

CHAPTER 21

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Part 1

Streets

§101. Permit Required to Excavate in Street or Alley; Fee and Deposit or Bond. No person or persons, partnership or corporation shall go upon the streets, alleys or highways within the Borough of Everett to make ditches, trenches or any manner of excavation for the purpose of laying or repairing any manner of water pipes, sewer pipes, electric, telegraph or telephone lines or other purposes, unless such person or persons, partnership or corporation shall first have procured from the Borough Council a permit, by paying a fee established from time to time by resolution and shall also have deposited with the Borough Secretary a sum equal to the prevailing price for replacement of the street surface to be disturbed, as security for refilling such ditch, trench or other excavation, and placing the street, alley or highway in as good condition as it was prior to the digging or excavation herein referred to. It shall be the duty of the Borough Secretary to pay such deposit over to the Borough Treasurer to be held by him until the Street Commissioner or Street Committee shall first have approved in writing the refilling of such ditch, trench or other excavation, when, if approved, such deposit, by proper order of the Borough Council, shall be refunded to the party making the same. Provided: in lieu of making such individual deposits, utilities may file a bond with the Borough in the amount fixed by the Borough Council. (Ord. 4/5/37, §1; as amended by Ord. 202, 4/7/69; and by Ord. 271, 6/8/1992)

§102. Use of Deposit. In the event that the refilling of said ditches, trenches of excavation is not approved by the Street Commissioner or Committee, then all or such part of said sum as may be necessary for placing said street, alley or highway in as good condition as before shall be forfeited for said purpose, and the balance, if any, refunded to the depositor. (Ord. 4/5/37, §2)

§103. Manner of Refilling and Resurfacing. When a trench is opened across any street or alley, all precautions must be taken that may be necessary in the matter of refilling the trench so as to prevent future settling. The refilling to be done in six-inch layers well tamped, and when such work is done on a paved street or macadamized street, care must be taken in order to have the new paving over the trench the same grade as originally existed. to accomplish this, the refilling of the trench shall be well tamped in six-inch layers to a point about eighteen inches below surface of street or alley; from this point upward to the bottom of material of improved street the trench must be widened nine inches on each side, but the surface of the street must not be disturbed for a width greater than the width of the trench below the enlarged section. Into this enlarged section of trench shall be placed the concrete of proper mixture, not less than six inches thick, and upon top of same the roadway shall be replaced to correspond to the existing construction. The width of such trenches not to exceed two feet or less if possible. (Ord. 4/5/37), §3)

§104. Excavations in State Highways. All work referred to in this Part done in any street in the Borough that is a State highway shall not be subject to this Part, but instead shall be governed by the provisions of the law relating to openings in the surface of highways

maintained by the State in boroughs. (Ord. 4/5/37, §4; as amended by Ord. 202, 4/7/69, §2)

§105. Display of Red Lights Required. Red lights must be displayed from sunset to sunrise at all points of work where there may be danger to the traveling public. (Ord. 4/5/37, §5)

§106. Removal of Excess Material. All excess materials from excavations, from trenches and pavement construction and other materials must be properly and completely removed from streets and alleys. (Ord. 4/5/37, §6)

§107. Penalty for Violation. 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, 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. 4/5/37, §7; as amended by Ord. 202, 4/7/69, §3; and by Ord. 271, 6/8/1992)

Part 2

Sidewalk and Curb Construction and Repair

§201. Property Owners to Construct or Reconstruct Sidewalk and/or Curb on Notice. Every owner of property in the Borough of Everett shall, on thirty (30) days notice from the Borough Council, construct or reconstruct a sidewalk and/or curb, which shall conform to all applicable requirements, in front of or alongside such property. (Ord. 230, 4/7/69, §1)

§202. Property Owners to Repair Sidewalk and/or Curb on Notice. Every owner of property in the Borough of Everett shall, on ten (10) days notice from the Borough Council, repair the sidewalk and/or curb, in the manner stipulated in such notice, in front of or alongside such property. (Ord. 230, 4/7/69, §2)

§203. Material for Sidewalks and Curbs. All sidewalks and curbs shall be constructed, reconstructed or repaired of concrete only, according to specifications adopted from time to time by the Borough Council. Provided: where an existing sidewalk or curb is of a material other than concrete, which was permissible for use at the time such sidewalk or curb was constructed, such sidewalk or curb may be repaired with the same material if at least two-thirds of such sidewalk or curb, as the case may be, in front or along any property is in good repair. (Ord. 230, 4/7/69, §3)

§204. Sidewalks and Curbs to Conform to Grade and Line. All sidewalks and curbs shall conform to the established grade and line thereof. Provided: where curb cuts shall be required for the purpose of driveway entrances, such curb cuts and driveway entrance construction shall conform to the requirements of the Pennsylvania Department of Transportation that shall apply to State highways, except that where such curb cuts and driveway entrances shall be along streets other than State highways, the Borough Council shall have authority to grant variances where it shall deem the same necessary because of special conditions. (Ord. 230, 4/7/69, §4)

§205. Sidewalk Width; Depth of Curbs. The paved portion of the sidewalk shall be at least four feet (4') wide on every street in the Borough except: (a) Main Street, where the paved portion thereof shall be seven feet (7') wide; (b) Spring Street from Main Street to Fifth Street, where the paved portion thereof shall be six feet (6') wide; and (c) Third Street, where the paved portion thereof shall be six feet (6') wide. The curbing shall be at least eighteen inches (18") deep on all streets. (Ord. 230, 4/7/69, §5)

§206. Determination of Necessity for Work; Inspections; Notification of Completion. It shall be the duty of the Street Commissioner to determine, in the case of any individual property, whether or not the sidewalk and/or curb shall be reconstructed or repaired, and, if so, the specific part or parts thereof to be constructed or repaired. The Street Commissioner may, at any time during the course of work of constructing, reconstructing, or repairing any sidewalk or curb, visit the site of such work in order to ascertain whether such work is being done according to requirements, and he or one of his assistants shall visit any such site for such purpose

whenever requested by the property owner. Within two (2) days after completion of the work of construction, reconstruction or repair of any sidewalk and/or curb, it shall be the duty of the owner of the property where such work was done to notify the Street Commissioner of that fact, so that he may inspect such sidewalk and/or curb to determine whether the same shall have been constructed, reconstructed or repaired in conformity with all applicable requirements. (Ord 230, 4/7/69, §6)

§207. Authority for Property Owner to do Work on own Initiative. Any property owner, upon his own initiative, and without notice from any Borough authority, may construct, reconstruct, or repair a sidewalk and/or curb in front of or alongside his property, provided that such owner shall first make application to the Borough Engineer and shall conform to the requirements of this Part as to line and grade and as to material used, and that he shall also notify the Street Commissioner, as required by §206 of this part, within two (2) days after completion of the work. (Ord 230, 4/7/69, §7)

§208. Authority for Borough to Do Work and Collect Cost, Plus Ten percent (10%), from Defaulting Property Owner. Upon the neglect of any property owner to comply with any notice given as provided in this Part, within the time limit stated therein, the Borough may proceed to construct, reconstruct or repair the sidewalk and/or curb, as the case may be, and may thereupon collect the cost thereof, with an additional amount of ten percent (10%) from such owner, in the manner permitted by law. (Ord 230, 4/7/69, §8)

§209. Inspection prior to Transfer: The Borough Council shall be notified of any transfer of title or interest in property which abuts any street, alley, public way or State highway within the Borough. Upon receipt of such notice Borough Council or its duly authorized representative shall inspect the property and any existing sidewalks or curbs and either issue a written certification of compliance with the terms of this Ordinance or a Notice to Construct, Repair, or Reconstruct in accordance with Section 202 through section 206 of this Ordinance. Such notice to the Borough Council of transfer of title or interest shall be given as follows:

A. At least ten (10) days prior to transfer by Deed the Borough shall receive written notice of the proposed transfer.

B. Both the transferor and the transferee shall be responsible for notifying the Borough Council of the proposed transfer of title. Notice may be given by either the transferor, the transferee, or by the authorized agent of either the transferor or the transferee.

C. In the event that the owner of a property is a corporation, the directors, officers and shareholders of the corporation shall notify the Borough Council within thirty (30) days after any transfer of ownership of stock in the corporation which when added with any other transfers of stock within a twelve (12) month period constitutes a transfer of fifty percent (50%) or more of the issued and outstanding share of the corporation.

D. In the event that the owner of a property is a partnership, whether general or limited, the partners shall notify the Borough Council within thirty (30) days after any change of partnership

interest, which when added with any other change of partnership interest within a twelve (12) month period constitutes a transfer of fifty percent (50%) or more of the issued and outstanding share of the corporation.

E. In the event that the owner of a property is a partnership, whether general or limited, the partners shall notify the Borough Council within thirty (30) days after any change of partnership interest, which when added with any other change of partnership interest within a twelve (12) month period constitutes a transfer of fifty percent (50%) or more of the ownership of the partnership. (Ord. 2001-02-01, 2/13/01, §9)

§210. Inspection Prior to Issuance of Building Permit: Upon application for a building permit for any property which abuts any street, alley, public way or State highway within the Borough, Borough Council or its authorized representative shall inspect the property and any existing sidewalks or curbs and either issue a written certification of compliance or a Notice to Construct, Repair, or Reconstruct in accordance with Section 202 through Section 206 of this Ordinance. (Ord. 2001-02-01, 2/13/01, §10)

§211. Penalty for Violation. Any person who shall violate any provision of this Part requiring notice to be given to the Borough Council shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) 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. 2001-02-01, 2/13/01, §11)

Part 3

Snow and Ice Removal from Sidewalks

§301. Responsibility for Removal of Snow and Ice; Time Limit.

The owner, occupant or tenant of every property in the Borough of Everett fronting upon or alongside any of the streets in the Borough of Everett is hereby required to remove or 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 where the property is a multiple-unit property, occupied by more than one (1) tenant or occupier; the tenant or occupier of a property shall be so responsible where such property comprises a single unit, occupied by such tenant or occupier only. (Ord. 232. 4/7/69, §1)

§302. Authority for Borough to Remove Snow and Ice at Expense of Defaulting Owner, Occupant or Tenant. 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 of this part 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 thereof, with any additional amount allowed by law, from such owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under §303 of this Part. (Ord. 232, 4/7/69, §2)

§303. Penalty for Violation. 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, 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. 232, 4/7/69, §3; as amended by Ord. 271, 68/1992)

Part 4

Sidewalk Obstructions and Uses

§401. Definitions and Interpretation. The word "person," as used in this Part, shall mean and include any natural person, partnership, association, firm or corporation. The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter. (Ord. 231, 4/7/69, §1)

§402. Prohibited Acts. It shall be unlawful for any person to:

1. Place or maintain on any sidewalk in the Borough of Everett any display of merchandise except so as to allow a clear unobstructed width of five feet (5') on Main Street, four feet (4') on every other street in the Borough, for the use of pedestrian traffic.

2. Place or allow to remain on any sidewalk in the Borough, except temporarily during loading or unloading and pending immediate removal therefrom, any goods, wares, merchandise or any bulky substance or material whatsoever.

Provided: nothing herein shall prevent the holding by the merchants of the Borough of special "sidewalk sales," when the sum shall be specifically authorized by the Mayor, and then when conducted subject to the conditions prescribed by the Mayor for use and occupancy of the sidewalks.

(Ord. 231, 4/7/69, §2)

§403. Penalty for Violation. 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, 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 231, 4/7/69, §3; as amended by Or. 271, 6/8/1992)