

## ORDINANCE NO. 319A

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\*AN ORDINANCE OF THE BOROUGH OF BERLIN,  
SOMERSET COUNTY, PENNSYLVANIA, PROVIDING  
FOR SIDEWALK CONSTRUCTION, RECONSTRUCTION,  
REPAIR, OR REPLACEMENT.\*  
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BE IT ENACTED AND ORDAINED, and it is hereby enacted and ordained by the Council of the Borough of Berlin, Somerset County, Pennsylvania, as follows:

Article One. Sidewalk Construction, Reconstruction, Repair, or Replacement.

## A. DEFINITIONS.

1. BOROUGH – the Borough of Berlin, Somerset County, Pennsylvania.
2. BOROUGH COUNCIL – The Council of the Borough of Berlin; the Street Committee of the Borough Council; or any other committee of the Borough Council or any other agent of the Borough Council authorized by Borough Council to act on its behalf with regard to the rights or duties set forth in this Ordinance.
3. CONSTRUCTION – the building or laying or construction of a new sidewalk on areas of land where none previously existed.
4. REPAIR; REPLACEMENT, OR RECONSTRUCTION – the restoration, repair, or replacement of a sidewalk which has previously been in existence and shall be deemed to include patching, the relaying/resurfacing or reconstruction of all or certain parts thereof, or any other measures necessary to make the said sidewalk safe and in good condition and to comply with the provisions of this Ordinance.

## B. SIDEWALKS REQUIRED.

1. All existing sidewalks along streets, alleys, public ways or State highways within the Borough shall be maintained for the use of pedestrians at the expense of the owners of the abutting properties and shall be kept in good repair and safe condition.
2. Sidewalks shall be constructed, repaired, replaced, and maintained for the use of pedestrians at the expense of the owners of the abutting properties along such streets, alleys, public ways or State highways within the Borough as determined by Borough Council. Such sidewalks shall be kept in good repair and safe condition.

## C. SIDEWALK SPECIFICATIONS.

1. Sidewalks shall be constructed, repaired, replaced, and reconstructed according to the following specifications and using the following materials only:
  - a. Sidewalks shall be of concrete construction using concrete of at least 5,000 psi. Sidewalks shall be built as a series of independent sections, not more than 6 feet in length, not less than 4 feet in width, and not less than 4 inches in depth on top of at least 4 inches of base material comprised of 2b shale. To obtain 5,000 psi when hand mixing concrete, the contractor/owner shall use one part type I portland cement, two parts clean sand, and three parts clean 2B shale.
  - b. The side of the sidewalk adjacent to the street shall be constructed in such a manner so as to provide an area for at least 24 inches of grass between the sidewalk and the curb, or if no curb exists, then at least 30 inches between the sidewalk and the edge of the street cartway.

- c. Sidewalks shall be constructed, repaired, replaced, or reconstructed in accordance with the grade and lines established by the Borough Council and/or the Pennsylvania Department of Transportation.
- d. Sidewalks shall be located to match adjoining sidewalks when practicable.
- e. Sidewalks may be constructed, replaced, or reconstructed of paving bricks of a durable and substantial nature set firmly on a sand and crushed stone base or in a mortar grout only upon special written approval of Borough Council and only upon compliance with such additional specifications as Council may establish.
- f. The owners of properties located at the intersection of Borough streets, alleys, public ways or State highways shall construct, reconstruct, or replace sidewalks with necessary curb cuts so that the same are handicapped accessible and in conformance with the provisions of the Americans with Disabilities Act (ADA) or any similar Federal or State law or regulation.
- g. Borough Council shall have the right to grant a variance with regard to any of the specifications set forth in this Part when necessary due to unusual or unique circumstances of a property. Requests for variances shall be in writing and grant of a variance and any necessary terms and conditions of such variance shall be in writing. In the event a sidewalk is not constructed, repaired, replaced, or reconstructed in accordance with the terms of the variance within one year of the date the variance is granted, the variance shall expire.

#### D. INSPECTION OF CONSTRUCTION, RECONSTRUCTION, REPLACEMENT, OR REPAIRS.

- 1. Borough Council shall have the right to inspect any construction, reconstruction, replacement, or repair to a sidewalk to determine whether construction specifications are being observed. Borough Council shall have the right to issue stop work orders for noncompliance and to require removal and replacement or reconstruction of non-complying sidewalks. Failure of the Borough Council to inspect construction, reconstruction, replacement, or repair shall not be deemed to be a waiver of its right to enforce this Ordinance.
- 2. Upon completion of the pouring of the concrete for the sidewalk or sidewalk reconstruction, replacement, or repair, evidence that 5,000 psi concrete was used shall be submitted to the Borough Council.

#### E. PRIOR APPROVAL REQUIRED.

- 1. Property owners shall obtain written approval from the Borough Council for planned sidewalk construction, reconstruction, replacement, or repair prior to initiating construction, reconstruction, replacement, or repair of any new or existing sidewalk.

#### F. INSPECTION OF SIDEWALKS.

- 1. Borough Council may, at its discretion, inspect any new or existing sidewalk within the Borough. As a result of said inspection, Borough Council may direct the abutting property owner(s) to construct, reconstruct, repair or replace a new or existing sidewalk because of non-compliance with this Ordinance, disrepair and/or unsafe conditions. Failure of an owner or owners to satisfactorily effect sidewalk construction, reconstruction, repair, or replacement within 180 days from the date of written notification from the Borough Council to do so shall constitute a violation of this Ordinance.
- 2. If as a result of the failure of the owner or owners to satisfactorily effect sidewalk construction, reconstruction, repair, or replacement within 180 days from the date of written notification to do so, Borough Council may effect such construction, reconstruction, repair or replacement. The cost, charge, and expense of any sidewalk construction, reconstruction, repair, or replacement of any new or existing sidewalk effected by the Borough shall constitute a municipal lien against the property benefited thereby according to the law in such cases made and provided.

#### G. REPAIR OF SIDEWALK BY ABUTTING OWNERS

- 1. All owners or agents or owners with property abutting or fronting upon any plaza, street or alley within the corporate limits of the Borough are required to keep the sidewalks immediately abutting their property in good order and repair. Each such

owner shall be liable to the Borough for all losses to the Borough and shall indemnify the Borough for all losses resulting from injury to persons or property of others caused by his or her failure, or that of his or her agents, to repair and keep in good order and reasonably safe condition all such sidewalks abutting and fronting his property upon any plaza, street, or alley within the corporate limits of the Borough.

H. PENALTIES.

- 1. Any person, firm or corporation who shall violate any provision of the Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Ordinance continues shall constitute a separate offense.


I. EFFECTIVE DATE.

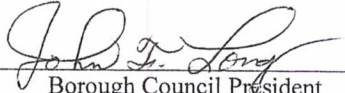
- 1. This Ordinance shall take effect immediately upon adoption.

Adopted by the Borough Council of the Borough of Berlin, Somerset County, Pennsylvania, and enacted into an Ordinance this 2nd day of November, 2006.

ATTEST

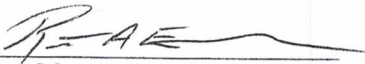
BOROUGH OF BERLIN

  
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 Executive Borough Secretary

  
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 Borough Council President

(SEAL)

Approved this 2nd day of November, 2006.

  
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 Mayor, Borough of Berlin