

## **Chapter 21**

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**Part 1****Construction, Maintenance and Care of Sidewalks, Curbs and Gutters****§21-101. Definition.**

The word "sidewalk" as used in this Part, shall mean and include the portion of a street located outside the cartway, and shall mean and include paved footway, sidewalk, unpaved grass plot, curb and/or gutter.

(*Ord. 309, 9/14/1981, §1*)

**§21-102. Sidewalks May Be Required.**

Borough Council may, by resolution, require sidewalks (as defined in §21-101 hereof) to be installed by abutting property owners, at their own expense, along any portion/s of any street/s within this Borough within such period (not less than 30 days) after notice thereof as Council may prescribe in such resolution, if Council shall consider such sidewalks necessary for the safety or convenience of the public.

(*Ord. 309, 9/14/1981, §2*)

**§21-103. Notice.**

Notice of such resolution (§21-102) shall be given to all owners of property abutting on the portion of the street involved, in the manner prescribed by the Borough Code; and, if owners of any such property which shall be unoccupied shall reside outside the Borough and shall be known, they shall be given notice in person or by registered mail in addition to the notice required by the Borough Code.

(*Ord. 309, 9/14/1981, §3*)

**§21-104. Locations and Grades.**

All sidewalks hereinafter installed in this Borough, whether required under §21-102 hereof, or voluntarily built or rebuilt in other parts of the Borough, shall be constructed of pursuant to specifications adopted by resolution of this Council, from time to time, at such locations and grades specified and staked out by the Borough pursuant to application to be made by the property owners to the Borough Manager. However, brick sidewalks of a type and construction approved by the Highway Committee will be permitted. In the case of sidewalks along State highways, the same shall be constructed in conformance with the latest applicable standards of the Pennsylvania Department of Transportation, or any other State standards that may control. In addition to the foregoing standards, the Highway Committee may, for the purpose of uniformity and conformity throughout the Borough or throughout any street, designate such part of any sidewalk as shall remain unpaved and open for use for the planting of trees. All sidewalks shall be so constructed and shall be subject to the Highway Committee's approval as to workmanship.

(*Ord. 309, 9/14/1981, §4; as amended by Ord. 98005, 7/13/1998, §1*)

**§21-105. Exceptions.**

In the event of topographical features or special physical limitations that might

prevent the implementation of the specifications adopted by Council pursuant to §21-104 hereof or where such specifications are impractical to implement or illogical for use, Borough Council, following a report from the Borough Manager may grant an applicant (or upon request the Borough Manager) exceptions from the adopted standards, from time to time, for logical reasons.

(*Ord. 309, 9/14/1981, §4A; as added by Ord. 98005, 7/13/1998, §2*)

**§21-106. Trees.**

Any trees to be planted within any unpaved grass plot shall be purchased and installed solely by the Borough and no other person shall install or plant any tree within any said areas.

(*Ord. 309, 9/14/1981, §5*)

**§21-107. Unsafe Sidewalks.**

The Highway Committee may require any sidewalk which has become broken or unsafe to be repaired by the abutting owner within 10 days after written notice from the Committee served as provided in §21-103; or, in case the safety of pedestrians is immediately jeopardized, said Committee may abate the nuisance caused thereby without notice, or on any shorter notice than provided in §21-103 hereof, and may collect the costs of abatement, as provided in the Borough Code.

(*Ord. 309, 9/14/1981, §6*)

**§21-108. Borough May Do Work and Collect Costs.**

Pursuant to the Borough Code, if any property owner shall fail to comply with the notices given pursuant to §§21-102 or 21-107 to install or repair sidewalks, curbs or gutters the Borough Council, may, after 30 days notice of its intentions, served as provided in the Borough Code, cause such work to be done at the cost of the owner, and may collect the costs thereof, plus 10 percent thereof, together with reasonable attorneys fees and costs for collection, from the owner and may file a municipal claim therefrom or pursue any other remedies as are provided for by law.

(*Ord. 309, 9/14/1981, §7; as amended by Ord. 98005, 7/13/1998, §3*)

**§21-109. Penalties.**

Any person, partnership, corporation, or any officer of any corporation violating any of the provisions of this Part shall, upon conviction, be fined a fine of not less than \$100 nor more than the maximum fine allowed to be levied pursuant to the Borough Code. Enforcement under this Section should not be in lieu, or prevent enforcement, of the provisions of §21-108 hereof.

(*Ord. 309, 9/14/1981, §8*)

**Part 2****Snow and Ice Removal****§21-201. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Part:

*Owner* - any person, firm, association, syndicate, co-partnership or corporation being one or more of the record owners of the property.

*Possessor* - any person, firm, association, syndicate, co-partnership or corporation having any possessory or proprietary interest in any land.

*Person* - any individual, firm, association, syndicate, co-partnership or corporation.

*Sidewalk* - that paved area beside the curb or edge of the roadway intended for use by pedestrians.

*Thoroughly cleaned* - the full removal of all snow and ice from the pathway such that there is a dry surface therein capable of supporting any individual without danger of slipping or falling.

(Ord. 328, 12/12/1983, §1)

**§21-202. Snow and Ice to Be Removed.**

Every possessor of any building or lot of land within the Borough fronting or abutting on a sidewalk shall remove and clear away and have thoroughly cleaned or cause to be removed and cleared away and thoroughly cleaned from all sidewalks fronting or abutting on their land or building, snow and ice to a path at least 24 inches wide within 24 hours after the snow or ice shall have ceased to fall or to be formed.

(Ord. 328, 12/12/1983, §2)

**§21-203. Sidewalk to Be Made Passable.**

In the event snow or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, every possessor of any building or lot of land within the Borough fronting or abutting on a sidewalk shall, within 24 hours after the snow or ice shall have ceased to fall or to be formed, remove all snow and ice that can be removed without damage to the sidewalk and they shall further cause enough sand or other abrasive to be put on the sidewalk to make travel thereon reasonably safe and shall then, as soon thereafter as weather permits (but no later than 48 hours thereafter), cause a path in said sidewalk to be made of at least 24 inches in width to be thoroughly cleaned.

(Ord. 328, 12/12/1983, §3)

**§21-204. Borough May Do Work and Collect Costs.**

In the case where the possessor of any building or lot of land in the Borough fronting or abutting on a sidewalk shall fail, neglect or refuse to comply with the provisions of this Part, within the time limit prescribed herein, the Borough may

proceed immediately to clear all snow and/or ice from the sidewalk (and/or place thereon sand or other abrasives) of such delinquent, and to collect the expense thereof, with an additional amount of 20 percent thereof added for overhead (such as Social Security, employer contributions, employee benefits, and administration), from the owner, which may be in addition to any fine or penalty imposed upon in §21-206.

(*Ord. 328, 12/12/1983, §4*)

**§21-205. Owner Responsible.**

In all events the owner of the land shall always be additionally responsible for conforming to the requirements of this Part regardless of how the property is occupied or the terms and conditions of any lease or other agreement between the owner and any other occupier or possessor to the contrary.

(*Ord. 328, 12/12/1983, §5*)

**§21-206. Penalties.**

Any possessor of any building or lot of land within the Borough fronting or abutting on a sidewalk who shall have failed shall have removed any snow or ice from any sidewalk as required herein, or who shall remove the same otherwise than is required herein, shall be guilty of a violation of this Part, and upon conviction thereof, shall be sentenced to pay a fine of not less than \$10 or more than \$50 and costs of prosecution. Such fines and costs of prosecution may be in addition to other expenses and additional amounts imposed as provided elsewhere herein. Fines shall be collected by the Borough as otherwise provided by law.

(*Ord. 328, 12/12/1983, §6*)

**Part 3****Street Excavations and Openings****§21-301. Definitions and Interpretation.**

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

*Excavation* - any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking or disturbing the surface thereof. In this Part, the term “opening” shall have essentially the same meaning as “excavation.”

*Person* - any natural person, partnership, limited partnership, limited liability company, limited liability partnership, firm, association, corporation or municipal authority. However, the term “person” shall not include the Borough of Akron.

*Street* - any public street, avenue, road, square, alley, highway or other public place located in the Borough and established for the use of vehicles, but shall not include State highways. As used herein, “street” shall not be limited to the cartway, but shall include the full right-of-way.

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

(Ord. 00036, 5/14/2007, §1)

**§21-302. Permit Required to Make Opening or Excavation.**

It shall be unlawful for any person to open or to make any excavation of any kind in any street in Akron Borough without first securing a permit therefor, as hereinafter provided.

(Ord. 00036, 5/14/2007, §2)

**§21-303. Application for Permit.**

Any person who shall desire to make any opening or excavation in any street in the Borough shall make application to the Borough Manager in writing for that purpose. Such application shall be made upon blanks to be furnished by the Borough and shall set forth the name and address of the applicant, the exact location of the proposed opening or excavation, and the approximate size and depth thereof, the estimated time required, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend and keep harmless the Borough from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

(Ord. 00036, 5/14/2007, §3)

**§21-304. Insurance.**

Each person shall present, at the time of application, a certificate of insurance showing liability insurance in an amount of at least \$300,000 covering the work to be performed.

(*Ord. 00036, 5/14/2007, §4*)

**§21-305. Permit Fee.**

Before any permit shall be issued to open or excavate any street in the Borough the applicant shall pay a permit fee in the amount fixed according to a schedule established from time to time by resolution of the Borough Council. When application shall be made to open or excavate any longitudinal opening or excavation in excess of 10 feet, before any permit shall be issued so to open or excavate, the applicant shall pay in addition to such minimum fee, an additional fee at the rate, for each 100 feet or fraction thereof, to be opened or excavated upon such street, in accordance with the fee schedule.

(*Ord. 00036, 5/14/2007, §5*)

**§21-306. Permits Authorized.**

Permits may be issued to: (A) any owner of the real property; (B) a public utility; (C) contractor engaged to perform the work with the consent of the property owners; or (D) other service providers, other than public utilities (such as cable television companies).

(*Ord. 00036, 5/14/2007, §6*)

**§21-307. Permit Approval/Disapproval.**

A permit may be issued to the applicant after all the requirements therefor have been met. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given to the applicant.

(*Ord. 00036, 5/14/2007, §7*)

**§21-308. Responsibility to Contact Utilities.**

The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, §1 *et seq.*, 73 P.S. §177 *et seq.* It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with the said Act.

(*Ord. 00036, 5/14/2007, §8*)

**§21-309. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years.**

Any person who shall open or excavate any street in the Borough shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface 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 of Pennsylvania, which are hereby adopted as the specifications of the Borough for restoration of streets in the Borough. As restored, the surface shall conform to the proper grade and

be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within 2 years after the restoration of the surface as herein provided, defects shall appear therein, the applicant shall reimburse the Borough for the cost of all repairs.

(Ord. 00036, 5/14/2007, §9)

**§21-310. Responsibility of Permit Holder for Certain Work; Right of Borough to Do Certain Work; Charge Therefor.**

All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this Part and to the supervision and approval of the Borough Manager, or the Borough Manager's designee, provided that the Borough Manager may, if the Borough Manager deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavation therein shall be done by the Borough, in which event the applicant shall pay the actual cost of the work performed by the Borough.

(Ord. 00036, 5/14/2007, §10)

**§21-311. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work.**

1. No opening or excavation in any street shall extend from the curb line or cartway edge into the highway a distance greater than 1 foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.

2. No more than 500 feet longitudinally shall be opened in any street at any one time.

3. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other subsurface lines or constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.

4. No tunneling shall be allowed without the express approval of the Borough Manager and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Manager or an inspector designated by the Borough Manager, and shall be done only in a method approved by the Borough Manager.

5. All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed 8 inches in depth. Backfilling shall be placed to within 10 inches of the surface.

6. A temporary paving of coldpatch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of 90 days.

7. On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.

8. All work on the improvements shall be performed in compliance with the

Pennsylvania Uniform Construction Code requirements, in addition to those of the Pennsylvania Department of Transportation and, where applicable, a Uniform Construction Code permit shall be acquired in advance of the start of the work.

9. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit or any other matter placed in the said excavation and the applicant shall further indemnify and save harmless the Borough, its agents and employees, from any claims of the traveling public. In addition to the foregoing, as a minimum standard, all work shall be performed in a manner consistent with the Pennsylvania Department of Transportation Highway Safety Standards for the performance of work within a right-of-way.

10. The applicant shall notify the Borough Manager when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street has been permanently restored, so that inspections may be made.

11. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Manager, be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed with the time fixed by the Borough Manager, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20 percent to the applicant. In addition, all attorney's fees incurred by the Borough in collection thereof shall be added to the cost thereof and be paid by the permit holder.

12. No street shall be closed unless the applicant has, in advance, secured permission from the Mayor in accordance with applicable Borough ordinances and regulations then in effect. The Borough Police Department shall be notified in advance of any street closing.

*(Ord. 00036, 5/14/2007, §11)*

### **§21-312. Emergency Openings.**

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition before securing a permit; provided, that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this Part are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Borough, after such notice as it shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency and charge the same on the basis of cost plus 20

percent to such owner or person. In addition, all attorney's fees incurred by the Borough in collection thereof shall be added to the cost thereof and be paid by the permit holder.  
(*Ord. 00036, 5/14/2007, §12*)

**§21-313. Restrictions Regarding Trees and Shrubbery.**

The permission herein granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way, except under specifications, regulations and conditions as the Borough Manager may prescribe.

(*Ord. 00036, 5/14/2007, §13*)

**§21-314. Work Necessitating Opening or Excavation to Be Done Prior to Street Improvement and Not until 5 Years Thereafter; Exception.**

The Borough Manager shall give timely notice to all persons owning property abutting on any street within the Borough about to be paved or improved, and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within 30 days from the giving of such notice, unless such time is extended in writing for cause shown by the Borough Manager. New paving shall not be opened or excavated for a period of 5 years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening or excavating of such paving to be determined by the Borough Manager. If sought to excavate upon or open a sewer within 5 years after the completion of the paving, applicant shall make written application to the Borough Manager, and a permit for such opening shall be issued only after express approval of the Borough Manager, and such approval may be refused by the Borough Manager if such approval is not justified under the circumstances, or if approval is sought merely for customary maintenance or replacement as part of the utility general maintenance program.

(*Ord. 00036, 5/14/2007, §14*)

**§21-315. Conditions for Laying and Extending Utility Lines.**

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Borough until the plan therefor shall have been first filed with the Borough Manager and such plan, and the exact location of such main or line, approved by him. The Borough Manager shall not approve the location of any such main or line at a depth of less than 30 inches from the surface of the street unless he shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

(*Ord. 00036, 5/14/2007, §15*)

**§21-316. Bond Required.**

No company, corporation or association shall dig up any street or alley without first giving to the Borough a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance

of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys.

*(Ord. 00036, 5/14/2007, §16)*

**§21-317. Payment for Work Done by Borough.**

Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within 30 days after a bill therefor is sent to such person by the Borough. Upon failure to pay such charges within such time, the same shall be collectible by the Borough by an action in assumpsit or in the manner provided by law for the collection of municipal claims. In addition, all attorney's fees incurred by the Borough in collection thereof shall be added to the cost thereof and be paid by the permit holder.

*(Ord. 00036, 5/14/2007, §17)*

**§21-318. Penalties.**

Any person who shall violate any provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 for each incident and for each day's violation thereof, plus costs.

*(Ord. 00036, 5/14/2007, §18)*