

CHAPTER 21

STREETS AND SIDEWALKS

PART 1

STREET EXCAVATIONS

- §101. Definitions and Interpretation
- §102. Permit Required to Make Opening or Excavation
- §103. Application for Permit
- §104. Permit Fee
- §105. Issuance of Permits Restricted
- §106. Information Contained on Permit
- §107. Permit Approval/Disapproval
- §108. Responsibility to Contact Utilities
- §109. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years
- §110. Responsibility of Permit Holder for Certain Work; Right of Borough to Do Certain Work; Charges Therefor
- §111. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work
- §112. Emergency Openings
- §113. Restrictions Regarding Trees and Shrubbery
- §114. Work Necessitating Opening or Excavation to be Done Prior to Street Improvement and Not Until 5 Years Thereafter; Exception
- §115. Permittee Responsibilities for Future Relocation of Work
- §116. Conditions for Laying and Extending Utility Lines
- §117. Bond Required
- §118. Payment for Work Done by Borough
- §119. Penalties

PART 2

STREET OBSTRUCTIONS

- §201. Findings and Purpose
- §202. Definitions
- §203. Obstructing of Cartways Prohibited
- §204. Authority to Remove and Impound
- §205. Designation of Approved Storage Areas; Bonding; Storage
- §206. Payment of Removal and Storage Charges
- §207. Reclamation Costs
- §208. Records of Objects Removed and impounded
- §209. Restrictions Upon Removal of Objects
- §210. Penalties

PART 3

CONSTRUCTION AND REPAIR OF SIDEWALKS AND CURBS

- §301. Specifications
- §302. Permit
- §303. Penalties
- §304. Failure to Comply; Remedies

PART 4

SNOW AND ICE ON SIDEWALKS AND ROOFS

- §401. Snow and Ice on Sidewalks and Roofs

PART 5

UNOPENED STREETS, ALLEYS OR ROADWAYS

- §501. Travel on Unopened Street Prohibited
- §502. Penalty
- §503. Definitions

PART 1

STREET EXCAVATIONS

§101. DEFINITIONS AND INTERPRETATION.

1. 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:

EXCAVATION - any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking or disturbing the surface thereof. In this Part, the term "opening" shall have essentially the same meaning as excavation.

PERSON - any natural person, partnership, firm, association, corporation or municipal authority.

STREET- any public street, avenue, road, square, alley, highway or other public place located in the Borough of Portage and established for the use of vehicles, but shall not include State highways.

2. In this Part, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 3-1999, 4/5/1999)

§102. PERMIT REQUIRED TO MAKE OPENING OR EXCAVATION.

It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Borough of Portage without first securing a permit therefor, as hereinafter provided.

(Ord. 3-1999, 4/5/1999)

§103. APPLICATION FOR PERMIT.

Any person who shall desire to make any opening or excavation in any of the streets in the Borough of Portage shall make application to the [*designated official*] in writing for that purpose. Such application shall be made upon blanks to be furnished by the Borough and shall set forth the name of the applicant, the exact location of the proposed opening or excavation and the approximate size or depth thereof, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend and keep harmless the Borough of Portage from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property

STREETS AND SIDEWALKS

resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

(Ord. 3-1999, 4/5/1999)

§104. PERMIT FEE.

Before any permit shall be issued to open or excavate any street in the Borough the applicant shall pay a permit fee in the amount fixed according to a schedule established pursuant to resolution. When application shall be made to open or excavate any longitudinal opening or excavation in excess of 10 feet, before any permit shall be issued so to open or excavate, the applicant shall pay in addition to such minimum fee, an additional fee at the rate, for each 100 feet, or fraction thereof to be opened or excavated upon such street, pursuant to the fee schedule.

(Ord. 3-1999, 4/5/1999)

§105. ISSUANCE OF PERMITS RESTRICTED.

Permits shall be issued only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

(Ord. 3-1999, 4/5/1999)

§106. INFORMATION CONTAINED ON PERMIT.

Any permit issued hereunder shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof and the time within which the work for which the permit is granted to be completed.

(Ord. 3-1999, 4/5/1999)

§107. PERMIT APPROVAL/DISAPPROVAL.

A permit may be issued to the applicant after all the requirements therefor have been filed. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given to the applicant.

(Ord. 3-1999, 4/5/1999)

§108. RESPONSIBILITY TO CONTACT UTILITIES.

The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, 1 *et seq.*, as amended or supplemented from time to time. It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing services in the Borough and their office addresses may be obtained from the County Recorder of Deeds.

(Ord. 3-1999, 4/5/1999)

§109. REFILLING OF OPENING OR EXCAVATION; RESTORATION OF SURFACE; RESPONSIBILITY FOR DEFECTS OCCURRING WITHIN 2 YEARS.

Any person who shall open or excavate any street in the Borough shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Borough for restoration of surfaces of streets in the Borough, as restored; the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within 2 years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Borough for the cost of all necessary repairs to the permanent paving.

(Ord. 3-1999, 4/5/1999)

§110. RESPONSIBILITY OF PERMIT HOLDER FOR CERTAIN WORK; RIGHT OF BOROUGH TO DO CERTAIN WORK; CHARGES THEREFOR.

All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this Part and to the supervision and approval of the [*designated official*], provided that the [*designated official*] may if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by the Borough, in which event the applicant shall pay the actual cost of the work performed by the Borough.

(Ord. 3-1999, 4/5/1999)

§111. REQUIREMENTS FOR WORK; CORRECTION OF UNSATISFACTORY WORK; COMPLETION OF INCOMPLETE WORK.

1. No opening or excavation in any street shall extend from the curb line into the highway a distance greater than 1 foot beyond the center line of the street before being

STREETS AND SIDEWALKS

refilled and the surface of the highway restored to a condition safe and convenient for travel.

2. No more than 500 feet longitudinally shall be opened in any street at any one time.
3. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other subsurface lines or constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.
4. No tunneling shall be allowed without the express approval of the [*designated official*] and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the [*designated official*] or an inspector designated by him, and shall be done only in a method approved by him.
5. All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed eight 8 inches in depth. Backfilling shall be placed to within ten 10 inches of the surface.
6. A temporary paving of coldpatch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of 90 days.
7. On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.
8. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.
9. The applicant shall notify the [*designated official*] when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street has been permanently restored so that inspections may be made.
10. In the event that any work performed by or for a permit holder shall, in the opinion of the [*designated official*] be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the [*designated official*], the Borough may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20% to the applicant.

(Ord. 3-1999, 4/5/1999)

§112. EMERGENCY OPENINGS.

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this Part are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the *[designated official]*, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus 20% to such owner or person.

(Ord. 3-1999, 4/5/1999)

§113. RESTRICTIONS REGARDING TREES AND SHRUBBERY.

The permission herein granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way except under specifications, regulations and conditions as the Borough may prescribe.

(Ord. 3-1999, 4/5/1999)

§114. WORK NECESSITATING OPENING OR EXCAVATION TO BE DONE PRIOR TO STREET IMPROVEMENT AND NOT UNTIL 5 YEARS THEREAFTER; EXCEPTION.

The *[designated official]* shall give timely notice to all persons owning property abutting on any street within the Borough of Portage about to be paved or improved, and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within 30 days from the giving of such notice, unless such time is extended in writing for cause shown by the *[designated official]*. New paving shall not be opened or excavated for a period of 5 years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening or excavating of such paving to be determined by the *[designated official]*. If it is sought to excavate upon or open a sewer within 5 years after the completion of the paving applicant shall make written application to the Borough Council, and a permit for such opening shall be issued only after express approval of the Borough Council.

(Ord. 3-1999, 4/5/1999)

§115. PERMITTEE RESPONSIBILITIES FOR FUTURE RELOCATION OF WORK.

If at any time in the future the roadway is widened, reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

(Ord. 3-1999, 4/5/1999)

§116. CONDITIONS FOR LAYING AND EXTENDING UTILITY LINES.

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Borough until the plan therefor shall have been first filed with the [designated official] and such plan, and the exact location of such main or line, approved by him. The [designated official] shall not approve the locating of any such main or line at a depth of less than 30 inches from the surface of the street unless he shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

(Ord. 3-1999, 4/5/1999)

§117. BOND REQUIRED.

No company, corporation or association shall dig up any street or alley without first giving to the Borough of Portage a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys.

(Ord. 3-1999, 4/5/1999)

§118. PAYMENT FOR WORK DONE BY BOROUGH.

Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within 30 days after a bill therefor is sent to such person by the Borough. Upon failure to pay such charges within such time, the same shall be collectible by the Borough by an action in assumpsit or in the manner provided by law for the collection of municipal claims.

(Ord. 3-1999, 4/5/1999)

§119. PENALTIES.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, 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 imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 3-1999, 4/5/1999)

PART 2

STREET OBSTRUCTIONS

§201. FINDINGS AND PURPOSE.

The Borough Council finds that:

- A. Cartway areas of the streets, alleys and ways of the Borough of Portage are subjected to constant obstruction by objects other than motor vehicles including, but not limited, to snowplows, sailboats, trailers, equipment, cement mixers and a myriad of other like objects.
- B. That the prohibition of placement of objects other than motor vehicles on the cartways of the Borough streets, alleys and ways will permit the proper utilization of those streets, alleys and ways and advance the public safety of the citizens of the Borough.

(Ord. 3-1999, 4/5/1999)

§202. DEFINITIONS.

CARTWAY - the paved, macadamized or otherwise improved portion of a street, alley or way.

MOTOR VEHICLE - a vehicle which is self-propelled on land, except one which is propelled solely by human power or wind.

(Ord. 3-1999, 4/5/1999)

§203. OBSTRUCTING OF CARTWAYS PROHIBITED.

It shall be unlawful for any persons to park, place or in the case of a person who is the owner, lessee or otherwise has an interest in the object, allow to remain, any object other than a motor vehicle in the cartway of any street, alley or way of the Borough of Portage.

(Ord. 3-1999, 4/5/1999)

§204. AUTHORITY TO REMOVE AND IMPOUND.

The Borough of Portage shall have the authority to remove and impound, or to order the removal and impounding of any nonmotorized object or vehicle found in the cartway of the streets or alleys of the Borough of Portage.

(Ord. 3-1999, 4/5/1999)

§205. DESIGNATION OF APPROVED STORAGE AREAS; BONDING; STORAGE.

Removal and impounding of objects under this Part shall be done only by either Borough personnel or "approved agents" that shall be designated from time to time by the Borough Council. Every such approved agent shall submit evidence to the Borough that it is bonded or has acquired liability insurance in an amount satisfactory to the Borough Council as sufficient to indemnify owners of impounded objects against loss or damage to those objects in the custody of the approved agent. The approved agent shall have an approved storage area and shall submit to the Borough a schedule of charges for removal and storage of objects under this Part and, when the schedule is approved by the Borough Council, those charges shall be adhered to by the approved storage agent; no different schedule of charges shall be demanded of or collected from any person whose object is removed or impounded under this Part by any approved storage agent. The Borough Council 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 Part.

(Ord. 3-1999, 4/5/1999)

§206. PAYMENT OF REMOVAL AND STORAGE CHARGES.

The payment of removal and storage charges shall not relieve the owner, lessee or other person having any interest in such an object from liability for any fine or penalty for the violation of the provisions of this Part for which the object was removed or impounded.

(Ord. 3-1999, 4/5/1999)

§207. RECLAMATION COSTS.

In order to reclaim an object removed pursuant to the provisions hereof, the owner, lessee or other person having an interest therein, shall pay removal and storage costs according to the schedule set forth in §205, above.

(Ord. 3-1999, 4/5/1999)

§208. RECORDS OF OBJECTS REMOVED AND IMPOUNDED.

The Borough of Portage shall cause a record to be kept of all objects impounded under this Part and shall be able at all reasonable times to furnish the owners, lessees or other persons having an interest in said object with information as to the place of storage of the object.

(Ord. 3-1999, 4/5/1999)

§209. RESTRICTIONS UPON REMOVAL OF OBJECTS.

No object shall be removed under the authority of this Part if, at the time of the intended removal, the owner or the person in charge of such object is present and expresses a willingness and intention to remove the object immediately.

(Ord. 3-1999, 4/5/1999)

§210. PENALTIES.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. The aforesaid penalty or penalties shall be in addition to the obligation of the person to pay any removal and storage charges as set forth in other provisions of this Part.

(Ord. 3-1999, 4/5/1999)

PART 3

CONSTRUCTION AND REPAIR OF SIDEWALKS AND CURBS

§301. SPECIFICATIONS.

It shall be the duty of the owner or owners of lots of ground situate and bounded upon any streets within this Borough to lay or repair all sidewalks and curbs along their lots of ground according to the following regulations:

- A. All sidewalks shall be of brick, stone, cement, concrete or other material approved by Council and shall be laid to the grade adopted by the Borough and marked on the ground by the Borough Engineer or his assistants and approved by Council.
- B. All sidewalks on Main Street shall extend from the building line to the curb; and on all other streets the sidewalks shall, wherever practicable, be laid to the center line of the area between the building line and the curb and shall not be less than 4 1/2 feet in width. If the sidewalk is laid to the curb, it shall extend in to the building line a sufficient distance to be in line with a sidewalk laid to the center of an area between the building line and a curb as provided above, the remaining space between the sidewalk and the curb or building line shall be kept free and clear and safe for pedestrians.
- C. All cement, concrete or similarly constructed sidewalks shall have a rough, perforated or similarly finished surface.
- D. The slope of all sidewalks shall be 1/4 of an inch to the foot.
- E. All curbs shall be of stone, concrete, cement and granolithic or similar substance and shall be at least 2 feet in depth and 2 1/2 feet in length. The grade shall be adopted by the Council and given by the Council and given by the Borough Engineer and marked on the ground by himself or his assistants and approved by Council.

(Ord. 200, 10/10/1955, Art. IV, §2)

§302. PERMIT.

Before any owner or owners of lots situate and bounded as aforesaid shall lay any sidewalk or curb to make excavation therefor, it shall be the duty of such person to make application to Council for a permit. If the sidewalk or curb proposed to be laid shall be in accordance with this Section, the Borough Manager or his designee shall issue a permit therefor.

(Ord. 200, 10/10/1955, Art. IV, §2; as amended by Ord. 3-1999, 4/5/1999)

STREETS AND SIDEWALKS

§303. PENALTIES.

1. Sidewalks and curbs not laid in conformity with the provisions of this Section are hereby declared to be nuisances and must be taken up and relaid in accordance with this Part within 30 days after notice so to do.
2. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding \$1,000 plus costs and, in default of payment of said fine and costs, to imprisonment for a term not exceeding 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 3-1999]

(Ord. 200, 10/10/1955, Art. IV, §2; as amended by Ord. 3-1999, 4/5/1999)

§304. FAILURE TO COMPLY; REMEDIES.

If the owner or owners of any lot or lots situate and bounded as aforesaid shall refuse or neglect to comply with the provisions of this Section the Borough may cause the said sidewalk and curb to be laid or repaired by the Borough and collect the cost thereof, together with the penalties provided by the Acts of Assembly in such case made and provided.

(Ord. 200, 10/10/1955, Art. IV, §2; as amended by Ord. 3-1999, 4/5/1999)

PART 4

SNOW AND ICE ON SIDEWALKS AND ROOFS

§401. SNOW AND ICE ON SIDEWALKS AND ROOFS.

1. It shall be unlawful for any person, firm or corporation to permit snow or ice to remain upon the sidewalks for a longer period than 6 hours after the same shall have ceased to fall or form; provided, that snow and ice falling or forming after 6:00 in the evening shall be removed at any time before 10:00 in the morning of the next day following; or to permit snow to lie upon the roof of any building in such quantities or icicles to form so as to endanger the safety of persons passing along the sidewalks. The duties of this Section shall be upon the person, firm or corporation occupying or using the property along or in front of which the sidewalk lies. If the property is vacant or unoccupied, the duties shall be upon the owner or owners thereof.
2. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$600 plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 3-1999]

(Ord. 200, 10/10/1955, Art. X, §8; as amended by Ord. 3-1999, 4/5/1999)

PART 5

UNOPENED STREETS, ALLEYS OR ROADWAYS¹

§501. TRAVEL ON UNOPENED STREET PROHIBITED.

Any unopened street, alley or roadway within the Borough shall not be traveled upon by any member of the general public without the express written permission of the Borough Council or its designated agent.

(Ord. 2-2010, 5/3/2010, §1)

§502. PENALTY.

Any person traveling without permission upon any unopened street, alley or roadway shall, upon conviction, pay a fine not to exceed \$300 plus the costs of prosecution.

(Ord. 2-2010, 5/3/2010, §2)

§503. DEFINITIONS.

For purposes of this Part the following terms shall have the following definitions:

TRAVEL - the use of any motor vehicle or any other mode of transportation which utilizes wheels.

UNOPENED STREET - all streets, alleys and roadways within the Borough not improved for travel, but placed on the Borough plan for future or prospective use, or placed on the plan of a real estate project, or referred to in individual deeds.

¹Editor's Note: Ord. 2-2010, 5/3/2010, described its purpose as follows:

"WHEREAS, the Borough has several unimproved roadways which have not been opened as public thoroughfares;

"WHEREAS, the Borough Council has determined that the use of these unimproved roadways for vehicular traffic has become a public nuisance which endangers the health, safety and welfare of Borough residents;

"WHEREAS, Section 46202 of the Borough Code authorizes the Borough to regulate the use of Borough streets;

"WHEREAS, Section 46723 of the Borough Code indicates that the laying out of a street, without opening same, shall create no right to public use of such street."

STREETS AND SIDEWALKS

(Ord. 2-2010, 5/3/2010, §3)