-root expansion, the abutting owner's maintenance and repair responsibilities shall include the removal of the tree and/or its roots, to the extent necessary to effectuate the Sidewalk repair.

§155-25 Additional Sidewalk Upkeep Requirements

- A. The owner of any premises in the Township of Hardyston abutting a Sidewalk shall, at his/her own cost expense, keep said Sidewalk free of obstruction, debris, cracks, crevices, defects, and any other unsafe conditions and nuisances.
- B. The owner of any premises in the Township of Hardyston abutting a Sidewalk shall take all reasonable measures to ensure that within two (2) feet of the sidewalk the growth of woods,

grass brush, hedges, and other non-landscaped plant life, or other impediments be restricted to a height no greater than 8 inches along said Sidewalk.

§155-26 Notice of Violation; Failure to Comply; Costs to Become Lien; Collection of Costs

- A. Upon resolution of the Township Council, the Township Manager shall serve upon the owner of any premises in the Township of Hardyston abutting a Sidewalk a written notice requiring the necessary specified work to said Sidewalk to be done pursuant to this Article by the said owner within a period of not less than thirty (30) days from the date of service of such notice. Whenever any lands are unoccupied and the owner cannot be found within the municipality, the same may be mailed, by certified mail, to his or her post office address as identified in the public records of the Hardyston Township Tax Assessor.
- B. In the case that any owner shall not comply with the requirements of such notice issued pursuant to Subsection A, above, the Township Manager shall cause the required work to be done and paid for out of the municipal funds available for that purpose; the cost of such work shall be certified by the Township Manager.
- C. The Township Council shall examine the certification of the Township Manager made pursuant to Subsection B, above, and, if such certification is found to be correct, the amount of the cost of such work shall be and become a lien upon the said abutting lands in front of which such work has been done to the same extent that assessments for local improvements are liens in the Township 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. The Township may have an action to recover amounts due pursuant to this Section in any court having competent jurisdiction thereof. A certified copy of the aforesaid certificate of the Township Manager shall in such action be prima facie evidence of the existence of the debt due from the said owner to Hardyston Township.
- E. No bar. The imposition and collection of a fine or fines imposed by the provisions of this Article shall not constitute any bar to the right of Hardyston Township to collect the cost as certified for the required work.

§155-27 Statutory Authority; Retroactive Effect of Ordinance

- A. The within provisions of this Article of the Township Code are adopted pursuant to the statutory authority conferred by N.J.S.A. 40: 65- 1 et seq.

- B. The within provisions of this Article of the Township Code are remedial and shall be liberally construed in favor the Township of Hardyston; the provisions of this Article shall have retroactive application to any Sidewalk repair or maintenance issues pre-existing the adoption of Ordinance 2022-10.

§155-28 Penalties

- A. Any person who violates any provision of this Article shall, upon conviction thereof, be punished by a fine not exceeding \$ 1, 000 or by imprisonment for a term not exceeding 90 days, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.
- B. The imposition and collection of any penalty by the provisions of Subsection A of this Section shall not constitute a bar to the right of the Township to collect the costs due to the Township pursuant to any other provision in this Article.

§155-29 Enforcement

The provisions of this Article shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, other Subcode or Code Official, or law enforcement agent of the Hardyston Township Police Department, as their jurisdiction may arise, as well as any other persons designated by the Manager of the Township of Hardyston to enforce the Article.

SECTION 2. Chapter 104, “Housing,” of the Municipal Code of the Township of Hardyston, is hereby amended to repeal the existing Section 104-19 and to add the following Article:

ARTICLE IV. Property Maintenance

§104-19 Brush, Grass and Weeds

- A. The owner of any premises in the Township of Hardyston shall undertake every effort within reason to keep any water, grass, weeds, and other vegetation on said premises from encroaching upon any bordering or adjacent premises.
- B. The owner of any premises in the Township of Hardyston shall undertake every effort within reason to ensure that wild plant growth or high grass growing on said premises within 10 feet of any bordering or adjacent premises shall be maintained so as not to exceed a height of 10 inches.
- C. The owner of any premises in the Township of Hardyston shall undertake every effort within reason to ensure that wild plant growth or high grass growing on said premises within 10 feet of any roadway or intersection shall be maintained so as not to exceed a height of 24 inches.

§104-20 Enforcement; Violations and Penalties

- A. The provisions of this Article shall be enforced by the Zoning Officer, Building Code Official, Fire Official, Health Department, other Subcode or Code Official, or law enforcement agent of the Hardyston Township Police Department, as their jurisdiction may arise, including legal counsel for the Township or other persons designated by the Township of Hardyston to issue municipal civil infractions directing alleged violators of this article to appear in court or file civil complaints.
- B. A violation of this article is hereby declared to be a public nuisance, a nuisance per se, and is hereby further found and declared to be offensive to the public health, safety and welfare.
- C. Any person found to have violated any provision of this Article, without regard to intent or knowledge, shall be liable for maximum civil penalty, upon adjudicated violation or admission, of a fine not exceeding the maximum permitted by N.J.S.A. 40:49-5. Each day of such violation shall be a new and separate violation of this article.
- D. The penalty imposed herein shall be in addition to any other remedies that may accrue under any other law, including, but not limited to, eviction proceedings and/or injunction, reasonable attorney's fees or other fees and costs, in the Township's Municipal Court or the Superior Court of New Jersey in the vicinage of Sussex County, or in such other court or tribunal of competent jurisdiction, by either summary disposition or by zoning or construction code municipal proceeding.

SECTION 3. Severability. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

SECTION 4. Repealer. All existing ordinances or parts of existing ordinances which are inconsistent with the terms of this Ordinance are to the extent of such inconsistency repealed.

SECTION 5. Effect. This Ordinance shall take effect immediately upon final passage, approval and publication as required by law.

Frank Cicerale, Mayor

ATTEST:

Jane Bakalarczyk, Clerk

NOTICE

PLEASE TAKE NOTICE that notice is hereby given that the above ordinance was introduced and passed at the regular meeting of the Hardyston Township Council held at the Municipal Building, 149 Wheatsworth Road, Hardyston, New Jersey, on September 28, 2022.

Jane Bakalarczyk, RMC/CMC
Municipal Clerk