

Chapter 21

Streets and Sidewalks

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Part 1**Obstruction Prohibited****§21-101. General.**

1. *Prohibited Generally; Exception for Construction Materials.* It shall be unlawful for any person to place any obstruction of any kind whatsoever upon any street, lane, alley, sidewalk, crosswalk or pavement of the Borough, other than materials and accessories necessarily used in the erection and construction of buildings during the period of such erection or construction and then such material and accessories shall be neatly arranged, shall not occupy more than one-fourth of the width of the street, lane or alley from the curb nearest the building or buildings, shall not interfere with or impede a clear and free passageway upon any of the streets, lanes, alleys, sidewalks, crosswalks or pavements and shall be properly guarded at night with red lights.

2. *Vehicles.* It shall be unlawful for any person using or owning any wagon, cart, or other vehicle, to leave, or permit the same to remain, when not in use, upon any of the streets, lanes, alleys, sidewalks, crosswalks or pavements of the Borough, and, where the same shall, from unavoidable accidents, remain upon any of such streets, lanes, or alleys overnight, the same shall be properly guarded with red lights.

(Ord. 92, 12/8/1905, §I)

§21-102. Riding or Driving Over Curbs and Sidewalks.

It shall be unlawful for any person to ride or drive any vehicle over, along or across any curb or sidewalk within the Borough unless permission is granted by such officer as may be designated by Council.

(Ord. 92, 12/8/1905, §I)

§21-103. Breaking or Damaging Curbs and Sidewalks Restricted.

It shall be unlawful for any person to break or damage any curb or sidewalk within the Borough unless permission is granted by such officer as may be designated by the Borough Council.

(Ord. 92, 12/8/1905, §I)

Part 2**Openings, Excavations and Pavement Cuts****§21-201. Definitions.**

The following words, when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

Applicant - any person who makes application for a permit required by this Part.

Emergency - any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

Engineer - the duly appointed Borough Engineer, or his authorized deputy, representative, or inspector.

Permittee - any person who has been issued a permit pursuant to and who has agreed to fulfill all the terms of this division.

Person - includes any natural person, partnership, firm, association, utility, corporation, or authority created pursuant to an act of the General Assembly. Whenever used in any Section prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

Street - include a public street, public easement, public right-of-way, public highway, public alley, public way, or public road accepted or maintained by the Borough.

(Ord. 407, 7/13/1971, §1.1)

§21-202. Permit Required; Exception for Emergencies.

It shall be unlawful for any person to make any tunnel, opening, or excavation of any kind in or under the surface of any street without first securing a permit from the Borough for each separate undertaking; provided, however, any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the office of the Engineer is open for business and such permit shall be retroactive to the date when the work was begun.

(Ord. 407, 7/13/1971, §2.1)

§21-203. Permit Application; Accompanying Documents, etc.

It shall be the duty and responsibility of any applicant for the permit required by §21-202 to:

- A. Make a written application for such permit with the Engineer on such forms as he shall prescribe.
- B. Furnish in duplicate a plan showing the work to be performed under such

permit. If approved by the Engineer, one copy of such plan shall be returned to the applicant at the time the permit is granted.

C. Agree to save the Borough, its officers, employees, and agents harmless from any and all costs, damages and liabilities which may accrue.

(Ord. 407, 7/13/1971, §3.1)

§21-204. Permit Approval; Issuance; Conditions.

1. No work shall commence until the Engineer has approved the application for a permit required by §21-202 and plan and issued a permit and until the permittee has paid and provided all fees, deposits, certificates and bonds required by this Part.

2. In granting any such permit, the Engineer may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:

A. Limitations on the period of the year in which the work may be performed.

B. Restrictions as to the size and type of equipment.

C. Designation of routes upon which material may be transported.

D. The place and manner of disposal of excavated materials.

E. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public, or any portion thereof.

F. Regulations as to the use of streets in the course of the work.

(Ord. 407, 7/13/1971, §3.1)

§21-205. Permit Approval of Engineer Required for Additional Work.

No person to whom a permit required by §21-202 has been granted shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that upon the approval by the Engineer additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this Section within the limit mentioned herein.

(Ord. 407, 7/13/1971, §2.2)

§21-206. Permit Subject to Rights of Borough.

Every permit required by §21-202 shall be granted subject to the right of the Borough or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, not inconsistent with the permit.

(Ord. 407, 7/13/1971, §2.7)

§21-207. Permit Transferability.

Permits required by §21-202 are not transferable from one person to another and the work shall not be made in any place other than the location specifically designated

in the permit.

(*Ord. 407, 7/13/1971, §2.4*)

§21-208. Permit Termination for Failure to Commence Work.

Work for which a permit required by §21-202 has been issued shall commence within 10 days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

(*Ord. 407, 7/13/1971, §2.3*)

§21-209. Permit Revocation; Notice to Permittee; Restoration of Surface; Recovery of Costs.

1. Any permit required by §21-202 may be revoked by the Engineer, after notice to the permittee, for:

- A. Violation of any condition of the permit or any provision of this Part.
- B. Violation of any provision of any other applicable ordinance or law relating to the work.
- C. Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others.

2. A permittee may be granted a period of 3 days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before such permit is revoked.

3. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be notified.

4. When any such permit has been revoked and the work authorized by the permit has not been completed, the Engineer shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made.

5. All expense incurred by the Borough shall be recovered from the deposit or bond the permittee has made or filed with the Borough.

(*Ord. 407, 7/13/1971, §2.8*)

§21-210. Permit Expiration.

Every permit required by §21-202 shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the Engineer a request for an extension of time, setting forth therein the reasons for the requested extension. If in the opinion of the Engineer such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

(*Ord. 407, 7/13/1971, §2.8*)

§21-211. Exemptions from Division; State Permits.

1. The provisions of this Part shall not be applicable in those instances where the highway is maintained by the State or by the County.

2. The Department of Highways of the State shall be, and hereby is given exclusive authority to grant all permits for the opening or tearing up of any part of the improved surface of those certain Borough streets, or parts thereof, which are continuations of State highway routes in the Borough, and for the maintenance of which the Department of Highways is by law responsible.

3. Fees for the granting of such permits may be charged by the Department of Highways of the State, according to the standard schedule of fees which may from time to time be adopted.

4. Any person opening or tearing up the improved surface of any of the streets described in subsection .2 of this Section, or causing or allowing the same to be done for him, without having first obtained a permit from the Department of Highways of the State, upon conviction thereof, shall be sentenced to pay a fine of not 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. In addition, the Borough may recover the surface restoration costs. [*Ord. 623*]

5. All fines and restoration charges collected for violations as described in subsection .4 of this section shall be paid into the state treasury as provided by law. (*Ord. 407, 7/13/1971, §2.6; as amended by Ord. 623, 2/14/2006*)

§21-212. Removal of Excavated Material from Street.

When any earth, gravel or other excavated material is caused to roll, flow, or wash upon any street, the person to whom a permit has been issued under §21-202 through §21-210 shall cause the same to be removed from the street within 8 hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Engineer shall cause such removal and the cost incurred shall be paid by the permittee or deducted from his deposit or bond.

(*Ord. 407, 7/13/1971, §3.1*)

§21-213. Barriers, Warning Lights, etc.

1. Every permittee under §21-202 through §21-210 shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Engineer to be necessary for the protection of the public.

2. No person shall willfully move, remove, injure, destroy, or extinguish any barrier, warning light, sign, or notice erected, placed or posted in accordance with the provisions of this Part.

(*Ord. 407, 7/13/1971, §3.1*)

§21-214. Hours of Operation.

Work authorized by a permit required by §21-202 shall be performed between the hours of 7 a.m. and 7 p.m., Monday through Saturday, unless the permittee obtains written consent from the Engineer to do the work at an earlier or later hour. Such permission shall be granted only in case of an emergency.

(Ord. 407, 7/13/1971, §3.1)

§21-215. Restoration of Openings.

1. *Generally.* All pavement cuts, openings, and excavations shall be properly made, backfilled and temporarily surfaced by the person to whom a permit has been issued pursuant to §§21-202 through 21-210 according to Borough specifications.

2. *Notice to Engineer of Commencement of Work.* The Engineer must be notified by the permittee, during the 48 hour period preceding beginning of backfilling, of the date and approximate time at which backfilling will be begun.

3. *Presence of Engineer or Inspector Required.* No backfilling shall be accomplished unless or until the Engineer or a designated Borough inspector is present.

4. *Restoration Work to Conform to Borough Specifications.* The work of the restoration, including both paving surface and awing base, shall be performed by the permittee, according to Borough specifications.

5. *Work to be Prosecuted with Due Diligence.* After excavation is commenced, the work of making and backfilling the lame shall be prosecuted with due diligence.

6. *Inspections.* The Engineer shall make daily inspections of ill work authorized by a permit. The Engineer is empowered to provide a full time inspector if the work to be performed is of a nature that a full time inspector is necessary to ensure compliance with the provisions of this Part. All inspection costs shall be borne by the permittee.

7. *Notice of Completion of Work; Issuance of Certificate of Final Inspection.* Upon completion of all work accomplished under the provisions of the permit, the permittee shall notify the Engineer in writing. A certificate of final inspection shall be issued by the Engineer to each permittee no sooner than 1 year after the permanent restoration of the excavation has been made, provided the work authorized by the permit has been performed according to Borough specifications. Prior to the issuance of a certificate, the Engineer shall make a final inspection of the restoration to determine whether Borough specifications have been adhered to.

8. If any settlements in a restored area occurs within a period of 1 year from date of completion of the permanent restoration, any expense incurred by the Borough in correcting such settlement shall be paid by the permittee or recovered from his bond, unless the permittee submits proof satisfactory to the Engineer that the settlement was not due to defective backfilling.

9. In no case shall any opening made by a permittee be considered in the charge or care of the Borough, or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it is necessary to protect life and property.

(Ord. 407, 7/13/1971, §4.1)

§21-216. Deposits - Computation.

The Engineer, upon receipt of a properly completed application for the permit required by §21-202, shall determine the amount of the deposit to be made by the permittee; provided, however, that the deposit shall not be less than \$50. The deposit shall be paid at the time the permit is received, and the deposit shall be used to reimburse the Borough for the cost of any work and materials furnished by it in

connection with the work authorized by the permit, to cover all necessary inspections of such work, and for any other purpose set forth in this Part.

(*Ord. 407, 7/13/1971, §5.1*)

§21-217. Deposits - Form.

The deposit provided for in §21-215 may be either in the form of a certified, treasurer's or cashier's check, in lawful money of the United States.

(*Ord. 407, 7/13/1971, §5.2*)

§21-218. Deposits - Procedure When Insufficient.

If any deposit provided for in §21-215 is less than sufficient to pay all costs, the permittee shall, upon demand, pay to the Borough an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the Borough may institute an action to recover the same in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.

(*Ord. 407, 7/13/1971, §5.3*)

§21-219. Deposits - Yearly.

Whenever any public utility or authority shall anticipate more than one street opening or excavation per calendar year, such utility or authority may post one deposit as provided for in §21-215 in an amount and form as provided in this Part, for the calendar year or part thereof to cover the cost of any and all work.

(*Ord. 407, 7/13/1971, §5.4*)

§21-220. Fees.

A schedule of charges for permit fees, permit deposits and inspections shall be established from time to time by resolution of Borough Council.

(*Ord. 407, 7/13/1971, §5.5; as amended by Ord. 418-B, 6/19/1973; and by Ord. 623, 2/14/2006*)

§21-221. Fees Refund.

Upon notification by the permittee that all work authorized by the permit required by §21-202 has been completed and after restoration of the opening the Engineer shall refund the permittee his deposit less all costs incurred by the Borough in connection with such permit. In no event shall the permit fee be refunded.

(*Ord. 407, 7/13/1971, §5.7*)

§21-222. Engineer's Decision on Costs Final.

The decision of the Engineer as to the cost of any work done or repairs made by him or under this Part, pursuant to the provisions hereof, shall be final and conclusive as to such cost.

(*Ord. 407, 7/13/1971, §5.6*)

§21-223. Bond Requirements.

1. Each applicant for the permit required by §21-202 upon the receipt of a permit shall provide the Borough with an acceptable corporate surety bond to guarantee faithful performance of the work authorized by a permit granted pursuant to this Part. The amount of the bond shall be 100% of the estimated cost of restoring the street opening. The term of the bond shall begin upon the date of posting thereof and shall terminate upon the receipt by the permittee of a certificate of final inspection from the Engineer. If the permittee anticipates requesting more than one permit per year as required by this Part, he may furnish one continuing corporate surety bond to guarantee faithful performance in such amount as the Engineer deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year.

2. Whenever the Engineer shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Engineer to be reasonably necessary for the completion of such work.

3. After receipt of such notice the surety must, within the time therein specified, either cause the required work to be completed or, failing therein, indemnify the Borough for the completion of the work as set forth in the notice.

(Ord. 407, 7/13/1971, §6.3)

§21-224. Insurance Requirements.

An applicant for the permit required by §21-202, on receipt of a permit, shall provide the Borough with a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the project, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the engineer in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than \$100,000 for each person and \$300,000 for each accident and for property damages in an amount not less than \$50,000, with an aggregate of \$100,000 for all accidents. Public utilities and authorities may be relieved of the obligation of submitting such a certificate if they are insured in accordance with the requirements of this Section.

(Ord. 407, 7/13/1971, §7.1)

§21-225. Map Requirements.

1. Every person owning, using, controlling, or having an interest in pipes, conduits, ducts, or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Borough, or to or from its inhabitants, or for any other purposes shall file with the Engineer a map or set of maps, each drawn to a scale of not less than 1 inch to 200 feet showing the location, size and description of all such installations.

2. Within 30 days after the first day of January of each and every year, each such

person shall file with the Engineer a corrected map or set of maps each drawn to scale as above, showing such installations, including all those made during the previous year; provided, however, if no additions have been made to its installation during the previous year, a utility or authority may file with the Engineer a written statement to that effect, within the period of time specified above. A utility or authority may at its own option elect to provide corrected atlas sheets throughout the year as they are available rather than proceed as above noted.

3. Each map required by this Section shall be accompanied by an affidavit, endorsed thereon, to the effect that the same correctly exhibits the details required to be shown by this Section.

(*Ord. 407, 7/13/1971, §8.1*)

§21-226. Abandoned Facilities.

1. Whenever any pipe, conduit, duct, tunnel, or other structure located under the surface of any street, or the use thereof, is abandoned, the person owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the Engineer a statement in writing giving in detail the location of the structure so abandoned.

2. Each map, or set of maps, filed pursuant to the provisions of §21-224, shall show in detail the location of all such structures abandoned subsequent to the filing of the last preceding map or set of maps.

(*Ord. 407, 7/13/1971, §8.2*)

§21-227. Notices to Police and Fire Authorities.

The Engineer shall notify in writing the Borough police and fire authorities of all permits required by §21-202 that he grants. Such notification shall state the nature of the work to be done, proposed beginning and completion dates and the location of such project.

(*Ord. 407, 7/13/1971, §8.3*)

§21-228. Penalty; Violations.

Any person, firm or corporation who shall violate any provisions of this Part, upon conviction thereof, shall be sentenced to pay a fine of not 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 Part continues shall constitute a separate offense.

(*Ord. 407, 7/13/1971, §8.4; as amended by Ord. 623, 2/14/2006*)

Part 3**Sidewalks****A. Construction.****§21-301. Requirement for Construction.**

Whenever the grade of any street or part thereof shall be established, and the curb line given, every property owner along the same, after proper notice from the Borough Engineer, shall be required, at his or her own expense, to grade the sidewalks, put in curb of such dimensions as may be approved by the Borough Engineer, and pave the sidewalks to the width required by Council, the whole length of the walk abutting his or her lot or lots, with concrete, according to the specifications from time to time adopted by the Council, and, in so doing, to conform to the lines and grades given him; provided, existing brick sidewalks may be repaired with brick. Also, provided, that existing sidewalks may be surfaced with such materials as may, from time to time, be approved by Council. In all such cases, the property owner who desires to resurface his sidewalk shall first notify the Borough Engineer of his intention to resurface his existing sidewalk and of the type of material which he intends to use, whereupon the Borough Engineer shall inspect the sidewalk to be resurfaced and make a report and recommendation to Council, whereupon Council shall approve or reject the proposed resurfacing plan. Upon approval of such resurfacing plan, the property owner may proceed to resurface his sidewalk in accordance with the plans and specifications as approved by Council, and the Borough Engineer shall inspect the finished job and make a final approval.

(Ord. 439, 8/12/1975, §19-85)

§21-302. Borough Authorized to Perform Work Upon Owner's Failure to Comply with §21-301.

If any person shall fail, neglect or refuse to pave the sidewalk with approved material as provided by §21-301, within a period of 20 days after being duly notified as prescribed by law, the Borough Council may cause the same to be laid at the expense of such delinquent, and may recover the cost thereof, as provided by law.

(Ord. 439, 8/12/1975, §19-86)

§21-303. Authorization for Property Owners to Construct Sidewalks Where not Required.

It shall be lawful for any property owner, at his own discretion, where a sidewalk has not been ordered to be laid by authority of the Borough, to construct or cause to be constructed a sidewalk along his property; provided, such property owner shall first notify the Borough Engineer of his intention to construct such sidewalk and shall obtain from him the specifications for concrete used in sidewalk construction in the Borough and shall conform to such specifications; provided, further, such sidewalk shall be constructed outside the cartway of the street or alley along which it is located.

(Ord. 439, 8/12/1975, §19-87)

B. Repair.**§21-311. Abutting Owners Duty.**

It shall be the duty of owners of lots or premises in the Borough to maintain and keep in good repair the sidewalks and curbs abutting or fronting thereon.

(Ord. 255, 4/12/1937, §I)

§21-312. Notice to Owners to Repair.

If any sidewalk or curb in the Borough shall be out of repair it shall be the duty of the Borough Engineer to serve a written notice on the owner of the lot or premises abutting or fronting thereon, if the owner be a resident of the Borough, to repair the same within 15 days of the service of the notice. If the owner is not a resident of the Borough, then the notice may be served upon the agent or tenant of the owner, or upon the occupant of such premises. If the owner has no agent or tenant or there is no occupier of such premises, then service shall be by printed or written notice posted upon the premises.

(Ord. 255, 4/12/1937, §II)

§21-313. Performance by Borough; Collection of Costs.

If an owner as described in §21-312 shall fail or refuse to repair the sidewalk and curbs in conformity with the requirements of the notice served in the manner provided above, the Borough Engineer shall cause the same to be repaired at the cost of such owner, and the Borough may collect the cost thereof and 10% additional, together with all charges and expenses, from such owner, and may file a municipal claim or collect the same by action in assumpsit.

(Ord. 255, 4/12/1937, §III)

§21-314. Emergencies.

1. If, in the opinion of the Borough Engineer, a dangerous condition exists in any sidewalk in the Borough, which dangerous condition can be repaired by an expenditure of not more than \$25, the Borough Engineer may serve a written notice on the owner of the lot or premises adjacent or abutting thereon requiring the owner to repair the dangerous condition within 48 hours from the service of the notice. If the owner cannot be served within the County, notice may be served upon the agent of the owner or the party in possession, if any, or, if there is no agent or party in possession, the notice may be served by posting upon the most public part of the lot or premises.

2. If the owner of the lot or premises shall not within 48 hours from the service of the notice repair the dangerous condition, the Borough Engineer shall cause the same to be repaired at the cost of the owner.

3. Upon the completion of the work the cost thereof shall be a charge against the owner of the property abutting thereon and a claim for the same shall be filed therefor in accordance with the law providing for the filing and collection of municipal claims.

(Ord. 256, 4/13/1937, §I -III)

C. Removal of Debris.**§21-321. Abutting Owner's Duty to Remove Debris, Etc.; Removal by City.**

1. When earth, debris or other matter shall be deposited upon the sidewalks in front of any lot in the Borough it shall be the duty of the Chief of Police to give notice to the owner of such lot, or if the owner is not resident in the Borough, then to the tenant thereof and if such real estate is vacant, then by notice posted upon the premises to remove such earth, debris or other material, and if the owner shall not remove such obstruction on the sidewalk within 5 days from such notice it shall be the duty of the Borough Engineer to remove the same, charging the cost thereof to the owner of such lot and to report the same to the Borough Clerk for collection.

2. The Borough shall, upon removing the obstruction as provided in subsection .1 give notice by mail to the last known address of the owner of such property, of the amount charged against him and, if the same is not paid within 30 days from date of mailing such notices, the amount charged against such owner shall be collected in the same manner as penalties are by law collected.

(Ord. 107, 7/6/1909; §§I, III)

