

**CHAPTER 21**

**STREETS AND SIDEWALKS**

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**PART I****STREET LIGHTING****SECTION 21-101. Purpose.**

The purpose of this Chapter and Part is to provide for an aesthetically pleasing, architecturally consistent street lighting plan within the Borough of Harmony. This plan will coordinate the phase-out of existing public street lighting and replace it with standard pole-mounted street lights consistent with the character of the historic nature of Harmony Borough. This Chapter and Part is further to provide for the regulation and restriction of the erection, maintenance and use of non-conforming street lights.

(*Ord. 323, 12/1/1992, §1*)

**SECTION 21-102. Definitions.**

A. Approved street light means the street light fixtures officially approved by the Borough of Harmony in accordance with the official street lighting plan for the Borough of Harmony.

B. Street lights means any free standing, pole mounted or monument mounted lighting device or any building mounted lighting device whose principal purpose is to illuminate a public sidewalk and public street, whether such light device is fueled by electricity, gas, oil or other means.

(*Ord. 323, 12/1/1992, §2*)

**SECTION 21-103. Adoption of a Street Lighting Plan.**

The Council of the Borough of Harmony hereby adopts the official street lighting plan for the Borough of Harmony, which plan provides for the location of existing approved street lighting and the location where future approved street lighting may be placed. The plan further provides the specifications for the adopted and approved street lighting fixtures for the Borough of Harmony. A copy of the street lighting plan and the specifications for the approved street lighting are to Harmony Borough Ordinance 323 and incorporated herein.

The official street lighting plan and the approved street lighting fixtures have been adopted by resolution of the Borough Council. The official street lighting plan for the Borough of Harmony and the approved street lighting fixtures may be modified by subsequent resolution of the Borough Council and such modifications shall include, but not be limited to, the change of location of any existing or future approved street lighting fixtures, the addition or deletion of

locations of approved street lighting fixtures or modifications to the specifications for the approved street lighting fixtures.

(*Ord. 323, 12/1/1992, §3*)

#### **SECTION 21-104. Prohibition.**

Any Street within the Borough of Harmony which has been identified on the official street lighting plan for the Borough of Harmony as a street where approved street lighting fixtures have been used shall be subject to the following restrictions:

A. No street lighting fixture of any nature whatsoever may be erected or may any existing street light be replaced unless such replacement is with an approved street lighting fixture and in accordance with the official street lighting plan of the Borough of Harmony and in accordance with all of the provisions of this Chapter and Part. This prohibition shall apply to any street lighting fixtures that are to be erected within any public right of way or within ten feet of the edge of any portion of a public right of way.

B. All approved street lighting fixtures covered under the official street lighting plan for the Borough of Harmony shall be erected by the Borough of Harmony at its sole cost and expense. No one shall place an approved street lighting fixture in any location covered under the official street lighting plan for the Borough of Harmony.

C. Any person violating this Chapter and Part shall be liable for a fine of up to \$600.00 plus costs.

(*Ord. 323, 12/1/1992, §4, Ord. 372, 6/6/2006*)

#### **SECTION 21-105. Request of Individual Property Owner.**

If an individual property owner who has property located within the area designated under the official street lighting plan for the Borough of Harmony has located on his property an approved location or an approved street light, the property owner may submit a written request to the Borough Council that the street lighting located on his property be erected or maintained. Such written request shall be accompanied by a signed donation agreement in which the property owner agrees to donate in annual installments for a period of five years the greater of the estimated annual consumption of the approved street light or lights located on the property owner's property or \$100.00. The donation agreement shall be binding upon the current property owners and upon any subsequent property owners. Upon receipt of the written request and upon submission of the signed donation agreement, the Borough Council shall consider whether there are sufficient resources available to the Borough to complete the erection of the approved street light on the property owner's property and shall consider that the location provides for an orderly and systematic construction of the approved street lights. The submission of the written request

along with the donation agreement shall in no way obligate the Borough to erect such approved street lighting fixture; however, the donation agreement shall not be effective until and unless the Borough has approved such street lighting fixture and in fact has erected the same.

*(Ord. 323, 12/1/1992, §5)*

**PART 2****STREET OPENING****SECTION 21-201. Prohibition.**

It shall be unlawful for any person, firm, or corporation to make any opening or excavation in or under any street or Borough maintained thoroughfare within the limits of the Borough of Harmony and unless and until a permit therefor shall be secured from the Borough secretary for each separate undertaking, such permit and the application therefor to be in the form prescribed the said Secretary and to contain a statement that the applicant agrees to the terms of this Chapter and Part. Permits herein required include a permit to connect with the sanitary sewer system of the Borough or to open or to make an excavation in connection therewith. The police officers who are authorized to provide police service in the Borough shall promptly prohibit any work being done without a proper permit or contrary to the terms hereof.

*(Ord. 285, 04/02/1985, §1)*

**SECTION 21-202. Permit.**

The charge for such permit shall be, for each separate undertaking, the sum of \$50.00. The application for the permit and every such permit shall specify a time when said opening or excavation may remain open and the place where said opening or excavation may be made, together with the probable length, width and depth thereof, and such further information as the Secretary may require; and any additional surface to be disturbed and any additional time required may be endorsed on the permit by the said Secretary. Provided, that emergency breaks or leaks may be repaired and a permit therefor secured within twenty-four hours thereafter. In applying for and receiving the permit, the applicant agrees to be responsible for and to provide adequate warning as may be required by the Borough to the public to safeguard the public against any such opening or excavation and to comply with any regulations which may have been adopted by the Commonwealth of Pennsylvania and/or the Department of Transportation.

*(Ord. 285, 04/02/1985, §2)*

**SECTION 21-203. Bond.**

Before receiving said permit, each applicant shall deposit with the Secretary a cash bond on a rate of \$30.00 per square foot of excavation or opening applied for with respect to paved streets and at the rate of \$30.00 per square foot of excavation or opening applied for with respect to unimproved streets, which bond shall remain on deposit until applicant restores said street surfaces as specified herein, and in accordance with the regulations and/or practice of the Borough with regard to Borough streets, and the repairs are accepted by the Borough and/or its employees designated for such purpose. At the end of said period, said cash bond or any

remaining part thereof not expended to correct the condition shall be returned to the applicant. In cases where public utility companies are the applicants, the Secretary may, at his or her discretion and upon terms fixed by him or her, accept a duly executed indemnity bond in lieu of the aforesaid cash bond.

*(Ord. 285, 04/02/1985, §3)*

#### **SECTION 21-204. Safety.**

It shall be the duty of any person or persons, firms or corporations to whom a permit is issued or by whom any opening or excavation is made as aforesaid to provide and maintain proper and adequate guards, barriers and lights to prevent accidents, and they shall assume all risks and be liable for all damages by reason of the openings and excavations and by reason of any failure to properly fill the hole or trench and maintain the disturbed surface in a safe condition.

*(Ord. 285, 04/02/1985, §4)*

#### **SECTION 21-205. Restoration.**

It shall be the duty of any person, firm or corporation causing an opening or excavation to be made to thoroughly and completely fill the same, puddling and ramming so as to prevent any settling thereafter and to replace the surface of the thoroughfare as it was before the opening and at the proper grade and with the same surface covering as the part of the thoroughfare adjoining the opening, without ridges and without depressions, and to maintain the surface disturbed in as good condition as it was prior to the opening or excavation, at the prior grade and of the same kind and density of material, and to remove all debris created by said excavation. Backfill material placed below the surface covering shall conform to such specifications as may be prepared at the direction of Borough Council by the Borough Engineer.

*(Ord. 285, 04/02/1985, §5)*

#### **SECTION 21-206. Defective Work.**

If the work in opening or in filling in or maintaining the surface shall not be promptly or shall be unskillfully or improperly or incompletely done, the Borough Engineer, or any other person designated by Council, may cause the same to be done in the manner he deems proper; and the expense thereof, including any overhead expense, shall be charged to the person, firm or corporation by whom the opening or excavation was made, together with 25 percent additional as a penalty, and any or all part thereof first paid out of the deposit or bond, any balance to be collected as like claims and penalties are now by law collectible. No permit shall be issued to any person, firm or corporation in default under this section until the costs and penalty herein

provided are paid, and no further permit shall be granted to any person, firm or corporation unless and until the openings or excavations and already caused by him or it have been properly filled and the surface maintained as aforesaid, in a safe condition and at the proper grade, of which the said Engineer or other person designated shall be the judge.

*(Ord. 285, 04/02/1985, §6)*

#### **SECTION 21-207. Not Borough Work.**

In no case shall any opening or excavation made by any person, firm or corporation be considered in the charge or care of the Borough or any officer or person employed by the Borough, and no officer or employee is authorized to in any way take or assume jurisdiction over any such excavation.

*(Ord. 285, 04/02/1985, §7)*

#### **SECTION 21-208. No Connections to Borough System.**

No person, other than an authorized Borough representative, may open or close a curb valve connected to the Borough water system. No pipe or fitting may be connected to the Borough storm sewer mains via existing laterals or otherwise, without written permission from the Borough office and no such connections may be obscured from view before inspection by an authorized Borough representative.

*(Ord. 285, 04/02/1985, §8)*

#### **SECTION 21-209. Penalties.**

Any person, firm or corporation violating any of the provisions of this Chapter and Part shall, upon conviction thereof, be fined not less than \$300.00, nor more than the maximum amount allowed by law as determined by a District Magistrate for each such offense to be collected as fines and penalties are by law collectible. Each day any such violation continues after notice is given to the violating party shall be considered a separate offense and punishable in accordance with the provisions set forth herein. Imprisonment, if authorized by law, shall also be available as a penalty to be imposed at the discretion of the District Magistrate and/or the Court.

*(Ord. 285, 04/02/1985, §9)*

#### **SECTION 21-210. Borough Representative.**



If or any reason the duties prescribed cannot be promptly performed by the Borough Engineer, they may be performed by or under the direction of the Mayor or the chairman of the proper committee of the Borough Council or upon designation, the Secretary of the Borough or Borough Superintendent.

*(Ord. 285, 04/02/1985, §10)*

#### **SECTION 21-211. Repealer.**

All ordinances or parts of ordinances inconsistent with this Chapter and Part are hereby repealed.

*(Ord. 285, 04/02/1985, §11)*

#### **SECTION 21-212. Applicable to Adjacent Right-of-Way**

This Chapter and Part shall also be effective as to any lawful right-of-way adjacent to a paved street or an unimproved street within the control of the Borough. The Borough may also require a maintenance agreement for a period not to exceed one year for the purpose of securing the continuing responsibility of the party acting under the terms of this Chapter and Part with respect to proper restoration of the street or right-of-way affected hereby.

*(Ord. 285, 04/02/1985, §12)*

#### **SECTION 21-213. Street Closing.**

If a street is closed, the party acting under the terms of this ordinance is required to barricade the entrances to the block affect and such party may only close a street to public traffic with the express consent of the Borough Council and must then mark in plainly visible and properly lighted signed marked "Street Closed" so as to protect the public. In addition, any excavation must be must be securely covered to protect pedestrians and/or vehicular traffic.

*(Ord. 285, 04/02/1985, §13)*

#### **SECTION 21-114. Specifications.**

With respect to any specifications set forth herein, such specifications may be prepared at the direction of the Borough Council by the Borough Engineer.

*(Ord. 285, 04/02/1985, §14)*

**PART 3****SIDEWALKS AND DRIVEWAYS****SECTION 21-301. Sidewalk Construction By Notice**

**A. Construction and Repair Required.** The Borough may require owners of property abutting on any streets, including State highways, to construct, pave, repave and keep in good repair the sidewalk along such property, at such grades and under such regulations as may be prescribed by ordinance.

**B. Definition of a deficient sidewalk.** Any of the following conditions constitute a sidewalk deficiency and may require replacement of the affected section of sidewalk:

- (1) A crack in which one side of the walkway is one (1) inch or higher above the adjoining section of sidewalk.
- (2) A crack that is greater than two (2) inches from side to side.

**C. Notice to do Work.** Notice to construct, pave, repave and repair sidewalks shall be given by registered or certified mail to abutting property owners, and such owners shall be given sixty (60) days to comply with said notice in conformity with any construction specifications prescribed by ordinance.

**D. Inspection.** At any time during the performance of the required work, the Borough Zoning Officer may inspect the work to determine whether construction specifications are being observed.

**E. Municipality May Do Work and Collect Costs.** Upon the failure of any property owner to construct, pave, repave or maintain any sidewalk in compliance with notice to do so, the Borough may do the same or cause the same to be done, and may levy the cost of its work on such owner as a property lien to be collected in the manner provided by law.

**Section 21-302 Emergency Repairs.**

Where, in the opinion of the Borough Zoning Officer, a dangerous condition exists that can be repaired by an expenditure of not more than three hundred dollars (\$300), the Borough shall send such property owner notice by registered or certified mail stating emergency repairs are required. Upon failure of such owner to comply with the notice within forty-eight (48) hours after receiving it, the Borough may make emergency repairs and levy cost of its work on such owner as a property lien to be collected in the manner provided by law.

**Section 21-303 Construction and Repair Done on Owner's Initiative Without Notice.**

Any property owner not required by notice to construct, pave, repave or keep in repair sidewalks may construct, pave, repave or repair the sidewalk abutting his property; provided, such owner shall make application to the Borough Zoning Officer before commencing work, shall conform to the provisions of this Part and other regulations as to specifications for construction and repair work and shall notify the Zoning Officer within two (2) days after completion of his work.

### **Section 21-304 Permits**

Before commencing any construction, reconstruction or repair of any sidewalk within the Borough, the owner(s) of the property involved or their agent(s) shall make application for and get a permit from the Zoning Officer for such work. The application shall include a brief statement of the nature and method of construction or repair to be used. The Zoning Officer is hereby empowered and authorized to make such reasonable regulations and prescribe such forms as shall be necessary for the application for said permit. Upon approval of the application, the Zoning Officer shall issue a permit allowing the construction, reconstruction or repair. The cost of the permit shall be as established from time to time by resolution of Borough Council.

### **Section 21-305 Materials and Specifications.**

A. All sidewalks constructed or reconstructed within the Borough shall be constructed of concrete or brick paving stones and not less than four (4) feet in width, and in areas zoned commercial or business, five (5) feet in width, unless, in the opinion of Borough Council, unnecessary and undue hardship will result to the abutting property owner by reason of such requirement. In such instance, Borough Council may authorize, by resolution, the approval of construction of concrete sidewalks of a lesser width, but not less than three (3) feet. Provided, that where there are existing sidewalks, a sidewalk may be constructed or reconstructed to a width that is consistent with the existing sidewalks in the immediate area.

B The specifications for the construction of concrete sidewalks within the Borough are set out in Section 22-606 (B) of the Harmony Borough Code. The specification for the construction of concrete curbs within the Borough are set out in Section 22-603 of the Harmony Borough Code. -These specifications shall apply to the construction or reconstruction of a sidewalk whether the construction of the sidewalk is made by the property owner or his contractor is hereby adopted. It shall be unlawful for any person to fail or refuse to comply with the requirements of these specifications.

C. Whenever a sidewalk is constructed or reconstructed, the owner shall be responsible for making curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway. The owners shall be responsible for the construction or reconstruction of said curb ramp according to the specification in Section 22-606 (B). The owner shall be required to construct or reconstruct such curb ramp whenever any portion of the sidewalk or curb is being constructed, whether or not the part of the sidewalk or curb is being constructed or reconstructed includes the intersection radius, or other barrier to entry from a street level pedestrian walkway.

D.. The contractor shall attend carefully to all public service devices such as stop boxes for water or gas supply, or any other objects of such a character, that may be found within the area of the sidewalk under construction, by setting them at such a height as to bring the top of such device in each case flush with the top of the finished walk, so that they may be accessible and usable after the completion of the walk.

#### **Section 21-306. Owner's Responsibility to Maintain Sidewalks.**

It shall be the owner's responsibility to keep the sidewalks on his property in good repair, and if the sidewalks become damaged and need replacement, the owner shall be responsible for securing the necessary permits and complying with other requirements of this Part.

#### **Section 21-307 Authority to Remedy; Collect Costs.**

Upon neglect, failure or refusal of any property owner to comply with the requirements of this Section, and in addition to the penalties of §21-313, the Borough may after notice and in accordance with the provisions of the Borough Code, cause the grading, paving and repairing to be done at the cost of the owner and may collect the cost thereof and ten percent (10%) additional, together with all charges and expenses, from such owner, and may file a municipal claim therefore or collect the same by Action in Assumpsit. Any new sidewalk constructed other than as provided herein may be removed at the expense of the property owner. In addition to the remedies now vested in the Borough to make repairs to sidewalks, emergency repairs may be made where in the opinion of the officer or the head of the department or committee lawfully having charge of sidewalk repairs, a dangerous condition exists that can be repaired by an expenditure of not more than three hundred dollars (\$300.00). Such repairs to be made in accordance with the provisions of the Borough Code.

#### **Section 21-308 Contractor to Obey Applicable Laws and Ordinances.**

The contractor shall be required to observe all the provisions of this Part and other Borough ordinances relative to obstructing streets, maintaining signals, keeping open passageways and generally to obey all laws and ordinances controlling and limiting those engaged in the work.

**Section 21-309 Construction of Driveways.**

Any owner, lessee or other person constructing a driveway approach shall, before starting the construction of such driveway approach, make application for a permit for the doing of such work to the Borough Zoning Officer. Such application shall state briefly the nature and method of construction to be used in making the necessary driveway approach. The Borough Zoning Officer is hereby empowered and authorized to make such reasonable regulations and prescribe such forms as shall be necessary for the application of said permit herein authorized.

**Section 21-310 Issuance of Permit for Driveway Construction.**

The Borough Zoning Officer shall, upon application being filed by the proper parties, and upon approval of the plans for the driveway, issue a permit allowing the construction of such driveway approach.

**Section 21-311 Remedy of Defects in Driveway Drainage.**

Any owner or lessee of property which has an existing driveway approach which is defective, and does not provide for adequate drainage of surface water shall, upon notice from the Borough Zoning Officer, remedy such defect within fifteen (15) days thereafter.

**Section 21-312 Permit Fees.**

Except where otherwise provided in this Part, all fees for permits herein authorized shall be as established by resolution of Borough Council.

**Section 21-313 Penalties.**

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00); and/or to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Part continues shall constitute a separate offense.”

*(Ord. 373, 12/5/2006, §3)*