

**CHAPTER 21**

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**PART 1**

**SIDEWALK CONSTRUCTION**

**§21-101. Definitions.**

In this Part, the following words shall have the meaning indicated in this Section, unless the context clearly indicates otherwise:

**BOROUGH** — the Borough of Millersburg, Dauphin County, Pennsylvania.

**SIDEWALK** — any portion of a street located outside the cartway, and shall include paved footway, unpaved grassplot, curb and gutter.

**STREET** — any public street, lane, alley or way in the Borough of Millersburg.

(Ord. 15-1977, 2/10/1977, §1)

**§21-102. Notice to Property Owners to Grade, Construct, Drain, Pave or Repave Sidewalks.**

Every owner of property which abuts any street in the Borough shall, upon notice from the Borough Council or other authorized representative of the Borough, grade, construct, drain, pave, or repave the sidewalk in the manner stipulated in such notice, in compliance with the provisions of this Part, and within the time specified in such notice.

(Ord. 15-1977, 2/10/1977, §2)

**§21-103. Responsibility for Maintenance of Sidewalks.**

It shall be the full responsibility of every owner of property which abuts any street to keep the sidewalk in a safe condition at all times.

(Ord. 15-1977, 2/10/1977, §3)

**§21-104. Sidewalk Specifications.**

All sidewalks shall be constructed, reconstructed and repaired in accordance with the Borough “Detailed Specifications for Sidewalks” as determined from time to time by the Borough Engineer and approved by the Borough Council.

(Ord. 15-1977, 2/10/1977, §4)

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### **§21-105. Warning and Protective Devices; Liability of Property Owner.**

It shall be the duty of every property owner grading, constructing, draining, paving or repaving the sidewalk abutting his property to provide and maintain adequate guards, barriers and lights to prevent accidents, and such owner shall assume all risks and liability for all damages by reason of such work, and by reason of any failure to properly fill such area.

(Ord. 15-1977, 2/10/1977, §5)

### **§21-106. Provision of Alternate Passage Around Obstructions; Watercourses to be Kept Open.**

Whenever any obstruction is made by either excavation or otherwise, under or across any part of any footway or sidewalk for any purpose whatever, a safe and convenient passage shall be provided around or over the same for public travel, and the watercourses kept open for the free passage of surface waters.

(Ord. 15-1977, 2/10/1977, §6)

### **§21-107. Property Owner May Initiate Work.**

Any property owner, upon his own initiative and without notice from the Borough, may construct, reconstruct or repair a sidewalk in front of or alongside his property, provided he conforms with the provisions of this Part.

(Ord. 15-1977, 2/10/1977, §7)

### **§21-108. Borough May Do Work and Collect Cost and Additional Amount from Defaulting Property Owner.**

Whenever any property owner shall fail to construct, reconstruct or repair any sidewalk within the time limit specified by the Borough or, having undertaken to construct, reconstruct or repair any sidewalk either on his own initiative or following notice from the Borough to do so, shall fail to conform strictly to the proper line and grade and to all other requirements of this Part, the Borough may cause such construction, reconstruction or repair, or correction of any deficiency, to be done at the cost of such property owner, and may collect the cost thereof and 10% additional, together with all charges and expenses, from such property owner, and file municipal claim therefor or collect the same by action in assumpsit.

(Ord. 15-1977, 2/10/1977, §8)

**§21-109. Penalty for Violation.**

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 shall constitute a separate offense.

(Ord. 15-1977, 2/10/1977, §9; as amended by A.O.)

**§21-110. Sidewalk Construction Specifications; Materials to be Used for Repairs of Existing Sidewalks.**

All repairs, improvements or replacements to existing sidewalks in the Borough shall be done using only approved building materials set forth in this Section. These materials shall be limited to masonry, brick and/or bituminous asphalt. All sidewalks being repaired, improved, or replaced shall have a flat surface. All repairs, improvements or replacements of existing sidewalk shall be done in a manner as to upgrade the sidewalk to a condition as good as or better than original.

(Ord. 15-1977, 2/10/1977; as added by Ord. 1-1987, 10/8/1987, §1)



**PART 2**

**SNOW AND ICE REMOVAL FROM SIDEWALKS**

**§21-201. Responsibility for Removal of Snow and Ice; Time Limit.**

The owner, occupant or tenant of every property fronting upon or alongside any of the streets in the Borough is hereby required to remove or cause to be removed from all the sidewalks in front of or alongside such property all snow or ice thereon fallen or formed, within 24 hours after the same shall have ceased to fall or to form. Provided: 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 unoccupied; the tenant or occupier thereof, where such property is occupied by such tenant or occupier only; and the owner thereof where the property is a multiple-business or multiple-dwelling property occupied by more than one tenant or occupier.

(Ord. 16-1977, 2/10/1977, §1)

**§21-202. Borough May Remove Snow and Ice and Collect Costs Plus Additional Amount.**

In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any of the provisions of the §21-201 within the time limit prescribed therein, the Borough authorities may proceed immediately to clear all snow and/or ice from the sidewalks of such delinquent, and collect the expenses thereof, with any additional amount allowed by law, from such owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under §21-205.

(Ord. 16-1977, 2/10/1977, §2)

**§21-203. Sidewalks May Be Strewn with Abrasive Material if Snow and Ice Cannot be Removed.**

In case of snow and ice on any sidewalks shall be frozen so hard that it cannot be removed without injury to the sidewalk, it shall within the time limit specified in §21-201, be strewn and kept strewn with ashes, sand, sawdust or other suitable material so as to be no longer dangerous. As soon as practicable thereafter, the sidewalk shall be completely cleared of the snow, ice and other material strewn thereon.

(Ord. 16-1977, 2/10/1977, §3)

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### **§21-204. Restrictions on Placement of Removed Snow and Ice.**

Snow and ice removed from sidewalks shall in no case be thrown onto any street, but shall be placed in such a manner as not to obstruct the free passageway on either the sidewalk or the abutting street.

(Ord. 16-1977, 2/10/1977, §4)

### **§21-205. Penalties for Violation.**

Any owner, occupant or tenant 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 continues shall constitute a separate offense. Provided, such fine and costs of prosecution may be in addition to any expenses and any additional amounts authorized by law, imposed as provided in §21-202.

(Ord. 16-1977, 2/10/1977, §5; as amended by A.O.)



**PART 3**

**STREET EXCAVATIONS**

**§21-301. 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:

PERMITEE — the owner of the facility to whom the permit is issued. The permit shall be binding upon the permittee, its agents, contractors, successors and assigns. The permittee shall cause its agents, contractors, successors and assigns to comply with all the terms and conditions of the permit.

PERSON — any natural person, partnership, firm, association or corporation. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

STREET — any public street, avenue, road, alley, highway or other public place located in the Borough and established for the use of vehicles.

(Ord. 6-1975, 9/11/1975, §1)

**§21-302. Permit Required.**

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

(Ord. 6-1975, 9/11/1975, §2)

**§21-303. Application for Permit.**

Any person who shall desire to make any opening or excavation of any of the streets in the Borough shall make application to the Borough Secretary in writing for the 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 save and keep harmless the Borough 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 resulting in any manner therefrom, or occurring in connection with the work connected therewith, or from any other matter, cause or thing relating thereto.

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(Ord. 6-1975, 9/11/1975, §3)

### **§21-304. Fee.**

Before any permit shall be issued to open or excavate any street in the Borough, the applicant shall pay to the Borough Secretary a permit fee in the amount as established from time to time by resolution of Borough Council to cover the cost of inspection, resurfacing and any other incidental expenses for services in connection therewith.

(Ord. 6-1975, 9/11/1975, §4; as amended by A.O.)

### **§21-305. Backfilling by Permittee; Restoration of Surface by Borough.**

Any person who shall open or excavate any improved street in the Borough shall thoroughly and completely refill the opening, or excavation, and tamp in layers, each of which shall not exceed 6 inches in depth, the said refilling so as to prevent any settling thereof, said tamping to be done in accordance with the instructions and specifications of the Borough Manager and restore surface of street. If within 2 years after the restoration of the surface, as herein provided, defects shall appear, the person and/or persons who opened or excavated the street shall make necessary repairs. If the work is to be performed on a Borough street with subbase as part of the pavement structure, the trench shall be backfilled with 12 inches of suitable material over the top of the utility and with No. 2RC aggregate or suitable material meeting specifications for number 2RC minimum to within 8 inches of the subbase. The subbase shall be replaced to a height equal to the existing street surface unless otherwise specified by the Borough Manager.

(Ord. 6-1975, 9/11/1975, §5; as amended by Ord. 10-1977, 2/10/1977, §1; and by Ord. 4-1985, 8/8/1985, §1.1)

### **§21-306. Responsibility for Work.**

All other work in connection with openings in any street, including excavation, protection and refilling, shall be done by the applicant at his expense and all such work shall be subject to the provisions of this Part and the approval of the Borough Manager, provided that the Borough Manager may require that the cutting of the surface of improved streets and the backfilling of all excavations therein shall be done by the Borough. and the charge therefor shall be paid by the applicant on the basis of the actual cost of the work plus 20%.

(Ord. 6-1975, 9/11/1975, §6; as amended by Ord. 10-1977, 2/10/1977, §1)

**§21-307. Requirements for Excavating and Backfilling.**

1. 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.
2. No tunneling shall be allowed without the express approval of the Borough Manager and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Manager, or an inspector designated by him, and shall be done only in a method approved by him.
3. During the making of any excavation in any 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 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.
4. The applicant shall notify the Borough Manager when the opening or excavation is ready for backfilling before any backfilling is done and when the work is completed by proper backfilling.
5. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Manager, 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 Borough Secretary, 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. 6-1975, 9/11/1975, §7; as amended by Ord. 10-1977, 2/10/1977, §1)

**§21-308. Certain Excavations Restored by Permittee.**

Unless otherwise specified in writing by the Borough Manager, any excavation in excess of 60 square feet shall be completely restored in accordance with the specifications for backfilling set forth herein and under the direction of the Borough Manager by the permittee at his own cost. This complete restoration shall include the proper placement and compaction of a 1 1/2 inches of approved ID-2A base course material and the proper placement and compaction of 1 inch of approved ID-2A wearing course material finished to the existing surrounding road grade.

(Ord. 6-1975, 9/11/1975, §8; as amended by Ord. 10-1977, 2/10/1977, §1)

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### **§21-309. Emergencies.**

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 Borough Manager, 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 costs plus 20% to such owner or person.

(Ord. 6-1975, 9/11/1975, §9; as amended by Ord. 10-1977, 2/10/1977, §1)

### **§21-310. Penalty for Violation.**

Any person, whether as principal, agent or employee, violating or assisting in the violation 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 continues shall constitute a separate offense.

(Ord. 6-1975, 9/11/1975, §10; as amended by Ord. 10-1977, 2/10/1977, §2; by Ord. 4-1985, 8/8/1985, §1.2; and by A.O.

### **§21-311. Applicability.**

The provisions of this Part shall not apply to laying sidewalks or curbs or to the planting of poles.

(Ord. 6-1975, 9/11/1975, §11)

**PART 4**

**DRIVEWAYS**

**§21-401. Unlawful to Construct or Repair Driveway Entrance Without Permit; Conditions.**

1. It is hereby declared unlawful for any person, firm or corporation to grade, construct or repair any driveway entrances within the Borough, except in compliance with the provisions of this Part.
2. Any person, firm or corporation desiring to grade, construct or repair any driveway entrance shall first obtain a permit therefor from the Borough Manager, said permit to be issued by said Borough Manager only after the following conditions have been satisfied:
  - A. The filing of a written application with said Borough Manager setting forth the location, size and purpose of the driveway entrance, and approximate date the construction will start and finish.
  - B. The approval of said application by the Borough Engineer.
  - C. The approval of the location of said driveway entrance by the Borough Council.
  - D. The payment of a permit fee as determined by Borough Council and established from time to time by resolution to the Borough Secretary. [Ord. 8-1998]

(Ord. 1-1979, 1/11/1979, §1; as amended by Ord. 8-1998, 12/10/1998)

**§21-402. Specifications for Driveway Entrance; Conformity to Ordinance Required; When Borough May Do Work at Expense of Property Owner.**

1. All driveway entrances shall have a curb radius or drop curb of 2 feet of property owners curb line on each side, shall have the outside edge along the curb line 1 1/2 inches above the flow line of the gutter, and shall have a straight slope from the curb line upward to the sidewalk level, shall have a sidewalk surface of the same grade and width as the adjacent sidewalks. No driveway entrance shall be constructed with a frontage exceeding 16 feet along the curb line including radius, except upon special approval by resolution of Borough Council.
2. Driveway entrances, which are hereafter constructed and are not laid in conformity with the provisions of this Part and with the established grades and lines of the Borough are hereby declared to be a nuisance and must be removed, regraded and/or reconstructed according to the provisions of this Part within 30 days after

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notice to the owner or owners so to do by said Council, and upon failure of said owner to regrade, repair or reconstruct the driveway entrance within the time stipulated, the Council shall cause the same to be done in the manner herein provided and shall collect the cost thereof plus 10% additional, together with all charges and expenses from the owner or owners, and if payment is not made, shall file a municipal lien therefor against the owner or owners for collection thereof.

3. No driveway entrance heretofore laid in such a manner not prescribed herein shall be permitted to be repaired but whenever any such driveway entrance becomes, in the opinion of the Council, in dangerous condition, notice shall be given to the owner to reconstruct the driveway entrance.

(Ord. 1-1979, 1/11/1979, §2)

### **§21-403. Indemnification of Borough.**

Any person, firm or corporation applying for any permit under this Part shall indemnify the Borough against all liability of whatever nature arising during the performance of work for which a permit is granted whether or not the said liability arises as a result of negligence of the person, firm or corporation to which the permit was issued.

(Ord. 1-79, 1/11/1979, §3)

### **§21-404. Penalties and Remedies for Violations.**

1. Any person who violates 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 shall constitute a separate offense. [A.O.]
2. The Borough Council may revoke any permit issued to any person, firm or corporation violating any provision of this Part.
3. The imposition of penalties herein prescribed shall not preclude the Borough from instituting an appropriate action or proceeding to prevent the performance of work or acts declared to be unlawful under the provisions of this Part, or to restrain, correct or abate a violation, or seek relief by bill in equity.

(Ord. 1-1979, 1/11/1979, §4)

**PART 5**

**CURBS**

**§21-501. Construction and Repair Required.**

The Borough may require the owner of property on any street, including State highways, to construct, pave, repave and repair any curbs along such property, at such grades and under such regulations as may be prescribed by the Borough Engineer.

(Ord. 4-1997, 7/10/1997, §1)

**§21-502. Conformity to Line and Grade.**

All curbs shall be constructed, paved, repaved or repaired upon the line and grade obtained by the property owner from the Borough Engineer or the Borough Manager.

(Ord. 4-1997, 7/10/1997, §2)

**§21-503. Notice to Do Work.**

Notice to construct, pave, repave and repair curbs shall be given by registered or certified mail to abutting property owners, and such owners shall have 30 days to comply with said notice in conformity with any construction specifications prescribed by the Borough Engineer, unless a request for an extension is made and granted by the Borough.

(Ord. 4-1997, 7/10/1997, §3)

**§21-504. Inspection.**

At any time during the performance of the required work, the Borough Engineer or the Borough Manager may inspect the work to determine whether construction specifications are being observed.

(Ord. 4-1997, 7/10/1997, §4)

**§21-505. Borough May Do Work and Collect Costs.**

Upon the failure of any property owner to construct, pave, repave or maintain curb in compliance with notice to do so, the Borough may do the same or cause the same to be done and may levy the cost of its work on such owner as a property lien to be collected in the manner provided by law.

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(Ord. 4-1997, 7/10/1997, §5)

### **§21-506. Emergency Repairs.**

Where, in the opinion of the Borough Engineer or the Borough Manager, a dangerous condition exists that can be repaired by an expenditure of \$500 or less, the Borough shall send such property owner notice by registered mail stating emergency repairs are required. Upon failure of such owner to comply with the notice 48 hours after receiving it, the Borough may make emergency repairs and levy the cost of its work on such owner as a property lien to be collected in the manner provided by law.

(Ord. 4-1997, 7/10/1997, §6)

### **§21-507. Construction and Repair Done on Owner's Initiative Without Notice.**

Any property owner not required by notice to construct, pave, repave or keep in repair curbs may construct, pave, repave or repair the curb butting his property; provided, such owner shall make application to the Borough Engineer or Borough Manager before commencing work, shall conform to the provisions of this Part and other regulations as to specifications for construction and repair work and shall notify the Engineer or the Borough Manager within 2 days after completion of his work.

(Ord. 4-1997, 7/10/1997, §7)

### **§21-508. Penalties.**

Any person who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 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 continues shall constitute a separate offense. The Borough Manager or any other authorized officer of the Borough shall have the authority to issue the citation.

(Ord. 4-1997, 7/10/1997, §8; as amended by A.O.)