

CHAPTER 21

STREETS AND SIDEWALKS

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Part 1
Sidewalks, Curbs and Driveways

§101. Short Title. This Part shall be known and may be cited as "The Emporium Sidewalk Ordinance of 1950." (Ord. 182, 8/14/1950, §1)

§102. Definitions. Unless otherwise expressly stated, the following shall, for the purposes of this Part, have the meanings herein indicated:

BLOCK - that portion of a street lying between two (2) intersecting streets and between the property lines on each side of the street.

DRIVEWAY - that portion of a sidewalk area between the vehicular roadway or curb and the sidewalk, which is designed for vehicular access to the lot area.

DRIVEWAY ENTRANCE - that portion of the curb over which a driveway passes.

LOT AREA - all contiguous land abutting a street which is owned by one (1) person or a group of persons.

PERSON - an individual, copartnership, firm, association or corporation and including the Borough of Emporium.

REPAIR - any act or thing done to put or keep any sidewalk, curb, driveway or driveway entrance in a safe and usable condition, which would not require a permit if done under §105 of this Part.

SIDEWALK - all paved portions of a sidewalk area which are designed for use as a footway.

SIDEWALK AREA - that portion of a street lying between the vehicular roadway or curb and the property line.

STREET - a highway, street, alley, court or other public passageway for persons, vehicles or public utilities, extending from the property line of the owners of the land abutting on one (1) side thereof to the property line of the owners of the land abutting on the other side thereof.

The masculine gender shall include the feminine and neuter and vice versa; and the singular shall include the plural and vice versa.

(Ord. 182, 8/14/1950, §2)

§103. Sidewalk Area Plan.

1. The Borough Engineer is authorized, ordered and directed to prepare a sidewalk area plan for all of the streets within the Borough of Emporium.

2. The said sidewalk area plan shall set forth for each street the following: the width of the sidewalk area and of the sidewalk; the location of the sidewalk within the sidewalk area; the height, slope, thickness, and grade of each sidewalk; the shape, height, slope, thickness, and grade of each sidewalk; the shape, height above and depth below street level, slope, thickness and grade of all curbs. The said sidewalk area plan shall also include general specifications as to each street for: the

general shape, depth below street level, slope and thickness of driveway entrances; the shape, thickness and slope of driveways. In and about the preparation of the sidewalk area plan, due regard shall be for existing grades and locations of sidewalks and for the existing contour of the sidewalk area on the ground.

3. The said sidewalk area plan may be prepared in sections, but no section shall be for a smaller area than one (1) block of one (1) street.

4. Unless the entire sidewalk area shown on any sidewalk area plan is paved, all sidewalk area plans shall be submitted to the Shade Tree Commission. The said Commission shall return the said plan to the Borough Council within thirty (30) days after its receipt, marking thereon its approval or disapproval and submitting separate written reasons for any disapproval. [Ord. 219]

5. Upon (A) adoption of the sidewalk area plan or any section thereof by resolution of this Council, and (B) the endorsement thereon of the approval of the Shade Tree Commission or the failure of the Shade Tree Commission to approve or disapprove said plan within thirty (30) days after submission thereof to it or the adoption or readoption of said plan by this Council after disapproval thereof by the Shade Tree Commission, then the said plan shall thereupon become and thereafter be an official sidewalk area plan of this Borough; and upon becoming an official sidewalk area plan shall be filed permanently among the records of the Borough, and shall thereafter be available to the public for inspection at all reasonable times. [Ord. 219]

6. All matters required in any sidewalk area plan under Subsection (2) of this Part which have heretofore been ordained by this Council shall be construed as official sidewalk area plans hereunder to the extent so ordained, until revised, modified or completed in accordance with this Part.

7. The Borough Engineer is authorized at any time to revise any official sidewalk area plan, and shall do so when directed by resolution of this Council. The same procedure shall thereafter be followed as is set forth in subsections (4) and (5) of this Part.

(Ord. 182, 8/14/1950, §§101-107; as amended by Ord. 219, 7/6/1954, §1)

§104. Use of Sidewalk Area.

1. Hereafter no structure, material, thing or group of things, animate or inanimate, or part or portion thereof (whether for sale or use, whether intended to be removable or immovable, or whether as part of or as a convenience, addition or ornament to any building or business, and whatsoever the use or purpose may be) shall be constructed, reconstructed, put, placed or caused or allowed or permitted to exist or be upon, over or under any portion of any sidewalk area within the Borough of Emporium; and the same is hereby declared to be unlawful and to be a nuisance and to be removable as such; except only the following:

A. Sidewalks, curbs, driveways and driveway entrances when constructed, reconstructed, changed, altered or repaired in the manner required or permitted by this Part.

B. Trees, plants, shrubs or other growing things when approved

by the Shade Tree Commission and when in conformity with all applicable provisions of all laws, ordinances (including this Part) and regulations thereunder.

C. Public utility wires, pipes, lines and conduits, and sewers.

D. All existing signs and awnings.

E. All existing buildings or other structures until required to be removed by resolution of this Council, provided they remain in their existing locations and of their existing sizes, shapes, materials and uses and provided they are not in conflict with any other law, ordinance or regulation thereunder.

F. Any object when in the course of being removed to or from the adjoining lot area.

G. Trash or other waste matter and its containers, to the extent and during the times permitted or necessarily required by any other ordinance of this Borough or any regulations thereunder.

H. When approved by resolution of this Council in the manner set forth in this Part, having due regard to the safety, health, comfort and convenience of the users of the streets within and inhabitants of this Borough.

2. This Section shall not be construed as prohibiting normal pedestrian use of any sidewalk area nor vehicular use of any driveway.

3. Hereafter no use shall be made of any sidewalk area not authorized by or under any of the provisions of this Part or any other ordinance of this Borough or of any regulation thereunder.

4. Hereafter all sidewalks, curbs, driveway, and driveway entrances shall be of concrete, or other hard surface material, with such reinforcing and of such kind and quality as may be reasonably required by the Borough Engineer.

(Ord. 182, 8/14/1950, Art. 2)

§105. Permit to Construct, Etc.

1. Hereafter no person except the Borough of Emporium or except when required in accordance with §106, shall construct or reconstruct any sidewalk, curb, driveway or driveway entrance or change or alter the existing width, location, height, depth, slope, thickness, grade or shape of the same nor make any use of any part of any sidewalk area not authorized by this Part, without first applying to the Borough Engineer for a permit for the same and obtaining such permit from this Council, without the same being established on the ground by or with the approval of the Borough Engineer. [Ord. 219]

2. Every such application shall set forth:

A. The name and address of the applicant.

B. The name and address of the owner of the adjoining lot area.

C. A brief description and location of the adjoining lot area.

D. A reasonably accurate description of all sidewalks, curbs, driveway and driveway entrances then existing in the sidewalk area

affected.

E. A reasonably accurate description of the construction, reconstruction, change, alteration or unauthorized use desired.

3. Upon receipt of an application for a permit as aforesaid, the Borough Engineer shall submit the same to the Council prior to the date of its next meeting, with his recommendations for approval or disapproval of the same. Approval shall be given unless:

A. The application fails to comply with the requirements of this Part.

B. The construction, reconstruction, change or alteration, fails to to comply with the official sidewalk area plan, if any.

C. Approval would jeopardize public health or safety or would be otherwise unlawful.

[Ord. 219]

4. In the event the application is approved, the Borough Secretary shall immediately notify the applicant and the Borough Engineer shall forthwith establish or cause to be established the official sidewalk area plan on the ground, to the extent applied for. If no official sidewalk area plan exists, the Borough Engineer shall immediately cause an emergency sidewalk area plan to be prepared for the sidewalk area long the entire lot area of the applicant on that street, to the extent applied for; and shall establish the same on the ground. At the time of establishing the official or emergency sidewalk area plan on the ground, the Borough Engineer shall furnish necessary construction specifications to the applicant; and thereafter the Borough Engineer shall see that all plans and specifications are fully complied with. All persons, firms or corporations shall comply fully with all such plans and specifications. [Ord. 219]

(Ord. 182, 8/14/1950, Art. 3; as amended by Ord. 219, 7/6/1954, §§2,3)

§106. Required Construction, Repair, Etc.

1. All sidewalks, curbs, driveways and driveway entrances shall be kept at all times in safe and usable condition and in good repair by the owner of the lot area abutting the sidewalk area in which the same are contained. Upon failure or neglect of any such owner to keep any of the same in such condition and repair, the Borough shall have the right from time to time by its resolution to require such owner to repair the same. Nothing in this Section or in any other provisions of this Part shall be construed to be in derogation of any right given to this Borough to make any emergency repairs authorized by law.

2. The Borough may from time to time by resolution of this Council require the construction of any sidewalk or curb where the same has not previously been in existence; except that no curb shall be required for a lesser distance than one (1) side of one (1) block of one (1) street.

3. In the event that it shall be impossible to repair any sidewalk or curb without removing the existing sidewalk or curb and reconstructing it for more than one-half ($\frac{1}{2}$) of its entire length along the lot area, the Borough may by resolution of this Council require the reconstruction of the same instead of its repair.

4. In the event that the construction, reconstruction or repair of any sidewalk, curb or driveway entrance shall be required, notice thereof shall be given as required by law; and if no period of time be prescribed by law, thirty (30) days notice shall be given. [Ord. 219]

5. In the event that construction or reconstruction of any sidewalk, curb or driveway entrance shall be required as aforesaid, a sidewalk area plan shall be prepared and adopted in accordance with §103 of this Part for all blocks wherein such construction or reconstruction is required and for which there is no official sidewalk area plan; and when there shall be an official sidewalk area plan for all such blocks, the Borough Engineer shall forthwith establish the same on the ground. [Ord. 219]

6. All persons required to construct or reconstruct any sidewalk, curb or driveway entrances shall do the same or cause the same to be done strictly in accordance with the official sidewalk area plan and the specifications accompanying such plan. All persons required to repair any sidewalk, curb or driveway entrance shall within the time set forth in the notice either (A) do or cause the same to be done, or (B) make application under §105 of this Part. In the event that application shall be made under §105 of this Part the further procedure therein set forth shall be followed. [Ord. 219]

7. In the event any such owner shall fail or neglect to do or cause to be done any construction, reconstruction or repair required under any of the provisions of this Section, within the time so permitted or required, the Borough may do or cause to be done the same and may collect the cost thereof and all additional charges and expenses allowable for the same, to the extent and manner authorized by law.

8. In the event that any construction or reconstruction of any sidewalk or curb shall be required under any of the provisions of this Section, and further in the event that the existing condition of the ground requires substantial filling, cutting, sloping or rough leveling in order to permit such construction or reconstruction to be done in conformity with the official or emergency sidewalk area plan, the Borough shall do or cause to be done such filling, cutting, sloping or rough leveling without expense to the owner: except that this obligation shall not extend to the digging of trenches for curbs.

9. Notwithstanding the preceding subsections (1) through (8) of this Section, in the event the Borough Manager and Street Supervisor recommend to Council, and Council so determines, by majority vote, that a curb area is in need of repair and has deteriorated because of weather conditions, general public use, or municipal snow removal/street maintenance, and no such deterioration is the fault of an abutting landowner, the Borough may repair or replace, or cause to be repaired or replaced, the same at its sole cost, and the abutting landowner shall not be assessed for such costs. [Ord. 456]

(Ord. 182, 8/14/1950, Art. 4; as amended by Ord. 219, 7/6/1954, §4; and by Ord. 456, 9/9/2002)

§107. Snow, Weeds, Etc.

1. The accumulation of snow, ice or leaves upon any sidewalk are declared to be a public nuisance and dangerous to the safety of the public. The owner, tenant or occupant of the lot area abutting the sidewalk area on which such sidewalk exists, shall remove or cause to be

removed the same within twelve (12) hours after the same has fallen, blown, been placed or appeared thereon.

2. The presence of tall grass and weeds upon any sidewalk area is hereby declared to be a public nuisance and dangerous to the health and safety of the public. The owner, tenant or occupant of the lot area abutting such sidewalk area shall cut and remove the same or cause to be cut or removed at least once every two (2) weeks beginning May 1 and extending to and through September 13 of each and every year hereafter.

3. Upon the failure or neglect of any persons required to remove or abate any nuisance so declared under any of the provisions of this Section, the Borough may without notice remove or abate the same or cause to be removed or abated, all without the necessity of any resolution of this Council; and the Borough Engineer is directed to cause the same to be done. Further in the event of such removal or abatement by the Borough, the Borough may collect all costs thereof and all additional charges and expenses for the same to the extent and manner authorized by law.

4. The removal of snow from private property and dumping or piling of the same upon any part of any street is declared to be a public nuisance and dangerous to the safety of the public. The owner, tenant or occupant of such private property from which such snow has been removed shall abate such nuisance within twelve (12) hours after notice by the Borough to do so. Upon the failure or neglect of such person to abate such nuisance, the Borough may without notice remove such snow from the street and abate such nuisance, all without the necessity of any resolution of this Council. Further in the event of such removal or abatement by the Borough, the Borough may collect all costs thereof and all additional charges and expenses for the same to the extent and manner authorized by law. [Ord. 298]

(Ord. 182, 8/14/1950, §§501-503; as amended by Ord. 298, 2/1/1965, §1)

§108. Fines. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred (\$600.00) dollars and costs, and in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 182, 8/15/1950, §§601,602; as amended by Ord. 412, 10/4/1993)

Part 2

Opening of Borough Streets

§201. Definitions. As used in this Part, the following words shall have the following meanings:

APPLICANT - a person by or on whose behalf an application is made.

APPLICATION - a written form furnished by the Borough to a person who desires to make a street opening; which form shall contain spaces for the exact location, extent and purpose of the street opening proposed, the work to be done, the anticipated time for completion of such work and such other information as may be necessary to enable the Borough Manager to grant a permit; all as approved from time to time by resolution or motion of the Borough Council.

BILL - an itemized written invoice submitted by the Borough Manager to a permit holder after completion, final inspection and approval of the street opening; which invoice shall include all of the following items computed in accordance with standards established from time to time by resolution or motion of the Borough Council.

(1) The cost of the Borough of all material and labor furnished by it in replacing hard surface under §207(B) hereof.

(2) The cost to the Borough of all time spent by the Inspector under §204(A) hereof.

(3) Any cost to the Borough of backfilling done under §207(A) hereof.

(4) Any cost to the Borough in completing the work under §202 hereof.

(5) A sum equal to ten (10) percent of the total of all of the foregoing items.

(6) The total of all of the foregoing items.

BOROUGH - the Borough of Emporium, Cameron County, Pennsylvania.

DEPOSIT - a sum of money or other security required to be paid to or deposited with the Borough at the time of filing an application, in order to secure the reimbursement to the Borough of its costs in connection with a street opening, under standards established from time to time by resolution or motion of the Borough Council.

HAZARDOUS EMERGENCY - only a break in a gas or water line, pipe or facility of a public utility in any street or alley in the Borough of Emporium as a result of which (1) gas or water is escaping from such line, pipe or facility, and (2) the public health or safety is thereby endangered, and (3) immediate repair is necessary.

INSPECTOR - an employee of the Borough who is appointed by the Borough Manager, or in his absence by the Assistant Secretary of the Borough, at the time a permit is issued, or who from time to time thereafter may be so appointed to replace an inspector previously appointed.

PERMIT - a written form furnished by the Borough and issued by the Borough Manager or in his absence by the Assistant Secretary of the Borough to an applicant for a street opening.

PERMIT HOLDER - an applicant to whom a permit has been issued.

PERSON - one (1) or more individuals, or a partnership, firm, association, corporation or other entity, including a public utility.

STREET OPENING - the excavating or tearing up of any part of any street or alley in the Borough, the performance and completion of all work to be done and the backfilling of the excavation; but shall not include the restoration of any hard surface.

The masculine form shall include the feminine and neuter; and the singular shall include the plural.

(Ord. 314, 2/5/1968, §1)

§202. Permit Required. Except in case of a hazardous emergency, hereafter no person shall make any street opening until a permit has been issued to him. In the event of a hazardous emergency an application shall be filed within forty-eight (48) hours after work on the street opening has been begun. (Ord. 314, 2/5/1969, §2)

§203. Issuance of Permit. No permit shall be issued:

A. Until a signed application, fully completed in all detail, has been filed with the Borough Manager together with any required deposit and a permit fee in an amount as established, from time to time, by resolution of the Borough Council. [Ord. 412]

B. For any street opening not specified in the application.

C. For more than one (1) street opening.

D. Beyond the scope of the application.

E. Without the appointment of an inspector at the time of the issuance of a permit.

(Ord. 314, 2/5/1968, §3; as amended by Ord. 412, 10/4/1993)

§204. Duties of Inspector. Every inspector shall perform all of the following duties in connection with a permit as to which he is appointed:

A. Inspect all of the work done during the entire street opening, devoting full time thereto unless otherwise directed by the Borough Manager the cost of which time shall be borne by the permit holder.

B. Require strict compliance with the permit and this Part, making such decisions as shall be necessary to accomplish the purpose of the permit in case of dispute.

C. Disapprove all defective work and order it to be corrected immediately.

D. Order discontinuance of all work in the event it is not corrected within three (3) days as provided in §205(D) hereof.

E. Give final approval upon proper completion of the street

opening and so stamp the permit.

(Ord. 314, 2/5/1968, §4)

§205. Duties of Permit Holder. Every permit holder shall perform all of the following duties in connection with each permit issued to him:

A. Make only the street opening permitted, in strict compliance with the terms of his permit and of this Part and with the requirements of the inspector.

B. See that the street opening is guarded at all times and lighted at night, all in accordance with the reasonable requirements of the inspector.

C. Complete the street opening by backfilling to the level of the surrounding ground or to the top of any surrounding hard surface, as may be required by the inspector; causing the backfill to be air tamped and the closing otherwise completed all in the same manner as required by the Commonwealth of Pennsylvania in the closing of openings in State highways in the Borough of Emporium. He shall not replace any hard surface.

D. Correct any defective work within three (3) days after disapproval thereof by the inspector or, in the event of a dispute, within three (3) days after the date of any disapproval thereof by the Borough Manager.

E. Discontinue immediately all work on the street opening when ordered so to do by the inspector.

F. Refer any decisions, disapprovals or orders of the inspector which he disputes to the Borough Manager within forty-eight (48) hours after the dispute arises.

G. Pay the bill within thirty (30) day after receipt thereof.

(Ord. 314, 2/5/1968, §5)

§206. Order to Discontinue Work. In the event of an order by the inspector to discontinue the work under §205(D) hereof, the permit shall expire, whereupon the Borough Manager shall have the alternative rights either (A) to reissue the permit; or (B) to cause all work remaining to be done to complete the street opening to be done by the Borough, the cost of which shall be borne by the permit holder. (Ord. 314, 2/5/1968, §6)

§207. Duties of the Borough Manager. The Borough Manager shall perform all of the following duties in connection with all permits:

A. In the event the permit holder shall so request, cause so much of the backfilling as is necessary to complete the street opening to be done by the Borough, the cost of which shall be borne by the permit holder.

B. Upon completion of the street opening, cause all of the hard surface which was torn up or damaged as a result of the street opening to be replaced by the Borough, the cost of which shall be borne by the permit holder.

C. Upon completion of replacement of the hard surface, prepare

and submit a bill to the permit holder.

D. Make all decisions, exercise all rights and perform all duties provided in any of the other Sections hereof or otherwise necessary to enforce this Part.

(Ord. 314, 2/5/1968, §7)

§208. Failure to Pay. In the event of the failure of a permit holder to pay the entire bill within thirty (30) days after its receipt by him, the balance due may be collected, with interest, in the same manner as other obligations of the Borough. (Ord. 314, 2/5/1968, §8)

§209. Right to Appeal. A permit holder shall have the right to appeal any adverse decision of the Borough Manager to the Borough Council at its next meeting; and upon the receipt by the Borough Manager of notice that such an appeal will be taken, all further proceedings against the permit holder under this Part shall be stayed until the decision of the Borough Council. (Ord. 314, 2/5/1968, §9)

§210. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding one thousand (\$1,000.00) dollars and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. (Ord. 314, 2/5/1968, §10; as amended by Ord. 412, 10/4/1993)

Part 3

Obstructing Streets and Sidewalks

§301. Unlawful Obstructions.

1. It shall not be lawful for any person or persons to cast or leave any boxes, barrels, brick, timber, wood, ashes, garbage, filter, refuse or substance of any kind upon the public roads, alleys, streets, lanes or sidewalks within the Borough of Emporium, except articles for the purposes of immediate loading, removing or stowing away. All persons are hereby prohibited from allowing or permitting the same as aforesaid.

2. Nothing in this Part shall be taken so as to affect any privilege granted by the Mayor for depositing building material to be used in the erection of any building or putting down or repairing any sidewalks.

3. The placing or leaving of wagons, sleds, sleights, cutters or other vehicles, or billboards, ash piles, refuse piles, of any kind, the burning of waste of any kind and the erection of signs in the public streets, alleys or lanes within the Borough of Emporium, is prohibited. The Mayor shall, upon knowledge or notice of the violation of this Part proceed at once to cause the prohibited articles or obstruction to be removed and prosecute the persons violating this Part and the penalties and provisions of this Part shall apply. [Ord. 45]

4. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred (\$600.00) dollars and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense. [Ord. 412]

(Ord. 27, 9/3/1888, §§103; as amended by Ord. 45, 1/8/1906, §1; and by Ord. 412, 10/4/1993)

