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**Part 1**

**Street Excavations and Openings**

§101. Definitions. The following words and phrases, when used in this Part, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates otherwise:

APPLICANT – any person who makes application for a permit.

BOROUGH – the Borough of Pottstown.

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

CALENDAR YEAR – January 1 through December 31, inclusive.

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

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

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

DEPARTMENT – the Department of Public Works.

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

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

LINE – an underground conductor or facility used in providing electric or communication service of an underground pipe used in carrying gas, oil, sewage, water or other service.

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

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

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PERSON – any natural person, partnership, firm, association, utility or corporation.

PUBLIC UTILITY – any utility company, excluding corporate authorities of the Borough, franchised by the Public Utility Commission of the Commonwealth of Pennsylvania.

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

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

STREET – the entire right-of way of a public street, public highway, public alley, public avenue, public road or public easement within the Borough limits.

USER – the public utility, municipal corporation, municipal authority, or other person who or which uses a line to provide service to one (10) or more consumers.

WORK DAY – normal business day for the Borough government, including Monday through Friday, except designated holidays.

The singular shall include the plural, and the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 1747, 9/13/1993, §2)

### §102. Permit Required and Emergency Openings.

1. The opening of the surface of any Borough street is prohibited unless a permit is obtained for that purpose in the manner hereinafter described. Such permit shall be granted through the Department of Public Works when the person applying for such permit files an application with the Department in compliance with the provisions of this Part and pays into the Borough cashier the amounts hereinafter stated.
2. Any person working in the vicinity of a Borough street who, in any manner, disturbs such street shall be required by this Part to obtain a permit and correct this damage in accordance with the standards of the Department. Street opening permits are not required for persons excavating adjacent to the curb for the express purpose of installing or replacing sidewalks and/or curbs, provided a curb and sidewalk permit has been obtained prior to such work.
3. The obtaining of street opening permits by Borough Departments and corporate authorities shall be waived when work to be performed is completed by their own personnel.

4. All contractors performing work under contract for the Borough or Borough corporate authorities shall obtain the street opening permit for street opening work.
5. If street openings are necessitated by emergencies, street opening permits shall be obtained on the first regular business day on which the office of the Borough is open for business, and such permit shall be retroactive to the date when the work was begun.
6. A person performing street openings for an emergency shall verify the emergency nature of the circumstance in writing to the Director of Public Works within five (5) days after such emergency on the street cut opening application.
7. Special Conditions. In granting any permit, the Borough may attach such special conditions thereto as may be reasonably necessary to protect the public and private property.

(Ord. 1747, 9/13/1993, §2)

§103. Street Opening Prior to Reconstruction or Resurfacing; Work Necessitating Opening or Excavation to be Done Prior to Street Improvement and Not Until Five (5) Years Thereafter. The Department of Public Works 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 said street within thirty (30) days from the giving of such notice, unless such time is extended in writing for cause shown by the Public Works Department. New paving shall not be opened or excavated for a period of five (5) years after the completion thereof, except in the case of emergency and/or the right to prohibit opening or excavation is superseded by State law. In the event opening or excavation is required, the standards of §110 below shall apply. (Ord. 1747, 9/13/1993, §2; as amended by Ord. 1838, 12/9/1996, §1)

§104. Prerequisites to Obtaining Permit. Street opening permits shall only be granted upon compliance with the following express provisions:

- A. A written application shall be filed with the Department of Public Works for making all street openings or excavations and signed by the person desiring such permit. Such application shall set forth the purpose for which such excavation is to be permitted; the date such excavations are to be refilled and resurfaced in the manner hereinafter provided; and shall provide that the applicant will faithfully comply with each and every provision contained in this Part. An applicant shall furnish a drawing of the proposed opening site upon request of the Department. Items required on the drawing shall be specified at the time of request.

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- B. Prior to the issuing of such permit, every such applicant shall pay to the Borough the amount hereinafter required for the purposes specified, and shall exhibit to the Department a receipt for the amount paid.
- C. Where the street opening permit is required for water supply purposes, the application shall be countersigned by the Borough Plumbing Inspector or someone authorized by him before the permit is granted. Where the street opening permit is required for sewer service purposes, the application shall be countersigned by the Borough Plumbing Inspector or someone authorized by him before the permit will be granted.
- D. No permit shall be granted to any applicant unless the applicant has paid to the Borough any and all moneys then due to the Borough for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from the work done by the applicant under the provisions of this Part.
- E. Agree to save the Borough, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of such work to be done by the applicant under the provisions of this Part. The acceptance of any permit under this Part shall constitute such an agreement by the applicant whether the same is expressed or not.
- F. An applicant shall secure a certificate of insurance from the Department and have the certificate properly executed by the applicant's insurance agency. Properly executed certificates of insurance shall be filed with the Department and verify that the applicant is insured against claims for personal injury, as well as against claims for property damage, which may arise from or out of the performance of the excavation work, whether such performance be by the applicant or anyone directly employed by him. Such insurance shall include protection against liability arising from completed operations, underground utility damage and collapse of any property. Liability insurance for bodily injury shall be in an amount no less than three hundred thousand dollars (\$300,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident, and for property damage in an amount not less than one hundred thousand dollars (\$100,000.00). Failure of an applicant to file a certificate of insurance shall be a sufficient reason for denying a permit. The applicant to whom or for whom a permit may be issued shall assume all responsibility for the excavations made, shall indemnify and save harmless the Borough from all loss, costs and damages done or ascribed to any act of commission or omission by such applicant in the performance of the work, and shall pay the Borough costs of every kind incurred in contesting suits on said account and, upon notice from the Borough, will assume the defense of any such suits. Further, the applicant shall save and hold harmless the Borough from any and all damages and liability by reason of personal injury or property damage. Liability insurance requirements for blasting may be obtained and blasting permits shall be obtained from the Borough Fire Marshal.

(Ord. 1747, 9/13/1993, §2)

§105. Bond or Other Financial Guarantee.

1. All persons other than public utility companies desiring to open a street shall furnish a properly executed corporate surety bond or other financial guarantee acceptable to the Borough.
2. All other persons, including contractors performing work for Borough corporate authorities, desiring to open a street shall furnish a properly executed security bond or other financial guarantee acceptable to the Borough. In the event a bond is utilized, it shall be executed by a reputable surety company licensed to do business in the Commonwealth of Pennsylvania. All bonds obtained by contractors performing work under contract with Borough corporate authorities shall be countersigned by the Director or Chairman of the authority.

3. Bond or Other Financial Security.

- A. The bond or other financial security shall cover street opening work performed during one (1) calendar year. The bond or other financial security shall be in effect for a twenty-four (24) month period in accordance with §104(F). The amount of the surety bond or other financial guarantee shall be five thousand dollars (\$5,000.00), unless any street excavation or restoration work for a single project exceeds such amount. In this case, a person shall secure a bond or other financial guarantee in an amount equal to the difference between the five thousand dollars (\$5,000.00) and the dollar amount computed in accordance with the following schedule:

<b>Pavement Structure</b>	<b>Amount of Bond per Square Yard</b>
Concrete foundation (10 inches or less in depth) with any asphalt surface	\$25.00
Concrete foundation (greater than 10 inches in depth) with any asphalt surface	\$30.00
Cement concrete surface streets	\$25.00
Bituminous concrete surface with bituminous or stone base	\$25.00
Macadam, vitrified block or granite block on stone foundation	\$8.00

- B. In lieu of bond or financial guarantee subject to the requirement outlined in subsection (A) above, a contractor may post an appropriate financial guarantee with the Borough on a per project basis. The amount of the financial

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guarantee shall be five hundred dollars (\$500.00) or fifty (50) percent of the actual cost of road restoration, whichever amount is greater. The financial guarantee shall be retained by the Borough for a twelve (12) month period from the date the project is completed for the purposes of guaranteeing the integrity of the road restoration.

(Ord. 1747, 9/13/1993, §2; as amended by Ord. 1838, 12/9/1996, §2)

### §106. Fees.

1. A permit fee, inspection fee and degradation fee for Borough streets only shall be paid to the Borough cashier prior to permit issuing. The Borough shall have the right to waive fees for contractors performing work under contract with the Borough.
2. The permit fee shall be in the amount of twenty-five dollars (\$25.00), which shall be amended, from time to time, by resolution of Pottstown Borough Council.
3. The emergency permit fee shall be in the amount of thirty-five dollars (\$35.00), which shall be amended, from time to time, by resolution of Pottstown Borough Council.
4. The degradation fee and inspection fee to accompany the application, as herein provided, are to be established by resolution of Pottstown Borough Council.
  - A. The degradation fee shall be waived for openings made on streets maintained by the Pennsylvania Department of Transportation.
  - B. The number of square yards computed for the degradation fee and inspection fee will be based on the actual size of excavation disregarding any pavement that must be removed to enable an overlap of the surface course on the existing base course.

(Ord. 1747, 9/13/1993, §2)

§107. Cancellation of Permit. In all cases where a permit has been issued and the work set forth, and such permit has not been completed, the amount not completed shall be cancelled, and the degradation fee, along with the inspection fee paid for the uncompleted work, shall be refunded without interest by the Borough cashier, upon warrant properly drawn. The permit fee shall not be refunded upon permit cancellation. (Ord. 1747, 9/13/1993, §2)

§108. Revocation of Permit.

1. All street opening permits are subject to revocation at any time by the Department of Public Works after written notice for:
  - A. Violation of any condition of the permit.
  - B. Violation of any provision of this Part, or any other applicable Ordinance or law relating to the work.
  - C. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
2. Written notice of such violation shall be served upon the person to whom the permit was granted, or his agent or employee engaged in the work. Such notice shall also contain a brief statement of the reasons for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by United States mail, addressed to such person to be notified.
3. Upon revocation of the permit, the degradation and inspection fees will be refunded to the permittee for that portion of the project not completed.

(Ord. 1747, 9/13/1993, §2)

§109. Time and Extension and Fee. If any permittee is unable to complete the street opening work on or before the date specified in the permit, the permittee shall file a written application for an extension of time with the Department of Public Works. The written application shall be in letter form, and shall thoroughly explain the reasons for the extension of time plus the additional length of time required. A fee of ten dollars (\$10.00) shall accompany the application, which fee shall be amended, from time to time, by resolution of Pottstown Borough Council. (Ord. 1747, 9/13/1993, §2)

§110. Backfilling and Paving.

1. The permittee shall be responsible for backfilling and paving the opening and restoring the street surface to its original condition prior to the street cut subject to the special conditions in subsection (2) below. The Department of Public Works shall have the full authority to establish standards for paving the backfilling materials and associated procedures. Details specifying paving and backfilling procedures and materials shall be obtained from the Department prior to any street opening work.
2. In the event a street has been newly paved or reconstructed within the last eight (8) years, the following additional requirements will apply:

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- A. Excavation parallel to road in excess of fifty (50) linear feet shall require milling and paving of that particular lane excavated.
- B. Should excavation referenced above cross the center line, milling and paving shall be required curb to curb.
- C. In the event two (2) or more perpendicular cuts or holes are made in fifty (50) linear feet of road, milling and paving shall be required curb to curb.

(Ord. 1747, 9/13/1993, §2; as amended by Ord. 1838, 2/9/1996, §3)

§111. Backfilling and Replacing Surface by Borough. In case the work has not been completed before the date of expiration as shown on the permit, which time shall be fixed when the permit and/or time extension is granted, the Department of Public Works may take steps to backfill the trench and replace the street surface over the opening for which the permit has been issued upon proper notification from the Department to the applicant. The Borough shall invoice the permittee for all costs incurred by the Borough in the performance of this work. Payment not made within thirty (30) days will be chargeable against the posted bond, including all fees and costs involved in the collection of this payment. (Ord. 1747, 9/13/1993, §2)

### §112. Responsibility; Extra Inspectors and Other Rules.

- 1. The permittee shall assume all responsibility for the excavation made by such party for refilling the same and for all damages caused by the action of the permittee that may arise by reason of the digging of such trenches or excavations. Whenever it is determined by the Department of Public Works that, in the best interest of the Borough, it is necessary to assign additional street opening inspectors to supervise excavation, backfill or pavement restoration operations, such inspectors shall be paid by the permittee at a rate per day to be fixed by the Department.
- 2. The Department is authorized to make such other rules and regulations for the excavation of streets which it may deem necessary for the proper maintenance of the street surface due to excavations, which rules and regulations shall be printed upon the permit granted or forwarded from the Department in writing from time to time.

(Ord. 1747, 9/13/1993, §2)

§113. Test Holes. A street opening permit shall be obtained for any test hole work. No test holes shall be made in or upon a greater surface of the highway than as specified in such permit, and no excavation or test holes shall interfere with any of the water pipes, sewers or drains of the Borough, or any other underground utility service. These holes

shall be backfilled in accordance with the provisions set by the Director of the Department of Public Works. (Ord. 1747, 9/13/1993, §2)

§114. Gutters, Lights and Identification.

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

(Ord. 1747, 9/13/1993, §2)

§115. Additional Work. In no case shall a permittee open or remove a greater area of street surface than specified in the original application. No opening or excavation of any street shall extend from the curb line into the highway a greater distance than one (1) foot beyond the curb line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel. The permittee shall not open any street area at any location not specified in the original street opening permit. If the permittee determines during construction that an additional area of the street will have to be opened, he shall notify and secure permission from the Department of Public Works for the additional opening. Upon receipt of permission, the permittee shall file a supplementary application for the work no later than the next work day. Fee amounts specified in this Part shall be followed for any subsequent fees associated with supplementary applications. (Ord. 1747, 9/13/1993, §2; as amended by Ord. 1838, 12/9/1996, §4)

§116. Guarantee of Work. The permittee shall guarantee and maintain his work for twenty-four (24) months from the completion of the restoration and replacement work. Within this twenty-four (24) month period, upon notification from the Borough of necessary correction work required, the permittee shall correct, or cause to be corrected, all restoration work required within five (5) working days of receipt of the notification. The

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Department of Public Works shall determine the extent of restoration required and the methods of correction. Any and all work not completed within this five (5) day period may be completed by the Borough at the discretion of the Director of Public Works. The Borough shall invoice the permittee for all costs incurred by the Borough in performance of this work. Payment not made within thirty (30) days of the invoice date will be chargeable against the posted bond, including all fees and costs involved in the collection of this payment. (Ord. 1747, 9/13/1993, §2)

### §117. Penalty.

1. Any person violating any provision of this Part shall, upon conviction thereof, be fined not less than one hundred dollars (\$100.00) nor more than six hundred dollars (\$600.00) for each and every offense, together with costs, and, in default of payment thereof, shall be imprisoned not more than thirty (30) days. Each failure to obtain a permit or to comply with any of the requirements of this Part, and each and every day during which such violation continues, shall constitute a separate offense.
2. The Department of Public Works reserves the right to deny the issuance of future street opening permits to any person who violates the provisions of this Part. This provision in no way shall prohibit or limit the right of the Borough to bring legal action against the permittee.

(Ord. 1747, 9/13/1993, §2)

## Part 2

### Sidewalks

#### A. General Regulations.

§201. Property Owners to Construct Sidewalks; Width Thereof. When any street or alley, which now is or hereafter shall be laid out, opened and dedicated to the public use according to law in the Borough of Pottstown, it shall be the duty of the owners of lots or real estate abutting thereon, and they are hereby enjoined and required, upon notice from the Sidewalk Committee to construct convenient sidewalks or footways on each side of such street, land or alley, at their own expense, for the safety and convenience of the public, of the following breadth, to wit: on all streets of the width of one hundred (100') feet or more, the breadth of sixteen (16') feet; of eighty (80') feet to ninety-nine (99') feet, the breadth of fourteen (14') feet; of sixty (60') feet to seventy-nine (79') feet, the breadth of twelve (12') feet; of fifty (50') feet to fifty-nine (59') feet, the breadth of ten (10') feet; of forty (40') feet to forty-nine (49') feet, the breadth of eight (8') feet; of thirty (30') feet to thirty-nine (39') feet, the breadth of six (6') feet; and of all streets, lanes or alleys of the width of twenty (20') feet to twenty-nine (29') feet, the breadth of two (2') feet, six (6") inches; and the middle or remaining part of every street, lane or alley shall remain as a passageway for wagons, carriages or other vehicles of burden or pleasure, and shall have a gutter on each side thereof, in accordance with Borough regulations; provided that in front of vacant lots a sidewalk or footway may be laid two (2') feet from the curb line, and provided further that Borough Council may by motion authorize the construction of four (4') foot-wide concrete footwalks or sidewalks in sections or portions of the Borough intended to be used for residential purposes, regardless of the width of streets therein, where the Sidewalk Committee has made an investigation of sidewalks needs and finds that such four (4') foot-width will adequately provide proper accommodations for pedestrian traffic therein and makes such recommendation to Council. (Ord. 4/4/1923, §1; as amended by Ord. 10/9/1941, §1)

#### §202. Specifications for Sidewalks.

1. The said sidewalks or footways shall be constructed and laid with concrete and be secured with curbing along the outside thereof in the manner as provided for in §205 of this Part and according to the regulations of the Borough of Pottstown, and shall have a pitch of one-quarter (1/4) of an inch to the foot, from the front line of house or lot to the curb and be at the same grade as the top of the curb, and the concrete shall be of the following proportions: one (1) part of Portland cement, two (2) parts of sand and four (4) parts of crushed stone. Where there is new construction on or substantial improvement of a property, there shall be a grass strip of a minimum of four (4) feet and a maximum of six (6) feet between the curb and sidewalk where, in the opinion of the Code Enforcement Director, it is feasible to install such a grass strip after considering all relevant factors, including the layout of adjacent sidewalks. [Ord. 1811]

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2. Upon recommendation of the Sidewalk Committee, approved on motion by Council, sidewalks in front of or adjoining any industrial or heavy commercial enterprise, may be constructed of amiesite, State Highway Specifications HE-1, instead of cement, but such construction shall be subject to all other conditions and specifications of this Part.

(Ord. 4/4/1923, §2; as amended by Ord. 9/2/1947; by Ord. 4/16/1958, §1; and by Ord. 1811, 8/14/1995)

§203. Permit Required to Lay Sidewalk; Grade to be Obtained. No party or person whatsoever shall lay any pavement or footwalk within the Borough of Pottstown without first obtaining from the Borough Secretary a permit therefor in accordance with the present regulations of the Borough and without first obtaining from the Borough Engineer the proper grade for such pavement or footwalk. (Ord. 4/4/1923, §3)

§204. Depth of Sidewalk; Blocks Thereof. All sidewalks shall be dug out to a depth of at least six (6") inches, and all blocks shall be properly cut and shall not be more than four (4<sup>sq</sup>) square feet. (Ord. 4/4/1923, §4)

§205. Curbing; Combined Curb and Gutter.

1. The curbing used in and along all of said properties abutting on said approved pavements shall consist of granite or concrete curbing of not less than six (6") inches of top width and eight (8") inches bottom width, the two (2") inch level being on the street face of the curbing, and twenty (20") inches in depth, the said curbing to be properly faced and joined, set in a bed of suitable fill material as the engineer shall approve.
2. Other kinds of combined curb and gutter may be used if constructed with the materials as specified in this Part, and after being approved by the Borough Manager upon submission of plans and specifications by the owner.

(Ord. 4/4/1923, §5; as amended by (Ord. 6/14/1949, §§1,2; and by Ord. 4/16/1958, §2)

§206. Duty of Property Owners; Order for Paving and Curbing. It shall be the duty of the owners of lots and real estate abutting on any street, lane or alley, as aforesaid, to curb, pave, recurb, repave or re-lay the said sidewalk, or footway, whenever directed by Council, through the Sidewalk or Highway Committee or whenever in the judgment of the Sidewalk or Highway Committee it may be necessary so to do, and upon notice from said Committee acting for Borough Council to that effect. No sidewalk or footway, however, shall be ordered paved, repaved or curbed until the Sidewalk or Highway Committee or a majority of either committee shall have viewed said sidewalk, footway or curb and shall have passed final judgment thereon. (Ord. 4/4/1923, §6)

§207. Sidewalks on Newly-Opened Streets. When any street or highway which now is or hereafter shall be opened in the Borough of Pottstown over any private land by the owners thereof, and dedicated to or permitted to be used by the public, it shall be the duty of the owners of lots or real estate abutting thereon, and they are hereby required upon notice, to construct and maintain convenient sidewalks or footwalks on each side of such street or highway at their own expense, in such manner as prescribed in this Part for sidewalks and footways upon the public streets, and under the supervision and direction of the Sidewalk and Highway Committee. (Ord. 4/4/1923, §7)

§208. Driveways. When any cartways shall cross the sidewalk or footway of any street, lane or alley within the Borough of Pottstown, for the purpose of passing to and from such street, lane or alley to any lot or building, it shall be the duty, and it is hereby enjoined and required, upon notice from either of said committees to the owner or owners of lots abutting or adjoining such cartway, to pave and curb the same at their own expense, and keep the same in repair. (Ord. 4/4/1923, §8)

§209. Authority for Borough to Do Work When Property Owners Default; Removal of Nuisances.

1. Whenever the Sidewalk or Highway Committee deems it necessary, it shall be the duty of said committees to give thirty (30) days' notice to the owner or owners, of real estate abutting on any street, lane or alley, to pave, repave, curb or repair the sidewalks or footways which in the opinion of the committee on sidewalks or highway should be paved, repaved or curbed, or recurbed, or repaired, and upon failure of said owner or owners of real estate to comply with the provisions of the said notice and to do the said work therein enjoined, the said committee of the Borough of Pottstown is hereby authorized and required to do the same, as soon as practicable, and the cost and expense thereof is hereby levied and authorized to be levied upon the owners of real estate, fronting or abutting on said sidewalks, and the same is hereby authorized to be collected from such owners as provided by law, together with ten (10%) percent additional as per Act of Assembly; upon completion of any such work the committees of the Borough of Pottstown wherein said work was done shall ascertain the exact cost thereof and compute the amount for which the owner or owners of property is, or are, liable according to law, and he shall forthwith certify the same to the Borough Secretary and the Borough Secretary shall immediately thereafter cause notice to be served upon the owner or owners of property, setting forth the exact sum for which such property is liable, and same will then be payable to the Borough Secretary within thirty (30) days from the date of the said notice, and in case the owner or owners of such property cannot be conveniently found the said notice shall be fixed in a conspicuous place upon such property; at the expiration of the thirty (30) days the Borough Secretary shall place the sum unpaid in the hands of the Borough Solicitor for collection according to law, who shall collect the same as provided by law either by a municipal claim filed therefor, or by action in assumpsit, and the Finance Committee of the Borough of Pottstown shall annually and each and every year appropriate

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and set apart to the Sidewalk and Highway Committees a specific sum of money to be designated for payment of the costs of installing any sidewalk or curb herein provided for.

2. Whenever a nuisance results from the condition of a sidewalk and safety of pedestrians is imminently jeopardized, the Highway Department may abate the nuisance, with or without notice, and the cost thereof together with ten (10%) percent additional shall be collected as provided in subsection (1) hereof, or relief may be sought by bill in equity. If a notice of such nuisance and order to remove said nuisance has been given to the owner or occupant of said property, and said person does not comply with said order in the time specified therein, said person so offending shall, upon conviction thereof be fined not less than five (\$5.00) dollars nor more than six hundred (\$600.00) dollars, and it is hereby declared that each refusal or neglect to comply with said notice shall be considered a separate violation, said fine to be recovered as other fines are by law recoverable.

(Ord. 4/4/1923, §9; as amended by Ord. 10/11/1949, §§1,2; and by Ord. 1735, 4/12/1993)

§210. Construction of Curbs at Intersections. Hereafter all newly-constructed curbs of roadway intersections shall be constructed in accordance with the following regulations:

- A. The Borough Engineer shall give the line of the curb without charge to the person or person doing the work.
- B. The radius of the curb shall be not less than the distance between the curb and the building line of the intersecting narrower roadway; a radius of three (3) feet shall be used at alley intersections, a greater radius may be used upon application of the property owner to the Borough Engineer and with his consent. The Borough Engineer, by and with the consent of the Highway Committee, may use a smaller radius than the one herein established, for certain stated roadway intersections unsuitable to the use of the herein prescribed radius.
- C. All obstructions to the construction of curbs of roadway intersections, in accordance with the above specified regulations, shall be removed by the owner or owners of said obstruction at his or their own expense. The Borough Engineer, through the Chief of Police, shall give the owner or owners of said obstruction a five (5) daynotice for the removal. Noncompliance with said notice shall subject the offender to a fine of five (\$50.00) dollars per day for each day the obstruction remains over the five (5) days to be collected by the Mayor as other fines are collectible.

(Ord. 4/4/1923, §10)

§211. Sidewalks on High Street. Pavements on High Street from Warren to York Street shall be laid for the full width of sidewalk; all sidewalk east of Warren Street and west

of York Street may be laid only six (6') feet in width but must be laid in the center of such sidewalk. (Ord. 4/4/1923, §13)

§212. Removal of Snow and Ice from Sidewalks.

1. The owner, in case of vacant or unoccupied property, property occupied by the owner or multiple-unit property, and the occupant or tenant, in case of single-unit property occupied by a tenant, shall, within twelve (12) hours of daylight after any snow has ceased to fall or ice to form, remove from the sidewalk abutting such property all snow and/or ice. In the removal of snow and ice, a path shall be cleared for the full width of the sidewalk, in case of any sidewalk three (3') feet or less in width, and a path at least three (3') feet in width shall be cleared on all sidewalks wider than three (3') feet. The snow and ice removed from the sidewalk shall not be placed in the gutter or in the roadway or any street or alley. In case of neglect or refusal of any owner, occupant or tenant to comply with the requirements of this §212, such snow and/or ice may be removed by any officer or employee of the Borough designated for the purpose, and the cost of such removal, with an additional penalty of ten (10%) percent, shall be collected from the defaulting owner, occupant or tenant in the manner that debts incurred for curbing and paving by the Borough are now by law recoverable.
2. Any person who shall violate any provisions of this §212 shall, upon conviction thereof, be guilty of an offense and shall be sentenced to pay a fine of six hundred (\$600.00) dollars and costs of prosecution, and in default of payment of such fine and costs, to imprisonment for a period not to exceed thirty (30) days. [Ord. 1735]

(Ord. 4/4/1923, §14; as amended by Ord. 1006, 5/19/1964, §1; by Res. 1/12/1970D; and by (Ord. 1735, 4/12/1993)

§213. Sidewalk Encroachments. After the passage of this Part no open areaways, railings, steps or any portion of a building or structure shall be constructed to project beyond the building line. This, however, shall not apply to reconstruction of steps of buildings already erected which it would be impossible to reconstruct in accordance with above specified regulations. In such case they may be reconstructed to extend over the pavement or sidewalk not more than one-third (1/3) of said pavement or sidewalk, but in no case over a greater space than five (5') feet. No steps of any building shall project more than eighteen (18") inches on either side of the door jamb. Areaways or openings covered with iron doors not more than three (3') feet in width with rough surface, set flush with pavement, may project not more than one-fourth (1/4) of the pavement, but in no case more than three (3') feet measuring from inside face of areaway to building line. (Ord. 4/4/1923, §15)

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### §214. Permit Required for Sidewalk or Curb Work.

1. No party or person whatsoever shall lay any sidewalk or install any curbing nor make any repairs thereto, until they have procured a permit therefor from the Borough Secretary for which they shall pay a sum, in an amount as established from time to time by resolution, which shall be paid into the Borough Treasury.
2. Any person, firm, corporation or association who shall violate any provisions of this Part shall, upon conviction, be sentenced to pay a fine of not less than twenty-five dollars (\$25.00), nor more than three hundred dollars (\$300.00), plus costs of prosecution for each and every offense. [Ord. 1738]

(Ord. 4/4/1923, §15; as amended by Ord. 1735, 4/12/1993; and by Ord. 1738, 6/14/1993, §1)

### B. Care and Use of Sidewalks.

§221. Unlawful to Paint Sidewalks. From and after the proper approval and advertisement of this Part in order to protect the safety of the public, it shall be unlawful for any person whatsoever to paint or cause to be painted the surface of any sidewalk dedicated to public use in the Borough of Pottstown, for any cause whatsoever; provided that it shall not be unlawful for the proper Borough authorities to paint or cause to be painted any public sidewalk when, in their discretion, it shall be beneficial to the general public, and when such painting is a proper exercise of the police power to promote health, safety and welfare of the citizens of the Borough of Pottstown. (Ord. 9/10/1937, §1)

§222. Removal of Paint upon Notice; Penalty for Violation. If any sidewalk in the Borough shall be painted in violation of this Part, the Borough may order the person painting such sidewalk, or, if such person be not known, the owner of the property abutting such sidewalk, to remove such paint, and if such paint not be removed within twenty-four (24) hours after such notice, the Borough Engineer may cause the same to be removed and the cost of such removal, with an additional charge of ten (10%) percent, shall be collected from the person, firm or corporation failing, refusing or neglecting to comply with such order within such time limit of twenty-four (24) hours. Any person, firm or corporation violating any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided, each twenty-four (24) hour period during which any such violation shall be continued shall constitute a separate offense. (Ord. 9/10/1937, §2; as amended by Ord. 1009, 5/19/1964, §1; and by Ord. 1735, 4/12/1993)

§223. Containers, Stands or Other Structures not Permitted on Sidewalks. It shall be unlawful for any person or persons to place any boxes, baskets, stands or other structures of any kind or description, whether immovable or movable, upon the sidewalks of the Borough of Pottstown, for the purpose of selling or displaying for sale any food products, goods, or merchandise, or for any other purposes whatsoever. (Ord. 12/9/1927, §1)

§224. Shelves or Other Projections not to Extend over Sidewalks. It shall likewise be unlawful for any person or persons to attach to any building a shelf or other projection extending over the sidewalks of the Borough of Pottstown for the purpose of selling or displaying for sale any food products or goods or merchandise or for any other purposes whatsoever. (Ord. 12/9/1927, §2)

§225. Unlawful Obstructions Constitute Nuisances; Abatement Thereof. All obstructions of any kind and character as enumerated in this Part, now in existence, or may at any future time be situated upon or extended over the sidewalks of the Borough of Pottstown, are hereby declared a nuisance and the Mayor is authorized to move the same or cause them to be removed. (Ord. 12/9/1927, §3)

§226. Penalty for Violation of Regulations on Sidewalk Obstructions. Any person or persons violating the provisions of this §§213 to 216 of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than five (\$5.00) dollars, nor more than six hundred (\$600.00) dollars, together with costs of prosecution, and in default of payment, shall undergo imprisonment for a period not to exceed thirty (30) days, and the structure or structures so built or set up by them, shall be removed by the Mayor as provided for in §215 of this Part. (Ord. 12/9/1927, §4; as amended by Ord. 1735, 4/12/1993)

§227. Repair of Sidewalks Damaged by Adjacent Shade Trees.

1. When sidewalks are found to be in need of repair or replacement, either by the property owner or Borough representatives, with the damage apparently related to adjacent shade trees, the repair or replacement of the sidewalk should be undertaken with the goals of (i) maintaining the safe means of passage for pedestrians and (ii) preserving the shade trees.
2. A Borough Code Enforcement Officer shall review each situation and shall issue a written course of action concerning the repair or replacement. In reaching a decision, the Code Enforcement Officer shall be guided by this Chapter's Sections concerning the general regulations relating to sidewalks (Chapter 21, Part 2, §§201-214) and the care and use of sidewalks. (Chapter 21, Part 2, §§221-226), and the powers and authorities of the Shade Tree Commission (Chapter 25, Part 1, §103), relevant sections of the Americans with Disabilities Act and similar legislation and any policies of Borough Council and/or the Shade Tree Commission concerning these matters.
3. The property owner shall have thirty (30) days to complete the repairs or replacement as directed by the Code Enforcement Officer.
4. In the event the property owner believes the course of action is inappropriate in light of the relevant ordinances and policies, the property owner may request a

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review of the situation by a committee consisting of the Borough Manager, the Shade Tree Commission Chairperson and the councilperson of the Ward in which the property is located. The committee shall determine a final course of action concerning the sidewalk repair or replacement. The determination of the committee shall be conveyed to the property owner in writing and the property owner shall then have thirty (30) days to complete the repairs or replacement as directed by the committee.

5. Any person or persons violating the provisions of this §227 of this Part shall be subject to the penalties as set forth in §226.

(Ord. 12/9/1927, as added by Ord. 1921, 6/11/2001, §1)

### Part 3

#### Unlawful Obstructions

§301. Certain Activities Prohibited on Streets, Alleys and Sidewalks. Ball playing, including the throwing, kicking or knocking of any ball, snowballing, and the throwing of any stone or other missile of any kind upon or onto any of the public streets, alleys or sidewalks in the Borough of Pottstown, and the playing of any game upon any of such streets, alleys or sidewalks, are hereby prohibited. Any person who shall violate any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars and costs of prosecution and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. (Ord. 1045, 5/19/1964, §1; as amended by Ord. 1735, 4/12/1993)

§302. Prohibiting the Raking or Piling of Leaves onto Streets. The raking or piling of leaves onto streets, cartways, rights-of-way, gutters, sidewalks or curbs hereby is prohibited. Any person or persons violating the provisions of this Section, upon conviction thereof, shall be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than six hundred dollars (\$600.00), together with the costs of prosecution and in default of payment, shall undergo imprisonment not to exceed thirty (30) days. (Ord. 1443, 8/11/1980, §1; as amended by (Ord. 1735, 4/12/1993; and by (Ord. 1773, 7/11/1994, §3)

§303. Prohibiting the Placing of Leaves or any Other Substance in the Inlets, Catch-Basins, Storm Sewers or Arches in the Borough. The placing of leaves or any other substance in the inlets, catch basins, storm sewers or arches in the Borough of Pottstown hereby is prohibited. Any person or persons violating any provision of this Section, upon conviction thereof, shall be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than six hundred dollars (\$600.00), together with costs of prosecution, and in default of payment, shall undergo imprisonment not to exceed thirty (30) days. (Ord. 1443, 8/11/1980, §1; as amended by Ord. 1735, 4/12/1993; and by Ord. 1773, 7/11/1994, §4)

§304. Prohibiting the Performance of Certain Vehicle Repairs, Service and Maintenance.

1. The following repairs, service and maintenance to vehicles which are parked on the public streets, parking lots, alleys, thoroughfares or in municipally owned public areas of the Borough of Pottstown, shall be prohibited at all times:
  - A. Removal or repair of transmissions.
  - B. Removal of motors.
  - C. Removal of rear ends.

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- D. Repair of front ends.
  - E. Except for the changing of tires, repair of any portion of the car which would involve the elevation of the car above the level of the street.
  - F. Changing of crankcase oil and lubrication of chassis.
  - G. Brake replacement.
  - H. Engine tune-ups.
  - I. Major body repairs.
2. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred (\$600.00) dollars and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. [Ord. 1735]

(Ord. 1526, 12/9/1985, §§1,2,4; as amended by Ord. 1735, 4/12/1993)

## Part 4

### Underground Installations

§401. Underground Installations not to be Made Until Plans Submitted and Approved. Every person, firm, association, corporation, public utility and public service company, prior to the installation or laying of any conduit, pipe, pipeline, main, wire or wires, or trunkline or pipes of any nature or description beneath any street, alley or sidewalk of the Borough or under or beneath any property or land other than that owned or leased by the person or corporation so installing the same, shall at its own cost first furnish and submit to the Borough authorities a complete and detailed scale plan showing the exact location, nature, size, length, depth, grade and composition of the proposed installation, which plan shall thereupon be inspected by the Borough Engineer, Highway Committee, Sewer Committee, and any other Borough official or Borough agency properly authorized or duly authorized to inspect the same, and upon approval thereof such plan or plans shall be permanently filed with the Borough and permission thereupon granted for the proposed installation. No installation of any kind or nature whatsoever shall be made until such plan has first been submitted and approved as hereinbefore set forth. (Ord. 3/6/1942, §1)

§402. Plans of Facilities Previously Installed to be Filed. Every person, firm, association, corporation, public utility or public service company having, owning, leasing, using, operating, or claiming any conduit, pipe, pipeline, main, wires, trunkline, or any pipes of any nature or description theretofore installed under or beneath any street, sidewalk or alley of the Borough, or under or beneath any property or land other than that belonging to or leased by the person or corporation making such installation, shall at its own cost, within three (3) months from the effective date of this Part and upon notice by the Borough Secretary, furnish and provide for the Borough full, adequate and complete plans showing in detail the exact location, nature, size, length, depth, grade and composition of such pipe, conduit, main or wire heretofore installed, which plan shall thereupon be permanently filed in the office of the Borough Secretary. (Ord. 3/6/1942, §2)

§403. Removal of Certain Facilities as Nuisances. In the event any conduit, pipe, pipeline, main, wires, trunkline or private sewer heretofore installed or which may hereafter be installed shall not conform with the plan or plans so furnished, or upon failure to furnish plans showing location and all information concerning the same, then such conduit, pipe, pipeline, main, wires, trunkline, or private sewer is hereby declared to be a nuisance and the Borough may sever, tear out, remove, destroy, disconnect, or in any way abate the same at its own will and to suit its own convenience, without any liability or responsibility whatever to any party claiming title to or right to use same. (Ord. 3/6/1942, §3)

§404. Penalty for Violation. Any person, firm, association, organization, corporation, public utility or public service company violating any of the provisions of this Part shall, upon conviction thereof, be sentenced, for each and every such offense, to pay a fine or

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penalty of not less than five (\$5.00) dollars nor more than six hundred (\$600.00) dollars and costs or prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided, each day's violation of any of the provisions of this Part shall constitute a separate offense. (Ord. 3/6/1942, §4; as amended by Ord. 1013, 5/19/1964, §1; and by Ord. 1735, 4/12/1993)