

## **Chapter 21**

### **Streets and Sidewalks**

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**Part 1****Street Cuts and Excavations****§21-101. Definitions.**

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

*Applicant*—any person, as defined herein, who makes application for a permit.

*Borough*—the Borough of Thornburg.

*Degradation fee*—a fee charged for the premature excavation/opening of a road that has been constructed or resurfaced within 7 years.

*Emergency*—any unforeseen circumstance which calls for immediate action.

*Engineer*—the appointed Engineer of the Borough or his authorized representative or inspector.

*Foreman*—the Borough Foreman of Public Works, or his or her designee.

*Permit*—the approval issued to an applicant to perform any work covered by the terms and conditions of this Part.

*Permittee*—any person who has been issued a permit and has thereby agreed to comply with all the terms and conditions of this Part.

*Person*—includes any natural person, partnership, firm, association, corporation, municipal authority or any other governmental entity.

*Roadway*—any public street, highway, road, easement, right-of-way or alley within the Borough, including that portion of any right-of-way which is improved with curbs and/or sidewalks.

*Work*—any and all activities of any kind or nature conducted by a permittee, his agents, servants, employees, contractors and subcontractors, which involves, to any extent, any roadway of the Borough.

(Ord. 395, 11/12/2012, §I)

**§21-102. Permits.**

1. *Permit Required.* No person shall make any tunnel, opening or excavation of any kind in, on or under the surface of any roadway, without first securing a permit from the Borough for each separate undertaking. Any person maintaining pipes, lines or underground conduits, in or under the surface of any roadway by virtue of any statute, ordinance or franchise may, however, proceed with an excavation or opening without a permit when emergency circumstances demand that the work be done immediately for the preservation of the public health, safety or welfare, and, provided further, that a permit could not reasonably and practically have been obtained beforehand. Such person shall, thereafter, file an application for a permit, in accordance with the requirements of this Part, on the first business day of the Borough, which permit shall be retroactive to the date on which the work was begun.

2. *Limitation.* No permittee shall perform any work beyond that originally authorized by his permit to an extent greater than 10 percent in excess of that specified

in the permit, unless such excess work is approved, in advance, by either the Foreman or Engineer and the Borough is paid any additional fees occasioned thereby. Upon completion of any additional work which is not covered by the original permit, the permittee shall file a revised application with the Borough reflecting the scope of same.

3. All bonds posted in connection with issuance of the permit shall be deemed to cover all work which is covered by any permit issued pursuant to this Part.

4. The provisions of this Part shall not apply to emergency excavations of any explanatory nature made in order to determine the location of underground facilities; however, the person doing the work shall, on the first day which the office of the Borough is open for business following completion of the excavation, file an application for a permit in accordance with the requirements of this Part, which permit shall be retroactive to the date the excavation was begun.

5. *Commencement of Work.* The work for which a permit is issued shall be commenced within 30 days from the date of its issuance. If the work is not commenced by that date, the permit shall automatically be considered as revoked and, thereafter, a new permit for the work will only be issued upon payment of a new permit fee and the renewal of all necessary bonds. The permittee shall notify either the Foreman or Engineer, at least 24 hours in advance, as to the date and time when the work will be commenced.

6. *Nontransferable.* A permit is not transferable by the permittee to any other person.

7. *Expiration.* A permit shall terminate at the end of the period of the time specified in the permit or upon completion of the work, whichever occurs first. If the permittee is unable to complete the work within the time specified in the permit, he shall, prior to its termination, request an extension of time from either the Foreman or Engineer, in writing, the Foreman or Engineer to be provided with the reason for the requested extension. If the Foreman or Engineer determines that an extension is necessary, he may grant the permittee such additional time as he deems appropriate for completion of the work, subject to an extension fee of \$35 or such other fee as set by resolution of the Borough Council.

8. *Right to Use Roadway.* All permits shall be issued subject to the rights of the Borough and the public to use any roadway which is the subject of the permit, for all purposes for which such roadway may lawfully be used.

9. *Revocation.* A permit may be revoked by the Foreman or Engineer, after written notice to the permittee, as the result of any one of the following:

A. A violation of any condition of the permit.

B. A violation of any provision of this Part or any other applicable statute, ordinance or regulation relating to the work.

C. The existence of any condition or the doing of any act by the permittee which constitutes or creates a nuisance or which endangers the safety or property of the public.

D. Written notice of the revocation shall be served upon the permittee or his agent. The notice shall contain a brief statement of the reason for the revocation and it shall be effective if delivered either by personal delivery to the permittee, or his agent, or by mailing same to the permittee at the address on the application,

by placing same in the United States Postal Service, certified mail, return receipt requested.

(*Ord. 395, 11/12/2012, §I*)

**§21-103. Duties and Obligations of Applicant.**

In order to receive a permit the applicant shall:

A. Complete and file a written application with the Borough Secretary, this on application form prescribed and furnished by the Borough.

B. No work shall be commenced by the applicant until the Foreman or Engineer has approved the application and the permit has been issued, other than under those exceptions set forth in §21-102, above, which pertain to emergency work. By the filing of the application for a permit, the applicant agrees that he shall perform the work in accordance with the terms of this Part, the permit, as issued, and all applicable laws and regulations pertaining thereto and that he shall be bound, in all respects, by the terms and conditions of this Part.

C. If not set forth on the application form itself, the applicant shall file three copies of all plans which show the extent of the work for which the permit is being requested. Such plans shall include all appropriate dimensions and other information which may be required by the Foreman or Engineer.

D. Pay to the Borough, at the time of filing of the application, such fees for the permit as set forth below as may be amended or added from time to time, by resolution of the Borough.

(1) Application fee—\$35.

(2) Degradation fee—

(a) Less than 1 year—\$30 square yard.

(b) 1 to 2 years—\$25 square yard.

(c) 3 to 5 years—\$20 square yard.

(d) 5 to 7 years—\$10 square yard.

(3) Inspection fees—actual cost of fees of Borough Engineer or other consultant.

E. Furnish such certificates of insurance as are required by §21-106, below.

F. Post the permit bond as required by §21-107, below.

G. Present evidence, if requested by the Foreman or Engineer, that all material, labor and/or equipment necessary to accomplish the work are available to the applicant.

H. A copy of the permit shall, at all times while the work is in progress, be available at the site of the work and it shall be produced, upon demand, to any authorized representative of the Borough.

I. Agree, by the filing of his application, to save the Borough, its elected and appointed officials, officers, employees and agents harmless and to indemnify all, or any of them, from any and all claims, damages, suits, liabilities and costs which may arise, or be claimed to arise, by reason of the work, either as authorized or as actually undertaken by the permittee. The issuance of a permit, or the doing of any

work provided for by this Part, shall constitute the agreement, by the person doing the work, to the provisions of this subsection, irrespective of whether same is expressed elsewhere.

(*Ord. 395, 11/12/2012, §I*)

**§21-104. General Specifications for Roadway Occupancy.**

1. No excavation in any roadway shall extend beyond the centerline of such roadway until the surface of the initial excavation is restored to a condition which shall provide safe and convenient access for pedestrian and vehicular traffic. At no time will the improved part of a roadway be completely closed to vehicular or pedestrian traffic, unless such closing is authorized, in advance and in writing, by the Foreman or Engineer.

2. No more than 200 feet, measured longitudinally, of any roadway shall be opened in any roadway until such time as the previously opened surface of the roadway is restored to a safe and convenient condition for vehicular or pedestrian traffic unless such opening is authorized, in writing, by the Foreman or Engineer.

3. No excavation shall be made, or attempted, if it shall or may interfere with any utility lines or other underground facilities, unless the permittee has first secured the permission of the owners of all such facilities.

4. The permittee shall locate all underground facilities, including sanitary sewers, storm sewers, gas lines, water lines, telephone and electrical conduits and all other underground facilities, sufficiently in advance of the commencement of the work in order that damage to any such facilities be avoided, as well as to permit their relocation, if necessary. The permittee shall also comply with all the utility notification requirements of applicable law.

5. If an underground facility is damaged by the permittee, such damage shall be repaired and/or restored by the permittee, as necessary and in accordance with the directions of the owner of the facility.

6. No monument of granite, concrete, iron, steel, brass or other lasting material shall be removed or disturbed, or caused to be removed or disturbed, without the permittee first obtaining permission, in writing, from the Foreman or Engineer to do so, in which case the permittee shall pay the Borough for all its expenses necessary and incidental to all replacements of such monuments by the Borough.

7. If a permittee shall cause any earth, sand, gravel, rock, stone or other material to be either deposited upon or caused to roll, flow or wash onto any roadway and there is thereby created a nuisance or a danger to the public health and safety, the permittee shall cause all such material to be promptly removed from the roadway. In the event any such material is not removed within 8 hours after notification to the permittee by the Foreman or Engineer to do so, the Borough may then take all steps necessary to accomplish such removal, the costs of the removal to be paid to the Borough by the permittee.

8. The permittee shall place all such barriers, barricades, lights, warning flags, danger signs and other safety devices around the work area as are reasonably necessary to protect the health and safety of the public. All such safety requirements and precautionary measures shall be based upon and conform, as applicable, to the requirements set forth in Publication 408, Pennsylvania Department of Transportation,

latest edition and PennDOT Publication 213, "Temporary Traffic Controls Guidelines." The permittee shall also comply with any traffic control plan which forms part of the permit. In the event the permittee fails to comply with the provision of this subsection, the Borough may take the necessary steps to compel compliance, all costs incurred Borough in so doing shall be paid to it by the permittee.

9. At all times while the work is in progress and prior to its completion, the permittee shall maintain safe crossings for pedestrian and vehicular traffic at all roadway intersections and, in addition, safe crossings for pedestrians at intervals of not more than 300 feet. Two lanes of traffic shall, where possible, be kept open at all intersections by the installation of covering steel plates. All such steel plates shall be firmly secured and, where appropriate, imbedded in bituminous material so as to withstand the normal flow of traffic. If the size and character of the excavation makes it impractical to use steel plates, the permittee shall so advise the Foreman or Engineer at the time the application for the permit is filed and the work shall not commence until the Foreman or Engineer consents to the omission of the steel plates.

10. The permittee shall maintain vehicular access to all private driveways, except during working hours when construction operations prohibit such access, the owner of any driveway which is affected to be notified of such nonaccess, by the permittee, prior to the commencement of the specific work. The permittee shall also insure that there is free access, at all times, to the fire hydrants in the area covered by the scope of the work.

11. All excavated material shall be placed compactly along the side of the trench so as to cause as little inconvenience and danger as possible to vehicular and pedestrian traffic. When the Foreman or Engineer deems it necessary, it order to expedite the flow of traffic or to abate a dirt or dust nuisance, containment measures shall be taken by the permittee to prevent the spread of excavated material into traffic lanes. Temporary wooden plank walks shall be installed where pedestrian traffic in the excavated area may cause inconvenience to such pedestrians. If the roadway is not sufficiently wide to hold excavated material, the permittee may use up to one-half the width of the sidewalk along the sidewalk line for such material, the remainder of the sidewalk to be kept open for pedestrian traffic. No excavated material shall be permitted to enter any stormwater inlet or sanitary sewer.

12. The Foreman or Engineer may, in addition to the conditions set forth herein, impose such other conditions upon the issuance of the permit as may be reasonably necessary to protect the health and safety of the public during the course of the work. (*Ord. 395, 11/12/2012, §I*)

#### **§21-105. Pavement Cuts, Backfilling and Restoration.**

1. All excavations shall be backfilled with dry, compactable material in accordance with PennDOT specifications, Publication 408, latest edition, and such material shall be thoroughly compacted by proper tamping. The surface of the excavated area shall be restored to its original or equal condition, unless permittee is authorized, by the Foreman or Engineer, to the contrary.

2. Existing pavement which is removed in the course of the work shall be removed for a distance of at least 1 foot beyond the outer limits of the subgrade that is disturbed, this in order to prevent settlement, the face of the remaining pavement to be

approximately vertical. A concrete saw shall be used for all concrete pavement cuts and asphalt paving shall be scored or otherwise cut in a straight line.

3. An applicant shall set forth, in detail on the application, all tunneling or boring which is contemplated under a roadway.

4. In the event any work performed by a permittee is deemed unsatisfactory, in the opinion of the Foreman or Engineer, and if such unsatisfactory work is not corrected in accordance with the instruction of the Foreman or Engineer or, if the work is not completed within the time specified in the permit, or any extension of time thereof, the Borough may proceed to correct such unsatisfactory work or complete any uncompleted work, all costs thereby incurred by the Borough to be billed to and promptly paid by the permittee or through the permittee's bond, provided further that the Borough, in addition to any other remedy that may possess, proceed in assumpsit against the permittee or contractor, or may proceed against the property in a proper case to collect any costs incurred by the Borough, along with attorney fees and court costs and interest at 6 percent per annum.

5. All backfilling, as well as all other work, shall be accomplished by the permittee with due diligence so that no roadway is obstructed to a greater extent or for a longer period of time than is actually necessary. If the work is not prosecuted with due diligence or, in the opinion of the Foreman or Engineer, it does not comply with the terms of this Part, the permit or sound engineering practices, the Foreman or Engineer shall so notify the permittee and the permittee shall then be required, within 3 days from his receipt of such notice, to proceed to complete the work or correct any deficiency in the work. If the permittee does not comply with the terms of this notice, the Borough may then proceed against the permittee who has not complied with all the requirements of this Part relative to any prior permits issued to him, the Foreman or the Engineer to be the judge of such noncompliance.

6. The Foreman or Engineer shall have the right to inspect all the work and is also authorized to secure such outside inspection services as may, in his judgment, be necessary in order to ensure compliance by the permittee with the provisions of this Part and the permit.

7. Should settlement of a restored area of the work occur within a period of 1 year from the date of completion of the permanent restoration by the permittee, such settlement shall be considered conclusive evidence of defective work and the Borough may then take all action necessary to correct the condition, the cost of such corrective action to be paid the permittee or through the permittee bond.

8. The Borough shall not, in any way, be responsible for any part of the work which is either omitted or improperly done by the permittee, and no officer or employee of the Borough is authorized to assume any jurisdiction of or responsibility for such part of the work, except when same becomes necessary in the exercise of the police power of the Borough in order to protect the public health and safety.

9. If, in the judgment of the Foreman or Engineer, traffic conditions or the public health, safety or convenience require that any part of the work be performed as emergency work, the Foreman shall have the authority to require that the permittee provide sufficient labor, material and facilities on a 24-hour basis to complete that part of the work as soon as possible.

10. The construction standards and details set forth in Appendix 21-1-A hereto

must be followed unless the Borough Engineer approves a variance from the same.  
(*Ord. 395, 11/12/2012, §I*)

**§21-106. Insurance.**

The applicant shall provide a certificate of insurance to the Borough, as part of its application for the permit, same to reflect that the contractor, subcontractor or any other entity who shall actually perform the work under the permit is insured against all claims for bodily injury, including death, as well as all claims for property damage, any of which may arise out of its performance of the work. This insurance shall include completed operations and underground coverages and it shall name the Borough as an additional insured. The Foreman or Engineer may require increased limits in the insurance coverage based upon the nature and extent of the work; however, the minimum limits for bodily injury, including death, shall be \$500,000 for each person and \$1,000,000 for each occurrence and a minimum of \$250,000 for property damage for each occurrence.

(*Ord. 395, 11/12/2012, §I*)

**§21-107. Permit Bond.**

1. *Requirements.* Each applicant shall provide the Borough, prior to issuance of the permit, with a permit bond to guarantee full performance of the work authorized by the permit, the form of the bond to be substantially that supplied to the Borough. The amount of the bond shall equal the cost to complete the work, as estimated by the Foreman or Engineer, including a maintenance bond guaranteeing the work for a period of 1 year from the date of its completion but, in no event, shall any such bond be in an amount less than \$1,000. All such bonds shall have, as collateral thereto, either a cashier's check payable to the Borough or a corporate surety acceptable to the Borough. The Foreman or Engineer may, in the event that multiple permits are to be issued to the same permittee, permit the applicant to furnish one bond which shall be in such amount and subject to such terms as the Foreman or Engineer deems necessary to cover all the work to be done by the applicant under all such permits.

2. *Default.* In the event the Foreman or Engineer determines that there has been a default in the performance of the work, it shall give written notice of the default to the permittee and its corporate surety, if any, on the bond. The notice shall state the action which is to be taken to correct the default, the estimated cost of correction and the time deemed reasonably necessary for its completion. If a notice of default is issued to a permittee, the Borough may condition issuance of future road opening permits to such permittee upon submission of cash security or a letter of credit in place of the bond required herein, and may deny issuance of a permit in a case where timely correction of a default is not undertaken.

3. *Correction of Default.* In the event that, after receipt of the notice of default, the default shall not be corrected by the permittee within 5 days, then, in the case of a corporate surety, the surety shall be required, within the time specified, to either cause the required corrections be made or, in the alternative, pay over to the Borough a sum equal to the estimated cost determined by the Foreman or Engineer for the making of the corrections. Upon receipt of such funds, the Foreman or Engineer shall then proceed to have the work completed; however, no liability shall be incurred by the Borough as

a result of any such action taken by it, other than its responsibility to see to the proper expenditure of any funds so received by it.

4. *Forfeiture of Cash Bond.* Should the permittee have posted a cashier's check, as collateral to the bond, the Borough shall have the right, either following or in the course of its completion of the work, to use such portion of the funds represented by said check as are necessary to pay all costs and expenses incurred by it, any part of such funds remaining thereafter to be returned to the permittee.

5. *Term.* The effective term of a bond shall commence on the date of issuance of the permit and it shall continue, in full force and effect, until a date 1 year from the date of approval of the final restoration of the work by the Foreman or Engineer.

6. *Annual Bond for Utilities.* Public utilities may be required or permitted to post an annual bond with the Borough, at the discretion of the Foreman or Engineer. The form and amount of the annual bond shall be determined by the Engineer or Foreman based on the amount, nature and frequency of road openings and the permittee's prior experience, if any.

(Ord. 395, 11/12/2012, §I)

#### **§21-108. Notice to Property Owners.**

If, in the opinion of the Foreman or Engineer, the work to be undertaken is such that it will affect any property which abuts or adjoins the area of the work, the Foreman or Engineer may require the permittee to give notice of the same to the owners and/or tenants of each such affected property. In the case of disruption to electric, gas, phone, water or cable services, the permittee will inform the Borough Emergency Management Coordinator, the Foreman and the Borough Engineer of the expected commencement and length of such disruption, such notice to be given at a time not earlier than 48 hours and not later than 24 hours before the disruption begins. Absent such notice, no disruption of said services may commence, without approval of the Borough Engineer or Foreman.

(Ord. 395, 11/12/2012, §I)

#### **§21-109. Police and Fire Department.**

The permittee shall provide the police and fire departments operating within the Borough with a copy of any permit which prohibits or restricts the flow of traffic on any roadway and the permittee shall be responsible for coordination between itself and the police and fire departments in order that the public safety be protected during the course of the work.

(Ord. 395, 11/12/2012, §I)

#### **§21-110. Penalties.**

Any person, partnership, firm, corporation or any other entity which shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000; and/or to suffer imprisonment for a term not to exceed 90 days. Each day that any violation of any provision of this part continues shall constitute a separate offense.

(Ord. 395, 11/12/2012, §I)

## **Appendix 21-1-A**

### **Construction Standards and Details**

#### **BITUMINOUS CONCRETE**

- A. This item shall include a bituminous binder course for leveling and obtaining the proper profile. The bituminous binder shall be 4" of compacted Superpave bituminous binder course. The bituminous binder course shall be applied in accordance with PennDOT Publication 408, Specifications. See attached Detail #1 ("Bituminous Street Opening Repair Detail") for additional requirements and details.
- B. The Contractor must have the proposed bituminous binder course mixes approved by PennDOT, prior to starting the work.
- C. Prior to placement of any of the above asphalt materials, job mix formula reports shall be submitted to the Engineer or his representative and asphalt cement bill of lading tickets shall be required during placement.
- D. During the placement of the material, compaction density testing shall be completed by the Permittee, in accordance with PennDOT specifications and the results submitted to the Inspector on a daily basis.

#### **ROADWAY PAVEMENT RESTORATION**

- A. After placing and compacting any stone base courses, place (except as noted in Paragraph B below) a 4" binder course and then tack coat all pavement edges and place a 1 ½ " top course layer. Each layer shall be raked and checked with a straight edge and then compacted with a steel wheeled roller. For areas in accessible to the roller, a vibrating plate tamper will be used.
- B. Wherever saw-cut lines are damaged during excavation or backfilling, they shall be re-done by and at the Permittee's expense to remove the damaged area prior to the restoration of the pavement.
- C. The following attached details shall be used for the appropriate street restoration:
  - 1. Detail 1 for Bituminous Paved Streets
  - 2. Detail 2 for Trench Restoration

## **SIDEWALK RESTORATION**

- A. Any sidewalk requiring repair or restoration shall be replaced to match the existing type sidewalk.
- B. All sidewalk repair work shall comply with applicable requirements for handicap accessibility in accordance with the Americans with Disabilities Act (ADA) and ANSI 117.1-1986.

## **CURB RESTORATION**

- A. Restore the asphalt curb to match the adjoining curb size and shape.
- B. Provide a 6" curb reveal for all replacement curb.
- C. The curb shall have a foundation equal to the road base 12" wide 2" thick asphalt base to fully support the asphalt curb. Prior to placing the curb, the foundation course shall be thoroughly cleaned of all foreign and objectionable material. String or chalk lines shall be positioned on the prepared base to provide guidelines. The foundation shall be uniformly painted with tack coat as specified under Standard Specifications, Section 410 – Bituminous Surface Treatment.
- D. The curb shall be placed by an approved power operated extruding type machine using the shape mold called for. A tight bond shall be obtained between the base and the curb. The Engineer may permit the placing of curbing by other than the mechanical curb placing machines when short sections or sections with short radii are required. The resulting curbing shall conform in all respects to the curbing produced by the machine.
- E. Curb may be accepted or rejected on the basis of appearance in regard to texture, alignment or both. All damaged curb shall be removed and replaced at the Permittee's expense.

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**Part 2****Sidewalks****§21-201. Borough to Establish Standards.**

Whenever it shall be determined proper and necessary by the Council of the Borough of Thornburg that sidewalks shall be constructed and paved along the public highway of the Borough, the Council shall by ordinance lay out and fix the grade of said sidewalks.

*(Ord. 332, 6/10/1991)*

**§21-202. Written Notice.**

Upon the enactment of such ordinance, the Ordinance Officer of the Borough shall serve written notice upon the owners of property abutting on said public highways, requiring them to construct and pave such sidewalks within 90 days from the date of such notice. The sidewalk shall be constructed in the manner and under the specifications as hereinafter set forth.

*(Ord. 332, 6/10/1991)*

**§21-203. Repair of Existing Sidewalks.**

From and after the passage of this Part, all existing sidewalks within the Borough found to be defective or in need of repaving or repairs shall be repaved and/or repaired by the owners of the lots fronting or abutting thereon, after receipt of and in accordance with the terms of a notice to be issued and served as hereinafter set forth.

*(Ord. 332, 6/10/1991)*

**§21-204. Determination of Sidewalks Needing Repair.**

An existing sidewalk shall be deemed defective and/or in need of replacement, repaving or repair whenever, by reason of being uneven, cracked, broken or otherwise defective, such sidewalk becomes hazardous or presents a danger or risk in use by a pedestrian while walking or jogging and/or in the normal use of sidewalks with tricycles, baby strollers and the like.

*(Ord. 332, 6/10/1991)*

**§21-205. Determination by Ordinance Officer and Borough Engineer.**

The need for and the type of repairs or repaving to be made to existing sidewalks under the provisions of this Part shall be determined by the Ordinance Officer and the Borough Engineer appointed from time to time by the Borough of Thornburg.

*(Ord. 332, 6/10/1991)*

**§21-206. Inspections.**

The Ordinance Officer of the Borough of Thornburg shall make periodic, but at least annual, inspections of all existing sidewalks in the Borough of Thornburg.

*(Ord. 332, 6/10/1991)*

**§21-207. Type and Extent of Repairs.**

Upon determination of the need for repaving or repairs to existing sidewalks, the Ordinance Officer shall give notice of the type and extent of the sidewalks repairs and/or repaving required under the provisions of this Part. Such notice shall be served upon the owner of the property abutting the defective sidewalk. All repaving or repairs required shall be completed within 60 days of the date of the notice.

*(Ord. 332, 6/10/1991)*

**§21-208. Service of Notice.**

In the event that the owner of the property is a resident at the property, service of the notice shall be made to the owner at the property. In the event that the owner is not a resident, then notice shall be served upon the tenant or occupant of the property.

*(Ord. 332, 6/10/1991)*

**§21-209. Contents of Notice.**

Notice to be served under the provisions of this Part by the Ordinance Officer shall set forth the defects found, the type and extent of the repairs required and that such repairs must be completed within 60 days of the date of the notice.

*(Ord. 332, 6/10/1991)*

**§21-210. Appeals.**

In the event that the owner of the premises for which a defective sidewalk notice has been given desires to contest the determination of the Ordinance Officer that the sidewalk is defective, such owner shall have a right within 5 days to appeal such determination to the Borough Engineer. The Borough Engineer, after personal inspection, shall within 7 days of the date of any such appeal make a determination of approval or disapproval of the finding of the Ordinance Officer and shall note his/her determination by endorsement on a copy of the initial notice with notification thereof to the owner by mail.

*(Ord. 332, 6/10/1991)*

**§21-211. Collection of Costs; Additional Penalties.**

The failure of the owner of the property to comply with the provisions of any notice served under the provisions of this Part within a period of 60 days shall be considered a violation of this Part, and the Borough shall have the right to have the repairs and repaving required under the notice to be done at the cost of such owner and shall thereafter collect the cost thereof, together with 10 percent. The provisions of this Section shall not be considered exclusive, and the Borough, in addition, may proceed for the violation of this Part as hereinafter provided.

*(Ord. 332, 6/10/1991)*

**§21-212. Municipal Claim and Lien.**

The cost and charges together with penalties shall be collected from the owner either by the filing of a municipal claim and lien therefor in accordance with law or by civil action for the collection of the same. A certificate as to cost, expenses and penalties

of the Borough Secretary shall be conclusive as to the costs of such repairs and repaving.

*(Ord. 332, 6/10/1991)*

**§21-213. Proposals; Sealed Bids.**

In lieu of the procedure set forth above, the Borough may prepare specifications for and obtain quotations by way of competitive proposals or sealed bids, as required by law, for the installation, repaving, repair or replacement of sidewalks required under the provisions of this Part. Such proposals and/or bids may be received and contracts let for work thereunder by the Borough Council after notice to all affected owners of property that the Borough intends to undertake such work and shall, in lieu of assessment for failure to perform such work by owner or owners of property, apportion the cost of such contract or contracts to each property owner in the proportion that the cost of such work on each owner's property bears to the entire cost of such contract or contracts. If any property owner fails to respond to such notice or refuses to participate in the owner's proportionate cost of such contract or contracts, the sidewalks situated on such owner's property shall be installed, repaved, repaired or replaced and costs assessed in accordance with other sections of this Part.

*(Ord. 332, 6/10/1991)*

**§21-214. Tampering Without Permit Prohibited.**

It shall be unlawful for any person to tear up, destroy, remove, deface, excavate, install, repair or repave any sidewalk along the public highway of the Borough, whether after notice by the Borough to make repairs or repaving or otherwise, except in accordance with a sidewalk permit duly issued by the Ordinance Officer after written application to him.

*(Ord. 332, 6/10/1991)*

**§21-215. Repairs to Be in Accordance with Specifications.**

The installation, repaving, repair or replacement of sidewalks required under the provisions of this Part shall be installed, completed and done in accordance with specifications prepared by the Borough Engineer and accepted by Borough Council.

*(Ord. 332, 6/10/1991)*

**§21-216. Grading.**

Whenever any sidewalk is to be installed or repaved under the provisions of this Part at an intersection, and it is determined necessary and in the best interest of the Borough of Thornburg for the benefit of commerce or the use by the handicapped, then, in that event, the repaving or installation required under this Part shall include the gradual grading of concrete from the established grade of the sidewalk to street level upon plans and specifications prepared by the Borough Engineer.

*(Ord. 332, 6/10/1991)*

**§21-217. Dangerous Conditions; Emergency Repairs.**

Notwithstanding the foregoing, when, in the opinion of the Borough Engineer, a

dangerous condition exists on any sidewalk within the Borough of Thornburg which has an immediate effect upon the safety or public welfare of the Borough and such dangerous condition can be repaired by an expenditure of not more than \$500, a notice to make such repairs within 48 hours shall be served upon the owner of the property abutting or fronting upon the defective sidewalk in the manner hereinabove set forth. In the event that such emergency repairs are not made within 48 hours, the Borough shall have the right to make such repairs and charge the costs thereof against the owner of the property, which charge shall be collected in the manner herein set forth. (*Ord. 332, 6/10/1991*)

**§21-218. Violations and Penalties.**

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

(*Ord. 332, 6/10/1991; as amended by Ord. 357, 12/13/1996, §96-24; and by Ord. 387, 12/14/2009*)