

CHAPTER 21

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PART 1

EXCAVATIONS IN STREETS AND SIDEWALKS

§101. Definitions and Interpretation.

1. In this Part, the following words shall have the meanings hereby respectively ascribed thereto, except where the context thereof clearly indicates a different meaning:

PERSON — any natural person, partnership, association, firm or corporation.

STREET — any public street or alley in the Borough of New Oxford, with the exception of a State highway.

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

(Ord. 260, 11/6/1969, §1)

§102. Permit Required; Fee.

It shall be unlawful for any person to make any opening or excavation in any street or sidewalk in the Borough of New Oxford without first having obtained a permit therefor, which shall be issued by the Borough Secretary, upon payment of a permit fee, in an amount to be established from time to time by resolution of Borough Council, which shall be for the use of the Borough.

(Ord. 260, 11/6/1969, §2; as amended by Ord. 384, 6/7/1999)

§103. Application for Permit.

No permit shall be issued under this Part unless the applicant therefor shall have filed an application therefor which shall set forth the location and estimated area of the surface to be opened or disturbed 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. Such application shall also contain an agreement on the part of the applicant to pay to the Borough the charge provided for in §106 of this Part, for resurfacing the portion of the street or sidewalk disturbed by such opening.

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(Ord. 260, 11/6/1969, §3)

§104. Term of Permit; Expiration.

Every permit issued under this Part shall be valid for the period of time stated thereon, and it shall be unlawful and a violation of this Part for any opening or excavation authorized by this Part to be allowed to remain open after the expiration of the permit therefor. If any work authorized by any such permit shall not have been commenced or completed at the expiration of such permit, such permit shall be null and void, and a new permit shall be required to commence, complete or continue such work, as the case may be. Such new permit shall be issued at the discretion of the Borough Council, and the permit fee prescribed by §102 of this Part shall be paid for such new permit.

(Ord. 260, 11/6/1969, §4)

§105. Safety Precautions at Work Site.

It shall be the duty of every holder of a permit under this Part to place and maintain barriers, warning signs and warning lights or signals for the protection of the public, at and in the vicinity of any opening or excavation made by authority of such permit.

(Ord. 260, 11/6/1969, §5)

§106. Responsibility and Charges for Restoration of Opening or Excavation.

It shall be the duty of every holder of a permit under this Part, on or before the date of expiration of such permit, to refill such opening or excavation, under the supervision of and to the satisfaction of the officer or employee of the Borough appointed to supervise such work, to the grade and level required by the Borough, and to pay to the Borough a charge, in an amount to be established by resolution of Borough Council, the purpose of such charge being to pay the expenses of resurfacing such disturbed area at such time as the Borough shall determine so to do, but in no event later than 1 year after the expiration date of such permit. Meanwhile, pending such resurfacing, the holder of such permit shall be responsible for maintaining and repairing such refilled excavation at his own expense in case of any deterioration thereof or sinking of the refilled area.

(Ord. 260, 11/6/1969, §6; as amended by Ord. 384, 6/7/1999)

§107. Penalty for Violation.

1. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in de-

fault of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 384]

2. Provided, further, the Borough reserves the right, by instructions from the Borough Council to the Borough Secretary, to refuse to issue any further permit to any person who shall have been guilty of a prior violation without rectification of the condition constituting such violation.

(Ord. 260, 11/6/1969, §7; as amended by Ord. 384, 6/7/1999)

PART 2

OBSTRUCTIONS AND ENCROACHMENTS IN STREETS AND SIDEWALKS

§201. Definition and Interpretation.

In this Part, the word "person" shall mean and include any natural person, partnership, association, firm or corporation. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 261, 11/6/1969, §1)

§202. Storage or Placement of Goods and Materials on Sidewalks Restricted.

It shall be unlawful for any person to place or store any goods, wares, merchandise or material of any nature, whether for sale or otherwise, upon any sidewalk in the Borough of New Oxford except as follows:

- A. Goods, wares, merchandise and/or material may be placed or stored on the innermost portion of the sidewalk, farthest from the street or curb, so as to occupy no more than 4 feet of the width of the sidewalk; provided, that no such goods, wares, merchandise or material shall be more than 6 feet in height, and shall be so placed or piled as not to constitute a source of danger to any person using such sidewalk.
- B. All goods, wares and/or merchandise placed or stored as permitted in subsection (A), above, shall be removed from the sidewalk at all times between sunset and sunrise.

(Ord. 261, 11/6/1969, §2)

§203. Buildings and Structures not to Extend Beyond Building Line; Exceptions.

It shall be unlawful for any person to construct, install or maintain any building or structure or portion thereof or any fence that shall extend beyond the building line upon or onto any street, alley or sidewalk in the Borough of New Oxford Provided, cellarways and cellar doors, installed prior to the enactment of this Part, or hereafter installed in conformity with this Section, and opening into any sidewalk, may continue to be maintained and used, without penalty of any nature, but it shall be unlawful for any person to open any such cellar door, or to leave the same opened, any time between sunset and sunrise, or to open any such cellar door at any other time unless there shall be affixed thereto a bar that shall prevent any accident to users of such sidewalk. Provided further, porches, steps and cellarways may be constructed, installed and maintained so as to extend no more than 5 feet into the

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sidewalk area but the provisions hereinabove set forth as to the opening of cellar doors shall apply to all such cellarways hereafter constructed or installed.

(Ord. 261, 11/6/1969, §3)

§204. Building Material and Equipment Storage on Streets and Sidewalks.

Under special circumstances, where the Borough Council shall ascertain that there shall be no other practicable means for the storage thereof, it shall be lawful for a person engaged in construction, reconstruction or repair of buildings to store upon the street, alley and/or sidewalk immediately adjacent to the premises where such work is underway, building materials and/or construction equipment. No such storage shall be permitted until a permit therefor shall have been granted by the Borough Secretary, and such permit shall set forth the specific conditions thereof, which may include the duration of the permit, the specific portion of street, alley and/or sidewalk that may be so occupied, the type of material and/or equipment that may be stored thereon, and protective and warning measures that shall be taken by the holder of such permit including, but not limited to, the assumption of liability for any damage or injury resulting from such storage. It shall be unlawful for any person to store any such materials or equipment upon any street, alley or sidewalk without such a permit, and it shall be unlawful for the holder of a permit to store any of the same except in strict conformity to the conditions of such permit.

(Ord. 261, 11/6/1969, §4)

§205. Poles and Trees not to be Located on Sidewalks and Curbs; Exceptions.

It shall be unlawful for any person to place any post or pole, or to plant any tree upon any sidewalk or curb. Provided, nothing herein shall apply to:

- A. Any pole erected and maintained under the terms of any franchise granted by the Borough.
- B. Any pole erected by the Commonwealth or by the Borough, or with permission thereof, for the purpose of mounting thereon any directional, warning or street name sign or notice of any law or ordinance relating to traffic or parking.
- C. Any parking meter, if the Borough shall determine to authorize the same at any time in the future.
- D. Any tree planted in any portion of the sidewalk area designated by the Borough authorities as tree area; provided, that such tree shall be located in conformity with regulations and conditions prescribed by the Borough therefor.

(Ord. 261, 11/6/1969, §5)

§206. Removal of Unlawful Obstructions and Encroachments.

Any obstruction or encroachment prohibited by this Part, or not conforming to all conditions herein prescribed for the maintenance of a permitted obstruction or encroachment, or allowed to remain after the expiration of a permit allowing the same, shall be removed within 5 days notice from Borough Council to the owner of the abutting property, or in case of an obstruction for which a permit was granted, by the holder of such permit, and if not removed within such time limit, the Borough is hereby authorized to remove the same and to collect the costs and expenses of such removal, with an additional amount of 10% from the person notified, in any manner and following any procedure authorized by law for the recovery thereof.

(Ord. 261, 11/6/1969, §6)

§207. Penalty for Violation.

1. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day a violation of this Part continues shall constitute a separate offense. [Ord. 384]
2. Provided further, such fine and costs may be in addition to any amount collected under the provisions of §206 of this Part.

(Ord. 261, 11/6/1969, §7; as amended by Ord. 384, 6/7/1999)

PART 3

DRIVEWAY CONSTRUCTION

§301. Definition and Interpretation.

The word "person," as used in this Part, shall mean and include any natural person, partnership, association, firm or corporation. In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

(Ord. 262, 11/6/1969, §1)

§302. Construction Over or Through Curbs and Sidewalks Restricted.

No person shall construct, build or make a driveway over or through a curb, curb line, sidewalk or sidewalk line from any street or alley in the Borough of New Oxford without prior approval of the Borough Council and except in strict compliance with all the requirements of this Part.

(Ord. 262, 11/6/1969, §2)

§303. Requirements for Construction; Owner Pays Costs.

The following requirements shall apply to all driveways, as referred to in §302 of this Part, hereafter constructed, built or made:

- A. All expenses in connection with the construction of the driveway as well as of preparation of any plans or securing and furnishing any information required by the Borough Council in connection with its determination of whether to approve such driveway shall be paid by the owner of the property to which such driveway shall lead.
- B. It shall be unlawful to construct, build or make any driveway unless the Council shall determine that the same is necessary for the lawful uses of the premises that it is to enter, and that such premises has no other adequate access thereto sufficient for the lawful uses thereof.
- C. It shall be unlawful to construct, build or make a driveway with a slope or depressed curb cut into the street from the sidewalk for a distance of more than 35 feet for a driveway leading into a commercial property or of more than 14 feet for a driveway leading into a residential property. In every case, the curb cut shall be 6 inches in length surmounted by a 4 inch cap.

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- D. Every driveway hereafter constructed, built or made shall be made of 2,500 pound concrete, according to specifications adopted from time to time by the Borough Council.

(Ord. 262, 11/6/1969, §3)

§304. Maintenance of Driveways; Borough Work When Owner Defaults.

It shall be the duty of every owner of property into which a driveway, heretofore or hereafter constructed, built or made, shall lead, to maintain such driveway, and all curb cuts pertaining thereto, in a condition that will not endanger the safety of pedestrians, motorists and other users of the streets, alleys and sidewalks in the Borough, and to make necessary repairs, as directed by the Borough Council, within 10 days after notice from the Council so to do. In any case where the owner of a property fails to make any such repairs, within the time limit stated in such notice, the Borough Council may cause the same to be done and may collect the cost thereof, with an additional amount of 10% from such owner in default.

(Ord. 262, 11/6/1969, §4)

§305. Penalty for Violation.

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 262, 11/6/1969, §5; as amended by Ord. 384, 6/7/1999)

PART 4

SIDEWALK AND CURB CONSTRUCTION AND REPAIR

§401. Construction of Sidewalks and Curbs Following Notice.

The Borough of New Oxford may require owners of real estate abutting on any street, including State highways, by giving 30 days written notice to construct, reconstruct, pave and repave the sidewalk, curb and gutter in front of or along such real estate in accordance with details and specifications as established and adopted from time to time by the Borough Council.

(Ord. 263, 11/6/1969, §1; as amended by Ord. 365, 9/9/1996, §1)

§402. Repair of Sidewalks and Curbs Following Notice.

Every owner of real estate in the Borough of New Oxford shall, on 10 days notice from the Borough Council, repair the sidewalk and/or curb in the manner specified in such notice, in front of or alongside such property.

(Ord. 263, 11/6/1969, §2)

§403. Width of Sidewalks.

Every sidewalk in the Borough hereafter constructed or reconstructed, shall be paved to a width of not less than 4 feet, which shall be in addition to the width of the curb. Provided, the said minimum width provisions shall not apply in cases where a different width is specified in an ordinance relating to a specific street or portion thereof, or where Council shall direct that a greater width shall be required because of special circumstances, which may include, but shall not be limited to, the need for a wider sidewalk in business districts.

(Ord. 263, 11/6/1969, §3)

§404. Materials for Constructing Sidewalks.

All sidewalks in the Borough shall be hereafter constructed or reconstructed of either concrete or brick. All such concrete sidewalks shall be laid in a base of aggregate material. All such brick sidewalks shall be laid in a base of either mortar or concrete or in a base of sand and aggregate material. All sidewalks shall be constructed or reconstructed in accordance with details and specifications as established and adopted from time to time by Borough Council. All materials used in the construction and reconstruction of all sidewalks shall be in accordance with specifications as established and adopted from time to time by Borough Council. All

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work shall be subject to inspection by the Borough, during construction and upon completion.

(Ord. 263, 11/6/1969, §4; as amended by Ord. 359, 6/5/1995, §1)

§405. Specifications for Curb Construction.

All curbs shall be construed of concrete according to Department of Transportation Specification No. 408, which is incorporated herein by reference.

(Ord. 263, 11/6/1969, §5; as amended by Ord. 326, 6/2/1986, §1)

§406. Conformity to Line and Grade; Fall of Sidewalks.

All sidewalks and curbs shall be constructed, reconstructed and repaired according to lines and grades furnished by the Borough Engineer. All sidewalks hereafter constructed, reconstructed or repaired shall have a rise of 1/5 inch to the foot.

(Ord. 263, 11/6/1969, §6)

§407. Work Done on Owner's Initiative.

Any property owner may, on his own initiative, without having received a notice as provided by §401 or §402 of this Part, as the case may be, construct, reconstruct or repair the sidewalk and/or curb in front of or alongside his property, but before proceeding with such work, he shall apply to the Borough Engineer for the proper lines and grades and shall, in such work of construction, reconstruction or repair, conform to the requirements of this Part as to line and grade and material used.

(Ord. 263, 11/6/1969, §7)

§408. Failure to Perform Work After Notice; Penalty for Violation.

1. It shall be unlawful and a violation of this Part for any person or persons, partnership, firm or corporation to fail, refuse or neglect to construct, reconstruct and/or repair a sidewalk and/or curb when notified so to do as provided in §401 or §402 of this Part, as the case may be, or to perform any work of construction, reconstruction or repair of any sidewalk and/or curb otherwise than in complete conformity to this Part and/or any notice issued pursuant thereto.
2. Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$1,000 plus costs and, in default of payment of said fine and costs, to a term

of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 384]

(Ord. 263, 11/6/1969, §8; as amended by Ord. 384, 6/7/1999)

§409. Authority for Borough to do Work When Owner Defaults; Remedy of Unlawful or Defective Work.

Upon the neglect of any proper owner to construct, reconstruct or repair any sidewalk and/or curb, following notice so to do as provided in §401 or §402 of this Part, the Borough may, after notice cause the said work to be done at the cost of such owner, and may collect the cost of such work, with an additional amount of 10% from such owner in default. The Borough shall further have authority, in the case of construction, reconstruction or repair of sidewalk and/or curb otherwise than in strict conformity with the requirements of this Part, and/or of any notice given pursuant thereto, to notify such property owner to correct or rectify such defective or unlawful work and, if such property owner shall not have corrected or rectified the same within the time specified in such notice, the Borough may cause such work of correction or rectification to be done and may collect the cost thereof with an additional amount of 10% from such property owner in default.

(Ord. 263, 11/6/1969, §9)

§410. Exemption.

Any owner of real estate abutting on any street with a paved surface of less than 28 feet shall be exempt from constructing sidewalk and curb pursuant to the provisions of this Part. However, this provision shall not prohibit the Borough from requiring any such owner of real estate from constructing sidewalk and curb at any time in the future should the paved surface of the street abutting the real estate be widened to 28 feet or more.

(Ord. 263, 11/6/1969; as added by Ord. 365, 9/9/1996, §2)

PART 5

SNOW AND ICE ON SIDEWALKS

§501. Responsibility for Removal of Snow and/or Ice from Sidewalks and Roofs; Time Limit; Depositing of Snow and/or Ice Restricted.

1. Every person in charge or control of any building or lot of land fronting or abutting on a paved 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 30 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.
 - A. Except as provided in subsection B. hereof, snow and/or ice shall be removed from sidewalks within 24 hours after the cessation of any fall of snow, sleet, freezing rain, or mixture thereof.
 - B. In the event a snow and/or ice accumulation on a sidewalk is so hard that the same cannot be removed without likelihood of damage to the sidewalk, the person charged with the removal shall, within 24 hours after the cessation of any fall of snow, sleet, freezing rain, or mixture thereof, cause enough sand or other abrasive material to be placed on the sidewalk in order to make travel by the public over the sidewalk reasonably safe; and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least 30 inches in width.
2. Snow or ice is to be removed regardless of how it came to be placed on the sidewalk. For instance, if snow and/or ice were plowed back onto the sidewalk by a snowplow, the owner, occupant, or tenant would still be responsible for removing the same from the sidewalk consistent with the provisions of this section. Snow may not be returned to or redeposited on the road or street.
3. No person shall deposit or cause to be deposited any snow and/or ice on or immediately next to a fire hydrant or on any sidewalk, roadway, or loading or unloading area used by the public, except that any such snow and/or ice may be mounded by the Borough of New Oxford, its agents or employees incident to its clearing of the snow or ice from public roads, alleys, sidewalks, or other such public ways.
4. 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/or 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 24 hours after the cessation of any fall of snow, sleet, and/or freezing rain.

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(Ord. 264, 11/6/1969, §1; as amended by Ord. 384, 6/7/1999; and by Ord. 407, 6/7/2004)

§502. Authority for Borough to Remove Snow and Ice and Collect Cost, Plus 10%.

In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any provision of §501 of this Part, within the time limit prescribed therein, the Borough authorities may proceed immediately to clear all snow and/or ice from the sidewalk of such delinquent, and to collect the expenses thereof, with an additional amount of 10% thereof, from such owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under the §503 of this Part.

(Ord. 264, 11/6/1969, §2)

§503. Penalty for Violation.

1. Each snowfall shall constitute a separate offense or series of offenses.
2. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine as follows:
 - A. First offense punishable by a fine of \$50;
 - B. Second offense punishable by a fine of \$75;
 - C. Third and subsequent offenses punishable by a fine of not less than \$100 nor more than \$600plus costs and, in default of payment of said fine and costs, to imprisonment for a term not to exceed 30 days.
3. Provided, such fine and costs may be in addition to any expenses and additional amounts imposed as provided in §502 of this Part.

(Ord. 264, 11/6/1969, §3; as amended by Ord. 384, 6/7/1999)