

CHAPTER 94: STREETS AND SIDEWALKS

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STREET OPENINGS**§ 94.001 PERMIT REQUIRED.**

(A) The opening of the surface of any street, alley or other public way or right-of-way owned, controlled or maintained by the borough (hereinafter referred to as "borough street") is prohibited unless a permit is obtained for that purpose in the manner hereinafter described. Such permit shall only be granted when the applying party files an application on a form provided by the borough, pays the required fees, posts security, as may be required, and otherwise complies with all other terms and conditions set forth herein.

(B) Street opening permits are not required for the installation or replacement of a sidewalk or curb, provided that a sidewalk or curb permit has been obtained and provided that such installation in no way affects the street surface.

(C) At the discretion of the Borough Council, permit fees may be waived for contractors performing work on behalf of the borough. Such contractors are required to apply for a street opening permit, and to post a bond or other security, as set forth herein, or in accordance with the terms or conditions of any contract between the contractor and the borough.

(D) The borough office must be notified within 24 hours of any street opening or excavation necessitated by an emergency. A party performing such emergency street opening must apply for the street opening or excavation permit, in accordance with this subchapter, on the first business day following such emergency. Any party who commences any emergency street opening or excavation will be deemed to have impliedly consented to all of the provisions of this subchapter, including but not limited to those provisions dealing with fees, security and backfilling. In addition to the penalties set forth in § 94.999 herein, as well as any and all remedies for penalties provided by law, the Borough Secretary/Treasurer is authorized to order the immediate cessation of any opening or excavation activity and the immediate repair and replacement of the surface to its original condition if the notice and application provisions set forth above are not complied with.

(Ord. passed - -)

§ 94.002 PROVISIONS FOR GRANTING OF PERMIT.

Street opening permits shall only be granted upon compliance with the following express provisions:

(A) A written application, on a borough form, shall be filed with the borough office. Such application shall set forth the purpose for which such excavation is to be made, the site and location of the work, the full scope of work to be included in the project and the anticipated commencement and completion dates of the project, including refilling and resurfacing. The applicant shall furnish a drawing or plan of the proposed opening or excavation upon request by the Borough Engineer, or the Borough

Secretary/Treasurer. In addition to the above, the applicant must set forth the estimated cost of the entire project. The borough shall have the right to require production of written verifications of such cost as may be appropriate.

(B) Prior to the issuance of such permit, every applicant shall pay to the borough the amount hereinafter required for the purposes specified.

(C) No permit shall be granted to any applicant unless all moneys due the borough for prior excavations made or for loss, damages or expenses in any manner occasioned by or arising from prior work done by the applicant are paid in full.

(D) The written application shall contain a provision in which the applicant agrees to indemnify and hold harmless the borough, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue arising out of any work.

(E) Depending upon the size, scope and nature of the opening or excavation project applied for or upon the advice and recommendation of the Borough Solicitor, the applicant may be required to obtain and file with the borough a certificate of insurance protecting the borough against liability arising out of the work to be done. The amount of coverage shall be determined in accordance with the risk to the borough, the scope and length of the project and other such factors. Failure of an applicant to secure such certificate of insurance shall be sufficient reason for denying a permit.

(F) The applicant must comply with all applicable requirements of the Pennsylvania Workers' Compensation Act and provide proof of coverage to the borough, if applicable.
(Ord. passed - -)

§ 94.003 BOND REQUIRED.

(A) All public utility companies requesting a permit to open or excavate the surface of a street shall furnish a properly executed corporate surety bond.

(B) All other persons or parties, including contractors, developers and property owners, may be required to furnish a corporate surety bond if, in the opinion of the Borough Engineer and based upon the size, scope and expected effect of a proposed excavation or opening, such security is necessary in order to guarantee surface replacement in accordance with the terms set forth herein.

(C) The bond, when required, shall be in effect for a period of not less than three years from the commencement date of the project. The amount of the surety bond shall be a minimum of \$50,000. If the cost of any street excavation, opening and required restoration exceeds such amount, additional bonding in an amount equal to 125% of the estimated cost of the project shall be required.

(D) Whenever any public utility or municipal authority which owns, controls or maintains underground facilities in the borough reasonably anticipates more than one street opening or excavation per calendar year, it may post a bond for the calendar year or part thereof to cover any and all street openings anticipated. In such case the amount of the bond shall be approved by the Borough Council and the applicant's initial street opening permit in a calendar year will only be issued if the bond has been posted and the applicant has provided the borough with an accurate and up-to date map of its underground facilities. The approval of a calendar-year bond does not absolve the applicant of its obligation to obtain a separate street opening permit for each street opening to be performed by the applicant.

(Ord. passed - -) Penalty, see § 94.999

§ 94.004 FEES.

(A) The minimum fee \$150 shall be paid upon application for a permit, as set forth herein.

(B) In addition to the minimum application fee, the borough shall be entitled to assess such additional fees as is set forth in the fee schedule. The Borough Council reserves the right to review the said fee schedule from time to time and amend the same by resolution of Council. All such additional fees assessed by the Borough Council must be paid by the applicant within 30 days of its receipt of notice of the assessed fees.

(Ord. passed - -)

§ 94.005 REVOCATION OF PERMIT; NOTICE OF VIOLATION.

(A) All street opening permits are subject to revocation at any time by the borough, upon recommendation of its Engineer or the Borough Secretary/Treasurer, for:

(1) Violation of any condition of the permit.

(2) Violation of any provision of this section or subchapter or any other applicable ordinance or law relating to the work.

(3) The existence of any condition or act constituting or creating a nuisance or endangering the welfare, safety, lives or property of others.

(B) Written notice of such violation shall be served upon the applicant/permittee or party engaged in the work. Such notice shall contain a brief statement of the reasons for revoking such permit and/or may contain a time period and method by which the permittee may cure any such violation. Notice may be given either by personal delivery or by United States mail sent to the address listed on the original application.

(C) Upon revocation of any permit, a portion of any prepaid application fees not necessary to compensate the borough for the depreciation of its street shall be returned to the permittee. The determination of the portion of the application fees to be returned shall be entirely within the discretion of the borough, and its decision shall be final.

(Ord. passed - -)

§ 94.006 REQUEST FOR EXTENSION.

If any permittee is unable to complete the street opening or excavation on or before the date specified in the permit, the permittee must file a written application for an extension of time with the borough. Said application shall set forth the reasons for the request for the extension of time and shall contain an estimate of the additional time required to complete the project. A fee, as set forth in the fee schedule, shall accompany the extension application to defer the cost of processing and filing the same.

(Ord. passed - -)

§ 94.007 BACKFILLING AND RESTORATION; COSTS.

The permittee shall be and remain responsible for backfilling and paving the opening and restoring the surface to its original condition and composition prior to the opening or cut. All backfilling and restoration shall be in accordance with the most current Pennsylvania Department of Transportation Publication 408 standards. In the event that the street excavation or opening or any required backfilling has not been completed prior to the date of expiration as set forth on the permit, the borough may take steps to backfill the opening or excavation and to replace the street surface. The borough shall invoice the permittee for all costs incurred by the borough in the performance of this work plus 10%. Payment not made within 30 days will be charged against the posted bond, including all fees and costs involved in the collection of this payment.

(Ord. passed - -)

§ 94.008 ADDITIONAL REQUIREMENTS OF PERMITTEE.

The following requirements must also be complied with by the permittee:

(A) All stormwater drains or gutters shall be left open so as not to obstruct the free passage of water during any period of construction.

(B) All sidewalks and footways must be kept in a safe and passable condition during construction.

(C) All materials removed by the excavation, as well as backfilling materials, shall be stored in a safe place, as determined by the borough, pending completion of the project and backfilling.

(D) As may be deemed necessary by the borough for the safety and welfare of all persons and property, the permittee shall install or cause to be installed all necessary warning lights, illumination, barricades or other safety devices.

(E) Proper traffic control and warning signs must be in place and maintained in accordance with the current edition of Publication 213 of the Pennsylvania Department of Transportation.

(F) If ten excavations occur in one block within a three-year period, the applicant must mill and pave to borough specifications the entire road surface within that block, during its required restoration. For purposes of this section, a **BLOCK** is defined as an area of roadway between cross streets or nearest intersections.

(G) All backfilling shall be done with mechanical compaction and shall consist of layers not to exceed eight inches in depth between each compaction.

(H) Replacement of bituminous paved area shall include, saw cutting in straight lines and milling and repaving the entire road surface from curb to center line plus 12 inches on each side of the street opening. In the event that the street opening extends beyond the center line of the street pavement replacement shall consist of curb to curb and five feet in each direction on either side of the street opening.

(I) Any and all other conditions relating to the project imposed upon the applicant/permittee and set forth on the permit must be complied with.
(Ord. passed - -) Penalty, see § 94.999

§ 94.009 GUARANTEE AND MAINTENANCE OF WORK.

Notwithstanding any bonding or other security requirements, the permittee shall guarantee and maintain the backfilling and restoration work for a period of 36 months following completion. Within this 36-month period, upon notification from the borough of the necessary correction work required, the permittee shall correct or cause to be corrected all deficiencies within five working days of receipt of the notifications. Any work not completed within this five-day period may be completed by the borough. The borough shall invoice the permittee for all costs incurred by the borough in the performance of this work, plus 10%. Payment not made within 30 days of the invoice date will be charged against the posted bond, including all fees and costs involved in the collection of this payment.
(Ord. passed - -)

§ 94.010 CONSTRUUAL OF PROVISIONS.

Nothing contained in §§ 94.001 through 94.009 or any provision thereof shall be interpreted as prohibiting or limiting any other right or cause of action the borough may have, in law or in equity, against any party for any violation of the terms of this chapter or matters related thereto.
(Ord. passed - -)

SIDEWALKS

§ 94.020 DUTIES OF PROPERTY OWNER.

(A) Owners of property to construct sidewalk on notice; time limit. It shall be the duty of every owner of real estate in the borough, on ten-days' notice from the Borough Council, to construct a sidewalk, which shall conform to all applicable requirements of the notice, in front of or alongside such real estate.

(B) Owners of property to repair sidewalk on notice; time limit. It shall be the duty of every owner of real estate in the borough, on ten-days' notice from the Borough Council, to repair the sidewalk, in a manner stipulated in such notice, in front of or alongside such real estate.
(Ord. passed - -) Penalty, see § 94.999

§ 94.021 MATERIALS; WIDTH

All sidewalks hereafter constructed, reconstructed or repaired shall be constructed, reconstructed or repaired shall be constructed, reconstructed or repaired of concrete only, in conformity to specifications adopted by the Borough Council from time to time, provided that any sidewalk that was lawfully constructed, prior to the enactment of this subchapter, of material other than concrete may be repaired of the same material, but where the condition of any such sidewalk shall be, in the judgment of the Borough Council, such that reconstruction thereof shall be necessary and repair shall not be feasible, such sidewalk shall be reconstructed of concrete as hereinabove specified; provided, further, that the width of sidewalks shall be determined by the Borough Council at the time of notification of the property owner to construct, reconstruct or repair the same.
(Ord. passed - -) Penalty, see § 94.999

§ 94.022 PERFORMANCE OF WORK BY BOROUGH; COSTS.

In case the owner of any real estate in the borough shall fail, neglect or refuse to construct, reconstruct and/or repair any sidewalk within the time limit set in the notice from the Borough Council so to do, the Council may, after notice, cause said construction, reconstruction or repair, as the case may

be, to be done at the cost of such owner, and shall then collect the cost of such work and 10% additional, together with all charges and expenses, from such owner and may file a municipal claim therefor or collect the same by action in assumpsit.

(Ord. passed - -)

§ 94.023 RECTIFICATION OF IMPROPER WORK.

Any sidewalk or portion thereof constructed, reconstructed or repaired in violation of this subchapter or of any notice given by the Borough Council pursuant thereto or in any respect not in strict conformity with all applicable provisions of this subchapter and of any notice given by the Borough Council pursuant thereto shall, within ten-days' notice by the Borough Council to the owner of the real estate abutting thereupon, be removed and reconstructed by such owner, or all necessary steps other than removal and reconstruction, as directed by Council, shall be taken by such owner to rectify such violation or nonconformity, in default of which the Borough Council may cause such work or reconstruction or rectification to be done and shall collect the cost thereof, and 10% additional, together with all charges and expenses, from such owner, and may file a municipal claim therefor or collect the same by action at law.

(Ord. passed - -)

SNOW AND ICE REMOVAL

§ 94.035 RESPONSIBILITY OF OWNER, OCCUPANT OR TENANT.

The owner, occupant or tenant of every property fronting upon or alongside any street in the borough is hereby required to remove or cause to be removed from all of the sidewalks in front of or alongside such property all snow and ice thereon fallen or formed, within 24 hours after the same shall have ceased to fall or to be formed, provided that the owner of a property shall be responsible for conforming to the requirements of this section where such property is occupied by such owner or is vacant or unoccupied or is a multiple-unit property, having more than one tenantable unit; the tenant or occupier shall be responsible where the property is composed of a single unit, occupied by such tenant or occupier only.

(Ord. passed - -) Penalty, see § 94.999

§ 94.036 PERFORMANCE OF WORK BY BOROUGH.

In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any of the provisions of this subchapter within the time limit prescribed therein, the borough authorities may proceed immediately to clear all snow and/or ice from the sidewalk of such delinquent,

and to collect the expenses of such removal, with an additional amount of 10% from such owner, occupant or tenant, which may be in addition to the penalty imposed herein.
(Ord. passed - -)

SLEDDING

§ 94.050 RESTRICTIONS.

No person or persons shall ride upon any sled or similar conveyance upon any sidewalk in the borough, or upon any street or alley in said borough, unless such street or alley shall have been especially set apart and designated by the Mayor as a play highway for the purpose and shall have been blocked off or adequately protected from vehicular traffic.
(Ord. passed - -) Penalty, see § 94.999

ACCESSIBILITY OF SIDEWALKS

§ 94.060 BLOCKING WITH VEHICLE.

It shall be unlawful for any person, corporation, association, business entity or other party to cause any automobile, truck, tractor or other motor vehicle or any trailer, cart or other wheel-type vehicle or conveyance to park, stand, sit or stop on or upon any sidewalk, walkway or other pedestrian passageway, whether or not paved, bricked or improved, over which the general public has, or has enjoyed in the past, a right of access, passageway, ingress, egress or regress.
(Ord. passed - -) Penalty, see § 94.999

§ 94.061 PRESUMPTION OF VIOLATION.

Any motor vehicle or other wheel-type conveyance, as aforesaid, which has at least one wheel on any such sidewalk, walkway or passageway shall be considered as blocking or illegally parked, stopped or situated upon the same.
(Ord. passed - -)

§ 94.062 BLOCKING WITH ANY ARTICLE.

It shall be unlawful for any person, corporation, association, business entity or other party to cause to be placed or erected, temporarily or permanently, on or contiguous to any sidewalk, walkway or other pedestrian passageway, as aforesaid, any object which interferes with the free accessibility by the public over, upon or through said sidewalks, walkways or other pedestrian passageways or in any way causes or forces pedestrian traffic to use a public roadway or private property to gain passage.

(Ord. passed - -) Penalty, see § 94.999

§ 94.999 PENALTY.

(A) (1) Any person violating any provision of §§ 94.001 through 94.009 shall, upon conviction thereof, be fined not less than \$100, nor more than \$300, for each and every offense, together with costs, and in default of payment thereof shall be imprisoned for not more than 30 days. Each failure to obtain a permit or to comply with any of the requirements of §§ 94.001 through 94.009, as well as each and every day during which such violation continues, shall constitute a separate offense.

(2) In addition to the penalties set forth in division (A)(1), the borough reserves the right to deny the issuance of any future street opening permit to any person or party who violates the provisions of §§ 94.001 through 94.009.

(3) Any person, party, organization, corporation or other entity who commences any opening, cutting, excavation, other digging or disturbance of the improved or unimproved surface or adjacent area of any public roadway, alley, or right-of-way, as defined in the applicable ordinances, without first obtaining a valid permit from the borough office, and paying the required fee, will be deemed guilty of a separate violation of said ordinance, in addition to any other sanctions or penalties imposed therein. If said person, party, organization, corporation or other entity, upon notice by the borough, or its duly authorized or appointed officials, ceases all activity and applies for the applicable permit, the borough office shall have the discretion to issue same upon payment of a fee which shall be no less than double the usual, timely application fee. This provision shall apply only to a first offense by any person, party, organization, corporation or other entity.

(4) In addition to any penalties or application fees set forth above in this division (A), any person, party organization, corporation or other entity who fails to obtain permits before conducting any of the activities set forth above, after the first offense, shall be assessed an additional penalty which shall be no less than double the prescribed fine for violations of §§ 94.001 through 94.009.

(5) The above provisions may be enforced by the borough, through its Code Enforcement Officer or officers, or through such other official designated by Council, for that purpose, in the usual and customary manner. The procedural rules for such enforcement shall be established by a written policy adopted by the Borough Council.

(B) Any person, firm or corporation who shall fail to construct, reconstruct or repair any sidewalk when required to do so or who shall fail to comply with any notice duly issued under the provisions of §§ 94.020 through 94.023, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment in the county jail for not more than 30 days.

(C) Any owner, occupant or tenant who shall fail to remove the snow and/or ice from any sidewalk as required herein shall be guilty of a violation of §§ 94.035 and 94.036 and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$400 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment in the county jail for not more than 30 days, provided that such fine and costs of prosecution may be in addition to the expenses, plus 10%.

(D) Any person who shall violate any provision of § 94.050 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution, for each offense and, in default of payment of such fine and costs, imprisonment in the county jail for a term not to exceed 30 days, provided that nothing herein shall prohibit any person from drawing or pulling a child upon a sled on any sidewalk in the borough.

(E) Any person, corporation, association, business entity or other party who violates any provision of §§ 94.060 through 94.062 shall, upon conviction, be sentenced to pay a fine of not more than \$300 and costs of prosecution for each violation and, in default of payment of such fine and costs, to imprisonment for not more than 30 days.

(Ord. passed - -)

