

CHAPTER 21

STREETS AND SIDEWALKS

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Part 1

Excavations in Streets

§101. Permit Required; Definitions.

A. No opening or excavation in any street of the Borough of Nazareth may be conducted without a permit being first obtained from the Borough.

B. Definitions. As used in this Part, the following terms shall have meanings stated:

1. *Borough Representative* shall mean any firm or individual designated by the Borough to manage, supervise and inspect street openings or excavations and restorations as set forth in this Part; generally, the Borough Superintendent of Public Works or the Borough Engineer, or their respective designees.

2. *Person* shall mean any natural person, partnership, firm, corporation, or similar entity.

3. *Street* shall mean any ordained public street, avenue, road, alley, highway or other public place located in the Borough and established for the use of vehicles.

§102. Permit Details.

A. The only exceptions to the permit requirement shall be the following:

1. Private Streets (or Right-of-Way). Openings or excavations in a private street or right-of-way; however, if the opening or excavation is not being constructed by the owner of the private street or right-of-way, or their agent, then written authorization shall be obtained from said owner.

2. State Routes. Openings or excavations in a state route; however, any openings or excavations in a state route shall be subject to authorization by the Pennsylvania Department of Transportation.

3. Land Development. Openings or excavations that are part of a land development plan duly approved by the Borough of Nazareth.

4. Emergency. In the event of an emergency, a permit application must be submitted to the Borough within 15 calendar days after the start of any work. Documentation must be provided to describe and substantiate the emergency. The Person conducting the emergency street excavation is still subject to all other requirements of this Part including, but not limited to, backfilling and surface restoration and all applicable fees.

B. Applications for permits shall be submitted to the Borough Administrative Office, in writing, using a blank form furnished for that purpose by the Borough and shall contain the following minimum information:

1. the purpose for which the street is to be opened or excavated;

2. the specific location of the proposed work;

3. the estimated dimensions and area of the proposed opening or excavation; and

4. the dates when the proposed work will occur (if a permit is issued, any subsequent changes to the work dates listed on the permit application must be approved in advance by the Borough Representative).

C. Permit Fees. Permit Fees shall be as established by resolution of Borough Council and may include, but shall not be limited to, the following: application fee, inspection fee, and degradation fee. All permit applicants shall submit payment of the applicable Permit Fees to the Borough Administrative Office. The Borough will not issue a permit until all Permit fees are paid. The application fee portion of the Permit Fees shall be nonrefundable.

D. Issuance of Permit; Denial; Appeal.

1. Upon receipt of a permit application it shall be reviewed by the Borough Representative. Within 30 days after receipt of a permit application, the Borough Representative shall approve the application and issue a permit, provided the proposed construction conforms with the laws of the Borough. If the proposed construction does not conform with the laws of the Borough, or if upon reasonable investigation and knowledge of fact the Borough Representative determines that the proposed construction would constitute a traffic hazard or pedestrian hazard, the application shall be denied by written notice, setting forth the reasons for denial. Notice of the denial shall be sent to the applicant by certified mail.

2. Upon receipt of notice denying the issuance of a permit, any property owner or person adversely affected, may appeal the Borough Representative's decision within 30 days by written application to the Borough Council through its Public Works Committee. The Committee shall make inquiry into the causes for denial, shall afford all parties an opportunity to be heard and shall subpoena witnesses and administer oaths. Said hearing shall be held not later than 30 days after the receipt of the application of appeal. The Committee's written decision shall be rendered not later than 30 days thereafter, which decision shall be final. Any person aggrieved by the decision of the Committee shall have the right of appeal to the Court of Common Pleas of Northampton County, Pennsylvania.

§103. Responsibility of Permit Holder. The person to whom a permit is issued ("Permittee") shall assume all responsibility for any opening or excavation made and for backfilling or restoring the same, and for all damages that may arise by reason of the opening or excavation and backfilling or restoration of same.

§104. Street Excavation.

A. The Permittee shall be solely responsible for the excavation and complete restoration of any street opening or excavation as required by this Part and all other applicable Borough Codes or Regulations.

B. The Permittee shall contact the Borough Representative prior to the start of any excavation work. The Borough Representative shall generally supervise the excavation work to ensure the Permittee is in compliance with this Part and all other applicable Borough Codes or Regulations.

C. The Permittee shall be solely responsible for Act 287 ("PA One-Call") compliance prior to excavation.

D. All excess excavated material shall be promptly removed from the excavation site by the Permittee.

E. No opening or excavation in any travel lane shall extend a distance greater than one (1) foot beyond the centerline of the street before being refilled and restored in accordance with Section 106.

§105. Limitation of Excavation of New Pavement; Degradation Fee.

New paving shall not be opened or excavated for a period of five (5) years after the completion thereof, except in case of emergency. If a Permit Applicant seeks to excavate or open a street within five (5) years after completion of the new paving for any other reason than an emergency, the application, in addition

to the permit fees required in Section 102(C), except as stated in subsection 106(D)(3) below, shall be subject to a Degradation Fee as shall be as established, from time to time, by resolution of Borough Council.

§106. Backfilling and Surface Restoration.

A. No restoration work, including backfilling and surface restoration, shall commence without the Permittee first notifying the Borough Representative. All backfilling and surface restoration shall be made subject to inspection and final approval by the Borough Representative or his designee.

B. Prior to final restoration, all surface edges of the excavated opening shall be cut with a concrete saw or similar device to provide straight edges/lines for proper restoration.

C. Trench Restoration and Backfilling. Trench restoration and backfilling of excavations shall be completed by the Permittee as follows:

1. After an initial base layer of screenings over any pipe or valve that may be present, trenches or excavations shall be backfilled in 8" lifts with compacted Type 2A aggregate to within three (3) inches of the street surface. No macadam, concrete or bituminous pieces shall be used for backfill. At the street surface, trenches or excavations shall be filled with three (3) inches of temporary bituminous patch material (25mm Superpave or as otherwise approved by the Borough Representative).

2. After ninety (90) days, as determined by the Borough Representative, the Permittee shall remove the temporary bituminous patch and the necessary stone to six and one-half (6.5) inches below the existing street surface. The Permittee shall place five (5) inches of bituminous concrete base course and one and one-half (1.5) inches of ID-2 bituminous concrete. All edges of the trenches shall be sealed with PG64-22 asphalt.

D. Pavement Surfacing Restoration. Pavement surface restoration shall be completed by the Permittee as the following conditions occur:

1. When a longitudinal opening of fifty (50) feet or longer has been made in the pavement, the Permittee shall mill and overlay the full travel lane in which the opening was made from a point ten (10) feet prior to the opening and a point ten (10) feet beyond the opposite edge of the opening. A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required.

2. When two or more transverse openings within one hundred (100) feet of each other have been made in the pavement, the Permittee shall mill and overlay the full travel lane in which the openings were made the full distance between a point ten (10) feet prior to the first opening and a point ten (10) feet beyond the opposite edge of the final opening. A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required.

3. When a longitudinal opening of fifty 50 feet or longer or when two or more transverse openings within one hundred (100) feet of each other are made in a street that was resurfaced within the previous five (5) years, the Permittee shall mill and overlay the full travel lane of the street for the entire block (the distance between intersecting streets). A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required. A Degradation Fee, as established in Section 105 above, shall not apply, or shall be refunded if previously collected, if the Permittee completes resurfacing as detailed in this subsection 106(D)(3).

E. In the event an overlay is required, Permittee's overlay work shall include, but not be limited to, full width milling or gutter milling along curbs (as approved by the Borough), milling for paving notches, the placement of tack coat, sealing all joints and replacing pavement markings. Lids on all utilities shall be raised to the finish grade.

F. Surface restoration shall be completed with "like materials" i.e. if the surface of the excavated street consists of cement and bituminous concrete, the surface restoration shall be completed with cement and bituminous concrete.

G. All work shall be performed in accordance with the most current version of Pennsylvania Department of Transportation Form 408 standards.

§107. Tunneling-Missile Restricted. Except for missiles of 2.5" or less, no part of a trench or excavation shall be tunneled, missiled or undermined so as to leave the surface undisturbed without the express approval of the Borough Representative. The backfilling and restoration of any such work shall be completed only in the presence of the Borough Representative.

§108. Protective Measures; Road Closure Restrictions.

A. The Permittee shall be responsible to ensure that any openings or excavations made in the streets are adequately protected. All traffic control devices, including barricades, traffic cones, signage, flaggers and any other temporary devices, shall be provided by the Permittee through the duration of the work. Traffic controls shall be provided in accordance with the following standards:

1. Commonwealth of Pennsylvania Department of Transportation Publication No. 213, "Temporary Traffic Control Guidelines."

2. Supplemental instructions given by the Borough.

B. If road closures are anticipated during the excavation, backfilling or restoration work, the Permittee shall notify the Borough Representative and the appropriate Northampton County authorities (so emergency services are notified) in advance of any such closure.

C. Except where specifically authorized in advance by the Borough Representative, all closed or partially closed streets shall be fully reopened to traffic at the end of each workday. The use of steel plates as temporary covers for openings or excavations is permitted. Bituminous material must be installed as a transition between the existing paved surface and the steel plate.

D. Days and Hours for Work. Except in the case of an emergency, all work related to excavations or openings shall be restricted to certain days and hours, as follows:

1. Weekdays (Monday through Friday), beginning at 7:00 a.m. and concluding no later than 5:00 p.m. each day.

2. Saturdays, only when authorized in advance by the Borough Representative, beginning at 8:00 a.m. and concluding no later than 5:00 p.m. each day.

3. Work is prohibited on Sundays and on any legal holidays recognized by the Borough.

§109. Penalties; Abatement.

A. Any person who violates any provision of this Part shall, upon conviction in a summary proceeding before a District Magistrate, be sentenced to pay a fine not exceeding one thousand dollars (\$1000.00) and costs of prosecution 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.

B. In addition to the above penalty, the Borough may proceed in manner and form provided by law to abate as a public nuisance any construction or proposed construction in violation of this Part or other applicable Borough Codes or Regulations.

§110. Repealer.

Any Ordinance or part of an Ordinance conflicting with the provisions of this Part shall be and is hereby repealed to the extent of such conflict. Except only as amended, modified and changed by this ordinance, the Code of Ordinances of the Borough of Nazareth as codified and amended shall remain in all other respects in full force and effect.

(Ord. 265, 6/7/1954, §11; as amended by Ord. 358, 7/3/1967, §2; by Ord. 492, 11/2/1981, §11; by Ord. 565, 8/1/1988; by Ord. 595, 10/7/1991; by Ord. 776, 12/5/2011; and as amended by Ord. 849, 6/3/2019)

Part 2

Sidewalk and Curb Construction and Repair

§201. Property Owner to Construct, Reconstruct or Repair Sidewalks and Curbing on Notice; Time Limit to Complete Work. It shall be the duty of every owner of real estate in the Borough of Nazareth, upon thirty (30) days' notice from the Borough Engineer, to construct or reconstruct a sidewalk or curb in front of or alongside such property, and upon five (5) days notice, to repair the sidewalk or curb in front of or alongside such property. All work must be completed within sixty (60) days of receipt of notice. (Ord. 377, 7/3/1967, §1; as amended by Ord. 481, 9/2/1980, §1)

§202. Sidewalk, Curb, Gutter and Driveway Specifications.

1. Line and Grade. Line and grade for all sidewalks curbs, gutters and driveway entrances shall be provided by the Borough Engineer, and installation shall be made within thirty (30) days after same has been given. The Borough Engineer will inspect the work and provide a certificate of approval upon completion. Standard details for curbs and sidewalks may be obtained from the Borough.

2. Curbing. All curbing shall be eight (8) inches in thickness at the bottom and six (6) inches in thickness at the top, and have a seven (7) inch reveal, where possible, measured from the top of the finished curb to the top of the finished gutter or street, and shall have a minimum overall height of twenty-four (24) inches. Forms shall be removed before the concrete has hardened, and the front and top of the curbing floated to a uniform surface with all voids filled. The top edge shall be rounded to a one-half (1/2) inch radius. Minimum mix shall be one (1) part cement, two (2) parts sand and four (4) parts stone by volume.

3. Gutters. All gutters shall be two (2) feet wide measured from the face of curb, and have a pitch of one and one-half (1-1/2) inches rising from the face of the curb, shall be four (4) inches thick and of the mix used for curbing.

4. Sidewalks. Sidewalks shall be laid on a previous foundation of not less than four (4) inches below the underside of the slab, and shall pitch one-fourth (1/4) inch per foot toward the curb. They shall be five (5) inches in thickness, except where private driveways cross; the thickness shall be six (6) inches. The surface of all sidewalks shall be roughened, and in no case shall the surface be smooth troweled. The mix shall be as required for curbing.

5. Driveways. Where private driveways cross curbing, a beveled notch ten (10) feet wide and four and one-half (4-1/2) inches deep shall be permitted, but where the sidewalk is adjacent to the curb, a smooth and gradual slope shall be provided so that a hazard will not exist.

6. Sections and Joints. Curbing and gutters shall be built in sections not exceeding ten (10) feet, and sidewalks in sections not exceeding thirty (30) feet, except where approved reinforcing is used. Joints shall be filled with an elastic joint filler of approved type. Scored joints, one-half (1/2) inch deep, shall be at five (5) feet intervals for sidewalks.

7. Width of Streets and Sidewalks. The following schedule shall determine widths:

<u>Right of Way</u>	<u>Sidewalk</u>	<u>Cart way</u>	<u>(each side)</u>	<u>Pavement</u>
80 feet		50 feet	15 feet	6 feet
60 feet		36 feet	12 feet	6 feet
50 feet		36 feet	7 feet	6 feet
40 feet		30 feet	5 feet	5 feet
30 feet		20 feet	5 feet	5 feet
20 feet		16 feet	2 feet	none

8. Curbing and New Construction. When line and grade is provided for new construction, sidewalks and curb shall be installed immediately. The Building Official shall not finally approve new construction where required sidewalk and curbing has not been installed. (Ord. 377, 7/3/1967, §2; as amended by Ord. 481, 9/2/1980, §2)

§203. Determination of Extent of Work Needed. It shall be the duty and responsibility of the Borough Engineer to determine, in the case of any individual property, whether or not the sidewalk shall be reconstructed or repaired, and if so, the specific part or parts thereof to be constructed or repaired. (Ord. 377, 7/3/1967, §3)

§204. Initiative of Property Owner to Construct, Reconstruct or Repair Sidewalk. Any property owner may, upon his own initiative and without notice from any Borough authority, construct, reconstruct or repair a sidewalk in front of or alongside his property, provided that he shall first have made application to the Borough Engineer for the line and grade and shall have conformed to all requirements of this and every other applicable ordinance as to width, location and specifications for such sidewalk. (Ord. 377, 7/3/1967, §4)

§205. Permits for Driveways. Any property owner who seeks to install a private driveway giving access to a Borough street through a curb line or sidewalk must first obtain a permit from the Code Enforcement Officer. The Code Enforcement Officer shall refer each application for a permit to the Traffic Sergeant for review in conjunction with the Borough Engineer, to determine whether traffic safety or other conditions affecting the general welfare of the Borough should preclude the issuance of a permit. In the event that the Traffic Sergeant determines that a permit should not be issued, the Code Enforcement Officer will so inform the applicant. The applicant may appeal an adverse decision to the Borough Council at the next regularly scheduled meeting. The fee for a driveway permit shall be in an amount as shall be established, from time to time, by resolution of Borough Council. Such permit shall be issued or denied within ten (10) working days of the Code Enforcement Officer's receipt of the application by the property owner. (Ord. 377, 7/3/1967, §6; as amended by Ord. 481, 9/2/1980, §5; and by Ord. 502, 11/1/1982; and by Ord. 595, 10/7/1991)

§206. Excavation Permits Required. It shall be unlawful for any property owner to excavate, for the purpose of installing a sidewalk, curb, gutter or driveway, unless he shall have first obtained a permit from the Administrative Clerk. The fee for issuance of such permit shall be as established from time to time by resolution of Borough Council, and the applicant shall provide the Clerk with the following information:

- A. Exact location of the excavation.
- B. The contractor or parties doing the excavation work.
- C. The estimated time for completion of work.

(Ord. 481, 9/2/1980, §6; as amended by Ord. 595, 10/7/1991)

§207. Protective Measures. It shall be the duty of every person making an excavation to provide and maintain barriers and warning devices, which may be necessary for safety of the general public, to include protection for traffic, as well as pedestrians. Each person must obtain approval of the Traffic Sergeant for the protective measures and safety devices utilized in meeting the requirements of this Section. (Ord. 481, 9/2/1980, §7)

§208. Notice to Defaulting Property Owner; Borough May Do Work and Collect Costs. Upon failure or neglect of any property owner to comply with the notice sent pursuant to §201 of this Part, the Borough, by its Solicitor, shall give notice by certified mail to such property owner of his failure to do so, and further notify the property owner that the Borough may cause the necessary work to be done at the expense of said owner, and may file a lien thereon, together with all additional charges, expenses and penalties as authorized by law, or take such other steps permitted by law to collect said costs and charges. (Ord. 481, 9/2/1980, §8)

§209. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) 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. 481, 9/2/1980, §9; as amended by Ord. 565, 8/1/1988; and by Ord. 595, 10/7/1991)

Part 3

Snow and Ice Removal

§301. Responsibilities; Time Limit. The owner, occupant or tenant of every property fronting upon or alongside any street in the Borough of Nazareth is hereby required to remove or to cause to be removed from all of the sidewalks in front of or alongside such property all snow and ice thereon fallen or formed, within twenty-four (24) hours after the same shall have ceased to fall or to be formed. Provided, the owner of a property shall be responsible for conforming to the requirements of this Section where such property is occupied by such owner or is vacant or unoccupied or is a multiple-business or multiple-dwelling property, having more than one (1) business and/or dwelling unit; the tenant or occupier shall be responsible where the property is composed of a single unit, occupied by such tenant or occupier only. (Ord. 379, 7/3/1967, §1)

§302. Abatement by Borough. In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any of the provisions of §301, within the time limit prescribed therein, the Borough authorities may proceed immediately to clear all snow and/or ice from the sidewalk of such delinquent, and to collect the expenses of such removal with an additional amount of ten percent (10%) from such owner, occupant or tenant, which may be in addition to the penalty imposed under §304 hereof. (Ord. 379, 7/3/1967, §2)

§303. Snow and Ice Not to be Placed in Street or Gutter. It shall be unlawful for the owner, occupant or tenant of any property within the Borough to place, throw, dump or pile any snow or ice removed from such property (other than from the sidewalks abutting thereon) upon or into any sidewalk, curb, gutter, alley or street in the Borough, or to permit or cause the same to be done by any other person or persons, partnership, firm or corporation. It is hereby declared that removal and disposal of snow and ice from such property is neither directly nor indirectly a function or responsibility of the Borough government, and that, if the owner, occupant or tenant of any property shall desire or require that such snow and/or ice be removed from such property, it shall be the sole responsibility of such owner, occupant or tenant, as the case may be, to remove the same and to transport it to a place of disposal other than a sidewalk, curb, gutter, alley or street. (Ord. 379, 7/3/1967, §3)

§304. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and costs and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Provided, such fine and costs of prosecution may be in addition to the expenses, plus ten percent (10%), imposed as provided in §302 hereof. (Ord. 379, 7/3/1967, §4; as amended by Ord. 565, 8/1/1988; and by Ord. 595, 10/7/1991)

Part 4

Obstructions

§401. Findings and Purpose. The Borough Council of the Borough of Nazareth (“Borough”), Northampton County, Pennsylvania, is charged with the duty to protect and provide for the health, safety, and general welfare of the citizens of the Borough. The Borough Council finds in declares as follows:

1. Pursuant to 8 Pa. C.S. §1202(12), the Borough Council has the authority to prohibit obstructions on public sidewalks and pedestrian rights-of-way,

2. Obstructions on public sidewalks and pedestrian rights-of-way are a hazard to the public because they may, among other actions, cause a pedestrian to trip and fall or to walk in the street to avoid said obstruction.

§402. Definitions. The words and phrases as used in this Ordinance shall have the following meanings:

Borough: Borough of Nazareth, Northampton County, Pennsylvania.

Obstruction: An obstruction shall include, but not be limited to, structures, fixtures, objects, signs, equipment, racks, furniture, canopies, umbrellas, awnings, trees, plants, vehicles, refuse containers, or similar items.

Pedestrian Right-of-Way: A pedestrian right-of-way shall include, but not be limited to, all public sidewalks, pathways, footpaths, rights-of-way, or similar feature, whether improved or unimproved, which is located within the legal right-of-way line of the street. Where the limit of width of the public portion of the pedestrian right-of-way is in doubt, it shall consist of a minimum width of five (5) feet measured from the exterior edge of the street or curb-line.

Person: A person shall include any natural person, firm, partnership, association, corporation or organization of any kind.

§403. Obstructions Prohibited. No person shall install, erect, maintain, or permit any obstruction upon a pedestrian right-of-way in the Borough which might be an impediment or obstruction to pedestrian travel or that may interfere with the safe, free and full use thereof by the public or emergency personnel.

§404. Enforcement and Penalties. Enforcement and Penalties in response to any violation of this Part shall be administered under the Borough’s Quality of Life Ticketing Ordinance (Chapter 5, Part 3 of the Borough’s Code of Ordinances).

§405. Repealer. All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed.