

Chapter 187

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Borough Council of the Borough of McSherrystown as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Deposits and Obstructions on Streets and Alleys**[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 1, Art. A, of the 1993 Code]****§ 187-1. Definitions.**

The following words shall have the meanings ascribed to them herein when used in this article:

MUD — Any dirt, soil, clay, loam, sand, or fill.

OTHER DEBRIS — Any substance or material resulting from activities on property bordering roadways but not used in the construction, maintenance or repair of roadways, including but not limited to nails, plaster, wood, glass, metals, asbestos compounds and products, vinyl compounds and products, but excluding road stones, water, grass seed and lawn fertilizer.

ROADWAY — Any road, street, highway, passage, alley or cartway in the Borough.

§ 187-2. Unlawful to allow mud or other debris to be introduced on roadways.

It shall be unlawful for any person, firm, association, corporation or other entity to allow mud or other debris to be tracked, thrown, discarded, accumulated, dropped, escaped or otherwise introduced onto the roadways in the Borough.

§ 187-3. Violations and penalties.

Any person, firm, association, corporation or other entity who violates any provision of § 187-2 shall be guilty of an offense, and, for every such offense, upon conviction, shall be sentenced to pay a fine of not less than \$500 or more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days, provided each twelve-consecutive-hour period that such mud or other debris is allowed to remain on the roadway shall constitute a separate offense.

ARTICLE II

Use of Snow Removal Equipment on Streets and Alleys**[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 1, Art. B, of the 1993 Code]****§ 187-4. Only authorized snow removal equipment to be used on streets and alleys.**

It shall be unlawful for any person, firm, corporation, association or other entity to use any snowplow or other snow removal equipment upon any street or alley in the Borough except for equipment operated under the authority of the Pennsylvania Department of Transportation, or under the authorization of the Borough, or unless specifically authorized for private use by the Borough Manager.

§ 187-5. Violations and penalties.¹

Any person who violates any provision of this article shall be guilty of an offense, and, upon conviction, shall be sentenced to pay a fine of not less than \$50 or more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days.

ARTICLE III**Construction, Reconstruction and Repair of Sidewalks and Curbs**

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 2, Art. A, of the 1993 Code]

§ 187-6. Responsibility of property owners.

- A. Every owner of property within the Borough shall, within 30 days after receiving notice from the Borough, construct or reconstruct the sidewalk or curbing in front of or alongside such property. The construction or reconstruction of sidewalks or curbs shall be in accordance with specifications approved by the Borough.
- B. It shall be the duty of the owner or owners of a lot of ground fronting or abutting upon any street in the Borough to maintain the sidewalk and curbing in a safe and passable condition. If any person fails, neglects or refuses to construct or reconstruct sidewalk or curbing within 30 days after receipt of notice from the Borough to complete such work, the Borough may cause the work to be done at the owner's expense, plus 10% which shall be collectible as a municipal claim.

§ 187-7. Emergency repairs to sidewalk and curbs.

Every property owner or owners in the Borough shall, within 48 hours of notice from the Borough, complete emergency repairs to the sidewalk or curbs in front of or alongside that property. If any person shall fail to comply with the provisions of this section, the Borough may cause the work to be done and the costs collected as provided by law; and such failure constitutes a nuisance and be abatable under the laws of the Commonwealth.

§ 187-8. Conditions making sidewalk or curb unsafe and unusable.

Any sidewalk or curb shall be declared to be in an unsafe and unusable condition by the Borough when the surface is visibly deteriorated; when there are holes or depressions or other conditions making travel on the sidewalk or curb dangerous or hazardous; when a sidewalk or curb is constructed of outmoded or inadaptable material, including but not limited to brick, stone, flagstone, wood or bitumastic material; or when any other visible causes reasonably make the curb or sidewalk dangerous, hazardous, unsafe or unusable.

1. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 187-9. Requirements for construction; failure to construct or reconstruct; authority for Borough to do work. ²

All sidewalks and curbs shall be constructed in accordance with the specifications set forth in this article. Failure of any person to construct or reconstruct curbing or sidewalks in accordance with these approved specifications shall be unlawful and deemed a nuisance, and may be corrected or replaced by the Borough at the property owner's expense, plus 10% if the property owner does not correct or replace nonconforming work within 30 days after written notice to do so.

§ 187-10. Construction specifications.**A. Materials.**

- (1) Concrete shall be PennDOT Class A having a compression strength of 3,000 pounds at end of 28 days.
- (2) Expansion joint filler shall meet PennDOT Specifications, Form 408 Section 705.1 for premolded joint filler suitable with plain cement concrete pavements.
- (3) Curing protection covers shall conform with PennDOT Form 408, Section 711.1 for Cotton, Jute, Paper, Polyethylene, or Burlap Covers.
- (4) Curing compound shall be Type I meeting the requirements of AASHTO Designation M148 and shall contain a fugitive dye.
- (5) No concrete admixtures shall be allowed.

B. Forms.

- (1) Forms shall be wood or metal, straight, free from warp, and of sufficient strength when staked to resist the pressure of the concrete without springing. At least three stakes shall be provided for each 10 feet of form. Curb forms shall be of a depth equal to the depth of the curb and designed to permit secure fastening of the face and back forms to the top. Fastenings shall not obstruct satisfactory finishing or edging of the curb. The backside of curb forms shall be straight from top to bottom. The face side of the forms shall have a batter from the top of the curb to the finished surface line of the pavement, as indicated on the standard drawings, and shall be straight from this line to the bottom.

C. Excavation. Excavation shall be made to the required depth, and the material upon which the sidewalk or curb is to be constructed shall be compacted to a firm, even surface.

D. Stone bedding. PennDOT classification for 2B stone shall be evenly spread and compacted as a foundation prior to placing concrete for sidewalks or driveways. The stone bedding shall be four inches thick after compaction.

E. Placing and finishing concrete. Concrete shall be placed in layers not to exceed five inches and spaded sufficiently to eliminate all voids. Where indicated or directed,

2. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

drainage openings shall be made through the curb at the elevation and of the size required. The top surface of the sidewalk or curb shall be finished true to line and grade in a smooth, neat, and even manner by means of wood floats.

F. Mechanical placing machine.

- (1) Plain cement concrete curb or sidewalk may be placed with a self-propelled machine consisting of a hopper, power-driven screw or screws and a metering device. Concrete shall be uniformly fed to the machine and after extrusion, the concrete will maintain the shape of the section without slumping.
- (2) The finished curb or sidewalk shall have a surface free from voids and honeycomb. Any additional surface finishing required shall be performed immediately after extrusion.

G. Joints.

- (1) Curb contraction joints shall be spaced in uniform lengths or sections of 20 feet maximum, except where shorter sections are necessary for closures or curbs, but no section shall be less than 10 feet.
- (2) Contraction joints may be either hand-formed or sawed joints. They shall be 3/16 inches wide and two inches deep. Saw cut depth may be decreased at the edge adjacent to the sidewalk to obtain a maximum depth that will avoid damage to the sidewalk.
- (3) Sidewalk contraction or expansion joints shall be installed at the beginning and end of days work and at all twenty-foot intervals. Each expansion joint shall be filled with premolded expansion joint filler as previously specified.
- (4) Sections of sidewalk between expansion joint shall be scored in horizontal intervals not exceeding five feet. Scored joints shall be not less than 1/4 inch wide and 1/2 inch deep.

H. Expansion joints. Expansion joint filling, as previously specified, shall be installed for the full depth of the concrete sidewalk and placed between all sidewalk and curbs as well as any other permanent structure abutting against or in contact with the sidewalk.

I. Removal of forms. Forms shall not be removed less than 12 hours after the concrete has been placed. No rubbing to correct irregularities will be permitted until the full curing period has elapsed. Any irregular surface shall be corrected by rubbing with a carborundum stone.

J. Backfilling.

- (1) As soon as possible after the removal of forms, the spaces in front and back of the curb shall be backfilled with approved material in layers of not more than four inches in depth and shall be thoroughly compacted to finish grade. Compaction layers shall be placed by alternating between the front and back of the curb.
- (2) Compaction of the material adjacent to sidewalks shall be delayed until the concrete has cured for a minimum of 72 hours.

§ 187-11. Driveway specifications.

Driveways at the sidewalk crossing shall be constructed of concrete and shall meet all other specifications of § 187-10. Driveways shall have a minimum thickness of six inches. The top surface of the driveway shall take the cross slope of the sidewalk from a point three feet from the curb line toward the building line. The driveway shall slope with an easy curve from a point three feet inside of the curbline to two inches above the gutter line.

§ 187-12. Sidewalks around structures; expansion joints.

- A. Square expansion joints shall be constructed around all poles, trees, fire hydrants, light standards or any other structure within the sidewalk area. No public service curb or sidewalk boxes for access to underground facilities shall be left below the sidewalk level but shall be brought to the grade of the new walk.
- B. Where possible, the dimensions of the expansion joint area shall be four inches wider in all directions than the size of the structure. The filler joint material shall meet the requirements of § 187-10.

§ 187-13. Conformity to lines and grades.

No curb or sidewalk shall be constructed, reconstructed or repaired to any lines or grades other than those furnished by the Borough's designated representative. The grades shall be established by stakes placed by the Borough at no original cost to the property owner. Thereafter, it shall be the responsibility of the owner to preserve grade and line stakes until curb or sidewalks are installed.

§ 187-14. Determination of need for construction or reconstruction; inspection of work.

It shall be the duty and responsibility of the Borough or the Borough's authorized representative to determine, in the case of any individual property, whether or not the sidewalk or curb shall be constructed or reconstructed and the specific part or parts thereof to be constructed or reconstructed. The Borough may at any time during the course of work of construction or reconstruction of sidewalk or curb visit the site of such work to ascertain whether such work is being done according to requirements; and the Borough or one of its representatives shall visit any such site for such purpose whenever requested by the property owner. Within three days after the completion of the work of construction or reconstruction of any sidewalk or curb, it shall be the duty of the owner of the property where such work was done to notify the Borough of that fact so that an inspection of such sidewalk or curb can be performed.

§ 187-15. Slope of sidewalk areas.

The slope or rise of all sidewalks laid in the Borough under this article shall be on a rising grade of 1/4 inch per foot of sidewalk width measured from the top of the curb toward property or right-of-way line.

§ 187-16. Conditions for property owners to undertake work at own initiative.

Any property owner, upon his own initiative, and without notice from Borough, may construct or reconstruct a sidewalk or curb in front of or along their property, provided that such owner shall first make application to the Borough and shall conform to the requirements of this article.

§ 187-17. Requirement for handicapped ramps.

Where a sidewalk or curb is constructed or reconstructed at a pedestrian crosswalk area, such curb and sidewalk area shall be recessed in the manner of a driveway. All handicapped ramps shall be provided with a width not less than three feet.

§ 187-18. Compliance with traffic control regulations.

- A. It shall be the responsibility of the property owner or his contractor to comply with all traffic control regulations, whether vehicular or pedestrian, as specified under Title 67, Chapter 203 of the Pennsylvania Department of Transportation, Bureau of Maintenance and Operations. Under this section and while working within Borough rights-of-way, the minimum requirement for vehicular traffic control shall conform with the above regulations Figure 7 titled "Stationary Short-Term Operation - Two Lane, Two-way Roadway with Minor Encroachments."
- B. Traffic control within PennDOT rights-of-way shall be governed by the same regulations subject to traffic control measures specified by PennDOT for the specific work area affected by curb or sidewalk construction or reconstruction.

§ 187-19. Sidewalk width.

The width of the sidewalk shall be of the width specific in the ordinance for the particular street on which the sidewalk is to be constructed. Where no width is specified, the width of the sidewalk shall be five feet.

§ 187-20. Availability of standard detail drawings.

- A. Detail drawings illustrating various facets of construction or reconstruction of curb and sidewalk within the Borough of McSherrystown are on file at the Borough office. These drawings are intended to act as an aide to property owners or their contractors in complying with the requirements of this article.
- B. Copies of these drawings may be picked up at the Borough office at no cost to a property owner or his contractor.

§ 187-21. Manner of service of notice.

The notice from the Borough to construct or reconstruct sidewalk or curbs shall be given to the respective property owners and shall be served upon the owners of the premises by

certified mail at the last known address. If the owner of the premises be unknown, then notice may be served in like manner upon the tenant or occupant of said premises. If said land be unoccupied or untenanted and the address of the owner or owners is unknown, then notice may be given by posting the same on said premises.

§ 187-22. Violations and penalties. ³

Any person or persons, firm or corporation, who or which violates or fails to conform to any provision of this article, or who injures or tears up any sidewalk or curb except for the purpose of authorized work under the terms and conditions of this article, or who hinders or obstructs the construction or reconstruction of any sidewalk or curb being done by authority of this article or of any law or any regulation of the Borough or who hinders or obstructs any person employed by the Borough in constructing or reconstructing any sidewalk or curb under the terms of this article shall, for every such violation, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$1,000, and costs, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days.

ARTICLE IV

Snow and Ice Removal

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 2, Art. B, of the 1993 Code]

§ 187-23. Responsibility. ⁴

The owner, occupant or tenant of every property fronting upon or alongside any street in the Borough shall remove or cause to be removed all snow, ice, slush, or any combination of them, from the sidewalk, including that portion of the driveway where the sidewalk crosses the driveway, for a minimum width of two feet, within 24 hours after the snow, ice, slush or any has fallen or has been formed. In any case where the snow, ice, slush or combination of them is so hardened or frozen that it cannot be removed without injury to the sidewalk, in which event the owner, occupant or tenant shall place salt, sand or other abrasive material upon the snow, ice, slush or combination of them within the time above prescribed. The owner of a property shall be responsible for conforming to the requirements of this section where that property is occupied by the owner or is unoccupied or vacant, or is a multibusiness or multidwelling property occupied by more than one tenant or occupant; the tenant or occupier shall be responsible where the property comprises a single unit, occupied by the tenant or occupant only, or where the ground floor or first floor is a mercantile establishment, in which case the ground floor or first-floor tenant shall be responsible, provided the snow, ice or slush removed from a sidewalk, or any private property, shall not be placed in any street, alley, gutter or other sidewalk in the Borough.

3. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

4. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 187-24. Authority of Borough.

In any case where the owner, occupant or tenant fails, neglects or refuses to comply with any provision of § 187-23 within the time limit prescribed in that section, the Borough may, in its discretion, proceed immediately to clear the snow, ice, slush or any combination of them from the sidewalk or to place salt, sand or other abrasive material and to collect the expenses of that work, with any additional amount allowed by law, from that owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under § 187-25.

§ 187-25. Violations and penalties.

Any owner, occupant or tenant who fails to remove any snow, ice, slush or any combination of them from any sidewalk or to place salt, sand or other abrasive material upon that snow, ice, slush or any combination of them on any sidewalk as required by § 187-23, or who violates or fails to conform with any other provision of § 187-23, shall, upon conviction, be sentenced to pay a fine of not less than \$50 nor more than \$1,000, and, in default thereof, to imprisonment for a term not to exceed 30 days, provided the fine and costs imposed under this section may be in addition to any costs and expenses collectible under § 187-24.

ARTICLE V**Unlawful Deposits on Sidewalks**

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 2, Art. C of the 1993 Code ⁵]

§ 187-26. Unlawful to place or throw certain material onto sidewalk.

No person shall place, cast or throw, upon or onto any sidewalk in the Borough, any piece of glass or sharp pointed metal or other material, or any skin of a banana or other fruit, or any other article, substance or material which might be a source of danger to any person walking upon that sidewalk. Any person who violates any provision of this section, shall, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days.

ARTICLE VI**Openings and Excavations in Streets and Sidewalks**

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 3, Art. A of the 1993 Code]

§ 187-27. Definitions and interpretation.

- A. The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

EMERGENCY — Any unforeseen circumstances which calls for immediate action.

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

5. Editor's Note: Amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

STREET — Includes the entire right-of-way of a public street, public alley or public easement within the Borough.

- B. In this article, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

§ 187-28. Permit required.

It shall be unlawful for any person to make any tunnel, opening or excavation in or under the surface of any street in the Borough without first having secured a permit from the Secretary for each separate undertaking, provided any person maintaining any pipe, line or underground conduit in or under the surface of any street by virtue of any law, ordinance or franchise may proceed without a permit when emergency circumstances demand the work to be done immediately for the preservation of the public health, safety or welfare, in any case where the permit could not reasonably and practicably have been obtained beforehand. Such person, however, shall apply for a permit on the first regular business day thereafter, and such permit shall be dated retroactively as of the date when the work was begun.

§ 187-29. Openings limited.

No person granted a permit under this article shall perform any work authorized by that permit in any amount, quantity or extent in excess of that specified upon the permit, except that, with approval of the Secretary, additional amount may be done under the provisions of the permit in an amount not greater than 10% of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall cover any such authorized additional amount of work. The restrictions in this section shall not apply when excavations of an exploratory nature are made in order to determine the location of underground facilities, if, under such circumstances the permit holder, immediately upon completion of the excavation, shall specify upon the permit the actual amount or quantity of the work and shall post the proper deposit and bond as required as provided for in §§ 187-39 and 187-41.

§ 187-30. Time limit for commencement of work.

Work for which a permit is issued under this article shall be commenced within 30 days after the issuance of the permit, and if not so commenced the permit shall automatically be terminated. Permits thus terminated may be renewed only upon payment of an additional permit fee in the same amount as the original fee.

§ 187-31. Permits not transferable.

No permit issued under this article shall be transferable, and the work authorized by any permit shall be carried on at the location specifically designated in the permit.

§ 187-32. Expiration of permit; extension.

Every permit issued under this article shall terminate at the end of the period of time specified on the permit. If the holder of any permit shall be unable to complete the work within the specified time, he shall, prior to the expiration of the permit, file with the Secretary a written request for an extension, setting forth therein the reason for the requested extension. If, in the opinion of the Secretary, such an extension shall be necessary, the Secretary may grant additional time for the completion of the work.

§ 187-33. Rights of street use.

Every permit granted under this article shall be granted subject to the right of the Borough or of any other person entitled thereto to use the street for any purpose for which that street may lawfully be used.

§ 187-34. Revocation of permits.

Every permit issued under this article may be revoked by the Borough, after notice, for any of the following causes:

- A. Violation of any condition of the permit;
- B. Violation of any provision of this article or of any other applicable ordinance or law relating to the work;
- C. The existence of any condition or the doing or any act constituting or creating a nuisance or endangering the life or property of others. Written notice of such violation shall be served upon the permit holder or to his agent or employee engaged in the work. Such notice shall contain a brief statement of the reason for revoking the 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.

§ 187-35. Duties and responsibilities of applicant.

It shall be the duty and responsibility of every person applying for a permit to:

- A. Make a written application for the permit with the Secretary, upon such form as shall be prescribed by the Borough. No work shall commence, except in the case of emergencies as provided in § 187-28, until the Secretary has approved the application and issued the permit, and until the applicant has paid and furnished all fees, deposits, certificates and bonds required by this article. The application 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.
- B. When required by the Secretary, furnish, in duplicate, plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to the excavation and of proposed excavated surfaces, the location of the excavation work and any other information that the Secretary may request.

- C. 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 any work to be done under such permit. The acceptance of any permit under this article shall constitute such an agreement by the applicant whether the same is expressed or not.

§ 187-36. Duties and responsibilities of permit holders.

It shall be the duty and responsibility of every person obtaining a permit under this article to:

- A. Pay a permit fee for the issuance of an excavation permit, which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The permit fee shall be determined as follows:
- (1) On any street constructed, reconstructed or resurfaced within one year prior to the issuance of the permit, \$100 for every 100 lineal feet of opening or fraction thereof.
 - (2) On any street constructed, reconstructed or resurfaced between one year and two years prior to the issuance of the permit, \$80 for each 100 lineal feet of opening or fraction thereof.
 - (3) On any street constructed, reconstructed or resurfaced between two years and three years prior to the issuance of the permit, \$60 for every 100 lineal feet of opening or fraction thereof.
 - (4) On any streets constructed, reconstructed or resurfaced between three years and four years prior to the issuance of the permit, \$40 for every 100 lineal feet of opening or fraction thereof.
 - (5) On any street constructed, reconstructed or resurfaced between four years and five years prior to the issuance of the permit, \$20 for every 100 lineal feet of opening or fraction thereof.
 - (6) On any other street and for all excavations deemed by the Secretary to be of an emergency nature, \$5 for every 100 lineal feet of opening or fraction thereof.
- B. Pay an inspection fee based on the cost of inspection plus 15%, or a fee of \$5, whichever is greater.
- C. Make a deposit as required by § 187-39.
- D. Furnish a certificate of insurance as required by § 187-40.
- E. Provide a faithful performance bond as required by § 187-41.
- F. When required by the Secretary, submit a list of the owners and tenants of all property abutting the area where the work authorized by the permit is to be performed.
- G. Keep the original copy of the permit, at all times while the work is in progress, at the location for which the permit was granted, and show that permit upon demand to any authorized representative of the Borough.

§ 187-37. Restrictions applicable to all openings and excavations.

The following restrictions apply to all openings and excavations:

- A. Where necessary to excavate from one side of a street across and beyond the center line of that street, the surface of the street up to the center line shall be restored to a condition safe and convenient for travel before any excavation beyond the center line may be commenced.
- B. Unless specifically authorized by the Secretary, no more than 250 feet, measured longitudinally, may be opened in any street at any one time; where necessary to excavate a greater length of street, the first 250 feet shall be restored to a condition safe and convenient for travel before any further excavation may be commenced.
- C. The work of excavation shall be conducted so as not to interfere with any utility line or connection or other underground facility, unless permission of the proper authority in connection with that facility shall first have been obtained.
- D. The holder of the permit shall expose utility facilities, including sewers, storm drains, gas mains, water mains, telephone and electrical conduits and other utility obstruction, sufficiently ahead of trench excavation work to avoid damage to all such facilities and to permit their relocation, if necessary.
- E. Where a pipe drain, pipe culvert or other structure or facility is encountered, it shall be replaced, restored, straightened or protected by the holder of the permit.
- F. If, in the process of the work, the holder of the permit shall damage any utility property, the utility may make the necessary repairs and may file a claim against the holder of the permit with the Borough for the cost thereof. If the claim is not paid promptly by the holder of the permit, the amount may be withheld by the Secretary from the deposit or charged against the performance bond filed by the holder of the permit.
- G. If any work performed under the permit interferes with the established drainage system of any street, provision shall be made by the holder of the permit to provide proper drainage to the satisfaction of the Secretary.
- H. When any earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or be washed upon the street so as to create a nuisance or to endanger life or property, the person responsible therefor shall cause the same to be removed immediately upon notification by the Secretary to do so. In the event that any such material is not removed within eight hours after notification, the Secretary may cause such removal, and the cost of such removal shall be paid by the holder of the permit or shall be deducted from the deposit filed by him.
- I. To protect the public, every holder of a permit shall place around the excavation made by him such barriers, barricades, warning lights, warning flags and danger signs as directed by the Secretary.
- J. The holder of the permit shall maintain safe crossing for vehicular traffic at all street intersections and safe crossings for pedestrians at intervals of not more than 300 feet. Where possible by the removal of dirt and the use of covering plates, two lanes of traffic

shall be held open at all intersections. All covering plates shall be firmly secured, and such installations shall be inspected and approved by the Secretary.

- K. Access to private driveways shall be provided at all times except during working hours when construction operations prevent provision of such access. Free access to fire hydrants shall be provided at all times.
- L. All material excavated shall be laid compactly along the side of the trench and shall be kept trimmed up so as to cause as little inconvenience as possible to public travel. Whenever necessary, in the opinion of the Secretary, in order to expedite the flow of traffic or to abate a dirt or dust nuisance, toe boards or bins shall be used to prevent the spreading of dirt into traffic lanes. Temporary wooden plank walks shall be installed where the excavated area is muddy and causes inconvenience to pedestrians. If any street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the holder of the permit shall keep open a passageway at least 1/2 the sidewalk width along such sidewalk line.
- M. In case of any leak, explosion or other accident to any subsurface pipe, line or other facility, the person owning or responsible for such facility shall immediately remedy such condition. If any such emergency condition shall not be attended to immediately by the owner or other person responsible therefor, the Borough, after such notice as it shall deem necessary under the circumstances, shall have authority to do the necessary work and to charge the cost thereof, with an additional amount of 10% to such person.

§ 187-38. Pavement cuts, backfilling and restoration of surface.

Pavement cuts, backfilling and the restoration of the street surface shall be done in conformity with the following requirements and regulations:

- A. All pavement cuts and openings shall be made and backfilled, and the surface of the street shall be restored by the holder of the permit in strict conformity with Borough specifications.
- B. The permit holder shall notify the Secretary at least 48 hours prior to the beginning of work of the date and approximate time when work under the permit will begin so that the Borough, at its discretion, may assign a person to be present at the site of the work.
- C. Whenever it is necessary to break through existing pavement for excavation purposes, and where any trench is to be four feet or more in depth, the pavement in the base shall be removed to at least six inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a six inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.
- D. The work of restoration shall be done by the holder of the permit, as follows: The opening or excavation shall be thoroughly and completely refilled and the surface of the

street shall be restored to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth, which specifications are hereby adopted as specifications of the Borough for the restoration of the streets of the Borough. As restored, the surface shall conform to the proper grade and shall be of the same surface covering as the part of the street immediately adjoining the opening. If, within two years after the restoration of the surface as herein provided, any defect shall appear therein resulting from defective workmanship by the holder of the permit, he shall reimburse the Borough for the cost of all necessary repairs to the permanent paving.

- E. In the event that any work performed by or for the holder of a permit shall be unsatisfactory and the permit holder shall not correct the same in accordance with the requirements of the Borough within the time specified by the Borough authorities, or in the event that any work for which a permit is granted shall not be completed within the time fixed in the permit, the Borough may proceed to have such unsatisfactory work corrected or completed and to charge the cost thereof, with an additional amount of 10%, to the holder of the permit or his surety.
- F. After any excavation or opening is commenced, the work of making and backfilling the same and resurfacing the street shall be prosecuted with due diligence and so as not to obstruct the street more than is actually necessary. If any such work is not so prosecuted, the Borough shall notify the holder of the permit and shall require that, within three days, the holder of the permit proceed with the diligent completion of the work. If such notice is not complied with, the Borough shall do such work as necessary to backfill such excavation and to restore the street or part thereof excavated to the same condition as before such excavation was made. All expenses incurred by the Borough shall be recovered from the deposit or surety of the permit holder. No further permit shall be granted to any person unless and until any opening or excavation made under any permit previously issued to him has met all requirements of this article. The Borough, through the officer, employee or agent designated by it for the purpose, shall be the sole judge of proper performance and its decision on this matter shall be final.
- G. Upon completion of all work accomplished under the provisions of any permit, the permit holder shall notify the Secretary, upon a form prescribed by the Borough, of that fact. A certificate of final inspection shall be issued by the Borough to the permit holder no sooner than two years after the restoration of the street surface has been made, provided all work authorized by the permit has been done according to Borough specifications. Prior to the issuance of the certificate, the Borough shall cause a final inspection of the site to be made to determine whether Borough specifications have been adhered to.
- H. If any settlement in a restored area shall occur within a period of two years from the date of completion of the restoration, it shall be considered as conclusive evidence of defective backfilling by the permit holder. Any expense which may be incurred by the Borough in correcting such settlement shall be paid by the holder of the permit or recovered from his surety.

§ 187-39. Deposit furnished by permit holder.

The following provisions shall apply to the deposit which shall be furnished by every holder of a permit under this article:

- A. The Secretary, upon receipt of a properly completed application for a permit, shall determine the amount of the deposit to be made by the holder of the permit, but no deposit shall be less than \$50. Such deposit shall be furnished to the Borough at the time the permit is granted. The purpose of the deposit is to reimburse the Borough for the cost of any work and/or material furnished by it in connection with the work authorized by such permit and to cover all necessary inspections of such work.⁶
- B. The deposit may be in the form of cash, certified, treasurer's or cashier's check, or surety bond made payable to the Borough and meeting the approval of the Borough Solicitor. Any such surety bond shall be written by a reputable surety company licensed to do business in the commonwealth, and the bond shall be conditioned upon the payment of all charges required by this article. The Secretary shall, in any instance, have the right to require that the deposit be submitted in any one of the above-specified forms.
- C. If any deposit shall be less than sufficient to pay all fees and costs, the holder of the permit shall, upon demand, pay to the Borough an amount equal to the deficiency. If the holder of the permit shall fail or refuse to pay any such deficiency upon demand, the Borough may recover the same by action in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permit shall be issued under this article to the defaulting permit holder.
- D. Whenever any public utility, municipality or municipal authority maintaining underground facilities shall contemplate more than one street opening or excavation in any calendar year, it may post a surety bond for the calendar year or part thereof to cover all the estimated fees and costs for any and all work. That bond shall be written by a reputable surety company licensed to do business in the commonwealth and shall be conditioned upon the payment of all charges estimated to be required by this article during the term of the bond. Such bond shall be submitted to the Solicitor for approval as to form.
- E. The Borough shall establish a schedule of charges for inspections, labor, material and such other expenses as may be incurred by the Borough in meeting the objectives and requirements of this article. That schedule shall be open to inspection by any interested person upon demand.
- F. Upon notification by the holder of the permit that all work authorized by the permit has been completed, and after inspection by the person authorized by the Borough to do so, the Secretary shall refund to the permit holder the deposit made by him, less all costs incurred by the Borough in connection with such permit, provided in no event shall the permit fee or any inspection fee be refunded.

6. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 187-40. Liability insurance.⁷

Every applicant for a permit under this article shall file a certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations. Such insurance shall provide complete third-party coverage for the Borough. The amount of such insurance shall be prescribed by the Secretary in accordance with the nature of the risks involved; provided, however, the liability insurance for bodily injury shall be in an amount not less than \$300,000 for each person and \$500,000 for each accident, and for property damages shall be in an amount not less than \$50,000. Failure of an applicant to file such certificate shall be grounds for denying a permit; provided, however, franchised public utilities and other governmental agencies may be relieved of the obligation of submitting such certificate if the work done under the permit is done with their own personnel or with a contractor insured as required; however, such waiver shall not release any such utility or governmental agency from any and all liability under any of the obligations provided herein.

§ 187-41. Faithful performance bond.

- A. Each applicant for a permit under this article, upon receipt of the permit, shall provide the Borough with a surety bond to guarantee faithful performance of the work authorized by that permit. The amount of the bond shall be 100% of the estimated cost of restoration of the opening and resurfacing the portions of the street affected thereby. In no event, however, shall the amount of any such bond be less than \$1,000. If the holder of any permit contemplates the need for more than one permit in any year, he may be permitted to furnish one bond to cover all work to be done under all such permits, in such amount as the Secretary deems necessary. The bond shall be written by a reputable surety company licensed to do business in the commonwealth and shall be submitted to the Borough Solicitor for approval as to form.
- B. Whenever a default shall have occurred in the performance of any term or condition of any permit issued under this article, written notice thereof shall be given by the Borough to the principal and to the surety of the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Borough to be reasonably necessary for the completion of such work.
- C. Upon receipt of such notice, the surety shall, within the time therein specified, either cause the required work to be done or, failing therein, pay over to the Borough the estimated cost of doing such work as set forth in the notice. Upon receipt of such money, the Borough shall proceed to cause the required work to be done and completed, but no liability shall be incurred therein other than for the expenditure of such sum in hand therefor.
- D. In the event of any default in the performance of any term or condition of the permit for the work, the surety or any person employed or engaged in its behalf or any Borough officer or employee or person employed or engaged in its behalf shall have the right to

7. Editor's Note: Amended at time of adoption of Code; see Ch. I, General Provisions, Art. I.

complete the required work or to make it safe. No person shall interfere with or obstruct the ingress or egress to or from the site of any such excavation or opening by any authorized representative or agent of any surety or of the Borough engaged in completing the work required to be performed under the permit or in complying with the terms or conditions thereof.

- E. The term of each bond posted shall begin upon the date of the posting thereof and shall end upon the receipt by the holder of the permit of a certificate of final inspection by the Borough.

§ 187-42. Openings in new streets.

- A. When the Borough shall contemplate the improvement or paving of any street, the Borough shall first give notice to all persons owning property abutting upon the street about to be improved or paved, and to all utility companies operating in the Borough and to all municipalities and municipal authorities furnishing utility service within the Borough, and, within 30 days from the date of that notice, all such persons, utility companies, municipalities and municipal authorities shall do all such work which would necessitate excavation or opening of the said street.
- B. Except in case of emergency, the Secretary shall have the right to refuse to grant a permit which would allow an excavation or an opening to be cut into a street pavement less than five years old. Any person so refused by the Secretary may appeal to Council, the decision of which shall be final.

§ 187-43. Map requirements.

- A. Every person owning, using, controlling or having an interest in any pipe, conduit, duct, tunnel or other structure under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water, sewage, steam, oil or any other material to or from the Borough or to or from any of its inhabitants, or for any other purpose, shall, within one year after the adoption of this article file with the Secretary a map or a set of maps showing the location, size and description of all such installations. Maps or sets of maps in existence at the time of passage of this article may be submitted for record purposes. All installations subsequent to the passage of this article shall be drawn to a scale of not less than one inch to 200 feet. Map size shall be in a multiple of 8 1/2 inches by 11 inches, but in no case shall be larger than 34 inches by 44 inches.
- B. Every year, on or before January 31, every such person shall file with the Secretary a corrected map or set of maps, each drawn to scale as above prescribed, showing such installations, including all those made in the preceding calendar year, to and including the last day of such year, provided any such person may, at his own option, elect to provide corrected atlas sheets throughout the year as they become available rather than to proceed as above provided.
- C. Every map hereby required shall be accompanied by an affidavit endorsed thereon, to the effect that the same correctly exhibits the details required by this section to be shown.

§ 187-44. Abandoned facilities.

- A. Whenever any pipe, conduit, duct, tunnel or other structure or facility located under the surface of any street, or the use thereof, is abandoned, the person owning, using, controlling or having an interest therein shall, within 30 days after abandonment, file with the Secretary a statement in writing, giving in detail the location of the structure or facility so abandoned.
- B. Each map or set of maps filed pursuant to the provisions of § 187-43 shall show in detail the location of all such structures abandoned subsequent to the filing of the last preceding map or set of maps.
- C. When the Borough plans to pave or improve any street under which any abandoned structure or facility is located, the owner of every such structure or facility shall be notified to remove the same. If the owner shall fail or refuse to remove any such structure or facility, the Borough shall cause the same to be removed at the owner's expense. Where the owner removes any such structure or facility, the only fee charged the owner by the Borough shall be the inspection charge determined as prescribed in § 187-36B.

§ 187-45. Advance notice to property owners and tenants.

If, in the opinion of the Secretary, the work to be undertaken by any permit holder shall be such as to affect the use of properties abutting or adjoining the project, he shall require the holder of the permit to submit a list of the names and addresses of the owners and/or tenants of those properties. Upon receipt of such list, the Borough shall notify the affected property owners or tenants of the proposed work to be done.

§ 187-46. Nonliability of Borough.

This article shall not be construed as imposing upon the Borough or any official or employee thereof any liability or responsibility for damages to any person injured by the performance of any work for which any permit is issued hereunder; nor shall the Borough or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections issued hereunder, the issuance of any permit or the approval of any work.

§ 187-47. Violations and penalties. ⁸

Any person who shall violate any section of this chapter shall, upon conviction, be sentenced to pay a fine of not less than \$50 nor more than \$1,000, and, in default thereof, to imprisonment for a term not to exceed 30 days.

8. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE VII

Activities on Streets and Sidewalks

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 3, Art. B, of the 1993 Code]

§ 187-48. Ball playing, snowballing and throwing missiles restricted.⁹

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 street, public alley or sidewalk in the Borough, is prohibited. Any person who violates any provision of this section shall be guilty of an offense, and, upon conviction, shall be sentenced to pay a fine of not less than \$50 and not more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days.

§ 187-49. Sledding prohibited on sidewalks, restricted on streets and alleys.

- A. It shall be unlawful for any person to coast or ride upon any sled or similar conveyance upon any sidewalk in the Borough, except that it shall not be unlawful for a pedestrian to pull or draw a sled or similar conveyance upon a sidewalk with a child seated thereon.
- B. It shall be unlawful for any person to coast or ride upon a sled or similar conveyance upon any street or public alley, except on a specific part of a street or alley closed at the time, by authority of the Borough, for the purpose of sledding or coasting, and is blocked off or otherwise adequately protected from vehicular traffic.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days.¹⁰

ARTICLE VIII

Obstructions and Encroachments on Streets and Sidewalks

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 3, Art. C, of the 1993 Code]

§ 187-50. Definition and interpretation.

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

§ 187-51. Unlawful to store building material or equipment on street, alley or sidewalk; exception.

It shall be unlawful for any person to store any building material, or any tools, equipment, mortar boxes or anything else used in construction work upon any street, alley or sidewalk in the Borough, provided nothing herein shall apply to any equipment or material used in or in

9. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

10. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

connection with the construction or repair of any street or sidewalk, or the excavation thereof, where such work is done under proper permit from or by authority of the Borough.

§ 187-52. Unlawful uses of sidewalks by merchants.

It shall be unlawful for any merchant to place or display or to allow to be placed or displayed any merchandise, or any box, bench or container upon any sidewalk in the Borough, unless the same shall be confined to the inner portion of the sidewalk immediately adjacent to the store building, and shall be placed so as to leave free and open for use by pedestrians the entire paved portion of the sidewalk, to the full width thereof, as ordained or as otherwise required by the Borough to be paved, provided nothing herein shall prevent the temporary use of a sidewalk for merchandise being loaded or unloaded if the loading or unloading thereof is expedited as much as is practicable.

§ 187-53. Encroachments by porches, steps, cellar doors, cellarways and other portions of buildings.

Hereafter it shall be unlawful for any person to construct or to place any porch, cellar door, cellarway, step or any portion of or appendage to any building or structure so that the same shall encroach upon or occupy any portion of any sidewalk in the Borough, provided porches and cellar doors, lawfully constructed prior to the passage of this article, may continue to be maintained upon streets 48 feet or more in width, provided that no such porch or cellar door shall extend more than three feet into the sidewalk; that such cellar doors are constructed evenly with the surface of the sidewalk; and that such porches, if covered, shall have spouting installed so as to drain water from the covering of the porch under the sidewalk and into the gutter.

§ 187-54. Removal of unlawful obstructions and encroachments.

Any person who places, constructs, or maintains any obstruction or encroachment upon any street, alley or sidewalk in the Borough, contrary to any provision of this article, shall, upon being notified to do so by Council, remove the same within the time limit specified in the notice. If any person neglects, refuses or fails to remove any such obstruction or encroachment within that time limit, the Borough shall have authority to cause the same to be removed and to collect the cost of such removal, with an additional charge of 10% thereof, from the person to whom the notice was directed.

§ 187-55. Violations and penalties. ¹¹

Any person who violates any provision of this article shall, for every such violation, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days, provided each day's continuance of a violation of any provision of this article shall constitute a separate offense, and provided further such fine and costs may be in addition to any charges collectible under § 187-54.

ARTICLE IX**Trees Along Streets and Sidewalks**

[Adopted 1-27-1993 by Ord. No. 1993-2 as Part 12, Ch. 3, Art. E, of the 1993 Code]

§ 187-56. Definitions and interpretation.

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

§ 187-57. Property owners to keep trees along streets, alleys and sidewalks trimmed.

Every owner of property in the Borough shall be required to keep trimmed, as prescribed in § 187-58, all trees growing along or overhanging any street, sidewalk or public alley abutting that property, regardless of whether any such tree is growing or planted upon that property or upon the sidewalk area or grass plot along or abutting the same.

§ 187-58. Manner of trimming trees.

All trees shall at all times be kept trimmed so as not to interfere with the visibility of traffic control signals, signs and devices; so as not to interfere with or obscure street lights; and so that all the limbs, branches and foliage of every such tree shall be least 14 feet above the surface of the cartway of the street or alley and at least eight feet above the surface of the sidewalk.

11. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 187-59. Violations and penalties. ¹²

Any person who violates any provision or fails to conform to any provision of this article shall, for every such violation, upon conviction, be sentenced to pay a fine of not less than \$50 and not more than \$1,000 and costs of prosecution, and, in default of payment of fine and costs, to undergo imprisonment for not more than 30 days, provided each day's continuance of a violation or failure to conform to any provision of this article, after expiration of notice to comply, as given by Council, shall constitute a separate violation.

12. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.