

CHAPTER 21

STREETS AND SIDEWALKS

Part 1

General

- §101. Purpose
- §102. General Plan of Streets
- §103. Street Committee

Part 2

Construction Regulations

- §201. Definitions
- §202. Approval of Street Plans
- §203. Alteration of Plans; Filing
- §204. Council's Right to Construct; Assessments
- §205. Notice of Assessment
- §206. Collection of Assessments
- §207. Construction by Owner
- §208. Penalties

Part 3

Excavations

- §301. Definitions
- §302. Permit Required
- §303. Permit Application
- §304. Insurance
- §305. Permit Fee and Deposit
- §306. Agreements Required
- §307. Compliance With Specifications and Regulations
- §308. Supervision and Inspection
- §309. Safety Precautions
- §310. Excavation and Backfilling; Materials and Restoration
- §311. Emergency Excavations
- §312. Police Reports
- §313. Penalties

STREETS AND SIDEWALKS

Part 4

Sidewalks, Curbs and Gutters

- §401. Property Owner to Construct**
- §402. Warrant of Survey**
- §403. Fee for Warrant of Survey**
- §404. Conformance to Plans and Specifications**
- §405. Driveway and Sidewalk Construction; Permit and Fee**
- §406. Insurance Required**
- §407. Concrete Forms**
- §408. Owner Responsible for Safety Devices**
- §409. Existing Construction**
- §410. Borough May Perform Work; Owner to Pay**
- §411. Assessments**
- §412. Penalties**
- §413. Severability and Inconsistent Ordinances Repealed**

Part 5

Obstructing Sidewalks and Gutters

- §501. Obstructions Prohibited**
- §502. Obstructions May Be Removed at Owner's Expense**
- §503. Penalty**

Part 6

Dumpsters

- §601. Procedure**
- §602. Penalties**

Part 1

General

§101. Purpose.

The purpose of this chapter is to regulate the improvement and construction of streets, including cartway, gutter and right-of-way; to regulate assessments and collections; to prohibit obstructions to streets, sidewalks and gutters; to define the duties of the Borough Engineer and Street Committee; to prescribe permit fees and penalties; and to refer the reader to various other chapters of this volume where pertinent references to streets and sidewalks may be found.

(Ord. 355, 5/5/1986)

§102. General Plan of Streets.

A map of the Borough of Fountain Hill, dated February 1958, scale: 1" = 200', showing all streets of the Borough opened for public use, is on file in the office of the Borough Engineer. Also on file are the Lehigh County Tax Maps. These are open to inspection by those interested.

The books, maps and plans made by the Borough Engineer, or under his direction, shall remain in the office of the Borough Engineer and under his custody and control and in no event, for any purpose, shall be removed therefrom.

(Ord. 355, 5/5/1986)

§103. Street Committee.

The Street Committee consists of the three members of Borough Council appointed to the Borough Council Street Committee.

The street committee shall have the authority to cause all streets, highways and alleys of the Borough to be opened to their proper width when so directed by Council and cause those already opened to be maintained to their proper width.

(Ord. 355, 5/5/1986)

Part 2

Construction Regulations

§201. Definitions.

As used hereinafter, the following words and terms shall be construed as follows:

ABUTTING PROPERTY or **ABUTTING REAL ESTATE** — in reference to any street, shall mean any property physically adjoining such street.

ASSESSABLE FRONTAGE — all lot frontages abutting the Borough street improvement.

IMPROVING A STREET — any work upon a street, or portion thereof, done or proposed to be done in order to open the same, if such street shall not have been previously opened, or if previously opened, to make the same more usable, more suitable for use by the public, or safer for such use, and shall include but shall not be limited to grading, paving and curbing.

OPENING A STREET — includes the construction and grading of a street or portion thereof and the act of physically taking possession of an area or laid-out street for the purpose of making same usable to the traveling public.

PERSON — a natural person, association, firm, corporation or political subdivision.

PERSONAL NOTICE — notice to the owner of a premises, by personal service or certified, return receipt requested mail, to such owner as his last known address, or where service shall not have been successfully made by either of these two methods, then by leaving such notice at or upon the premises.

STREET — includes any street, road, lane, court, alley, cul-de-sac, public way and public square, either for or intended for public use, and shall include the cartway, sidewalk, gutter and/or the right-of-way, whether or not such street or any part thereof is owned by others than the Borough. Streets shall be of two classes: opened and unopened.

- A. **OPENED STREETS** – all streets within the Borough used as public passageways.
- B. **UNOPENED STREETS** – all streets within the Borough not used, accepted or maintained but placed on the Borough Plan for further use, or placed on the plan of a real estate project, or referred to in individual deeds.

(Ord. 355, 5/5/1986)

STREETS AND SIDEWALKS

§202. Approval of Street Plans.

From and after the effective date of this chapter, constructing, opening and improving any street within the Borough of Fountain Hill shall be unlawful unless the person so contracting, dedicating, opening or improving such street shall first be prepared in accordance with the rules and regulations prescribed by Council and shall show the profiles of said street, the course, structure and capacity of any drainage facilities, and the method of drainage to the adjacent or contiguous territory, and also any other details that may be required under the rules and regulations of Council.

(Ord. 355, 5/5/1986)

§203. Alteration of Plans; Filing.

Council may alter such plans, and specify any changes or modifications, and may make its approval to such plans subject to any alterations, changes or modifications. Any plans when so approved shall be signed on behalf of the Borough by an officer designated by Council and shall be filed where the same is available to public inspection amongst the records of the Borough at all reasonable times.

(Ord. 355, 5/5/1986)

§204. Council's Right to Construct; Assessments.

Council may construct, improve or open, or cause to be constructed, improved or opened, streets or parts thereof, or a particular width or additional widths thereof, and may assess and collect the whole cost, or any part thereof, from the owners of the assessable frontage abutting on the improvement by an equal assessment on the front-foot basis, including the expense of the necessary drainage.

(Ord. 355, 5/5/1986)

§205. Notice of Assessments.

The Borough Secretary shall give 30 days' personal notice of this assessment to each party assessed.

(Ord. 355, 5/5/1986)

§206. Collection of Assessments.

If any assessment shall remain unpaid at the expiration date of the notice, it is the duty of the Borough Solicitor to collect the same, with interest from the time of completion of

the improvement, or by a lien to be filed and collected in the same manner as municipal claims.

(Ord. 355, 5/5/1986)

§207. Construction by Owner.

Any property owner shall be permitted to perform, or to have his contractor perform, the work of constructing the street, paving, curb, gutter and sidewalk, water or sewer main, provided he meets specifications and standards of the Borough Engineer and all work is performed under the Borough's specifications and engineering supervision, and provided further that, where any part of the cost of the improvements is to be borne by the Borough, the cost thereof shall be based upon the lowest written quotation received by the property owner or his contractor and approved by the Borough Engineer.

(Ord. 355, 5/5/1986)

§208. Penalties.

Any person violating any provisions of this Part shall, upon conviction thereof, in a summary proceeding, be sentenced to pay a fine of not more than \$300 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than one day for each \$10 of the unpaid balance of fine and costs. Each day during which any person violates any provision of this chapter shall constitute a separate offense.

(Ord. 355, 5/5/1986)

Part 3

Excavations

§301. Definitions.

As used hereinafter, the following words and terms shall be construed as follows:

APPLICANT — any person, firm, association or corporation applying for and to whom a permit may be issued.

EXCAVATION — the digging of any trench or excavating through or under the roadway or sidewalk, or the cutting into or opening and removal of any pavement surfaces of any street, alley, avenue or lane within the Borough limits.

(Ord. 355, 5/5/1986)

§302. Permit Required.

No person shall make or cause to be made any excavation within the Borough without first obtaining a permit therefor.

(Ord. 355, 5/5/1986)

§303. Permit Application.

Application for any excavating permit shall be filed in the office of the Borough Secretary upon forms provided by the Borough for that purpose and shall be signed by the applicant. Each application must be accompanied by plans indicating the location, purpose, size and time of the excavation, and shall be subject to approval by the Borough Engineer.

(Ord. 355, 5/5/1986)

§304. Insurance.

The applicant shall deposit or show evidence of a public liability policy insuring the Borough, as well as the person doing the work, against any loss or damage to persons or property resulting from the acts or work being done, in any amounts as deemed adequate by the Borough Secretary, and shall indemnify and hold harmless the Borough for any claim for injury to persons or damage to property arising out of the aforesaid work.

(Ord. 355, 5/5/1986)

STREETS AND SIDEWALKS

§305. Permit Fee and Deposit.

The applicant, prior to issuance of the permit, shall pay to the Borough Secretary a permit fee of \$50 for work in the cartway, and a fee of \$10 for work behind the curbline. This permit shall at all times be in the possession of a competent person actually on the site of the work and shall be shown to any police officer or properly authorized employee of the Borough upon demand. Fees may be revised by resolution from time to time.

The applicant shall be responsible for repairing and/or resurfacing the excavation to the condition that it was in prior to the commencement of work; and prior to the performance of this work, the applicant shall deposit with the Borough Secretary a sum equivalent to the Borough Engineer's estimate of cost to perform this work. In the event applicant performs work satisfactorily, the deposit shall be returned to him. In the event the Borough is required to perform the work, the deposit shall be used to reimburse the Borough for its costs. Should the Borough's cost exceed the amount of the deposit, the applicant shall pay such additional costs to the Borough within 30 days of rendering a statement to said applicant.

No deposit shall be required and no charge made for an excavation on the sidewalk where same is made in connection with a permit granted for an excavation in the roadway, or for excavations made under permit issued for the construction or repair of sidewalks, curbing or gutters, or where permits have been granted for the erection of poles, or for contracts executed by the Borough or any department thereof, or for any work done under the direction and authority of any Borough department; but in all cases proper application shall be made and a permit secured as herein provided.

(Ord. 355, 5/5/1986; as amended by Ord. 657, 8/6/2001)

§306. Agreements Required.

The applicant shall agree to pay the entire cost incurred in the replacement of the excavations, and the Borough shall have the right to correct any deficiencies in the work and to charge the costs thereof against the applicant's deposit as provided in §305.

The applicant also agrees to safeguard and maintain in good order the excavation until such time as the Borough may temporarily or permanently restore the street surface and to assume all expense due to defective backfilling for the period of one year after the date of completion of the excavation, provided said date does not fall between November 15 and April 15, otherwise from April 15.

(Ord. 355, 5/5/1986)

§307. Compliance With Specifications and Regulations.

All work shall be performed in accordance with the standards and specifications of the Borough Engineer and in compliance with PennDOT Form 408, all other PennDOT specifications, rules and regulations, and the General Specifications for Borough Streets.

(Ord. 355, 5/5/1986)

§308. Supervision and Inspection.

All work shall be subject to the supervision, inspection and approval of the Borough Engineer.

(Ord. 355, 5/5/1986)

§309. Safety Precautions.

The applicant shall, during the progress of the work, provide such barriers, fences, “street closed” and “danger” signs, and red lights and watchmen as to make the excavation safe at all times. No street shall be closed without permission of Borough Council and notification to the Police Chief.

For the convenience of the public, temporary approaches to and crossings on intersecting streets shall be provided for and kept in good condition where practicable. The sidewalk and streets adjoining the work shall not be littered or obstructed more than necessary, and the drainage gutters and inlets to any culverts or sewers shall be kept clean and unobstructed at all times.

(Ord. 355, 5/5/1986)

§310. Excavation and Backfilling; Materials and Restoration.

All methods of excavation, backfilling, material and/or reservation shall be done in conformation with the standards and specifications of the Borough Engineer and with PennDOT Form 408 Specifications, and all other PennDOT specifications, rules and regulations, and the General Specifications for Borough Streets.

(Ord. 355, 5/5/1986)

§311. Emergency Excavations.

In case of an emergency arising at night, Sundays or legal holidays, when immediate excavation may be necessary for the protection of private property, the case shall be re-

STREETS AND SIDEWALKS

ported to the Police Department, which shall grant permission for the necessary excavation. An application must be made in the regular manner on or before 12:00 noon on the next following business day.

(Ord. 355, 5/5/1986)

§312. Police Reports.

The Police Department is hereby authorized and directed to carefully note all excavations in streets and sidewalks of the Borough and the patrolmen to report same to the head of the Street Committee or the Borough Secretary. When work is being done without a permit, the officer shall stop work, pending the securing of such permit. In all cases of the opening of streets, whether the party exhibits permits or not, patrolman shall report.

(Ord. 355, 5/5/1986)

§313. Penalties.

Any person violating any provisions of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$300 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than one day for each \$10 of the unpaid balance of fine and costs. Each day during which any person violates any provision of this chapter shall constitute a separate offense.

(Ord. 355, 5/5/1986)

Part 4

Sidewalks, Curbs and Gutters

§401. Property Owner to Construct.

Upon direction of Council and notification in writing by the Borough Secretary, the owner of property abutting any ordained or dedicated street in the Borough is required to construct curb, gutters and/or sidewalk in compliance with line and grade established by the Borough Engineer and in accordance with PennDOT Form 408, all other PennDOT specifications, rules and regulations, and the General Specifications for Borough Streets. The period of time specified in such notice to the owner of the property for the construction of the curb, gutter and/or sidewalks shall be recommended by the Borough Engineer and stated in such notice. The property owner shall commence construction no sooner than 30 days after the written notification. The cost of constructing such curb, gutter and/or sidewalk shall be paid by the owner of the property.

(Ord. 355, 5/5/1986)

§402. Warrant of Survey.

The property owner, after notification as provided in §401, shall obtain a warrant of survey from the Borough Secretary for a fee set in accordance with the schedule of fees established in §403, and shall receive line and grade from the Borough Engineer. When line and grade stakes have been set by the Borough Engineer, they shall be protected by the property owner affected. If the property owner does not proceed with construction in accordance with line and grades so established and the stakes set, within 30 days, he shall procure a new warrant of survey, and the line and grade shall be established by the Borough Engineer. The Borough does not guarantee a line and grade as indicated by the stakes set unless said stakes are used at once or properly protected until used.

(Ord. 355, 5/5/1986)

§403. Fee for Warrant of Survey.

1. Any person applying to the Borough of Fountain Hill for a warrant of survey establishing lines and grades in connection with the construction of curbs, gutters and/or sidewalks shall pay to the Borough for each warrant of survey issued fees based upon the following:

Type	Fee
Office review fee	\$100
Escrow fee	

STREETS AND SIDEWALKS

Type	Fee
Sidewalk only with no survey work/cutsheet required	\$350
Curb or sidewalk requiring survey work and cutsheet	\$800
Curb and sidewalk requiring survey work and cutsheet	\$1,100

2. The fees established herein may be revised by resolution from time to time approved by a majority of Borough Council.

(Ord. 355, 5/5/1986; as amended by Ord. 616, 4/6/1998; and by Ord. 744, 6/1/2009)

§404. Conformance to Plans and Specifications.

All owners of property abutting any public street of the Borough of Fountain Hill, when constructing curb, gutter and/or sidewalk, driveways, or crossing or passages to yards, garages or other structures, shall perform such work in strict conformity with the plans and specifications of the Borough Engineer in whose office may be found standards and specifications for curbs, gutters, driveways, sidewalks and tree plates.

(Ord. 355, 5/5/1986)

§405. Driveway and Sidewalk Construction; Permit and Fee.

1. Driveway. Any person desiring to construct private driveways from the street to the property line shall obtain a permit from the Borough of Fountain Hill and pay to the Borough Secretary a fee of \$5 for 20 feet of curb cut, plus \$0.10 per foot for footage in excess of 20 feet. Plans and specifications for such work shall be approved by Borough Council, and work shall be subject to the inspection and approval of the Borough Engineer. Fees may be revised by resolution from time to time.
2. Sidewalk. Any person desiring to construct sidewalks shall obtain a permit from the Borough of Fountain Hill and pay to the Borough Secretary a fee of \$5. This permit shall be valid for a period of 90 days from date of issue, and no work shall be done after any permit has expired unless a new permit has been obtained. Plans and specifications for such work must conform and be approved by the Borough Engineer and all work shall be subject to his inspection and approval. Fees may be revised by resolution from time to time.

(Ord. 355, 5/5/1986; as amended by Ord. 657, 8/6/2001)

§406. Insurance Required.

The property owner shall deposit or show evidence of a public liability insurance policy insuring the Borough, as well as the person doing the work, against any loss or damage to persons or property resulting from the acts or work being done in such amount as shall be deemed adequate by the Borough Secretary.

(Ord. 355, 5/5/1986)

§407. Concrete Forms.

No concrete shall be deposited in the forms set by any property owner or his contractor until the approval of the Borough Engineer, or his agent, has been obtained.

(Ord. 355, 5/5/1986)

§408. Owner Responsible for Safety Devices.

The property owner shall provide such barriers and lighting devices to make the excavation safe at all times.

(Ord. 355, 5/5/1986)

§409. Existing Constructions.

If the curb, gutter and/or sidewalk have been constructed in front of property abutting any public street in the Borough of Fountain Hill, in accordance with lines and grades established by the Borough Engineer, and the same are in good order and condition, no such curb, gutter and/or sidewalk shall be required to be reconstructed.

(Ord. 355, 5/5/1986)

§410. Borough May Perform Work; Owner to Pay.

Upon failure of the property owner to comply with the provisions of §401, the Borough may lay and construct such curb, gutter and/or sidewalk and charge the cost thereof against the property owner, together with such penalties as may be authorized by law.

(Ord. 355, 5/5/1986)

STREETS AND SIDEWALKS

§411. Assessments.

Council may assess and collect the whole cost of sidewalk, curb and gutter, or any part thereof, plus any engineering costs, from the owners of the assessable frontage abutting the improvement by an equal assessment of the front-foot basis.

If the assessment shall remain unpaid at the expiration date of the notice, it is the duty of the Borough Solicitor to collect the same, with interest from the time of completion of the improvement, or by a lien to be filed and collected in the same manner as municipal claims.

(Ord. 355, 5/5/1986)

§412. Penalties.

Any person violating any provisions of this chapter shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$300 for each and every offense, to be collected as other fines and costs are by law collectible, or shall be imprisoned for not more than one day for each \$10 of the unpaid balance of the fine and costs. Each day during which any person violates any provision of this chapter shall constitute a separate offense.

(Ord. 355, 5/5/1986)

§413. Severability and Inconsistent Ordinances Repealed.

The provisions of this chapter shall be severable, and if any of its provisions shall be held to be unconstitutional or illegal, such decision shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared as a legislative intent that this chapter would have been adopted had such unconstitutional or illegal provisions not been included herein. All prior ordinances dealing with any of this subject matter are hereby repealed, including but not limited to Ordinances 169 and 275.

(Ord. 355, 5/5/1986)

Part 5

Obstructing Sidewalks and Cutters

§501. Obstructions Prohibited.

It shall henceforth be unlawful for any owner, occupant or user of premises located in the Borough of Fountain Hill aforesaid to suffer or permit snow or ice to remain upon the pavements or sidewalks for a longer period of time than 10 hours after the snow shall have ceased to fall or the ice to form; or to permit grass, weeds, mud, stones or other obstruction to grow, accumulate or be upon such pavements, sidewalks and gutters; or to permit such pavements, sidewalks and gutters to otherwise fall into an unpassable, unsanitary or unsafe condition; or to permit any person to throw snow upon any street, highway, or alleyway, that has already had snow removed from said street, highway, or alleyway by the Borough Public Works Department or any of its agents.

(Ord. 424, 3/7/1988)

§502. Obstructions May Be Removed at Owner's Expense.

In the event that any owner, occupier or user, as described in §501 hereof, shall neglect or omit to comply with any of the provisions of §501 hereof, it shall be lawful for the Chairman of the Street Committee to remove said snow or ice, grass, weeds, mud, stones, or other obstruction or to take such action as may be necessary to restore said pavements, sidewalks or gutters to a passable, sanitary or safe condition; and the cost of such removal or necessary action, together with an additional penalty of 10% of said cost shall be paid by such owner, occupier or user to the Borough of Fountain Hill notwithstanding the fine and costs imposed by §503 hereof.

(Ord. 424, 3/7/1988)

§503. Penalty.

Any owner, occupier or user, as described in §501 hereof, who shall neglect or omit to comply with any of the provisions of §501 hereof, shall, upon conviction before any District Justice of the Peace, forfeit and pay a fine of not more than \$300 and costs of prosecution, which fine shall be for the use of the Borough and shall be collectible as other fines and penalties are by law recoverable.

(Ord. 424, 3/7/1988)

Part 6
Dumpsters

§601. Procedure.

Prior to placing a dumpster in the street of the Borough, an individual or entity seeking to place said dumpster must obtain a road occupancy permit. The following rules and regulations apply for obtaining said permit:

- A. Applicant shall file an application with the Code Enforcement Officer and include with the application a fee of \$35. The fee may be amended from time to time by resolution of Borough Council.
- B. Applicant shall sign an agreement agreeing to hold harmless the Borough of Fountain Hill.
- C. The permit shall be valid for a period of 30 days. The dumpster must be removed at the end of the thirty-day period.
- D. Applicant may request an additional thirty-day extension, upon filing of a new application and payment of the \$35 fee.

(Ord. 681, 6/2/2003, §601)

§602. Penalties.

- 1. Any individual or entity violating any provisions of this Part shall, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not more than \$600 for each and every offense, to be collected as other fines and costs are collectible. Each day during which any person violates any provision of this Part shall constitute a separate offense.
- 2. This Part and the foregoing penalties shall not be construed to limit or deny the right of the Borough or any person to such equitable or other remedies as may otherwise be available with or without process of law.

(Ord. 681, 6/2/2003, §602)