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**PART 1**

**RESPONSIBILITY FOR SNOW AND ICE REMOVAL FROM SIDEWALKS**

**§15-101. Definitions**

As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

**BUSINESS DAY** – any day not a Sunday or a national holiday.

**BUSINESS HOURS** – hours between 9:00 a.m. and 5:00 p.m. on any business day.

**CARTWAY** – portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

**CORPORATION** – natural person, partnership, corporation, association or any other legal entity.

**SIDEWALK** – portion of a street between the curblines, or the lateral lines of a cartway and the adjacent property lines, intended for use by pedestrians.

**STREET or HIGHWAY** – the entire width between the boundary lines of a way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Ord. 513, 10/27/2003)

**§15-102. Responsibility for Removal of Snow and Ice from Sidewalks**

- A. Every person in charge or control of any building or lot of land fronting or abutting on a sidewalk, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away, or cause to be removed or cleared away, snow and/or ice from a path of at least 36 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.
- B. Except as provided in Subsection C hereof, snow and ice shall be removed from sidewalks within 12 hours after the cessation of any fall of snow, sleet or freezing rain.
- C. In the event snow and/or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in Subsection B hereof, cause enough sand or other abrasive to be put on the sidewalk to make travel reasonably safe; and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least 36 inches in width.

(Ord. 513, 10/27/2003)

**§15-103. Responsibility for Removal from Roofs**

Every person in charge or control of any building or other structure, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away, or cause to be removed and cleared away, any accumulation of snow and ice on said building or other structure which is liable to fall on any sidewalk, roadway or other public way. Such work shall be completed within a reasonable time, but not later than 12 hours after the cessation of any fall of snow, sleet or freezing rain.

(Ord. 513, 10/27/2003)

**§15-104. Depositing of Snow and Ice Restricted**

No person shall deposit or cause to be deposited any snow or ice on or immediately next to a fire hydrant or on any sidewalk, roadway or loading and unloading areas of a public transportation system, except that snow and ice may be mounded by the Borough on public cartways incident to the cleaning thereof or mounded on curbs incident to the clearing of sidewalks in business districts.

(Ord. 513, 10/27/2003)

**§15-105. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 2****REGULATION OF CONSTRUCTION AND REPAIR OF SIDEWALKS****§15-201. Sidewalks Required on Certain Streets**

A. Sidewalks for the use of pedestrians shall be constructed and maintained along the following streets, at the expense of the owners of the abutting properties and shall be kept in thorough repair and in a safe condition by the owners of the abutting properties.

<b><u>Street</u></b>	<b><u>Side</u></b>	<b><u>Between</u></b>
N. Center Street	Both	High to Highland
S. Center Street	Both	Prave to High
N. Caroline Street	Both	High to Tibbott
E. Crawford Street	Both	Center to Phaney
E. Crawford Street	South	Phaney to Roberts
W. Crawford Street	Both	Center to West
E. Highland Avenue	Both	Center to Caroline
E. Highland Avenue	North	Caroline to Margaret
W. Highland Avenue	Both	Center to Hillcrest
W. Highland Avenue	South	Hillcrest to Schoolhouse
E. High Street	Both	Center to Rowena Drive
E. High Street	North	Rowena 1st 1/2 to Tanner
E. High Street	South	Rowena 2nd 1/2 to Tanner
W. High Street	Both	Center to Borough line
E. Horner Street	Both	Center to Sugar
W. Horner Street	Both	Center to West
N. Julian Street	Both	High to Highland
S. Julian Street	Both	High to Prave
E. Lloyd Street	South	Center to Caroline
W. Lloyd Street	South	Center to High
N. Marian Street	East	Sample to Highland
N. Marian Street	West	High to Highland
S. Marian Street	Both	Lloyd to High
S. Marian Street	West	Triumph to Lloyd
E. Ogle Street	North	Center to Locust
W. Ogle Street	Both	Center to Triumph

<u>Street</u>	<u>Side</u>	<u>Between</u>
Rowena Drive	Both	High to Howells Run
E. Sample Street	Both	Center to Caroline
E. Sample Street	North	Caroline to Poplar
E. Sample Street	Both	Poplar to Roberts
W. Sample Street	Both	Center to West
W. Triumph Street	Both	High to Ogle
W. Triumph Street	North	West to Ogle
W. Triumph Street	South	Marian to Cherry
W. Triumph Street	Both	Cherry to Center

(Ord. 513, 10/27/2003; as amended by Ord. 559, 10/27/2008; as amended by Ord. 569, 3/22/2010; as amended by Ord. 605, 06/24/2013.)

- B. Small segments of the above sections lacking sidewalks as of the date of this Part shall not be required to install sidewalks, notwithstanding the Borough's authority under §15-202 to require sidewalks at a later date.

(Ord. 513, 10/27/2003; as amended by Ord. 559, 10/27/2008)

**§15-202. Construction and Repair Required**

The Borough may require owners of property abutting on any street, including State highways, to construct and repair the sidewalk, curb and gutter along such property, at such grades and under such regulations as may be prescribed by the Borough's Public Works.

(Ord. 513, 10/27/2003)

**§15-203. Sidewalk and Curb Construction**

All sidewalks shall be constructed in accordance with the following construction details.

- A. The sidewalk subgrade shall be compacted, with four inches of compacted 2A aggregate above. The sidewalk slabs shall be six inches thick Type 'A' concrete with a minimum slope of 1 degree toward the curb with a medium broom finish.
- B. Driveway entrances shall utilize eight inches of concrete thickness.
- C. Curbs shall be 8 inches wide and 24 inches deep with eight inches of revealed curb. All concrete for curb construction shall be consolidated with a vibrator (internal). All disturbed blacktop shall be saw-cut. Any space between the new curb and the street pavement shall be filled with hot bituminous asphalt and sealed.
- D. The curb for a depressed curb entrance shall depress from eight inches to a two-inch lip in a space of 1 1/2 feet. Where a treelawn exists, a concrete section shall slope from eight inches to two inches over the width of tree lawn (street side of sidewalk to street side of curb).



- E. Handicapped curb cut ramps shall be provided at every intersection on every corner in each direction. The slope of the wheelchair ramps shall be a maximum of 12 to 1 with rough surface.
- F. There shall be 1/2 inch premolded expansion joints every 30 feet or less on curb and sidewalk.
- G. All concrete shall be 4,000 P.S.I.
- H. All existing pavement damaged by new construction shall be repaired per standard PennDOT construction practices and specifications.
- I. The property owner shall be responsible for contact and coordination with all utilities, and for any and all utility-related damages that might occur, and shall accommodate in the project all necessary curb boxes, access panels, control boxes, shut-offs, utility connections, etc.
- J. To the extent that any stormwater basins may be within the sidewalk, the Borough shall evaluate the condition of the basin and replace as necessary.
- K. All sign posts, utility poles, meter posts, flagpoles, gas meters or other such items within the new concrete surface shall have a suitably-sized sleeve installed for future removal and replacement.
- L. The property owner shall be responsible for restoring all disturbed property to conditions equal to or better than conditions prior to construction. Smooth transitions to abutting sidewalks and yards, whether private or public, shall be assured.
- M. Sidewalks may also be constructed of brick and/or paver blocks with a suitable mortar grout.

(Ord. 513, 10/27/2003)

**§15-204. Supports Under Sidewalks and Curbs**

Where sidewalks or curbs are to be constructed or repaired over coal cellars or other excavations, such sidewalks shall be supported by iron or steel beams, girders, stone or concrete arches. Any support of wood or perishable material shall be prohibited.

(Ord. 513, 10/27/2003)

**§15-205. Conformity to Line and Grade**

All sidewalks, curbs and gutters shall be constructed or repaired upon the line and grade obtained by the property owner from the Borough Public Works.

(Ord. 513, 10/27/2003)

**§15-206. Notice to Do Work**

Notice to construct and repair sidewalks, curbs or gutters shall be given by registered or certified mail to abutting property owners, and such owners shall have 180 days to comply with said notice in conformity with any construction specifications prescribed by the Borough Public Works.

(Ord. 513, 10/27/2003)

**§15-207. Inspection**

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

(Ord. 513, 10/27/2003)

**§15-208. Municipality May Do Work and Collect Costs**

Upon the failure of any property owner to construct or maintain any sidewalk, curb or gutter 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. The Borough reserves unto itself the right to design; bid; and construct, repair or replace any and all sidewalk segments at Borough Council's discretion, and to assess the cost thereof to the abutting property owners.

(Ord. 513, 10/27/2003)

**§15-209. Emergency Repairs**

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

(Ord. 513, 10/27/2003)

**§15-210. Construction and Repair Done on Owner's Initiative Without Notice**

Any property owner not required by notice to construct or keep in repair sidewalks, curbs or gutters may construct or repair the sidewalk, curb and gutter abutting his property; provided, such owner shall make application to the Borough Public Works 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 Borough Public Works within two days after completion of his work.

(Ord. 513, 10/27/2003)

**§15-211. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600 and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 3**

**REGULATION OF CURB CUTS AND DRIVEWAY CONSTRUCTION**

**§15-301. Width of Driveways**

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

(Ord. 513, 10/27/2003)

**§15-302. 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. All driveways shall be laid according to specifications furnished by the Borough at the time the permit is granted.

(Ord. 513, 10/27/2003)

**§15-303. Fee**

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

(Ord. 513, 10/27/2003)

**§15-304. Sidewalk Not to Be Disturbed**

All portions of the sidewalk must not be disturbed, and the height and grade of same must remain the same as before the driveway was constructed. The balance of the sidewalk shall remain the same height and grade as before the construction of the driveway.

(Ord. 513, 10/27/2003)

**§15-305. 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 Council 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 10 days from receipt of the notice to comply therewith. Upon noncompliance, the Borough may do or cause the requested repairs to be done and may levy the cost of its work on such owner as a property lien to be collected in any manner provided by law.

(Ord. 513, 10/27/2003)

**§15-306. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 4**

**RESTRICTION FOR DRIVING VEHICLES OVER CURBS AND SIDEWALKS**

**§15-401. Procedure for Driving on Curbs or Sidewalks**

It shall be unlawful for any person, persons, firm or corporation to drive or cause to be driven any vehicle on, over and across any curb or sidewalk before first obtaining permission of the abutting property owner, and the placing of a proper platform, covering or other device for the protection of the sidewalk and curb.

(Ord. 513, 10/27/2003)

**§15-402. Obstruction of Sidewalks**

It shall be unlawful for any person, persons, firm or corporation to park any vehicle, whether or not in or on a driveway, in such a fashion as to obstruct in any way whatsoever a public sidewalk, or to make use of a sidewalk in such a fashion as to cause an obstruction of the sidewalk, and to prevent the free use of same by the general public.

(Added by Ord. 559, 10/27/2008)

**§15-403. Report Required of Damage to Curbs or Sidewalks**

Any depression, break or damage caused to any curb or sidewalk by any vehicle, or by any other agency, shall be reported to the Borough within 24 hours after the damage has occurred, and emergency repairs must be made by the property owner, tenant or agent within 48 hours after such report.

(Ord. 513, 10/27/2003; as amended by Ord. 559, 10/27/2008)

**§15-404. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003; as amended by Ord. 559, 10/27/2008)

**PART 5**

**PROHIBITION ON BEFOULING STREETS AND SIDEWALKS**

**§15-501. Proper Operation of Vehicles**

Any vehicle transporting or carrying soil, sand, stone, dirt, debris, refuse, litter or other substance of any kind, including liquids and chemicals, over streets, alleys and thoroughfares shall be so operated as to prevent said materials from being scattered, spilled, dropped or blown from the vehicle or from the wheels, tires or undercarriage thereof.

(Ord. 513, 10/27/2003)

**§15-502. Befouling of Streets or Sidewalks Unlawful**

It shall be unlawful to scatter, spill, dump or drop, or permit to be scattered, spilled, dumped or dropped, any soil, sand, stone, dirt, grass clippings, debris, refuse, litter or other substance of any kind, including liquids and chemicals, from any vehicle or from the wheels, tires or undercarriage thereof, or from any lawn/property maintenance equipment upon streets, alleys and thoroughfares.

(Ord. 513, 10/27/2003)

**§15-503. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 6**

**PROHIBITION ON OBSTRUCTION OF SIDEWALKS BY VENDORS**

**§15-601. Applicability**

- A. The provisions of this Part shall not apply to the sale, storage or display of newspapers or periodicals.
- B. The provisions of this Part shall not apply to events sanctioned by the Borough and/or agents of the Borough.

(Ord. 513, 10/27/2003)

**§15-602. Restrictions on Sidewalk Sales**

It shall be unlawful for any vendor of groceries, fruits or produce, or any kind of foodstuffs or merchandise, except peddlers duly licensed or authorized and farmers, to store, display, exhibit or sell his said wares on public highways, including the sidewalk or cartway or any portion thereof, or to make use of the sidewalk or cartway or any portion thereof, as a place for salesmen, clerks or customers to stand while transacting business, or in any way to obstruct the sidewalk or cartway, or any portion thereof, and prevent the free use of the same by the general public.

(Ord. 513, 10/27/2003)

**§15-603. Illegal to Obstruct Sidewalks**

It shall be unlawful to put or place any box, boxes, barrels, merchandise or other articles that obstruct the free use of any sidewalk upon any of the sidewalks, except articles temporarily placed thereon for the purpose of loading or unloading, removing or storing away.

(Ord. 513, 10/27/2003)

**§15-604. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 7**

**RESTRICTION ON PLACEMENT OF STRUCTURES  
ON OR OVER SIDEWALKS & STREETS**

**§15-701. Restrictions on Construction Around Sidewalks and Streets**

It shall be unlawful for any person, persons, firm or corporation to place, erect or build any porch, portico, door steps, railing, bulk, bay or jut window, areaway, cellar door and cellar window, sign and sign post, board, pole or frame, awning, awning post or other device or thing projecting over, under, into or otherwise occupying the sidewalk or other portion of any street or alley, including the surface of the sidewalk, except any traffic or other sign placed, erected or maintained by the proper State or municipal authorities and any sign attached to a building erected and maintained under permit and meeting the requirements of the Part of the Borough.

(Ord. 513, 10/27/2003)

**§15-702. Authority to Remove Illegal Construction and Collect Cost**

In addition to the penalties imposed by this Part for the violation of any provision thereof, the person, firm or corporation, upon notice of the violation, shall immediately remove the offending structure or obstruction, and on failure to so remove the offending obstruction, the Borough shall remove the same at the cost of the property owner, and collect the costs therefor in any manner provided by law.

(Ord. 513, 10/27/2003)

**§15-703. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 8**

**EXCAVATION OF STREETS**

**§15-801. Definitions and Interpretation**

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."

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

**PERSON** – any natural person, partnership, firm, association, corporation or municipal authority. In this Part, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 513, 10/27/2003)

**§15-802. 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 street in the Borough without first securing a permit therefor, as hereinafter provided.

(Ord. 513, 10/27/2003)

**§15-803. Application for Permit**

Any person who shall desire to make any opening or excavation in any street in the Borough shall make application to the Borough Public Works 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 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 the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

(Ord. 513, 10/27/2003)

**§15-804. 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 from time to time by resolution of the Borough Council. 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, in accordance with the fee schedule.

(Ord. 513, 10/27/2003)

**§15-805. 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. 513, 10/27/2003)

**§15-806. 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. 513, 10/27/2003)

**§15-807. 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. 513, 10/27/2003)

**§15-808. 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., 73 P.S. §177 et seq. 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. 513, 10/27/2003)

**§15-809. 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 two 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. 513, 10/27/2003)

**§15-810. 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 Borough Public Works, provided that the Borough Public Works 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. 513, 10/27/2003)

**§15-811. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work**

- A. No opening or excavation in any street shall extend from the curb line into the highway a distance greater than one foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
- B. No more than 500 feet longitudinally shall be opened in any street at any one time.
- C. 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.
- D. No tunneling shall be allowed without the express approval of the Borough Public Works and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Public Works or an inspector designated by him, and shall be done only in a method approved by him.
- E. All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed 8 inches in depth. Backfilling shall be placed to within 10 inches of the surface.
- F. A temporary paving of cold-patch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of 90 days.
- G. 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.
- H. 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.

- I. The applicant shall notify the Borough Public Works 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.
- J. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Public Works, 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 Public Works, 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. 513, 10/27/2003)

#### **§15-812. 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 Borough Public Works, 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. 513, 10/27/2003)

#### **§15-813. 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. 513, 10/27/2003)

#### **§15-814. Work Necessitating Opening or Excavation to Be Done Prior to Street Improvement and Not Until 5 Years Thereafter; Exception**

The Borough Manager shall give timely notice to all persons owning property abutting on any street within the Borough 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 Borough Public Works. New paving shall not be opened or excavated for a period of five 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 Borough Public Works. If it is sought to excavate upon or open a sewer within five 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. 513, 10/27/2003)

**§15-815. Permittee Responsible 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. 513, 10/27/2003)

**§15-816. 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 Borough Public Works and such plan, and the exact location of such main or line, approved by him. The Borough Public Works 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. 513, 10/27/2003)

**§15-817. 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. 513, 10/27/2003)

**§15-818. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 9**

**REQUIREMENT OF SAFETY MEASURES DURING SIDEWALK CONSTRUCTION**

**§15-901. Safety Precautions to Be Used During Sidewalk Construction**

When any person, firm or corporation shall erect, construct, alter, repair, roof, unroof or remove any building or perform any other work on any building fronting on any street in the Borough, whereby a risk may be incurred by persons passing the same, it shall be the duty of the owner, lessee, contractor, person or persons performing any work on such building to erect a good and substantial covering over the pavement, sidewalk or footway in front of such building, of such elevation so as not to interfere with the free use of such pavement, sidewalk or footway.

(Ord. 513, 10/27/2003)

**§15-902. Temporary Bridges During Excavation**

Whenever, in excavating for walls, cellars, foundations or vaults, or the making of other improvements, on the streets and within the limits mentioned in §15-901, hereof, it becomes necessary to excavate the pavement, sidewalk or footway, the owner, lessee, contractor or other person in charge of the work shall, before commencing any such excavation, cause to be erected a good and substantial bridge not less than 4 feet in width nor more than 4 feet in height, with steps at each end, a banister on the side next to the street, and a tight board fence or wall on the side next to the cellar or excavation, at least seven feet high, so as to facilitate the free and safe use of such sidewalk or bridge by pedestrians. Such owner, lessee, contractor or builder shall also keep the said sidewalk or bridge sufficiently lighted at night.

(Ord. 513, 10/27/2003)

**§15-903. Approval**

All work done under the provisions of this Part shall be approved by the Borough.

(Ord. 513, 10/27/2003)

**§15-904. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

**PART 10**

**PROHIBITING VEHICLE REPAIR ON STREETS**

**§15-1001. Definitions**

The following words shall have the meaning set forth herein, unless the context clearly indicates a different meaning.

**MAINTENANCE** – those activities which are required to keep a motor vehicle in operating condition under the State inspection laws or to maintain a clean cosmetic appearance including: washing and waxing; the replacement of minor exterior parts including wiper blades, lighting fixtures and changing tires; and, the performance of minor tuneups involving, only, replacement of points, plugs, engine fluids and other minor exterior components, so long as no hazard or nuisance to passersby result.

**PERSON** – any individual person, firm or corporation.

**REPAIRS** – any mechanical work on a motor vehicle which is not herein defined as "maintenance."

**STREET, PUBLIC** – all of the roads, streets, alleys, sidewalks or grass plots within the legal rights-of-way of the Borough.

(Ord. 513, 10/27/2003)

**§15-1002. Motor Vehicle Repairs Prohibited**

It shall be unlawful for any person to make repairs to any motor vehicle in the public streets of the Borough.

(Ord. 513, 10/27/2003)

**§15-1003. Maintenance of Motor Vehicles Permitted**

Unless it poses a nuisance or safety hazard to passersby, the routine maintenance of motor vehicles in the public streets as defined herein is hereby permitted.

(Ord. 513, 10/27/2003)

**§15-1004. Storage of Motor Vehicle Parts Prohibited**

It shall be unlawful for any person to store new or used motor vehicle parts on the public streets.

(Ord. 513, 10/27/2003)

**§15-1005. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)

**PART 11**

**PROHIBITING STREET OBSTRUCTIONS**

**§15-1101. Findings and Purpose**

The Borough Council finds that:

- A. Cartway areas of the streets, alleys and ways of the Borough 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. 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. 513, 10/27/2003)

**§15-1102. 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. 513, 10/27/2003)

**§15-1103. 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.

(Ord. 513, 10/27/2003)

**§15-1104. Authority to Remove and Impound**

The Borough 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.

(Ord. 513, 10/27/2003)

**§15-1105. 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 Manager. 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 Manager 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 Manager, 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 Manager 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. 513, 10/27/2003)

**§15-1106. 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. 513, 10/27/2003)

**§15-1107. 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 §15-1105 above.

(Ord. 513, 10/27/2003)

**§15-1108. Records of Objects Removed and Impounded**

The Borough 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. 513, 10/27/2003)

**§15-1109. 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. 513, 10/27/2003)

**§15-1110. Penalties**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 513, 10/27/2003)



**PART 12**

**REGULATION OF PLANTING AND MAINTAINING TREES ALONG PUBLIC WAYS**

**§15-1201. Definitions**

For the purposes of this chapter, the following terms are defined as follows:

**BOROUGH** -- The Borough of Ebensburg.

**PERSON** -- An individual, partnership, corporation, unincorporated association or other similar entity.

**STREET** -- The public streets, highways, roads, avenues, alleys and similar areas, including public walkways appurtenant thereto, to the extent of the public right-of-way in such areas. A shade tree shall be deemed to be "in" such an area when a portion of its trunk at its base is therein.

**TREE LAWN** -- The narrow strip of grass located between the street and the sidewalk.

(Ord. 591, 09/26/2011)

**§15-1202. Administration**

This Chapter shall be administered by the Borough Manager, who shall have exclusive custody and control of the shade trees in the Borough, and is authorized to plant, transplant, remove, maintain and protect shade trees in the streets and highways in the Borough. To the extent funds for such purposes are budgeted by Borough Council, the Borough Manager may employ and pay such superintendents, engineers, foresters, tree wardens or other assistants, as the proper performance of the duties devolving upon him/her shall require. Nothing herein shall be construed to require Borough Council to budget funds for the foregoing purposes. The Borough Manager may make and enforce regulations for the care and protection of the shade trees of the Borough, provided that no such regulation shall be enforced until approved and ordained by Borough Council.

(Ord. 591, 09/26/2011)

**§15-1203. Authority**

Borough Council hereby reserves the following powers unto itself, its officers, employees, agents and contractors:

- (1) Such power and authority as is reserved to it in the Pennsylvania Motor Vehicle Code to require owners of real property to remove any tree, plant, shrub or other similar obstruction, or part thereof, which by obstructing the view of any driver constitutes a traffic hazard.
- (2) Such power and authority as is reserved to it in the Pennsylvania Borough Code to accept, purchase and plant or contribute to the purchasing and planting of shade trees along the streets and sidewalks of the Borough.

- (3) Such power and authority as is reserved to it in the Pennsylvania Borough Code and this chapter to assess liens.
- (4) Such power and authority as is reserved to it in the Pennsylvania Borough Code to accept the petition of a majority of the property owners upon any public street and thereupon ordain the planting and replanting of suitable shade trees along and upon the sides of such streets by the owners of property abutting the points designated in such ordinance.
- (5) All powers and authority reserved to it under any other applicable law.

(Ord. 591, 09/26/2011)

**§15-1204. Assessment, Costs & Liens**

- A. The costs of planting, transplanting or removing any shade tree in the public streets or highways in the Borough, of removing a portion of a shade tree overhanging a public street or highway, of the necessary and suitable guards, curbing or grading for the protection of shade trees in the public streets and highways in the Borough and of the replacing of any pavement or sidewalk necessarily disturbed in the execution of such work shall be paid by the owner of the real estate abutting which the work is done or containing the tree. Any penalties imposed by the Borough under the provisions of this Chapter shall be assessed against the real estate abutting which the work was done, or containing the tree, or upon which the violation was committed.
- B. The collection of assessments, the filing of liens, the levying of taxes and the collection of penalties, whether by the Borough or on behalf of the Borough, are hereby expressly authorized as provided for in said Article XXVII(b) of the Borough of Code of 1966, P.L. (1965) 1656, as amended.
- C. Costs and expenses in caring for shade trees after they have been planted shall be paid by the owner of the real estate abutting the location at which the tree is planted, regardless of who paid for or actually performed the original planting. The Borough may, at its sole option, elect to incur the cost of planting trees along a particular street or project, or to provide and pay for early year pruning of such plantings, and that shall in no way waive the responsibility of the owner of the real estate abutting the location at which the tree is planted from all future maintenance costs.
- D. All shade trees shall be kept trimmed by the owner of the real estate abutting the space containing the tree as follows:
  - 1. So as to not interfere with the proper lighting of public highways by streetlights.
  - 2. So that the minimum clearance of any overhanging portion upon any public highway or street or alley shall be thirteen and one-half (13.5) feet, or upon any sidewalk shall be eight (8) feet.
  - 3. No owners of real estate shall permit any limbs, branches or foliage to interfere with the clear view, as determined by the Borough Manager, of any traffic regulatory sign or device.
  - 4. No owners of real estate shall permit to remain standing any diseased trees or parts of trees which would in any way endanger vehicular or pedestrian traffic on any sidewalk, street or alley open to the public.

5. If any property owner shall neglect or refuse to trim any shade tree, upon notice, in writing from the Borough with the time limit specified in such notice, the Borough may cause such trimming to be done at the expense of the owner, and the entire cost thereof shall be a lien upon said premises, and a claim therefor shall be filed and collected by the Borough as in the same manner as municipal claims are filed and collected.
6. In the case of a shade tree in or overhanging a public street or highway which poses a serious threat of imminent harm to public health or safety in the nature of an emergency, necessitating the tree's removal in whole or overhanging part, the Borough may affect its immediate complete or partial removal with only such notification to the owner of the abutting or containing property as required by the Pennsylvania Motor Vehicle Code, or other applicable law, to have the work done himself or herself as the exigencies of the situation, in the Borough's reasonable judgment, permit. In such event, costs shall be borne by the owner and the amount owed for such work shall be ascertained and certified, and the aforesaid filing, notice and collection procedures shall be applicable and followed.
7. The Borough shall have the authority to remove or cause to be removed any tree or part thereof located on privately owned property which by reason of its nature is potentially injurious to public safety or is affected by highly destructive fungus, insects, or other pests at the expense of the owner, if the property owner fails to do so within five days after being notified by the Borough.

(Ord. 591, 09/26/2011)

**§15-1205. Permits Required**

- A. No person shall plant, trim, prune or remove, or cause to be planted, trimmed, pruned or removed, any shade tree in or overhanging the public streets or highways in the Borough until a permit therefor is granted by or under the authority of the Borough. The application for such permit, which shall be provided by the Borough and which shall be signed by the owner of the abutting premises containing such tree or wherein such tree is proposed to be planted, shall include the details of such planting, trimming or removal, whether by sketch or otherwise, and the same shall be submitted to the Borough Manager. Such work shall not be commenced until a permit shall have been secured. A reasonable fee for obtaining such permit may be set by the Borough Council from time to time. The Borough may refuse a permit for the planting of any species of tree which in its opinion is not suited to the location. The Borough shall provide specifications on the proper planting, trimming, pruning and removal of trees, and the kinds of trees permitted for planting.
- B. If a permit is granted for the removal of a tree by the Borough, it may, at the time of issuance of said permit, require the owner to replace or replant the tree. If the owner agrees to plant a tree and thereafter fails to do so within a period of six months, the Borough may cause a tree to be replanted and have the cost of the same assessed against the property owner after following the procedures set forth in this chapter.

(Ord. 591, 09/26/2011)

**§15-1206. Stumps and Debris**

Owners of real estate that remove trees shall also be required to remove the stump and roots by either totally excavating and removing the stump and roots, or by grinding the stump and roots to a minimum

depth of eight (8”) inches below the surface. All debris including any wood, branches, foliage and resulting sawdust shall be immediately removed from the premises.

(Ord. 591, 09/26/2011)

**§15-1207. Planting Regulations**

1. A tree planting permit must be obtained at the Borough office.
2. Only those trees on the approved shade tree list may be planted within the public rights-of-way unless authorized by the Borough Manager.
3. All shade trees shall be so situated to form as nearly as possible a straight and uniform line with the other shade trees growing in the same street or highway.
4. Trees shall be planted or set from 30 to 40 feet apart where practical and shall be sound, straight and symmetrical.
5. Where space permits, street trees shall be planted within the treelawn.
6. No tree shall be planted nearer than 25 feet to an intersection or alley.
7. Every tree shall be planted in a pit with a minimum clearance around the root ball of six (6”) inches.
8. New trees shall be watered weekly during hot, dry weather to keep the trees from dying.
9. Trees shall not be less than 1 ¾ inches in caliper (diameter).
10. Trees shall be selected depending on overhead height restrictions imposed by utility wires.
11. Street trees shall be at least 10 feet from utility poles and at least six feet from water, sewer and gas services.

(Ord. 591, 09/26/2011)

**§15-1208. Approved Street Tree Planting List**

**Small Trees:** Mature height 25-35 feet.

- Chanticleer Pear
- Crabapple
- Dogwood
- Crimson Sentry Norway Maple
- Eastern Redbud
- Japanese Hornbeam
- Star Magnolia
- Thornless Cockspur Hawthorn
- Washington Hawthorn
- Winter King Hawthorne
- Shadblow/Serviceberry - “Robin Hill,” “Autumn,” “Brilliance” or “Cumulus”
- Japanese Tree Lilac - “Ivory Silk” or “Summer Snow”
- Columnar Sargent Cherry
- Amur Maple
- Trident Maple

**Medium Trees:** Mature height 35-50 feet.

- Common Hackberry
- Ginkgo (male)
- Yellowwood
- American Hornbeam
- European Hornbeam

Redspire callery pear or Aristocrat callery pear  
Imperial Honeylocust

**Large Trees:** Mature height 50 feet or more.

Armstrong Freeman Maple  
Honey Locust  
Crimson King Maple  
Hybrid Elm – “Pioneer” or “Triumph”  
Honeylocust- “Skyline,” “Shademaster”  
Green Ash - “Summit,” “Patmore” or “Urbanite”  
White Ash - “Rosehill” or “Autumn Purple”  
Zelkova - “Green Vase”  
Little Leaf Linden - “Greenspire”  
Blackgum or Tupelo  
Turkish Filbert  
Dawn Redwood  
Red Maple - “Red Sunset”

(Ord. 591, 09/26/2011)

**§15-1209. Restricted Tree Species**

- A. The following species and varieties of shade trees are prohibited from being planted within rights-of-ways: Sycamore, Silver Maple, Box Elder, Tree of Heaven, European Mountain Ash, Asiatic or Chinese Elm, Horse Chestnut, Black Locust, Black Walnut, all Oak varieties, all edible fruit trees, all Catalpa varieties, and Morus varieties, all Populus varieties, all Salix varieties.
- B. It shall be unlawful for any person to plant or cause to be planted along any street or alley within the Borough of Ebensburg or at any location upon private ground from which the roots thereof can endanger any sewer or water main located upon any street or alley, any Willow tree or any Carolina Poplar tree.

(Ord. 591, 09/26/2011)

**§15-1210. Tree Lawn Maintenance**

- A. All sections of this Chapter relative to maintenance of trees, assessments and liens shall apply to the tree lawn as well.
- B. The owner or occupant of the premises fronting on the tree lawn shall be the custodian of the tree lawn and shall keep the same in good condition under such rules as shall be made for this purpose.
- C. It shall be unlawful for any person to obstruct in any manner any lines of any street, alley or sidewalk.
- D. No person shall attach to any tree or place in any fashion within the tree lawn any rope, wire, hardware, advertisement posters or signs.
- E. No person shall damage, carve, cut, deface, poison, transplant or top any tree growing in the tree lawn, or dig, drive upon or otherwise disturb the grass surface of the tree lawn.

(Ord. 591, 09/26/2011)

**§15-1211. Pruning Regulations**

- A. All pest-infested or insect/disease infested branches and interfering branches shall be removed. Crossovers, piggy-backs, watersprouts and suckers shall constitute interfering branches. Smaller branches that might prove undesirable at a future time should also be treated as interfering. Considered together, these selective inside thinning aspects of proper pruning should create a well-balanced, spatial relationship between all of the major scaffold branches in the tree being trimmed.
- B. Limbs can be raised eight (8') feet above sidewalks and thirteen and one-half (13.5') feet above streets on mature trees. On younger trees or trees that do not attain much height at maturity, limbs can be raised only to the height that achieves good balance and aesthetics. There will be no severe heading back, topping or dehorning done to any tree unless prior and specific authorization is given by the Borough Manager.
- C. Utility companies shall trim around their wires where applicable, as opposed to the topping of trees under the wires. Severing of large branches shall be accomplished in such a way as not to cause the ripping of bark below the final cut. This means that a preliminary undercut is made followed by a top cut thus delimiting the branch and leaving a short stub to be held in place for the final cut. All cuts will be made clean. Removal of dead, diseased and dying branches along with the live cutting of limbs to relieve weight stress will be cut back to a healthy crotch so that sound tissue surrounds the final cut. It must be kept in mind that while pruning limbs which are disproportionately heavy, the remaining lateral branches should have symmetry and balance as related to the surrounding limbs. When pruning for view, it is preferable to develop spaces between branches or windows through the foliage of the tree, rather than to severely raise or reduce the crown.

(Ord. 591, 09/26/2011)

**§15-1212. Hearings**

Any person aggrieved by a notice, determination, refusal, act or failure to act issued, taken or omitted under this Chapter shall have the right to a hearing to be held by the Borough Council, which hearing shall be held pursuant to the administrative law for local agencies. In all cases, the aggrieved party shall be given personal notice by regular mail of the date, time and place of the hearing, which notice shall generally specify the rights granted to the party under law.

(Ord. 591, 09/26/2011)

**§15-1213. Penalties**

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant thereto and authorized thereby shall, upon conviction before any district justice, be sentenced to pay a fine of \$600.00 and costs of prosecution, and in default of payment thereof, to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 591, 09/26/2011)

**PART 13**  
**POLICY FOR TAKEOVER OF ALLEYS/STREETS**

**§15-1301. Establishment of Policy**

The Ebensburg Borough Council hereby establishes the following policy relative to takeover of alleys/streets.

- A. Residents desirous of the Borough taking over a non-ordained alley/street shall petition the Council to do so.
- B. All property owners contiguous to the alley must join the petition.
- C. The proposed street must connect to either a Borough or State owned street on each end.
- D. The proposed street must serve the general population and not only the neighboring properties.
- E. The proposed street, when designed, must have a paved cartway a minimum width of 12 feet. The right-of-way must be a minimum of 10 feet from the center line.
- F. If the alley/street is approved for takeover, the petitioners shall then have prepared and pay expenses for a survey and plan of the alley/street. The survey/plan shall contain the following information:
  1. General street and layout of contiguous properties.
  2. Name, address, license number and seal of registered engineer or surveyor responsible for plan.
  3. A stormwater analysis illustrating proposed surface grades.
  4. All existing utility lines.
  5. Any storm sewers or other drainage facilities.
  6. Building setback lines along street.
  7. Any trees to remain in the proposed right-of-way.
  8. Lot lines with dimensions and bearings.
  9. Suggested street name.
- G. The design standard for improvements to alleys/streets shall be four inches subbase, four inches base course and 1 1/2 inches surface.
- H. The cost of proposed improvements shall be borne 50/50 by the contiguous property owners and the Borough. The Borough shall estimate the cost of construction, divide that estimate by two, and divide that balance equally by the number of linear feet along both sides of the street. That amount per linear feet shall be paid to the Borough prior to final ordainment of the street.

- I. The contiguous property owners shall be responsible for all costs associated with the preparation and filing of any necessary property transfers.

(Res. 03-02, 1/27/2003)

**§15-1302. Applicable Only for Existing Unimproved Alleys/Streets**

This policy applies only to existing unimproved alleys/streets, and is not applicable to proposed subdivisions and does not supersede the requirements prescribed in the Subdivision/Land Development Ordinance [Chapter 16].

(Res. 03-02, 1/27/2003)

**§15-1303. Absent Ownership**

Absent ownership of a street by the Borough, the Borough will not be responsible for ongoing repairs to the alley/street, but instead responsibility for repairs shall be that of the contiguous property owners.

(Res. 03-02, 1/27/2003)

**§15-1304. Routine Winter Maintenance**

The Borough does agree to provide routine winter maintenance to non-borough owned alleys/streets provided that all contiguous property owners execute the attached authorization for the Borough to provide plowing service.

(Res. 03-02, 1/27/2003)



**PART 14  
EXCAVATION OF SIDEWALKS**

**§15-1401. Definitions and Interpretation**

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 or within any curb or sidewalk which involves cutting, breaking or disturbing the surface thereof. In this Part, the term "opening" shall have essentially the same meaning as "excavation."

**SIDEWALK** – that part of any street, including State highways, lying between the proper curb line and the abutting property line, usually formed of concrete, and intended for pedestrian travel.

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

**PERSON** – any natural person, partnership, firm, association, corporation or municipal authority. In this Part, the singular shall include the plural and the masculine shall include the feminine and the neuter.

**TREE LAWN** – The narrow strip of grass (brick pattern concrete in downtown areas) located between the street and the sidewalk.

**§15-1402. 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 curb, tree lawn and/or sidewalk in the Borough without first securing a permit therefor, as hereinafter provided.

**§15-1403. Application for Permit**

Any person who shall desire to make any opening or excavation in any curb, tree lawn and/or sidewalk in the Borough shall make application to the Borough Public Works 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 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 the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

**§15-1404. Permit Fee**

Before any permit shall be issued to open or excavate any curb, tree lawn and/or sidewalk in the Borough the applicant shall pay a permit fee in the amount fixed according to a schedule established from time to time by resolution of the Borough Council.

**§15-1405. 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.

**§15-1406. 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.

**§15-1407. 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.

**§15-1408. 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., 73 P.S. §177 et seq. 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.

**§15-1409. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years**

Any person who shall open or excavate any curb, tree lawn and/or sidewalk 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 curbs, tree lawns and sidewalks 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 curb or sidewalk immediately adjoining the opening. If within two 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 surface.

**§15-1410. 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 curb, tree lawn and/or sidewalk 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 Borough Public Works, provided that the Borough Public Works may, if he deems it necessary to the proper performance of the work, require that cutting of the curb, sidewalk and/or 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.

**§15-1411. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work**

- A. No more than 10 feet longitudinally shall be opened in any sidewalk at any one time.
- B. 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.
- C. No tunneling shall be allowed without the express approval of the Borough Public Works and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Public Works or an inspector designated by him, and shall be done only in a method approved by him.
- D. All openings or excavations in sidewalks shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed 8 inches in depth. Backfilling shall be placed to within 6 inches of the surface (8" when in driveways).
- E. On concrete sidewalks, the minimum size of the opening or excavation shall be the entire 5' length of any sidewalk section affected by the excavation.
- F. During the making of any excavation in the sidewalk, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the sidewalk 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.
- G. The applicant shall notify the Borough Public Works when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, and when the curb, tree lawn and/or sidewalk has been permanently restored so that inspections may be made.
- H. On curbs, the minimum length of the excavation shall be 4'. The repair shall match the dimension of the adjacent curb sections, and shall be 18" in depth. Rebar shall be drilled and grouted in place to support the repaired section of curb.
- I. In tree lawns, if grass, the area shall be filled with a minimum of 4" of quality topsoil flush with the curb and sidewalk surface, seeded and covered. If brick pattern concrete (downtown areas), the area shall be repaired to the same standards as the adjacent sidewalk, and the brick pattern printed and colored in the appropriate fashion. The color and grid shall match the adjacent brick pattern. The minimum size of the opening or excavation shall be the entire 5' length of any brick pattern section affected by the excavation
- J. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Public Works, 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 Public Works, 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.

**§15-1412. 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 Borough Public Works, 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.

**§15-1413. 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.

**§15-1414. Work Necessitating Opening or Excavation to Be Done Prior to Street Improvement and Not Until 5 Years Thereafter; Exception**

The Borough Manager shall give timely notice to all persons owning property abutting on any curb or sidewalk within the Borough about to be 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 curb or sidewalk within 30 days from the giving of such notice, unless such time is extended in writing for cause shown by the Borough Public Works. New sidewalks shall not be opened or excavated for a period of five 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 sidewalk to be determined by the Borough Public Works.

**§15-1415. 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 sidewalks of the Borough until the plan therefor shall have been first filed with the Borough Public Works and such plan, and the exact location of such main or line, approved by him. The Borough Public Works shall not approve the locating of any such main or line at a depth of less than 30 inches from the surface of the sidewalk unless he shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

**§15-1416. 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.

**§15-1417. Penalties**

## Chapter 15: Streets & Sidewalks

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than \$600, and in default of payment, to undergo imprisonment for a term not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 602, 9/24/2012)