

Chapter 154

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the BOROUGH COUNCIL: Art. I, 8-2-50 as Ord. No. 103; Art. II, 10-18-55 as Ord. No. 255; Art. III, 7-7-54 as Ord. No. 202; Art. IV, 2-16-77 as Ord. No. 556; Art. V, 8-5-92 as Ord. No. 785. Sections 154.4, 154.10, 154.23 and 154.29 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Grading - See Ch. 107.

ARTICLE 1
Debris on Streets
[Adopted 8-2-50 as Ord. No. 103]

- § 154.1. Deposit of debris.

It shall be unlawful for any PERSON, firm or corporation to cause snow, leaves, dirt, earth, rock, brush or debris of any kind or nature to be deposited upon any of the streets, sidewalks, curbs or crossings of the streets and roads in the BOROUGH. **[Amended 11/21/2018 by Ord. No. 1114]**

- § 154.2. Debris falling from vehicles; removal.

When any PERSON, firm or corporation shall, within the confines of the BOROUGH, transport or carry earth, rock or any form of material or debris over the streets, roads or crossings of the BOROUGH and some of the said earth, rock, debris or material shall fall to the surface of the said roads or streets, it shall be the duty of the PERSON operating such vehicle over the said streets to cause the said material, debris, earth or rock to be removed immediately and to clean up the said street or road in such manner as is approved by the Chief of Police of the BOROUGH.

§154.3. Transportation of excavated materials.

When any PERSON, firm or corporation shall, within the confines of the BOROUGH, be engaged in excavation or transporting of earth, rock, debris or other material and some of the said earth, debris or other material is carried onto the streets of the BOROUGH by the wheels or parts of the vehicle carrying the same, then, upon notice by the Chief of Police of the BOROUGH, such PERSON, firm or corporation shall cause the said dirt, earth or material to be removed and take such precautions as would prevent a recurrence of such carrying of debris, or dirt, earth or material onto the said streets, and further shall place the said streets or roads in a clean, traversable condition.

§ 154.4. Violations and penalties.¹

Any PERSON, firm or corporation violating any provisions of this Article shall, upon conviction thereof, be subject to the maximum penalty provided by law. Each and every day the said offense shall continue after notice to the said PERSON, firm or corporation has been given by the appropriate BOROUGH officer shall constitute a separate offense.

ARTICLE II
Protection of Manholes
[Adopted 10-18-55 as Ord. No. 255]

§ 154.5. Permit required.

Any PERSON, firm or corporation desiring to open, dig into, excavate or in any way remove the surface of any street, highway or road within the BOROUGH for any purpose whatsoever, or desiring to alter the grade of any property in such a way as to affect the elevation of any manhole located in a publicly dedicated easement of the BOROUGH, or affect any such manhole in any respect, shall, prior to such action, make application to the BOROUGH SECRETARY in writing for a permit to open or excavate the said street or to perform the work which may affect the elevation of any such manhole or affect any such manhole in any other manner. The said permit shall indicate thereon the name of the street, highway or road and the place at which the digging or opening will take place or the location and type of work about to be performed which may so affect any such manhole.

§ 154.6. Issuance of permit; fee.

Upon payment of a fee of five dollars (\$5.) by the applicant for the said permit, the BOROUGH SECRETARY, if he shall find that the terms of this Article have been complied with, shall issue such permit to the applicant.

§ 154.7. Safety precautions; restoration of road surface.

¹ Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Any PERSON, firm or corporation receiving a permit for the opening, digging into or excavating of any street, highway or road surface thereof, or for the altering of any grade of any property which may affect the elevation of any manhole located in a publicly dedicated easement in the BOROUGH, or affect any such manhole in any other way, shall take proper precautions for the regulation and control of traffic and of all sewer, gas or electric pipes, cables or conduits located nearby and for the proper elevation and construction of any such manhole so that the manhole is raised or lowered to accord with the altered grade, all at the expense of the PERSON, firm or corporation doing the work. Such PERSON, firm or corporation, upon the completion of the purpose for which any excavation took place, forthwith shall replace the dirt or earth removed therefrom and flood and tamp the same so as to make the said replaced dirt or earth as firm or stable as the same was prior to its removal and, upon instruction of the BOROUGH SECRETARY, forthwith shall replace the surface in kind. Any such PERSON, firm or corporation shall also restore the surface of any publicly dedicated easement to a condition substantially the same as it was before the surface was disturbed in any case where the surface is disturbed to change the elevation of or otherwise alter any manhole located therein.

§ 154.8. Deposit of bond or other security.

Any PERSON, firm or corporation, prior to the issuance of any street opening permit or other permit provided for in this Article, shall deposit with the BOROUGH SECRETARY, a bond, in proper form approved by the BOROUGH Solicitor, in a sum of not less than one thousand dollars (\$1,000.) conditioned for the faithful compliance with the terms of this Article. In lieu of the said bond, said PERSON, firm or corporation may, on approval of the BOROUGH SECRETARY, deposit cash in the amount of one hundred dollars (\$100.) as security for the compliance with the terms of this Article.

§ 154.9. Failure to comply; work by BOROUGH.

Should any PERSON, firm or corporation after having opened or excavated into any street, highway or road of the BOROUGH, or having altered the surface of any property so as to interfere with the elevation of or otherwise affect any manhole located in a publicly dedicated easement of BOROUGH, fail, neglect or refuse to comply with the terms of this Article or the instructions or directions of the BOROUGH SECRETARY pertaining to the said work, the proper BOROUGH officials shall proceed to have the street, road or easement placed in proper condition at the cost of the PERSON, firm or corporation to whom the permit was issued, said cost to be deducted from the cash deposited aforesaid, or in the event of a bond, the cost is to be billed to the PERSON, firm or corporation. Upon failure to pay, the Solicitor shall be authorized and directed to proceed on the bond for the collection of any amount due.

§ 154.10. Violations and penalties. [Amended 4-18-84 by Ord. No. 680]

Any PERSON, firm or corporation who shall violate any of the provisions of this Article shall, upon conviction thereof, be subject to the maximum penalty provided by law.

ARTICLE III
Sidewalk Construction
[Adopted 7-7-54 as Ord. No. 202]

§ 154.11. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

SIDEWALK - Any walkway for pedestrians located on the right-of-way of a public street or highway and parallel to said street or highway.

§ 154.12. Width, grade and location. *[Amended 6-7-72 by Ord. No. 491; 6-5-85 by Ord. No. 695]*

SIDEWALKS hereafter constructed shall be no less than three (3) feet in width except where an extension is added to an existing SIDEWALK, in which case the existing width shall be continued, and, unless specifically excepted by the BOROUGH COUNCIL, shall be located adjacent to the back of the concrete curb. If the street upon which the proposed SIDEWALK shall abut has no curb, the SIDEWALK shall be located at such a place and at such a grade as to be adjacent to the back of the planned location of said curb. In determining the location and grade aforesaid, the decision of the BOROUGH ENGINEER shall be final and conclusive. There shall be a descending grade of one-fourth (1/4) inch to one (1) foot from the property side of the SIDEWALK to the top of curb. Where the abutting curb is four and one-half (4 1/2) inches high or less, no depression of the SIDEWALK shall be made. Where the curb is more than four and one-half (4 1/2) inches high, the SIDEWALK shall be depressed sufficiently and the curb shall be adjusted accordingly to allow four and one-half (4 1/2) inches from the top of the SIDEWALK at the back of the curb to the gutter. The SIDEWALK shall be located exactly parallel to the line separating the street or highway and the private property abutting thereon, except when written permission of the ENGINEER is obtained for a different location.

§ 154.13. Concrete specifications; joints; expansion strips. *[Amended 8-17-59 by Ord. No. 315]*

SIDEWALKS shall be of concrete construction four (4) inches thick, using a mixture of one (1) part cement, two (2) parts sand and four (4) parts coarse slag, gravel or stone, underlaid with four (4) inches of cinders or granulated slag. SIDEWALKS must be jointed every five (5) feet. The joint must extend through to the bottom of the concrete and perpendicular to the SIDEWALK edges. If so directed by the BOROUGH ENGINEER, the joint must be filled with an approved specially prepared strip of asphalt or similar material. Any SIDEWALK adjacent to the curb must be separated therefrom by an asphalt expansion strip conforming to specifications of the BOROUGH ENGINEER. In addition, an expansion strip shall be laid at any junction point of a walk and steps and between a walk and a building where they are contiguous; provided, however, that in the repair of existing concrete SIDEWALKS, a bituminous material meeting the Pennsylvania Department of Highways specifications for FJ 1 bituminous topping may be used. Said thickness of bituminous top shall be of a minimum thickness of three-fourths (3/4) inch.

§ 154.14. Location of trees, poles and lampposts.

All trees, poles and lampposts which may be located within the limits of any street shall be set between the SIDEWALK and the property line unless, through special action of the BOROUGH COUNCIL, there is a tree lawn between the SIDEWALK and the curb sufficiently wide to accommodate said trees, poles or lampposts.

§ 154.15. Driveways.

Every private driveway across a SIDEWALK shall be constructed of the same materials as the SIDEWALK or the street, provided that the specifications of § 154.13 of this Article are adhered to, and shall extend from the inside curblineline to the property edge of the SIDEWALK. The grade of said private driveway shall meet the grade of the SIDEWALK on either side, and for the purpose of providing drainage from the driveway to the street, it may be depressed by gradual inclination towards the center to not more than three (3) inches below the level of the SIDEWALK. All private driveways shall end at the top of the curb so that no curb cut need be made, except when required for drainage purposes, and then only with the written permission of the BOROUGH ENGINEER. The exact plan of construction of private driveway on street rights-of-way shall be subject to the approval of the BOROUGH ENGINEER.

§ 154.16. Permit required.

Any PERSON, firm or corporation desiring to construct, reconstruct or repair a SIDEWALK shall obtain a permit from the BOROUGH SECRETARY. The SECRETARY may require submission of detailed plans and specifications to the BOROUGH ENGINEER and may refuse to grant the permit until the ENGINEER'S approval has been obtained. No charge shall be made for this permit.

§ 154.17. Compliance with standards.

From and after the passage of this Article, no SIDEWALK shall be constructed within the limits of the BOROUGH which does not comply with the specifications therefor as provided by this Article, unless otherwise specifically provided by special resolution or ordinance of COUNCIL, and then it may vary therefrom only as so specially provided. It shall be laid only under the supervision of the BOROUGH ENGINEER, and said BOROUGH ENGINEER shall have the power to stop any work not being done in accordance herewith until the provisions of this Article and his reasonable directions are complied with, or if not complied with within ten (10) days after notice, the BOROUGH may complete the construction and collect the cost thereof, with ten per centum (10%) added in the manner provided in § 154.20 hereof.

§ 154.18. Mixing of materials; cleanup.

In the construction, reconstruction and repair of any SIDEWALK, no mixing of materials shall take place on the paved portion of the street, nor shall the mixture come into direct contact with the paved portion as aforesaid. After the construction is completed, the paved street shall be cleaned and left in the same condition as it was before the construction work was begun.

§ 154.19. Notice to construct; public hearing; petition requesting installation.

154.19.1. It shall be the duty of any PERSON, firm or corporation, being the owner or owners of any lot, lots or pieces of ground abutting upon or bounded by any street, avenue, court, alley or highway or any part thereof within the limits of the BOROUGH, upon thirty (30) days' written or printed notice, served as hereinafter provided, to lay and construct SIDEWALKS therein or thereon in accordance with the regulations as hereinbefore provided. All notices served under this section shall be authorized by motion of the BOROUGH COUNCIL at any regular or special meeting.

154.19.2. Prior to authorizing the service of notices to lay and construct SIDEWALKS pursuant to **§ 154.19.1**, the COUNCIL shall hold a public hearing after requesting and receiving a written recommendation from the BOROUGH Planning Commission on the proposed SIDEWALKS. Notice of said hearing shall be posted on the affected property and published once a week for two (2) successive weeks in the official newspaper of the BOROUGH, the first publication of such notice to be at least fifteen (15) days prior to the date fixed for such hearing. **[Added 4-6-66 by Ord. No. 427]**

154.19.3. Notwithstanding the provision of **§ 154.19.2** hereof, whenever the owners of more than sixty-six and two-thirds percent (66 2/3%) of the frontage on both sides of any street within the BOROUGH shall present a petition duly signed by them requesting the installation of SIDEWALKS, it shall be the duty of the BOROUGH COUNCIL to serve notices upon all of the owners of property abutting on said street to construct SIDEWALKS in accordance with this Article. **[Added 4-6-66 by Ord. No. 427]**

§ 154.20. Failure of homeowners to construct; work by BOROUGH; penalty.

If any owner or owners of property shall fail or neglect to lay and construct said SIDEWALKS in accordance with **§ 154.19** of this Article after notice as aforesaid, the BOROUGH COUNCIL may, by motion at any regular or special meeting, order the construction of the same in front of or along said property, and the cost of the same, together with ten per centum (10%) additional, and together with all charges and expenses, may be collected from such owner or owners, and BOROUGH may file a municipal claim therefor or proceed to collect the same by action in assumpsit, as is now or may hereafter be provided by law, more particularly Section 1807 of the Act of July 10, 1947, P.L. 1621,² and the amendments and supplements thereto.

§ 154.21. Maintenance; notice to repair; failure.

It shall be the duty of all owners of property with SIDEWALKS abutting thereon to maintain and keep said SIDEWALKS in good condition. Whenever, in the judgment of the BOROUGH Building Inspector, any SIDEWALK shall be in an unsafe condition, it shall be the duty of the

² Editor's Note: See 53 P.S. § 46805.

Building Inspector to give written or printed notice to the owner aforesaid directing him to repair the SIDEWALKS within ten (10) days thereafter. If said owner shall fail or refuse to comply with said notice, the Building Inspector shall cause the SIDEWALK to be repaired and collect the cost thereof, with ten per centum (10%) added in the manner provided in **§ 154.20** above.

§ 154.22. Service of notices.

All notices which are required under any of the provisions of this Article shall be written or printed and shall be served upon the owner of the premises affected thereby, if such owner is a resident of BOROUGH, but if he be not a resident of BOROUGH, then upon the agent or tenant of the owner or upon the occupant of such premises, and if the owner has no agent or tenant and there be no occupier of such premises, then such service may be had by posting a printed or written copy of such notice upon the premises, as is more particularly provided by Sections 1808 and 1815 of said Act of July 10, 1947, P.L. 1621,³ as amended or supplemented, or according to law.

§ 154.23. Violations and penalties. [Amended 4-18-84 by Ord. No. 680]

154.23.1. Any PERSON, firm or corporation violating any of the provisions of this Article by failing or neglecting to have his, her, their or its SIDEWALK or SIDEWALKS repaired and maintained in accordance herewith, or by permitting the same to be or become in a dangerous or unsafe condition, after the expiration of the ten-day written or printed notice requiring the same to be done, shall be subject to the maximum penalty provided by law. The imposition of any fine shall not bar the right of the BOROUGH, through its proper officers, to have the defective conditions corrected and to collect the costs and expenses thereof, with penalties added, as herein otherwise provided.

154.23.2. Any PERSON, firm or corporation constructing, reconstructing or repairing any SIDEWALK or SIDEWALKS without procuring a permit as required by this Article shall be subject to the maximum penalty provided by law.

ARTICLE IV
Street Openings
[Adopted 2-16-77 as Ord. No. 556]

§ 154.24. Permit required; application.

Any PERSON, firm or corporation desiring to open, dig into, excavate or in any way remove the surface of any street, highway or road within the BOROUGH for any purpose whatsoever shall, prior to such action, make application to the BOROUGH SECRETARY in writing for a permit to open or excavate the said street. The said permit shall indicate thereon the name of the street, highway or road and the place at which the digging or opening will take place.

³ Editor's Note: See 53 P.S. § 46806.

§ 154.25. Fee; issuance. [Amended 6-3-87 by Ord. No. 715]

Upon payment of a fee by the applicant for the said street opening permit,⁴ the BOROUGH SECRETARY, if he shall find that the terms of this Article have been complied with, shall issue such permit to the applicant.

§ 154.26. Safety precautions; restoration. [Amended 8-3-11 by Ord. No. 1038]

154.26.1. Any PERSON, firm or corporation receiving a permit for the opening, digging into or excavating of any street, highway, road or surface thereof shall take proper precautions for the regulation and control of traffic and of any and all sewer, gas or electric pipes, cables or conduits located nearby. Such PERSON, firm or corporation, upon the completion of the purpose for which the excavation took place, shall replace the surface and subsurface in accordance with the specifications of the BOROUGH as established by the BOROUGH ENGINEER.

154.26.2. Newly improved streets. Where the street which a PERSON, firm or corporation seeks to open has been constructed, reconstructed or resurfaced within a sixty (60)-month period immediately preceding the street opening, no permit shall be issued by the BOROUGH MANAGER or his designee unless a public utility service company can demonstrate clearly the public health, safety, or other valid public purpose requires that the proposed work be permitted, or unless an emergency condition exists. Should a permit be issued by the BOROUGH MANAGER or his designee to a public utility service company for such a street opening, excavation or tunneling, the public utility services company shall be required to pave/restore/overlay a minimum of twelve foot (12') width (or the entire cartway width, if deemed appropriate by the BOROUGH ENGINEER in the Engineer's sole discretion), which width shall run the entire length of the opening, and shall be accomplished in accordance with BOROUGH specifications and shall be subject to the BOROUGH ENGINEER's approval.

§ 154.27. Deposit of bond or other security. [Amended 8-3-11 by Ord. No. 1038]

154.27.1. Any PERSON, firm or corporation, prior to the issuance of any street opening permit, shall deposit with the BOROUGH MANAGER or his designee a bond, letter of credit or other manner of security acceptable to the BOROUGH, in proper form approved by the BOROUGH Solicitor, in an amount determined by the BOROUGH ENGINEER equal to the estimated cost of restoring the street opening, conditioned on the faithful compliance with the terms of this Article. The term of the bond shall begin upon the date of posting thereof and shall terminate upon issuance of a certificate of final inspection by the BOROUGH ENGINEER.

154.27.2. Any PERSON, firm or corporation, prior to the issuance of

⁴ Editor's Note: Specific fees are as set forth in the Fee Resolution on file in the BOROUGH offices

any street opening permit, shall present to the BOROUGH MANAGER or his designee a certificate of insurance evidencing coverage for claims for bodily injury and property damage in an amount to be determined by the BOROUGH MANAGER or his designee. The "Borough of Whitehall" shall be named an Additional Insured and the policy shall provide complete third-party coverage for the BOROUGH, its Council, employees and agents for claims arising from or out of the work performed in relation to the street opening.

§ 154.28. Failure to comply; work performed by BOROUGH.

Should any PERSON, firm or corporation, after having opened or excavated into any street, highway or road of the BOROUGH, fail, neglect or refuse to comply with the terms of this Article or the instructions or directions of the BOROUGH ENGINEER pertaining to the said excavation or opening, the proper BOROUGH officials shall proceed to have the street or road placed in safe and traversable condition at the cost of the PERSON, firm or corporation to whom the permit was issued, said cost to be dedicated from the cash deposited aforesaid, or in the event of a bond, the cost is to be billed to the PERSON, firm or corporation. Upon failure to pay, the Solicitor shall be authorized and directed to proceed on the bond for the collection of any amount due.

§ 154.29. Violations and penalties. [Amended 4-18-84 by Ord. No. 680]

Any PERSON, firm or corporation who shall violate any of the provisions of this Article shall, upon conviction thereof before any District Justice for the BOROUGH, be subject to the maximum penalty provided by law.

ARTICLE V
Numbering of Buildings
[Adopted 8-5-92 as Ord. No. 785]

§ 154.30. Numbering of existing structures required.

Every owner, trustee, lessee, agent or occupant of every existing residential or commercial structure in the BOROUGH shall cause such residential or commercial structure to be numbered in accordance with this Article.

§ 154.31. New construction.

Every owner, trustee, lessee, agent or occupant of a newly constructed residential or commercial structure shall obtain a street number, and no occupancy permit shall be issued for such residential or commercial structure until such street number shall have been obtained and this Article complied with.

§ 154.32. Location and size of numbers to be displayed.

154.32.1. The street number assigned to each residential or commercial structure shall be placed conspicuously in close proximity to the main door facing the street to which the number has been assigned and shall consist of metal, plastic, wood or any other generally accepted numbering material and shall be at least three (3) inches in height so as to be legible and clearly identifiable from the curblines of the residential or commercial structure. In the event that the residential or commercial structure sets back seventy-five (75) feet or more from the curblines, the assigned street number shall additionally be posted in a clear and conspicuous manner at or within twenty (20) feet of the curblines. ***[Amended 4-7-93 by Ord. No. 800]***

154.32.2. In the event that the mailbox for a residential or commercial structure is located away from the structure itself, the mailbox shall be placed in close proximity to the curblines and shall contain or display the house number.

§ 154.33. Existing nonconforming numbers.

All numbers which are presently displayed in a manner not in conformity with this Article shall be brought into conformity within twelve (12) months from the date of adoption of this Article.

§ 154.34. Enforcement.

The BOROUGH SECRETARY/MANAGER or the CODE Enforcement Officer, or their designees, shall enforce compliance with this Article.

§ 154.35. Violations and penalties.

Any PERSON, partnership, firm or corporation who causes or allows the violation of the provisions of this Article shall, upon conviction thereof, be liable to a fine not to exceed twenty-five dollars (\$25.). Each day that the violation continues shall constitute a separate offense.