

## **BOROUGH OF EATONTOWN – NOTICE OF ORDINANCE ADOPTION**

NOTICE is hereby given that **Ordinance 25-2024** - Ordinance of the Borough of Eatontown Entitled “**AN ORDINANCE AMENDING CHAPTER 89, ARTICLE IX, DELETING SECTION 89-74 OF THE BOROUGH CODE “SIDEWALKS AND APRONS” AND MOVING THIS SECTION IN ITS ENTIRETY TO A NEW SECTION, CHAPTER 89, ARTICLE VII “AREA BULK, AND USE REQUIREMENTS” SECTION 89-53 “ENTITLED SIDEWALKS AND APRONS” REQUIRING A VARIANCE FROM THE REQUIREMENT TO CONSTRUCT SIDEWALKS IN LIEU OF ALLOWING A WAIVER AND AMENDING SECTION 89-104 OF THE BOROUGH CODE DELINEATING THE PERMITTED USES FOR THE MONIES IN THE SIDEWALK TRUST FUND**” was passed after a public hearing at the regular meeting of **December 4, 2024** by the Governing Body of the Borough of Eatontown, at 47 Broad Street, Eatontown, NJ 07724. Borough of Eatontown - Julie Martin, RMC, Borough Clerk

### **ORDINANCE 25-2024**

#### **BOROUGH OF EATONTOWN**

#### **COUNTY OF MONMOUTH, STATE OF NEW JERSEY**

**AN ORDINANCE AMENDING CHAPTER 89, ARTICLE IX, DELETING SECTION 89-74 OF THE BOROUGH CODE “SIDEWALKS AND APRONS” AND MOVING THIS SECTION IN ITS ENTIRETY TO A NEW SECTION, CHAPTER 89, ARTICLE VII “AREA BULK, AND USE REQUIREMENTS” SECTION 89-53 “ENTITLED SIDEWALKS AND APRONS” REQUIRING A VARIANCE FROM THE REQUIREMENT TO CONSTRUCT SIDEWALKS IN LIEU OF ALLOWING A WAIVER AND AMENDING SECTION 89-104 OF THE BOROUGH CODE DELINEATING THE PERMITTED USES FOR THE MONIES IN THE SIDEWALK TRUST FUND**

**WHEREAS**, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq., and specifically N.J.S.A. 40:55D-62, the Borough of Eatontown (“Borough”) is authorized to adopt and amend zoning ordinances and standards; and

**WHEREAS**, the Borough code currently requires sidewalks to be constructed on both sides of all streets, and around the perimeter of cul-de-sacs, within a development, or on one side where the development abuts an existing street; and

**WHEREAS**, the Borough Council adopted Ordinance 08-2020 on July 9, 2020 authorizing the Planning and Zoning Boards to grant a waiver from the requirement to install sidewalks with the payment of an in -lieu contribution to the Borough’s Special trust account for sidewalk construction so that sidewalks and related improvements may be installed elsewhere in more appropriate locations in the Borough; and

**WHEREAS**, the Borough Council recognizes the importance of connecting sidewalks throughout the Borough to ensure connectivity and pedestrian safety and therefore seeks to ensure that the granting of relief from the requirement to construct sidewalks is limited to the circumstances where an applicant to the Planning or Zoning Boards meets the stricter requirements of obtaining a variance rather than a waiver from the requirements under the standards set forth in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et. seq.

**NOW THEREFORE BE IT ORDAINED**, by the BOROUGH COUNCIL OF THE BOROUGH OF EATONTOWN, IN THE COUNTY OF MONMOUTH, STATE OF NEW JERSEY that Chapter 89, Article IX, Design Standards and Improvement Specifications, Section 89-74, Sidewalks and Aprons is hereby deleted and the Section in its entirety is hereby moved into a new section within the Land Use Chapter of the Borough Code, Chapter 89, Land Use, Article VII, Area, Bulk and Use Requirements, creating a new section 89-53 entitled “Sidewalks and Aprons” as follows:

#### **SECTION I (89-74) (89-53) Sidewalks and Aprons**

##### **A. General requirements.**

- (1) Sidewalks shall be constructed on both sides of all streets within a development and entirely around the perimeter of all culs-de-sac. Where the development abuts an existing street, the sidewalk shall be constructed only on that side. Sidewalks shall also be constructed at any other places, such as pedestrian walkways or access points to open space, parking lots, etc., as shown on or required at the approval of the subdivision or site plan.
- (2) The requirements of the Standard Specifications regarding curing precautions must shall-be strictly observed.
- (3) Construction of sidewalks may be waived granted a variance by the Planning Board or Zoning Board of Adjustment. When sidewalk construction is waived granted a variance, an in-lieu contribution to the Borough’s Sidewalk Fund is required. The Board shall make one or more of the following findings when waiving sidewalk installation:
  - (a) The installation of sidewalks along the frontage of the property involved would have a detrimental impact and be out of character with the area in question.
  - (b) The street upon which the sidewalks would be installed does not provide direct pedestrian access to a public facility such as a school, an actively used park, or a public transportation facility.
  - (c) The road upon which the property fronts is unimproved.
  - (d) The application will result in no new construction or the construction of an accessory building(s) only.
- (4) When contribution to the Sidewalk Trust Fund is required, the fee shall be paid prior to the release of signed plans and shall be based upon the fee schedule in § 89-104.

(5) Exception. The Board Borough Council may waive entirely the in-lieu contribution when it finds that the development which will result from the application is so minor in scope that its impact on the community, relative to existing conditions, will be insignificant.

## **SECTION II (89-104)**

Chapter 89 Article XIII Section 89-104 (J) is hereby amended as follows:

J. Capital contribution for sidewalk construction. When contributions for sidewalk construction are required, the fee shall be paid into a capital reserve account for sidewalk trust fund construction prior to issuance of a building permit and shall be based upon the following fee schedule:

- (1) Minor subdivision: \$85 per square yard.
- (2) Minor site plan: \$85 per square yard.
- (3) Use variance; or undersized lot variance resulting in a new single-family dwelling: \$85 per square yard.
- (4) Major site plan or major subdivision. An amount equal to 100% of the reasonable cost of installing sidewalks along the entire frontage of the property where sidewalks do not exist. The amount shall be calculated by the Borough Engineer based upon typical costs at the time, with a minimum of \$85 per square yard.

- (5) In the case of an application requiring multiple approvals: \$85 per square yard.

The Borough may utilize the sidewalk trust fund for including but not limited to the following purposes: The design and installation of sidewalks where no sidewalk exists; the design, repair and extension of existing sidewalks; the design, repair or installation of items accessory and coincidental to sidewalks and crosswalks usage such as lighting, striping and signage which are either required by local, county, state or Public Utility regulations or recommended by the Borough Engineer for safety purposes.

## **SECTION III-EFFECTIVE DATE**

This ordinance shall take effect immediately after its final adoption.