

**NEW BRITAIN TOWNSHIP
Bucks County, Pennsylvania**

**Ordinance # 2015-11-08
(Duly Adopted November 16, 2015)**

AN ORDINANCE OF NEW BRITAIN TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA AMENDING AND REVISING CHAPTER 21 OF THE CODE OF NEW BRITAIN TOWNSHIP BY REVISING PART 1 CONCERNING PARKING DURING WINTER STORMS AND BY ADDING A NEW PART 4 REQUIRING THE MAINTENANCE, CONSTRUCTION, AND REPAIR OF SIDEWALKS, CURBS, AND GUTTERS; REQUIRING THE CONSTRUCTION AND REPAIR OF SIDEWALKS, CURBS, AND GUTTERS, AND SUPPORTS THEREOF, IN CONFORMITY TO TOWNSHIP-ESTABLISHED LINES AND GRADES; REQUIRING MAINTENANCE OF PROPERTIES UP TO THE EDGE OF ADJACENT STREETS; PROVIDING SNOW AND ICE REMOVAL REGULATIONS; PRECLUDING THE REMOVAL OF HEALTHY STREET TREES, AND REQUIRING THE REPLACEMENT OF STREET TREES WHICH ARE REMOVED; AUTHORIZING NOTICES TO DO WORK AND INSPECTIONS; PROVIDING FOR EMERGENCY REPAIRS BY THE TOWNSHIP; REQUIRING SNOW REMOVAL BY PROPERTY OWNERS; AND PRESCRIBING PENALTIES FOR VIOLATIONS.

WHEREAS, curbs, sidewalks, bikepaths, pedestrian walkways, and storm drainage ways, otherwise sometimes known as gutters or swales, have become integral parts of much of the developed portion of New Britain Township (“Township”); and

WHEREAS, as such amenities age, it becomes necessary to create a mechanism to assure their proper maintenance, care, and if necessary, replacement; and

WHEREAS, the Township has experienced situations in which property owners attempt to avoid their obligations to maintain their properties to the edge of adjacent cartways; and

WHEREAS, the Second Class Township Code, including, but not limited to Articles 22, 23, 24, and 27, provides that abutting property owners shall bear responsibility for such maintenance, care, and replacement.

NOW, THEREFORE, IT IS HEREBY ORDAINED by the Board of Supervisor of New Britain Township, as follows:

ARTICLE I Storm Emergencies.

Part 1 of Chapter 21 of the Code of New Britain Township is hereby amended to read as follows:

PART 1

STORM EMERGENCIES

§21-101. Definitions.

1. The following words, terms and phrases used in this Part shall have the meanings given herein. All other words and phrases when used in this Part shall have the meanings ascribed to them in the most current amendment of the Vehicle Code of Pennsylvania, except in those instances where the context clearly indicates a different meaning.

CARTWAY - The portion of a street, alley, access drive, or driveway, whether paved or unpaved, intended for vehicular use.

CURB – A raised line of concrete, stone, or asphalt at and/or forming the edge of the paved cartway.

EMERGENCY STORM - Any storm, including a winter storm, that creates a significant danger to life and/or property in New Britain Township or portion thereof as determined by the Township.

PARKING - The standing of a vehicle, except a police or fire vehicle, ambulance or official vehicle of the Township or Commonwealth, whether occupied or not, upon a street other than temporarily for the purpose of, and while actually engaged in, loading or unloading, or in obedience to traffic regulations or traffic signs and signals.

POLICE DEPARTMENT - New Britain Township Police Department, its Chief, sworn officers, and civilian employees.

SHOULDER – The unpaved, improved portion of any street that runs adjacent to and parallel with the cartway.

SIDEWALK - A pedestrian public path for public use located within the right-of-way or easement of any public or Township-maintained street, usually constructed of asphalt, concrete, stone, or brick.

STREET - Any public highway, road, or roadway within the Township, including the cartway, curb, and shoulder of such highway, road, or roadway.

TOWNSHIP - The Township of New Britain, Bucks County, Pennsylvania.

WINTER STORM - Precipitation in the form of sleet, ice, freezing rain, snow, or any combination thereof that results in the deposit or accumulation of ice of one quarter ($\frac{1}{4}$) of an inch or greater in depth or of snow or a combination of precipitation of one (1) inch or greater in depth.

2. Words used in the singular include the plural; words used in the plural include the singular; and words used in the present tense include the future. Personal pronouns, his, her, their, are gender neutral. The words “must” and “shall” are mandatory. The words “may”, “advised”, and “advisory” are discretionary:

§21-102. Special Parking Regulations During Emergency Storms.

1. Special Powers. The Chairman and Vice Chairman of the Board of Supervisors, the Township Manager, and/or the Township Emergency Management Coordinator, hereinafter “Designated Officials”, are hereby granted the following special powers to regulate parking:
 - A. Any Designated Official may establish temporary parking regulations effective during the period of an emergency storm.
 - B. Such emergency and/or temporary regulations shall be enforced by the Police Department in the same manner as permanent regulations.
 - C. No person shall park a vehicle in violation of any such regulations.
2. Parking During Winter Storms.
 - A. Within one (1) hour of the commencement of a winter storm, it shall be the duty of the owner and/or operator of any motor vehicle which has been parked on any street to remove said vehicle from the street.
 - B. It shall be unlawful to park or allow to be parked any motor vehicle on any street following the deposit or accumulation of ice of one quarter ($\frac{1}{4}$) of an inch or greater in depth or snow of one (1) inch or greater in depth, until the snow and/or ice has been cleared and all salting and cindering operations have ceased.

§21-103. Towing of Vehicles.

1. Whenever any motor vehicle is found to be parked or stopped in violation of the restrictions of this Part, the Chief of Police, and/or Superintendent of Public Works may issue instructions to an authorized towing service to remove the vehicle from the street to a place of safety, or other location as may be designated by the Township in accordance

with the requirements set forth in Chapter 15 of this Code concerning the towing and impoundment of vehicles.

2. Within 24 hours after the removal of such vehicle, notice of the fact that such vehicle has been impounded shall be sent by the New Britain Township Police Department to the owner of record. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and advising where the vehicle has been impounded. Such notice shall state that the payment of such towing and storage charges, unless such payment is made "under protest," shall be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. The notice shall contain the words "if the towing and storage charges are paid under protest the owner or operator shall be entitled to a hearing on the matter before the Magisterial District Judge."

§21-104. Penalties.

1. Any person who shall violate or permit violation of any provision of this Part shall pay a civil penalty of not more than Six Hundred Dollars (\$600.00) together with all court costs and reasonable attorneys' fees actually incurred by the Township. Each day that a violation continues shall constitute a separate offense.
2. In addition to or in lieu of the civil enforcement action set forth in subsection 1. above, the Township may enforce this Part by filing an equity action against the violator to abate the violation and correct any damage done.

ARTICLE II ROW Maintenance.

Chapter 21 of the Code of New Britain Township is hereby amended by adding a new Part 4, Right-of-Way Maintenance that shall read as follows:

PART 4

RIGHT-OF-WAY MAINTENANCE

§21-401. Definitions.

1. Unless otherwise expressly stated, the following words shall, for the purpose of this Part, have the meaning herein indicated. The present tense shall include the future; the singular number shall include the plural; words used in the masculine gender shall include the feminine and the neuter; the word "shall" is always mandatory; the word "may" is always permissive.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at street intersections which is between two (2) feet and eight (8) feet from the ground and is defined by lines of sight between points at a given distance from the intersection of the street right-of-way lines.

CARTWAY - The portion of a street, alley, access drive, or driveway, whether paved or unpaved, intended for vehicular use.

CURB – A raised line of concrete, stone, or asphalt at and/or forming the edge of the paved cartway.

DAILY MAINTENANCE – Any and all activities necessary to generally preserve and maintain (including, but not limited to, structural integrity and normal functioning) a piece of property, a facility, or a structure; including the clearing and/or removal of obstructions (such as debris, sediment, leaves, vegetation, snow, ice, etc.); mowing; weeding; raking; and sweeping, but not including replacement, repairs, or long-term maintenance activities.

GUTTER – A paved, concrete, or stone ditch constructed along the edge of a cartway or between the cartway and the curb used to carry surface water runoff.

OWNER - The legal owner or owners of land within the Township including a lessee, if he/she is authorized under the lease to exercise the rights of the legal owner, or other person having a proprietary interest in the land.

RESERVE STRIP - A parcel of land whose primary function is to separate a right-of-way from adjacent properties or a cartway from sidewalks, bikepaths, or pedestrian walkways, while not being used or capable of being used as a building lot, open space or recreation area, or for legitimate environmental protection purposes.

RIGHT-OF-WAY - A strip of land over which rights are provided for various purposes, including, but not limited to, pedestrian and vehicular access and travel, storm drainage, and utilities.

RIGHT-OF-WAY LINE - A line that forms the boundaries of a right-of-way.

SIDEWALK – A path for pedestrians alongside a street or alley, usually constructed of concrete, stone, or brick.

BIKEPATH/PEDESTRIAN WALKWAY – a paved path for pedestrians/bicycles, usually constructed of asphalt.

STREET TREE – A tree installed or maintained in or near the right-of-way in accordance with approved subdivision or land development plans and/or in compliance with the

Township's Zoning Ordinance and Subdivision and Land Development Ordinance (those trees adjacent to sidewalks and roadways).

SWALE - A lineal or curvilinear depression in the ground that channels surface water runoff.

TOWNSHIP – New Britain Township, Bucks County, Pennsylvania.

WINTER STORM - Precipitation in the form of sleet, ice, freezing rain, or snow, or combination thereof, creating the need for snow or ice removal, salting or cindering operations, or creating hazardous driving conditions. Any precipitation that results in the deposit or accumulation of ice of one quarter (¼) of an inch or greater in depth or of snow or a combination of precipitation of one (1) inch or greater in depth shall be presumptively deemed to created hazardous driving conditions, and this Part shall go into effect when any precipitation first accumulates to such a depth.

2. Any word or term not defined herein shall be used with a meaning of standard usage.

§21-402. Care and Maintenance.

1. Owners shall conduct all daily maintenance upon any curb, sidewalk, bikepath, pedestrian walkway, swale, or gutter, within their property or within any right-of-way adjacent to their property, necessary to keep such facilities in good repair, passable, and unobstructed.
2. Owners shall keep any curb, sidewalk, bikepath, pedestrian walkway, or gutter, within their property or within any right-of-way adjacent to their property, free of refuse, debris and vegetation. Owners shall keep any swale, within their property or within any right-of-way adjacent to their property, free of refuse and debris and shall properly maintain vegetation in the swale. Such care and maintenance shall be undertaken to ensure that all sidewalks, bikepaths, and pedestrian walkways remain passable by pedestrians, and that all swales and gutters permit the unrestricted flow of storm water.
3. Owners of unwooded, developed real property shall maintain their properties and adjacent rights-of-way up to the edge of the cartway with well-maintained gardens or properly trimmed grass and shall conduct all daily maintenance on all reserve strips adjacent to their property.
4. Owners shall maintain all curbs, sidewalks, bikepaths, and pedestrian walkways, within their property or within any right-of-way adjacent to their property, without breaks, irregular surfaces, or missing parts, and shall promptly repair or replace curbs, sidewalks, bikepaths, and pedestrian walkways, when such breaks, irregular surfaces or missing parts occur.

5. Owners shall maintain all vegetation and street trees within their property or within any right-of-way adjacent to their property, to ensure that they are free of damage and disease, and shall not create a risk of harm to passersby. Owners trimming and/or maintaining street trees must take all proper precautions to protect the public from these activities. Where street tree maintenance will possibly affect the safe use of a public street, sidewalk, bikepath, and/or pedestrian walkway, the area affected shall be cordoned off and the Township's approval of such work and street closure shall be obtained.
6. No street trees may be removed by an owner unless such trees are dead, diseased, or at risk of collapse, and only then upon receipt of a tree removal permit from the Township. Any street tree removed from a property in the Township shall be replaced by the owner of the property within six (6) months of such removal (unless ordered to act more promptly by the Township pursuant to this Part). All replacement trees shall be of a size and species required by the Township Subdivision and Land Development Ordinance for street trees and shall be approved by the Township. Prior to removing or replacing street trees, an owner shall apply for and receive a permit from the Township for this work. There shall be no fee for this permit.
7. With the exception of salting or cindering sidewalks/walkways during a winter storm, no debris or objects (such as trash receptacles, basketball hoops, chairs, cones, etc.) may be placed or thrown onto or into public streets, sidewalks, bikepaths, pedestrian walkways, swales, gutters, or storm sewer facilities.
8. Except for daily maintenance, owners are not responsible for the maintenance, repair, replacement, or upkeep of swales and gutters located within any right-of-way adjacent to their property
9. As a part of daily maintenance, owners are responsible for ensuring that no structures, soil, rocks, vegetation, shrubs, trees, and the like intrude onto, or into the vertical space above, any cartway, sidewalk, bikepath, or pedestrian walkway more than two (2) inches.
10. As a part of daily maintenance, owners are responsible for ensuring that no structures, soil, rocks, vegetation, shrubs, trees, and the like intrude into any clear site triangle more than two (2) inches.

§21-403. Winter Storms.

1. Ice and Snow Removal.
 - A. Owners shall keep any sidewalk within their property or within any right-of-way adjacent to their property, free of ice and snow such that all sidewalks shall have a path of at least 30 inches in width cleared of snow and ice and passable by pedestrians within forty-eight (48) hours of completion of each winter storm. In the event snow and/or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the owner shall, within

forty-eight (48) hours of completion of the winter storm, place enough sand or other abrasive on the sidewalk to make travel reasonably safe and shall, as soon thereafter as weather permits, clear a path in said sidewalk of at least thirty (30) inches in width.

- B. Owners shall keep any swale, or gutter, within their property or within any right-of-way adjacent to their property, free of ice and snow such that all swales and gutters shall be unobstructed within forty-eight (48) hours of completion of each winter storm.
- C. Owners shall be required to uncover any fire hydrant located on their property or within any right-of-way adjacent to their property, to the extent that at least a three (3) foot radius of clear space shall be maintained around the outside of fire hydrants and so that at least one half ($\frac{1}{2}$) of the hydrant is visible from the cartway within twenty-four (24) hours of completion of each winter storm.
- D. No Owner shall be responsible, however, for cleaning snow and ice from Township bikepaths and pedestrian paths which do not abut streets or alleys or are completely physically separated from the remainder of the owner's property by a buffer and/or berm.

2. Improper Ice and Snow Removal

- A. No snow or ice shall be plowed, pushed, thrown, or cleared from private property onto a public street, sidewalk, bikepath, pedestrian path, gutter, or swale.
- B. No snow or ice shall be plowed, pushed, thrown, or cleared from private property onto a neighboring property without the express permission of the owner of the neighboring property.
- C. No person shall deposit or cause to be deposited any snow or ice on or immediately next to a fire hydrant

3. Removal of Ice and Snow by Township.

- A. Ice or snow on sidewalks, bikepaths, or pedestrian walkways or in swales or gutters is hereby decreed a public nuisance, and may be removed by Township without prior notice to the owner.
- B. Should the Township remove ice or snow on sidewalks, bikepaths, or pedestrian walkways or in swales and gutters in the interest of public safety, the cost of such work may be levied upon the owner, and upon non-payment for a period in excess of thirty (30) days, the cost thereof may be assessed as a municipal lien, together with the cost of collection, and a reasonable administrative charge, and may be collected from the owner as provided by law.

§21-404. Prohibition, Removal, and Impoundment of Obstructions.

1. It shall be unlawful for any person to park, place, or allow to remain any object, other than a motor vehicle, in any public street, road, or highway. It shall be unlawful for any person to park, place, or allow to remain any object, other than a non-motorized mode of transportation, on a sidewalk, bikepath, or pedestrian walkway.
2. The Township shall have the authority to remove and impound, or to order the removal and impounding of any object found in a public street, road, or highway or on a sidewalk, bikepath, or pedestrian walkway in violation of this Part. If, however, at the time of the intended removal by the Township, the owner or the person in charge of such object is present and expresses a willingness and intention to remove this object immediately and does so, then the Township shall not have the authority to remove and impound.
3. Removal and impounding of objects under this Part shall be done only by Township personnel or approved agents. Every such approved agent shall submit evidence to the Township that it is bonded or has acquired liability insurance in an amount satisfactory to the Board of Supervisors as sufficient to indemnify owners of impounded objects against loss or damage to those objects in the custody of the approved agent. The approved agents shall have an approved storage area and shall submit to the Township a schedule of charges for removal and storage of objects under this Section. When the schedule is approved by the Board of Supervisors, those charges shall be adhered to by the approved storage agent, and no different schedule of charges shall be demanded of or collected from any person whose object is removed or impounded under this Section by any approved storage agent. The Board of Supervisors shall delete from its list of approved storage agents and areas any such agent that makes any unapproved charge in connection with any objects removed or impounded under this Section. In order to reclaim an object removed pursuant to the provisions hereof, the owner, lessee, or other person having an interest therein shall pay such removal and storage costs according to the approved schedule.

§21-405. Construction, Repair, Removal, and Replacement Required.

1. The Township may require owners of property adjacent to any street or alley, including state highways, to construct, pave, repave, and repair sidewalks, curbs, swales, and gutters within such street's or alley's right-of-way, at such grades as may be prescribed by the Township, and under such regulations as may be prescribed by the Board of Supervisors. Prior to conducting such work, an owner shall apply for and receive a permit from the Township for this work.
2. The Township may require owners of property adjacent to any street or alley, including state highways to maintain or replace missing, dead, damaged, or diseased street trees within their property or within such street's or alley's right-of-way.

§21-406. Supports under Sidewalks and Curbs.

Where sidewalks, curbs, bikepaths, or pedestrian walkways are to be constructed, paved, repaved, or repaired over swales, gutters, or excavations of any kind, such curbs, sidewalks, bikepaths, and/or pedestrian walkways shall be supported by iron or steel beams, girders, stone, or concrete arches or as otherwise approved by the Township. Any supports constructed of wood or other material prone to decay, rot, or erosion shall be prohibited.

§21-407. Conformity to Line and Grade.

All curbs, sidewalks, bikepaths, pedestrian walkways, swales, and gutters shall be constructed, paved, repaved, or repaired, upon the line and grade obtained by the owner from the Township, following application by the owner to the Township for all necessary permits.

§21-408. Notice to Do Work.

Any notice from the Township to an owner to construct, pave, repave, or repair curbs, sidewalks, bikepaths, pedestrian walkways, swales, or gutters; or to maintain or replace street trees shall grant the owner ninety (90) days to comply with said notice in conformity with any construction specifications prescribed by the Township, and the ADA, as applicable. No work shall be conducted without a permit

§21-409. Inspection.

At any time during the performance of the required work, a Township employee/agent/representative may inspect the work to determine whether construction specifications are being observed.

§21-410. Township May Do Work and Collect Costs.

Upon the failure or refusal of any owner to timely construct, pave, repave, or maintain any curb, sidewalk, bikepath, pedestrian walkway, swale, or gutter; or to maintain or replace street trees, in compliance with a Township notice to do so, the Township may do the same or cause the same to be done, and may levy the cost of this work, together with the cost of collection and a reasonable administrative charge, on the owner as a municipal lien to be collected as provided by law.

§21-411. Emergency Repairs.

Where, in the opinion of the Township, a dangerous condition exists that must be immediately repaired, the Township shall send the owner of the property containing this condition a notice by registered or certified mail stating emergency repairs are required. Upon failure of such owner to

comply with the notice within forty-eight (48) hours after receiving it, the Township may make the required emergency repairs, and levy the cost of this work, together with the cost of collection and a reasonable administrative charge, on the owner as a municipal lien to be collected as provided by law.

§21-412. Construction and Repair Done on Owner's Initiative Without Notice.

Any owner not required by notice to construct, pave, repave, or keep in repair curbs, sidewalks, bikepaths, pedestrian walkways, swales, or gutters; or to maintain or replace missing, dead, damaged, or diseased street trees, may construct, pave, repave, or repair the curb, sidewalk, bikepath, pedestrian walkway, swale and gutter and maintain or replace dead, damaged, or diseased street trees abutting his/her property; provided such owner shall make application to the Township for a permit before commencing work; shall obtain property grades from the Township before commencement of work; shall conform to the provisions of this Part and other regulations as to specifications for construction and repair work; and shall notify the Township no less than forty-eight (48) hours before commencement of said work.

§21-413. Exemptions.

1. Owners of parkland, farm fields, undeveloped properties larger than five (5) acres, and residential properties larger than ten (10) acres are exempt from complying with the maintenance, repair, and replacement requirements of this Part concerning curbs, sidewalks, bikepaths, pedestrian walkways, swales, gutters; and street trees and are exempt from complying Subsections 21-403.1.A & B of this Part.
2. All property owned by New Britain Township containing sidewalks, bikepaths and pedestrian walkways are exempt from Section 21-403 of this Part.

§21-414. Penalties.

1. Any person who shall violate or permit violation of any provision of this Part shall pay a civil penalty of not more than Six Hundred Dollars (\$600.00) together with all court costs and reasonable attorneys' fees actually incurred by the Township. Each day that a violation continues shall constitute a separate offense. This penalty may be levied upon the owner, any tenant, and any other occupant of the real property containing the violation subject to the provisions hereof.
2. In addition to or in lieu of the civil enforcement action set forth in subsection 1. above, the Township may enforce this Part by filing an equity action against the violator to abate the violation and correct any damage done.

NEW BRITAIN TOWNSHIP
Ordinance # 2015-11-08
(Duly Adopted November 16, 2015)

ARTICLE III Repealer.

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed, but only to the extent of such conflict.

ARTICLE IV 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 the Board of Supervisors of New Britain Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

ARTICLE V Effective Date.

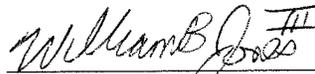
This Ordinance shall become effective five (5) days after final enactment.

ENACTED and **ORDAINED** this 16 day of November, 2015.

**NEW BRITAIN TOWNSHIP
BOARD OF SUPERVISORS**



Helen B. Haun, Chairman



William B. Jones, III, Vice Chairman

John A. Bodden, Sr.



Robert V. Cotton

A. James Scanzillo