

CHAPTER 21

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PART 1

OPENING AND EXCAVATIONS IN STREETS

§21-101. Definitions.

The following words and phrases, 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.

BOROUGH — the Borough of Philipsburg, Pennsylvania.

CALENDAR YEAR — January 1 through December 31, inclusive.

CONCRETE — soil cement, plain cement concrete or reinforced cement concrete and material contained in the base course of some Borough streets.

CORPORATE AUTHORITY — any governmental corporation initiated by Borough Council under the Municipal Authorities Act of 1945.

COST — actual expenses incurred by the Borough for labor, equipment and materials, which include all fringe benefits and overhead.

DEGRADATION FEE — a fee paid by the permittee to the Borough to defray a percentage of the costs of resurfacing and reconstructing Borough streets resulting from the depreciation of streets associated with street openings.

DEPARTMENT — the Public Works Department of the Borough of Philipsburg.

EMERGENCY — any condition constituting a clear and present danger to life or property by reason of escaping gas, exposed wires or other breaks or defects in the user's line.

INSPECTION FEE — a fee paid by the permittee to the Borough to defray street opening inspection costs.

PERMIT FEE — a fee paid by the permittee to the Borough to cover the cost of issuing, processing and filing the street opening permit.

PERMITTEE — any person who has been issued a permit and has agreed to fulfill the provisions of this Part.

PERSON — any natural person, partnership, firm, associations, utility or corporation.

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PUBLIC UTILITY — any utility company, excluding corporate authorities of the Borough

RESURFACE — a process which provides a new wearing surface in a certain paved street area, with the same material that was existing prior to excavation.

SIDEWALK AREA — that portion of the street right-of-way reserved for sidewalks.

STREET — the entire right-of-way of a public street, public highway, public alley, public avenue, public road or public easement within the Borough limits, including the designated curb and sidewalk area.

USER — the public utility, municipal corporation, municipal authority or other person who or which uses a line to provide service to one or more customers.

WORKDAY — normal business hours for Borough government, including Monday through Friday, except designated holidays.

(Ord. 994, 2/12/2001, §1)

§21-102. Permit Required and Emergency Openings.

1. The opening of any street in the Borough other than by the corporate authorities of the Borough is hereby prohibited, unless a permit is obtained for that purpose in the manner hereinafter described. Such permit shall be granted by the Borough Manager in compliance with the provisions of this Part and pays the fee hereinafter stated; provided, however, that nothing herein contained shall be construed to permit the issuing of a permit for the making of a tunnel under any street within the Borough.
2. If street openings are necessitated by emergencies, street opening permits shall be obtained on the first regular business day on which the Borough office is open for business, and such permit shall be retroactive to the date when the work was begun.
3. A person performing street openings for an emergency shall verify the emergency nature of the circumstances, in writing, to the Borough Manager within five days after such an emergency.

(Ord. 994, 2/12/2001, §2)

§21-103. Issuance of Permit; Bond.

Permits for the opening of any street shall only be granted upon compliance with the following express provisions:

- A. A written application shall be filed for each and every opening and signed by the person desiring such permit. The application shall set forth the purpose of the openings, extent, size, location of same, date or dates and time such opening is to be permitted and the date and time such opening shall be re-filled and temporarily resurfaced in the manner hereinafter provided and shall provide that the applicant shall faithfully comply with every provision of this Part. All applications shall be accompanied by a plan or sketch showing the exact location, character and dimensions of the proposed opening for the installation of new work of the location of the alteration involving changes in the location of pipes, conduit, wires or structures incidental thereto.
- B. Prior to the issuance of such permit, every applicant shall pay to the Borough the amount hereinafter required and for the purposes provided. No permit shall be granted to any applicant unless the applicant has paid all moneys then due to the Borough for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from work done by the applicant under the provisions of this Part.
- C. No permits shall be granted in any case until the applicant shall have executed and delivered to the Borough a bond in the amount hereinafter fixed, with good surety that shall be either an approved surety or trust company or an individual who shall be the owner of real estate in Centre County, reasonably worth over and above all debts and encumbrances at least double the amount of such bond. The amount of the bond shall be \$1,000 for each opening, \$10,000 for an indefinite number of openings and the bond shall be given up to the condition that the principal shall indemnify and save harmless the Borough from any loss, damage or expense whatsoever, in any manner occasioned by or arising from the opening of any street or work done in consequence thereof or in the manner of doing such work and the bond shall remain in force for a period of 24 months after the permanent resurfacing of each opening.

(Ord. 994, 2/12/2001, §3)

§21-104. Insurance.

An applicant shall file a properly executed certificate of insurance with the Borough and verify that the applicant is insured against claims for personal injury as well as against claims for property damages which may arise from or out of the performance of the excavation work, whether such performance be by the applicant or by anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations, underground utility damage and collapse of any property. Liability insurance for bodily injury shall be in an amount not less than \$300,000 for each accident and for property damages an amount not less than \$100,000. Failure of an applicant to file a certificate of insurance shall be sufficient reason for de-

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nying said permit. The applicant shall save harmless the Borough from any and all damages and liability by reason of personal injury or property damage arising from work done by the applicant under the provisions of this Part.

(Ord. 994, 2/12/2001, §4)

§21-105. Fees.

1. A permit fee, inspection fee and degradation fee for Borough streets, in the amounts set by resolution from time to time,¹ shall be paid to the Borough prior to the issuance of the permit. The Borough shall have the right to waive fees for contractors performing work under contract with the Borough.
2. Where permission is granted to make an opening or openings within the lines of a sidewalk, whether improved or unimproved or upon the dirt roadway of any street, the applicant shall pay to the Borough a fee in an amount set by resolution for the purpose of paying for the cost of issuing such permit and the necessary inspection. The applicant shall restore the sidewalk or dirt roadway to its original condition and see that the same is in a reasonably safe and proper condition.

(Ord. 994, 2/12/2001, §5; as amended by A.O.)

§21-106. Refilling Excavations.

All openings shall be refilled and resurfaced on or before the time specified in the permit according to the following methods:

- A. The work is to be done by cutting and removing a section of the improved roadway.
- B. The trench shall be backfilled in accordance with the specifications regulating street excavations within the Borough of Philipsburg, Pennsylvania.

(Ord. 994, 2/12/2001, §6)

§21-107. Test Holes.

A street opening permit shall be obtained for any test hole work. No test holes shall be made in or upon a greater surface of highway than as specified in the permit and no excavation may interfere with any water pipes, sewers or drains of the Borough or any other underground utility service. Test holes shall be promptly backfilled in accordance with the provisions set by the Borough.

¹ Editor's Note: The current fee resolution is on file in the office of the Borough Secretary.

(Ord. 994, 2/12/2001, §7)

§21-108. Pennsylvania One Call.

It is the responsibility of each and every contractor to register the proposed excavation with the "Pennsylvania One Call" system. Evidence of notification shall be attached to and made part of the permit.

(Ord. 994, 2/12/2001, §8)

§21-109. Gutters, Lights and Identification.

1. All gutters shall be kept open so as not to obstruct the free passage of water and the sidewalks and footways must be kept in a safe and passable condition. All excavations or material from them shall have placed on them sufficient lights and barricades to identify them from all directions during the day and after dark.
2. If for safety purposes the Department deems it necessary to install additional warning devices such as lights, barricades or signs, the permittee shall be notified of the decision and shall receive instruction on the installation. In the case of emergencies, the Borough may install additional warning devices deemed necessary by the Department. The Borough shall invoice permittee for rental and installation costs incurred from the date of installation until the permittee installs the proper warning devices.
3. If the permittee fails to install such devices, the Borough shall invoice the permittee for rental and installation costs incurred from the date of installation to the date of removal. Payment not made by the permittee within 30 days of the invoice date will be chargeable against the posted bond, including all fees and costs involved in the collection of this payment.

(Ord. 994, 2/12/2001, §9)

§21-110. Additional Work.

In no case shall a permittee open or remove a greater area of street surface than specified in the original application. The permittee shall not open any street area at any location not specified in the original application. If the permittee determines during construction that an additional area of the street will have to be opened, he shall notify and secure permission from the Department for the additional opening. Upon receipt of permission, the permittee shall file a supplemental application for the work no later than the next workday. Fee amounts as specified in this Part shall be followed for any subsequent fees associated with the supplementary applications.

(Ord. 994, 2/12/2001, §10)

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§21-111. Guarantee of Work.

The permittee shall guarantee and maintain his work for a period of 24 months from the completion of the restoration and replacement work. Within this twenty-four-month period, upon notification from the Borough of necessary correction work required, the permittee shall correct or cause to be corrected all restoration work requirements within five working days of receipt of notification. The Department shall determine the extent of restoration required and the method of correction. Any and all work not completed within this five-day period may be completed by the Borough at the discretion of the Borough Manager. The Borough shall invoice the permittee for all costs incurred by the Borough in the performance of the work. Payment not made within 30 days of the invoice date will be chargeable against the posted bond, including all fees involved in the collection of this payment.

(Ord. 994, 2/12/2001, §11)

§21-112. Specifications and Regulations.

All restoration work shall be completed in accordance with the Borough's specifications contained in this Part and elsewhere. For sidewalk restoration, whole slabs shall be replaced, and partial slab replacement is not permitted. In the Historic District, amiesite is not a permitted replacement for sidewalks. The Borough Manager with the assistance of the Borough Engineer shall have the right, from time to time, to promulgate and issue specifications and regulations covering the work provided for in this Part.

(Ord. 994, 2/12/2001, §12; as amended by A.O.)

§21-113. Enforcement.

The Borough Manager or his representative shall have the right to inspect and supervise all work done under street opening permits and shall see that all terms and provisions of this Part are enforced and shall have the power and is hereby directed to prosecute every person who violates any of the provisions herein.

(Ord. 994, 2/12/2001, §13)

§21-114. Penalty.

1. 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 less than \$100 nor 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 con-

tinues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

2. The Borough reserves the right to deny the issuance of future street opening permits to any person who violates the provisions of this Part. This provision in no way shall prohibit or limit the right of the Borough to bring legal action against any permittee.

(Ord. 994, 2/12/2001, §14; as amended by A.O.

PART 2

SIDEWALK CONSTRUCTION AND MAINTENANCE

§21-201. Sidewalks to be Constructed and Maintained; Safety Measures.

1. All data necessary to construct or repair shall be furnished without charge by the Borough. All existing sidewalks shall be at all times reasonably maintained in a safe condition and shall for the purposes of this Part be deemed to include all the space between the property line and the roadway. This area is considered a pedestrian walkway, even though the entire space is not paved as a walkway for pedestrians.
2. This area is the pedestrian right-of-way. No parking of any vehicles or machinery is permitted in or on the pedestrian right-of-way (walkway). Parking next to the curb must be pointing with traffic, must be the proper distance from any intersection and must not be blocking or otherwise interfering with the access to a driveway. This safety requirement shall apply to all structures and materials placed or permitted to exist under, on or in the space between the property line and the vehicular driveway.

(Ord. 280, 2/5/1951, §1; as amended by Ord. 960, 11/13/1995, Arts. I, II; by Ord. 999, 8/13/2001; and by Ord. 1022, 11/10/2003, §1)

§21-202. Material and Specifications for Sidewalks.

1. New sidewalks whether laid by abutter or the Borough, shall be of concrete, cement, flagstone, brick, slate or any other material approved by the Borough Code Enforcement Officer and Borough Council's Street Committee. Property on corner lots must adhere to any Americans with Disabilities Act regulations that might apply. Amiesite may be used but must be flush with all other adjacent sidewalks. Amiesite also must be treated with one of the following:
 - A. Sprinkled with cement, sprayed with water and brushed in; or
 - B. Topped with sealer to increase the life of the amiesite.
2. Amiesite must be kept up without spalling. Replacement of sidewalks must be replaced with sidewalks of the same width.
3. When using more than one material for a sidewalk, a variance must be approved by Borough Council.
4. No patching will be acceptable for broken sidewalks.

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5. Any sidewalk laid in the historic/commercial area must be of brick or concrete. For purposes of this Section, the historic/commercial area shall be considered to be the area on Front Street between Locust Street and Presqueisle Street and the area from Moshannon Creek to the east side of the Borough building on Prequeisle Street.

(Ord. 280, 2/5/1951, §2; as amended by Ord. 960, 11/13/1995, Art. II; by Ord. 972, 5/12/1997, Art. I; by Ord. 999, 8/13/2001; and by Ord. 1022, 11/10/2003, §2)

§21-203. Grassplots, Trees and Shrubbery Between Sidewalk and Roadway.

Upon approval of the Borough Council, grassplots, trees and shrubbery may be permitted between the sidewalk and the vehicular highway. Plots must be so maintained that they will not present an unreasonable risk or harm to pedestrians using the sidewalk. Permission granted by the Borough Council shall not relieve the owner of the property or those holding under him from the duty of maintaining such grassplots, trees or shrubbery in a safe condition at all times.

(Ord. 280, 2/5/1951, §4; as amended by Ord. 888, 3/2/1981, §1; and by Ord. 999, 8/13/2001)

§21-204. Application and Permit for Sidewalk Construction and Repairs.

Any person, firm or corporation desiring to construct, relay or make substantial repairs to any sidewalk shall first make application on forms to be provided by the Borough Code Enforcement Officer. Upon approval of such application, a permit for a period of 30 days will be issued the applicant. The fee for said permit, which shall be paid before issuance of said permit, shall be as set by resolution, from time to time, by Borough Council.

(Ord. 280, 2/5/1951, §5; as amended by Ord. 888, 3/2/1981, §1; by Ord. 999, 8/13/2001; by Ord. 1022, 11/10/2003, §3; and by A.O.

§21-205. Safety Precautions to be Taken by Permit Holder.

It shall be the duty of any person, firm or corporation to whom a permit is issued or by whom any construction, relaying or repair of any sidewalk is to be made, to provide and maintain proper and adequate guards, barriers and lights to prevent accidents and they shall assume all risk and be liable for all damages by reason thereof.

(Ord. 280, 2/5/1951, §6; as amended by Ord. 999, 8/13/2001)

§21-206. Extension of Permit Time.

Any extension of permit time is up to the discretion of the Borough Codes and Zoning Officer.

(Ord. 280, 2/5/1951, §7; as amended by Ord. 960, 11/13/1995, Art. II; by Ord. 999, 8/13/2001; and by Ord. 1022, 11/10/2003, §4)

§21-207. Notice to Repair Sidewalk; Time Limit; When Borough May do Work at Expense of Property Owner.

Notice to repair sidewalks shall be given to the owner of the premises, according to legal requirements, by the Code Enforcement Officer. Said notice shall specify therein that the owner of said premises shall have 30 days from the date thereof to repair said sidewalk and upon failure of the said owner to comply with the provisions hereof within the said period, the Borough may cause the repairs to be made and the costs thereof, together with such penalties, charges and expenses as are authorized by law, may be collected. Any extension of time is up to the discretion of the Borough Codes and Zoning Officer.

(Ord. 280, 2/5/1951, §8; as amended by Ord. 960, 11/13/1995, Art. II; by Ord. 999, 8/13/2001; and by Ord. 1022, 11/10/2003, §5)

§21-208. Emergency Repairs to Sidewalks.

In addition to the foregoing, the Borough shall have the right to make such emergency repairs to the sidewalks within the corporate limits as authorized by law.

(Ord. 280, 2/5/1951, §9; as amended by Ord. 888, 3/2/1981, §1; and by Ord. 999, 8/13/2001)

§21-209. Collection of Charges for Work Done by Borough.

Upon the failure of any person to make payment for any work done by the Borough under the provisions hereof, it shall be the duty of the Borough Solicitor to effect collection thereof in the manner provided by law for the enforcement of the payment of the same.

(Ord. 280, 2/5/1951, §10; as amended by Ord. 999, 8/13/2001)

§21-210. Specifications.

The Code Enforcement Officer shall furnish such specifications as to width, grade, material, slope and location as is deemed necessary and appropriate by local needs and conditions. Sidewalks shall be a minimum of 36 inches in width.

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(Ord. 280, 2/5/1951, §11; as amended by Ord. 999, 8/13/2001; by Ord. 1022, 11/10/2003, §6; and by A.O.

§21-211. Removal of Snow, Ice, Leaves and Other Obstructions.

1. It shall be the duty of every owner or occupant of property within the Borough of Philipsburg to keep the sidewalks in front of or alongside of said property free and clear of snow, leaves and other structures or substances which might cause inconvenience or injury to pedestrians to a minimum width of 24 inches; provided, however, that the owner of a property shall be liable to conform to the requirements of this Section where such property is occupied by such owner or is unoccupied, the tenant or occupier, where such property is occupied by such tenant or occupier only and the owner where the property is a multiple dwelling property, occupied by more than one tenant or occupier. Provided, further, that a period of 24 hours shall be granted to allow the removal of snow as required in this Section, and the Borough shall have the right, upon noncompliance with this Section, to do whatever work is necessary to abate any nuisance or hazard created by such noncompliance and to charge any costs involved in such work plus 10% of any costs involved to the property owner responsible for such noncompliance.
2. No person shall place, throw or deposit any snow, ice, leaves or grass into the street.

(Ord. 280, 2/5/1951, §12; as amended by Ord. 334, 12/7/1953, §1; by Ord. 594, 9/12/1966, §1, by Ord. 888, 3/2/1981, §1; by Ord. 999, 8/13/2001; and by A.O.

§21-212. 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 a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 280, 2/5/1951, §13; as added by Ord. 888, 3/2/1981, §1; as amended by Ord. 999, 8/13/2001)

PART 3

CURB CUTS AND DRIVEWAY CONSTRUCTION

§21-301. Driveway.

As utilized in this Part, "driveway" shall include any cartway or roadway which begins on a Borough street or State highway within the Borough of Philipsburg and which terminates on the adjacent private property at a garage, carport or area utilized to park motor vehicles.

(Ord. 954, 6/13/1994, §1)

§21-302. [Reserved]²

§21-303. Width of Driveways.

All private driveways hereafter constructed across any pavement shall be of a width not less than eight feet.

(Ord. 954, 6/13/1994, §3; as amended by A.O.)

§21-304. Permit Required.

Before any private driveway may be constructed across a sidewalk and before any curb cut may be made, a permit shall be obtained from the Borough of Philipsburg. All driveways shall be laid according to specifications furnished by the Borough at the time the permit is granted.

(Ord. 954, 6/13/1994, §4)

§21-305. Fee.

The fee for a driveway or curb cut permit shall be in an amount as established, from time to time, by resolution of Borough Council.³

(Ord. 954, 6/13/1994, §5; as amended by A.O.)

² Editor's Note: Former §2 of Ord. 954, Driveway Qualification, was repealed by the A.O.

³ Editor's Note: The current fee resolution is on file in the office of the Borough Secretary.

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§21-306. Sidewalks Crossing Driveways.

Where a sidewalk crosses the driveway, such sidewalk shall meet ADA requirements. The balance of the pavement shall remain the same height and grade as before the construction of the driveway.

(Ord. 954, 6/13/1994, §6; as amended by A.O.)

§21-307. Rectification of Improper Work.

In case any person shall construct a driveway or a curb cut and shall not conform to the requirements of this Part, the Borough may order such person, firm or corporation to remove the improper work and replace the same in compliance with this Part. Notice to remove and replace improper work shall be given by registered or certified mail and shall state that the person, firm or corporation shall have 15 days from receipt of the notice to comply herewith. Upon noncompliance, the Borough may do or cause the requested repairs to be done and may levy the costs of its work on such owner as a property lien to be collected in any manner provided by law.

(Ord. 954, 6/13/1994, §7)

§21-308. Penalties.

Any person, firm or corporation who shall fail to obtain a permit before constructing a private driveway or making a curb cut 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 a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 954, 6/13/1994, §8; as amended by A.O.)