Title 15

STREETS AND OTHER PUBLIC PLACES

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Chapter 15.04

DEFINITIONS

Sections:

15.04.010 Definitions Applicable to Title 15.

15.04.010 Definitions Applicable to Title 15. In this Title, unless otherwise provided or the context otherwise requires:

A. "Areaway" means and includes a sunken space, either covered or uncovered, or a court affording room, access or light to a building.

B. "Permittee" means any person granted a permit.

C. "Public place" means and includes any and all streets, avenues, ways, boulevards, drives, places, alleys, sidewalks and planting strips, bicycle paths, squares, triangles and rights-of-way open to the use of the public, and the space above or beneath the surface of the same, except parks.

D. "Use" means and includes:

1. To construct, store, erect or maintain in, upon, over or under any public place any areaway, marquee, awning, banner, sign, billboard, sidewalk elevator or door, fuel opening, staging, swinging scaffold, elevator or other structure or material, machinery or tools;

2. To move any building along or across any public place;

3. To use or occupy any public place for the storage or placement of any material, equipment or thing;

4. To remove, plant, injure or destroy any tree, flower, plant or shrub in any public place;

5. To deposit or permit the deposit of any liquids which cause a noxious effluvia upon a public place;

6. To kindle, make or have any fire on any public place;

7. To open, excavate or in any manner disturb or break the surface or foundation of any street or right-of-way;

8. To alter the established grade of any street;

9. To disturb the surface of, dig up, cut, excavate or fill in any public place;

10. To construct, reconstruct, maintain or remove any sidewalk or crosswalk, pavement, sewers, water mains, grading, street lighting, electric or telephone facility, gas or petroleum line, or appurtenances thereto;

11. To do any work in, or erect any structure under, along or over any public place.

Chapter 15.08

(RESERVED)

Chapter 15.12

PERMITS FOR USE OF STREETS AND OTHER PUBLIC PLACES

Sections:

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15.12.230 Emergency -- Borough's Right.
15.12.240 Survey Markers -- Removal -- Replacement - Cost.
15.12.250 Assignment and Transfer of Permit.

15.12.010 Necessity of Permit. No person shall excavate, obstruct, occupy or otherwise use any street or other public place within the Borough unless he has obtained a permit to do so from the director of public works.

15.12.020 Application -- Contents. Application for permits herein provided for shall be filed with the director of public works, upon a form furnished by him. Such application shall contain:

A. An accurate description of the public place or portion thereof desired to be used;

B. The use desired to be made of such public place by the applicant;

C. The plans, specifications, descriptions of work, limits of work, methods to be employed, and other pertinent data to provide the director of public works with all information necessary to evaluate the design, location, and other aspects of the proposed installation;

D. The location of all other aerial, surficial or under ground facilities shall be shown on the plans in relation to the proposed work.

15.12.030 Application -- Processing. Permits shall be obtained at least two working days before the work is commenced, and shall not be transferred or assigned except as provided herein. The director of public works shall examine each application to determine if it complies with the provisions of this Title and may inspect the premises which are desired to be used in order to ascertain any facts which may aid in determining whether a permit shall be granted. If the director of public works finds that the application conforms to the requirements of this Title pertaining thereto, and also that the proposed use of such public place will not unduly interfere with the rights of the public, he may approve the application. If the application is approved, the director of public works shall issue a permit, upon the applicant's compliance as herein specified with the provisions of this Title relative to bond and indemnity. The permit shall provide a time limit within which the work shall be completed, and work shall commence within sixty days after application is approved. Unless an extension of time is granted by the director of public works, the permit shall be void if the work is not commenced and completed within the dates specified in the permit.

15.12.040 Agreement by Permittee. Every permit issued by the Borough shall contain a statement, signed by the permittee, which shall provide substantially as follows:

A. The permittee shall be responsible for all claims and liabilities arising out of work performed, or arising out of the failure to perform his obligations with respect to street or other maintenance incidental to the permitted work. The

permittee shall agree to forever indemnify, defend, save and hold harmless the Borough, its officers and employees, from and against any and all lawsuits, claims or actions brought by any person for or on account of damage to property, or injury, disease, illness or death of persons, including all costs and expenses incident thereto, arising wholly or in part from or in connection with the existence of construction, alteration, use or removal of the work to be performed.

B. The permittee agrees that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty days' notice, posted on the premises, or by publication in a newspaper of the Borough, or without such notice, in case the permitted use shall become dangerous or such structures shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of the ordinances of the Borough, the permit may be revoked and the structure and obstructions ordered removed.

C. If any structure or obstruction, or use or occupancy, is not discontinued on notice so to do by the director of public works, he may forthwith remove such structure or obstruction from such place, or make such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, at the expense of the permittee, or his successor, and such expense may be collected from the permittee as provided by law.

15.12.050 Bond or indemnity deposit on approved applications.

A. If the director of public works determines that there is a possibility of injury, damage or expense to the Borough arising from an applicant's proposed use of any public place, the applicant shall furnish to the Borough a surety bond, cash or certified check, payable to the Borough, to be in an amount of not less than two hundred dollars. The deposit shall be in an amount determined by the director of public works at the time of approving the application. The deposit shall be used to pay the cost of the permit as specified in Section 15.12.090, and to pay for any possible additional expense that the Borough may be called on to pay. Additional expense items may include additional inspectors, surveys or other services performed by the Borough above those included within the permit fee, the costs of restoring the street and removing any earth or other debris from the street, the replacement of any utility interrupted or damaged, the completion of any work left unfinished, and any other expense the Borough may sustain in conjunction with the permitted work. In the case of a cash

indemnity deposit, the balance, if any, after the foregoing deductions shall be returned to the applicant; if the deposit be insufficient, the applicant will be liable for the deficiency.

B. If a surety bond is filed, the bond shall assume all the requirements provided in Subsection (A) of this Section in relation to a cash indemnity deposit, shall run for the full period of the permit, and shall be conditioned that such applicant shall faithfully comply with all the terms of the permit and all the provisions of this Title and all other ordinances of the Borough. Such bond shall indemnify and save the Borough free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of any public place, as provided for in said application. The bond shall be reviewed as to form by the Borough Attorney.

C. The Borough also reserves the right to determine the circumstances and length of duration of a bond, cash or certified assurance required to cover possible damage and repairs which may result from the permittee's construction. If the application shall be to construct, reconstruct, repair, maintain or remove any sidewalk, pavement, grading, underground installations of any kind, or any other work which may affect the integrity of the street or other public place, the applicant shall file a surety bond, reviewed as to form by the Borough Attorney, which bond shall run for the full period of the permit plus one year after the acceptance of the permitted work by the director of public works. The amount of the bond shall be in an amount fixed by the director of public works and conditioned that the applicant shall faithfully complete all portions of the work according to the special plans and other data approved or specified by the director of public works.

15.12.060 Bond or Indemnity Deposit for One or More Permits.

A. Where it is probable that more than one permit will be desired, or that an applicant shall be periodically using public places, the applicant may of his own volition or the director of public works may require the applicant to post a surety bond of sufficient amount to cover the accumulated cost or risk involved at any certain time in a calendar year for a number of permits outstanding as determined by the director of public works, said bond to be in force during the period of all outstanding permits, but in no case for less than one year. The bond shall be reviewed as to form by the Borough Attorney, conditioned to assume all of the requirements provided in Section 15.12.040 in relation to a cash indemnity deposit.

B. However, if at any time any applicant applies for a permit to use a public place, and in the opinion of the director of public works the work or risk involved in the application shall, together with other permits outstanding in the name of the applicant, exceed the amount of the then presently posted surety bond, the applicant may be required to post an additional or separate surety bond to cover the additional risk or work involved prior to the issuance of any new permits. The bond shall remain in force during the period of all outstanding permits, but in no case for less than one year.

C. In addition, the director of public works may require any permittee to post a surety bond in the calendar year following the period of a permit when the extent of possible damage to a public place has not been completely determined.

15.12.070 When Bond or Deposit not Required.

A. No deposit shall be required of any public utility of any city, the borough, public utility district, public corporation or political subdivision which is authorized by law to establish or maintain any works or facilities in, under or over any public street, alley or right-of-way.

B. Permittees falling within this category will instead be required to furnish a certified statement assuring the Borough that any and all costs for repair of damage to the street or public place or installations within it will be at the liability of the permittee when it has been determined by the director of public works that there is a reasonable basis to require such protection.

C. No bond, certified statement or permit fee will be required of the various Borough departments or divisions nor of a Borough contractor where the contract documents specifically require approved progress schedules and a complete coverage performance bond.

D. This section, however, shall not relieve any person of the responsibility of obtaining the permit.

E. The director of public works shall have the sole authority to waive the requirements for bonding or certified assurance.

15.12.080 Issuance of Permits.

A. Upon approval by the director of public works of an application for the use or occupation of a public place, and upon posting of the bond, indemnity deposit or certified statement by the permittee, the director of public works shall issue a permit therefor. The director of public works may attach to, and make a part of the permit, any special provisions

and/or stipulations that he deems necessary to protect the public place or its appurtenances, other existing or approved installations, and the general public, or may specify methods, sequences of construction, materials and other pertinent items.

B. The original permit shall remain in the custody of the director of public works and a carbon copy shall be given to the permittee. Additional copies may be made for use by such other divisions of the Borough as have need of them.

15.12.090 Schedule of Permit Fees.

A. Permit fees shall be as follows:

SCHEDULE OF PERMIT FEES COVERING THE COST TO THE BOROUGH FOR ISSUANCE, ADMINISTRATION, INSPECTION AND POLICING OF PERMITS

Type of Use	Inspection Fee	Minimum
Blasting		$ 15.00
Beautification or landscaping	No fee except when insurance or bond is required; then $2.50	
Tree removal or trim-mig when involving temporary blocking of street	Per abutting lot	$ 2.50
Curb cuts, business and commercial		$ 15.00
Curb cuts, residential		$ 10.00
Curb and gutter	First 300 feet at 10 cents per L.F., all additional at 5 cents L.F.	$ 10.00
Sidewalk	5 cents per square foot	$ 10.00
Repair existing side-walk, driveway or curb	Sidewalk and curb at half rate of new construction	$ 5.00
Concrete or asphalt planting strip	First 500 sq.ft. at 2 1/2 cents per sq.ft., all addi-tional at 1 cent per sq.ft.	$ 5.00

Retaining walls, rockeries, fences		$ 10.00
Gravel street or alley improvements, survey and plans when required	Inspection time to be additional	$ 10.00
Paving in roadway, survey and plans when required	Inspection time to be additional	$ 10.00
Culverts	Per each	$ 5.00
Opening public places for various construction	Depth in excess of 5 feet	$ 15.00
	Depth 5 feet or less	$ 10.00
	$10.00 per each 100 ft. or portion thereof, after first 60 ft. Inspection time, if necessary, for any installation in trench to be additional.	
Sanitary or storm sewer or water connection on property	$10.00 for first hour, and $7.00 for each succeeding hour	$ 10.00
Fuel oil, gasoline or other underground storage tank or fill pipe (installation or replacement only - does not include annual fee)	Inspection time to be additional	$ 15.00
Exhibitions, curb service, similar obstructions, loading/unloading in parking meter zone, signs		$ 10.00
Street broadcasting, Parades processions		By approval of Assembly

Searchlight for advertising, 5 day maximum		$ 5.00
Banners, placard and street decorations		$ 5.00
Marquee, awning, canopy (retractable and non-retractable)	10 cents per square foot	$ 10.00
Cornices, belt courses, etc., in public places under 50 feet above street level for new construction	First 200 sq.ft. 25 cents per sq.ft.; 200 sq.ft. to 1,000 sq.ft. 12 1/2 cents per sq.ft.; Over 1,000 sq. ft. 5 cents per sq.ft.	$ 10.00
Swing staging or scaffolds covering work of less than 30 days duration over a public place for exterior maintenance of a building (maximum $75) (15 cents per front ft. of building). Work of longer duration to be charged on same basis as street use for construction		$ 10.00
Sidewalk or curb crossings with heavy equipment	Per 12 L.F. or portion thereof	$ 10.00
Hoisting		$ 10.00
Moving buildings and heavy equipment, oversize and overweight loads	$5.00 plus $2.00 per hr. of move plus fees to reimburse Borough for utility moves, police escort, etc.	$ 10.00
Use of street for building demolition (30 days or less). Work of longer duration to be charged on same basis as street use		$ 10.00

for construction		
Street use for construction, including staging and work areas, material storage, etc.		
Downtown core	16 1/2 cents per sq.ft. per month	$ 20.00
Downtown periphery	4 1/2 cents per sq.ft. per month	$ 15.00
Other business zoning	2 1/2 cents per sq.ft. per month	$ 15.00
Residential zoning (Through street blockage to be charged at next higher rate)	1 cent per sq.ft. per month	$ 10.00
Barricading or blocking streets temporarily for private use	$5.00 per day	$ 10.00
Other use not covered in this schedule	If applicable, 7 1/2 cents per sq.ft. for first 1,000; and 2 cents per sq.ft. for additional	$ 10.00

ENCROACHMENT PERMITS TO BE RENEWED ANNUALLY

Flag poles, signs, etc. extending over public property, lowest point 12 feet	Per unit	$ 5.00
Piers, loading platforms, bridges, scales, overhead hoists, beams and cranes, all buildings in street area, and all building overhangs (cornices excepted) in street area, commercial	15 cents per sq.ft. for first 1,000; 7 1/2 cents per sq.ft. for additional	$ 15.00

ramps or steps or any similar installations		
Ventilating ducts	Per each	$ 10.00
Areaways and vaults	15 cents per sq.ft. for first 1,000; 7 1/2 cents per sq.ft. for additional	$ 15.00
Fuel oil, gasoline or other underground storage tank		$ 10.00
Fuel oil, gasoline or other storage tank fuel fill pipe leading off street		$ 5.00
Permit not otherwise covered in the renewable schedule		$ 10.00
Fences, retaining walls, other item on or over public property with lowest point below 12 ft. above surface (exclusive of signs and billboards)		$ 10.00

B. In any case where two separate methods of computing the permit fee are found to conflict, the director of public works shall charge the greater amount.

C. In all cases of dispute regarding fees, permits or other matters relating to this Title, the decision of the director of public works shall be final and conclusive, unless otherwise provided in this Title.

D. An annual review may be made to determine the cost of administering, policing and inspecting this schedule of fees for a comparison as to the reimbursement from the fees to the Borough. At such time adjustments may be made in charges, increasing or decreasing, by the director of public works with the approval of the Borough Assembly, by resolution.

E. Adjoining areas may be covered on one permit for any one applicant.

15.12.100 Revocation or Suspension of Permit.

A. The director of public works may revoke or suspend a permit provided for in this Chapter whenever:

1. The permittee requests such revocation or suspension;

2. The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this Chapter, the Borough building code or other Borough ordinance, or the State Safety Code;

3. Entry upon the property for the purposes of investigation and inspection has been denied;

4. The permittee has made a misrepresentation of a material fact in applying for the permit;

5. The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, street, or utilities in the street, or the work endangers or will endanger the public, the adjoining property, street or utilities in the street;

6. The permit has not been acted upon within sixty days or the time allowed by extensions;

7. The related building permit, if any, has expired without renewal, or has been revoked or cancelled.

B. Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized or directed by the director of public works.

15.12.110 Appeal from decision of director of public works.

A. An applicant for a permit provided for in this Chapter, feeling aggrieved by any of the following actions, charges or determinations of the director of public works, may within ten days thereof appeal the same to the Borough Assembly by filing a written notice of appeal with the Mayor:

1. The denial of a permit;

2. The amount or sufficiency of the security to be posted;

3. The amount and coverage of the insurance to be supplied;

4. Requests for soil investigations;

5. Actions imposing conditions modifying or rejecting any special plans, specifications and proposed methods of construction;

Provided, no appeal may be made from such actions, charges or determinations after the applicant has accepted the permit.

Unless otherwise directed by the Mayor, no such permit shall issue until after final determination of any such appeal.

B. After issuance of a permit, the holder of the permit, feeling aggrieved by any of the following actions, charges or determinations of the director of public works, may within ten days thereof appeal the same to the Assembly by filing a written notice of appeal with the Mayor:

1. A directive by the director of public works to increase the security;

2. Suspension or revocation of the permit;

Provided, that such permit holder shall fully comply with the orders of the director of public works pending the decision of the Assembly, and no compensation shall be paid or allowed such permit holder for any expenses incurred in connection with compliance.

C. The Assembly may sustain, modify or reverse any action, charge or determination of the director of public works and its decision shall be final.

15.12.120 Appeals -- Notice -- Form. The written notice of appeal required in Section 15.12.110 shall be filed in duplicate, describe precisely the action, charge or determination appealed, explain the error alleged therein, and state the action desired by the appellant.

15.12.130 Street Closures. No street or intersection shall be closed in the performance of the work when a traffic restriction or street closure is already in effect on an adjacent parallel street, except in emergencies or by special authorization of the director of public works.

15.12.140 Work -- Commencement Notice. At least two working days before the work is commenced, the permittee shall give notice of the time of commencement of the work to the director of public works.

15.12.150 Work -- Notice to Police and Fire Departments. The police, traffic engineer and fire department shall be notified before work is commenced of any street closures, parking restrictions, rerouting of traffic or other restrictions which may interfere with the normal use of the street.

15.12.160 Work -- Conduct. All work shall be performed in a neat and workmanlike manner and so programmed as to cause the minimum of interference with traffic and inconvenience to the public. Detours shall be planned and coordinated with the

Mayor, as necessary, to allow for a smooth flow of traffic at all times. Access shall be provided to all mail boxes, fire hydrants, water gate valves, manholes, and other public service structures and property as may be required for emergency use. Public service structures or property shall not be removed or relocated without proper coordination with the properly constituted authorities charged with their control and maintenance. The working area shall be confined so as not to obstruct roadways and walks unnecessarily. Temporary roadways, driveways and walks for vehicles and pedestrians shall be constructed where required, and progress or work schedules shall be so arranged as to provide an access to all lots at all times.

15.12.170 Occupation of Public Places by Permit Holder.

A. During the period of the permit, the permittee will be permitted to occupy such portions of streets, alleys, and other public places as allowed by the ordinances of the Borough and as shown on the plans, or as permitted by the director of public works.

B. A reasonable amount of tools, materials and equipment for construction purposes may be stored in such space, but not more than is necessary to avoid delays in the construction. Excavated and waste material shall be piled or stacked in such a way as not to obstruct unused areas, nor inconvenience occupants of adjoining property.

15.12.180 Repair of Damage which Causes Hazard. Upon notice from the director of public works, immediate repairs shall be made by the permittee of any injury or damage in any portion of a public place which occurs as a result of the work done, and which, in the opinion of the director of public works, constitutes a public hazard. In the event such repairs are not made within twenty-four hours after notice, the director of public works is authorized to make such repairs and charge all costs plus overhead to the permittee.

15.12.190 Completion Notice. Notice of completion shall be filed by the permittee with the director of public works within ten days after completion of the work.

15.12.200 Inspection of Completed Work -- Refund of Deposit. All work done by the permittee shall be inspected and approved by the director of public works prior to refund of any part of the bond or indemnity deposit.

15.12.210 Maintaining Pipes or Conduits or Making Excavations not Prevented -- Emergency Operations. Nothing in this Chapter shall be construed to prevent any person from maintaining any pipe or conduit in any public street, alley or public place, or from making such excavations as may be necessary for the preservation of life or property when necessity arises; provided, however, that he shall assume all cost and liability in connection with the work. When an emergency excavation has been commenced, the person making such excavation shall secure a permit therefor on the next working day.

15.12.220 Emergency Operations -- Notice. In emergency situations where facilities block, obstruct or have damaged the highway or appurtenances or have created a danger or hazard to the traveling public, they shall be reported by the permittee by the most expeditious means of communication, as soon as reasonably possible to so do, to the director of public works and the Borough police, as to the location, type and extent of the emergency. The permittee shall take such measures as are required to protect the health and safety of the traveling public during such emergency operations.

15.12.230 Emergency -- Borough's Right. If at any time during the performance of any work an emergency should arise, the Borough shall have the right to use all or any part of the area occupied by the permittee under the permit.

15.12.240 Survey Markers -- Removal -- Replacement -- Cost. Any monument of granite, concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point within the Borough shall not be removed or disturbed or caused to be removed or disturbed unless a written permit for such purpose has been granted by the director of public works. Permission shall be granted upon the condition that the person applying therefor shall cause to be replaced at his expense the monument so removed or disturbed. A Borough contractor shall not be held responsible for monuments not shown on the construction plans if said plans are prepared by the department of public works. It is the responsibility of all other contractors and permittees to determine the location of all monuments prior to commencing work.

15.12.250 Assignment and Transfer of Permit. The permittee shall not assign or transfer any of the rights of his

permit to another individual or company without first notifying and securing the approval of the director of public works. The permittee shall not allow another person or company to share its permitted facilities unless the other person or company has first obtained a permit.

Chapter 15.16

WARNING LIGHTS -- BARRICADES

Sections:

15.16.010 Warning Lights and Barricades.
15.16.020 Damaging Warning Devices.
15.16.030 Areas Adjacent to Public Places.

15.16.010 Warning Lights and Barricades.

A. It is unlawful for anyone in any manner to obstruct, excavate or tear up any public place without at all times during the performance of the work providing and maintaining such fences, barricades, red lights, flares, warning and directional signals, flagmen and watchmen as are necessary for the safety of the general public. All barricades, fences and warning and directional signs shall be illuminated from one-half hour before sunset to one-half hour after sunrise. "No parking" signs shall be placed in the evening prior to commencement of work and shall be equally spaced at the rate of four per block each side of the street. Lettering on signs shall be three inches high. The sign shall show hours of the day in which parking is restricted. Barricades may be removed at the completion of work or the removal of obstructions in public places, providing the surface of the roadway has been restored to the satisfaction of the director of public works.

B. The contractor, Borough department or utility company will provide and maintain all necessary lighting devices (torches, lanterns, flashers and electric lights) throughout the period when a street or other public place is used, and will be responsible for providing and maintaining any necessary warning signs and barricades adjacent to the construction or work area. In the event that a Borough crew must be called to perform any maintenance on any lighting devices, or other means of protecting the public due to the failure of the contractor to comply with this regulation, a service call fee of fifty dollars per location will be billed to the responsible private firm or individual by the Borough. No payments on any contract with the Borough will be made until all such fees are paid in full.

15.16.020 Damaging Warning Devices. It is unlawful to deface, move, injure, damage, alter or remove any fence, barricade, light or other warning device placed at or near any obstruction or defect in the street, or posted to obstruct the passing of vehicles.

15.16.030 Areas Adjacent to Public Places. It is unlawful to leave any excavation or fill within four feet of any public place without adequate barricades and warning devices to protect the public, or to fail to maintain the lateral support of any public place or of a fill adjacent to such public place.

Chapter 15.20

EXCAVATIONS -- FILLS

Sections:

15.20.010 Permits for Excavations and Fills Required.
15.20.020 Major Excavations.
15.20.030 Hazardous Conditions -- Remedy.
15.20.040 Exposed Utility -- Notice Required.
15.20.050 Underground Facilities -- Location Information -- Damage.
15.20.060 Backfill.
15.20.070 Restoring Surface.

15.20.010 Permits for Excavations and Fills Required. Whomever shall propose to excavate or fill any site within a street or other public place in the Borough shall obtain a permit from the director of public works in the manner required by Chapter 15.12 of this Code.

15.20.020 Major Excavations. For any excavation within a public place in the Borough, the director of public works may use the following procedures and criteria in processing an application for a permit provided for in Chapter 15.12 of this Code:

A. Plans, specifications and methods of construction required by the director of public works shall be submitted in duplicate;

B. Shoring plans submitted shall be designed by and bear the seal of a professional engineer or architect licensed in the State of Alaska;

C. All shoring systems, including the members, their connections and support, shall be designed to carry the loads imposed on them and details shall be shown on the plans;

D. Allowable stresses, including allowances for short term loading, for timber, steel or concrete shall be based on the building code of the Borough;

E. Soil investigations and reports may be required for all excavations so that appropriate pressures may be established. The director of public works may require investigations at any depth whenever specific conditions existing at the site of such excavation reveal an unstable soil structure, or when circumstances indicate that the excavation may impair the lateral support of any public place, or whenever

further investigation will supply information necessary to properly evaluate the application for the permit.

15.20.030 Hazardous Conditions -- Remedy. Whenever an excavation or fill within or outside a public place has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities, or Borough property, the director of public works may direct the contractor making such excavation or fill and/or the owner of the property upon which such excavation or fill is being made, at his own expense, to take action to protect the public, adjacent public places, Borough property and street utilities.

B. In the event that the owner or contractor fails or refuses to promptly take the action directed or fails to fully comply with such directions given by the director of public works, or if emergency conditions exist requiring immediate action, the director of public works may enter upon the property and take such action as he deems necessary to protect the public, or the adjacent streets or street utilities or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns and any other action reasonably necessary to decrease the possibility or extent of earth movement, or regarded as necessary safety precautions; and the owner and/or contractor shall be liable to the Borough for the costs thereof.

15.20.040 Exposed Utility -- Notice Required. Whenever any utility is to be exposed by an excavation, and the exact location and depth of the utility is unknown, the utility company shall be notified and excavation shall not be commenced until a representative of the utility company is present to aid in the location of the utility. It shall be the duty of the utility company under this Section to have a representative at the location where the work is being done within twenty-four hours of notice to the company by the contractor.

15.20.050 Underground Facilities -- Location Information -- Damage.

A. Every effort will be made to appraise the permittee of underground facilities within the permitted area. Such information, however, is provided for convenience only, and the Borough will assume no responsibility for failure to provide complete data. The permittee shall take adequate and proper measures to inform himself as to the existence and location of

any and all underground utilities apt to be encountered during his operation and shall protect the same against damage.

B. If any pipes, conduits, poles, wires or other apparatus are damaged, the permittee shall immediately notify the director of public works and the utility company involved. The damage shall be repaired by the authorities having control of same at the permittee's expense.

15.20.060 Backfill. All trenches and excavations within public places shall be backfilled in accordance with Borough construction specifications and the directions of the director of public works.

15.20.070 Restoring Surface.

A. After completion of an excavation or fill, pavement shall be replaced with standard type pavement as indicated on the permit or as shown on the plans. Curbs, gutters, sidewalks, sewers, drains, structures, street signs and all other improvements damaged, disturbed or removed during the progress of the excavation work shall be restored or replaced in as good condition as existed prior to commencement of work in accordance with the standard construction specifications of the Borough and to the satisfaction of the director of public works.

B. Concrete surfaces and pavements disfigured or damaged shall be replaced and repaired so that they will have a smooth and uniform appearance.

Chapter 15.24

(RESERVED)

Chapter 15.28

MISCELLANEOUS CONSTRUCTION OR USES

Sections:

15.28.010 Driveways, Curb Cuts and Culverts.

15.28.010 Driveways, Curb Cuts and Culverts.

A. No person shall make any opening in or through any curb or sidewalk of any public place for the construction of a driveway without first obtaining a written permit from the director of public works. The permit issued by the director of public works shall limit the type, size and number of curb cuts to conform with safety consideration for pedestrians and motor vehicle movement on adjacent streets or alleys.

B. All driveways constructed on public places where paved roadways and curbs exist shall be constructed according to the standard construction specifications established by the Borough Assembly. The minimum width of curb cuts shall be twelve feet at the curb.

C. No person shall install a driveway culvert in any ditch, drain or gutter in any roadway, right-of-way, street, alley, public place or public easement without first obtaining a written permit from the director of public works.

Chapter 15.32

UTILITIES

Sections:

15.32.010 Utility Installation by Authorized Persons -- Permit Required.
15.32.020 Utility Installation -- Joint use of Poles -- When Required.
15.32.030 Utility Installation -- Painting Poles.
15.32.040 Utility Installation -- Change, Relocation or Removal of Facility -- Definitions.
15.32.050 Utility Installation -- Removal.
15.32.060 Utility Installation -- Provision for Future Street Grades.
15.32.070 Utility Installation - Reference Markers.

15.32.010 Utility Installation by Authorized Persons -- Permit Required. No person enfranchised as a public utility under an ordinance of the Borough shall construct any utility on, over or under any public place unless he has obtained a permit to do so in accordance with the provisions of Chapter 15.12 of this Code.

15.32.020 Utility Installation -- Joint use of Poles -- When Required. The director of public works may require joint use of utility poles, trenches and other facilities where feasible and practical; such joint usage to be documented in an agreement between the several users as to ownership, division of cost, maintenance and future rights of occupancy. The director of public works may deny issuance of a permit for placement of an additional facility of the same type on the opposite side of any right-of-way or any place else within any public place where an existing facility of the same type already exists.

15.32.030 Utility installation -- Painting poles. Anyone erecting or maintaining utility poles shall, upon order of the director of public works, paint or repaint its poles to such height and in such colors and at such times as the director of public works may direct.

15.32.040 Utility Installation -- Change, Relocation or Removal of Facility -- Definitions.

A. If, incident to construction of street improvement projects by the Borough or to any other construction for the public convenience and necessity, the Borough determines that a utility facility located in, over, along or under a public street must be changed, relocated or removed as required by public convenience and necessity, the utility owning or in charge of the facility shall commence to and shall change, relocate or remove it as soon as possible in accordance with an order issued for that purpose by the director of public works.

B. In the event that the utility facility is not changed, relocated or removed, or work commenced to effect the change, relocation or removal, within a reasonable time as required by the order, the Borough may change, relocate or remove the facility at the utility's expense or take whatever other action is necessary to insure compliance with the order.

C. The cost of change, relocation or removal of the utility facility shall be the expense of the utility unless the utility facility was constructed and installed under a valid franchise, agreement, permit or other instrument entered into by the Borough and the utility which expressly provides for a different manner or method of bearing of costs or expenses of the change, relocation or removal.

D. Nothing in this Section shall be construed to permit any utility to locate without the express consent of the Borough, or Borough permit, any utility facility in, over, along or under a public street or place or other property of the Borough.

E. As used in this Chapter, "public convenience and necessity" includes:

1. The construction or reconstruction of the street improvement;

2. The widening of any existing street;

3. The relocation of existing street improvements; or

4. Change in street grade.

F. As used in this Chapter, "street" includes:

1. Any public highway, street, roadway, alley, sidewalk, curbs and gutters or other public thoroughfare;

2. Any easement or right-of-way for a public street, alley or other thoroughfare; or

3. Any other area dedicated to or held by the Borough for street, alley or other public thoroughfare purposes.

<u>15.32.050 Utility Installation -- Removal</u>. Any utility with a permit for the installation of pipes, ducts, utility tunnels, vaults, manholes, poles, wires or other appurtenances shall remove any such installation when it is no longer required

or used. Such removal shall be done at the expense of the owner of the facility.

15.32.060 Utility Installation -- Provision for Future Street Grades. All underground utility pipes, ducts, vaults, manholes, tunnels or other facilities or appurtenances thereto installed under authority of this Title shall be designed and placed to provide acceptable minimum bury below future street grades as established by the Borough Assembly, said depths of bury to be approved by the director of public works prior to the issuance of any permit for such work.

15.32.070 Utility Installation - Reference Markers. The director of public works may, as a condition to issuance of a permit for installation of any utility pipes, ducts, utilidors, tunnels or other facilities or appurtenances thereto, require that the permittee shall set and maintain permanent durable reference markers over and along, or at an offset to, the facility. Spacing, type, method of installation and information contained on said markers shall be subject to the approval of the director of public works.

Chapter 15.36

OBSTRUCTIONS -- ENCROACHMENTS

Sections:

15.36.010 Depositing Refuse on Streets or Sidewalks.
15.36.020 (Reserved).
15.36.030 Gasoline Pumps -- Sidewalk Encroachments.
15.36.040 Drainage from Business.
15.36.050 Obstructing Ditches, Gutters and Drains.
15.36.060 Spilled Loads.
15.36.070 (Reserved).
15.36.080 Installation of Oil Pipes.
15.36.090 Dragging Objects Prohibited.
15.36.100 Injurious Materials on Highway Prohibited.
15.36.110 Debris in Public Places -- Removal.
15.36.120 Placing Snow in Public Ways Prohibited.

15.36.010 Depositing Refuse on Streets or Sidewalks. It is unlawful for any person, firm, corporation or other entity to deposit, throw or sweep into or upon the streets, alleys, parking or sidewalks of the Borough any paper, rubbish, grass, weeds, tree trimmings, dirt, trash, crates, boxes or other refuse of any kind.

15.36.020 (Reserved).

15.36.030 Gasoline Pumps -- Sidewalk Encroachments. No gasoline dispensing pump shall be installed closer than twelve feet to any street or alley line. All apparatus for the servicing of motor vehicles shall be so placed that any and all motor vehicles can be serviced while standing upon the property of the service station with no part of the vehicle projecting over the sidewalk area.

15.36.040 Drainage from Business. It is unlawful for any owner or operator of a filling station or other place of business, or any agent or employee thereof, to cause or allow water, grease or other fluid to flow or drain into, upon, over or across any sidewalk, parking, street, alley or other public way.

15.36.050 Obstructing Ditches, Gutters and Drains. No person shall create any obstruction in any ditch, drain or gutter that may hinder the passage of water therein.

15.36.060 Spilled Loads. The owner or operator of any vehicle which has spilled, dropped, dumped or in any manner deposited any matter upon a public place shall cause the public place to be cleaned immediately unless specific permission for delay is authorized by the director of public works. Failure to clean the public place upon demand by the director of public works shall make the owner or operator or both subject to the penalties of Chapter 1.24.

15.36.070 (Reserved).

15.36.080 Installation of Oil Pipes. No person shall install or maintain in or upon any public roadway or sidewalk, or adjacent thereto, any oil or water intake pipe which extends above the surface of the roadway or sidewalk. Every such pipe, object or thing which extends above the surface of any roadway or sidewalk is hereby declared a public nuisance and may be summarily removed by the director of public works or any police officer of the Borough.

15.36.090 Dragging Objects Prohibited. No person shall drag or haul any timber, pipe or any other material or object along any street or highway in such a manner that a portion of such object shall rest upon or come in contact with the surface of the street or highway.

15.36.100 Injurious Materials on Highway Prohibited.

A. No person shall throw or deposit upon any street or highway any glass, nails, tacks, wire, cans or other substance likely to injury any person, animal or vehicle upon such street or highway.

B. Any person who drops, or permits to be dropped or deposited upon any street or highway any destructive, injurious or unsightly material shall immediately remove the same or cause it to be removed.

15.36.110 Debris in Public Places -- Removal. Whenever it is expedient to the safety or convenience of the public, the director of public works may remove obstructions, hazards or nuisances from public places, and anyone causing said obstructions, hazards or nuisances shall be responsible for reimbursing the Borough for the expense of cleaning the public place as well as being subject to prosecution in a court of law.

15.36.120 Placing Snow in Public Ways Prohibited.

A. No person may place or cause to be placed any snow or ice in or on any public sidewalk, street, roadway, parking place or other public place in such a manner as to in any material way impede travel or make vehicle or pedestrian use of the public way or place unsafe.

B. In accordance with Subsection (A), exception shall be made when, for the purpose of snow removal, the Borough has blocked a street to vehicular traffic and snow may be placed in any part of such street which will be cleared of snow by the Borough. This exception shall not be deemed to permit the placement of snow on any sidewalk at any time, nor the placement of snow on any part of a street which part has been recently cleared of snow.

C. No person may place or cause to be placed in any street any snow or ice which has accumulated in a private, commercial or business associated parking lot. The exceptions of Subsection (B) above do not apply to this prohibition.

Chapter 15.40

(RESERVED)

Chapter 15.44

PARKS

Sections:

15.44.010 Definitions.
15.44.020 Park Policy.
15.44.030 Park Regulations.
15.44.040 Prohibited Acts.
15.44.050 Types of Parks.

15.44.010 Definitions.

A. "Park", as used in this Chapter, includes any park, playground or water under the jurisdiction of the Borough.

B. "Refuse", as used in this Chapter, means waste paper, cans, bottles, glass, scrap, picnic refuse, garbage and other waste matter.

15.44.020 Park Policy. All Borough parks shall be maintained and governed under regulations which shall provide the greatest possible public use by all citizens as may be allowed by the finances available. No one group or organization shall have any special claim or privilege.

15.44.030 Park Regulations. The Mayor is empowered to make such rules and regulations pertaining to the conduct and use of parks as are consistent with this Chapter and as are necessary to administer the same or to protect public property or the safety, health, morals or welfare of the public.

15.44.040 Prohibited Acts.

A. No person shall at any time scatter or deposit refuse upon or within any park in the Borough.

B. No person shall at any time break bottles or other glass containers within any of the areas described herein in such manner that fragments of glass may be strewn around the playgrounds, recreation areas or parks.

C. No person shall operate a motor vehicle, off-the-road vehicle, all-terrain vehicle, motorcycle, snowmachine or other motorized vehicle over, upon or through a public park within the Borough, unless as expressly provided for in the ordinances of the Borough.

15.44.050 Types of Parks.

A. Certain parks within the Borough may be designated as "recreational parks." In such parks, commercial activities shall be kept to a minimum and the following restrictions apply:

1. No commercial enterprises shall be allowed in or out of the buildings except:

a. For special events, nonprofit organizations may be allowed to sell refreshments from push carts or vehicles or on foot, and

b. For special events, nonprofit organizations may build temporary stalls or other temporary structures from which to sell merchandise or services as may be consistent with the spirit of the occasion. Example: stalls for a carnival put on by a student organization;

2. All development shall be in line with one consistent policy;

3. There shall be a specific policy of care and maintenance and methods of implementation of that policy including recognition of the Borough's responsibility to keep such parks free and clear of refuse;

4. All structures located in the parks shall be of no more than one story and no more than sixteen feet in height. Exceptions: lighting, electrical or other small-mass structures typical of recreational parks;

5. There shall be no alcoholic beverages sold or dispensed;

B. All other activities, structures and standards consistent with the rules and regulations of the Assembly may be allowed at other parks not classified as recreational parks.

Chapter 15.48

TREES AND SHRUBS

Sections:

15.48.010 Trees and Shrubbery to be Trimmed.
15.48.020 Tree Planting -- Prohibited Trees.
15.48.030 Care of Trees.
15.48.040 Contact with Public Service Company Wires -- Trimming.
15.48.050 Injury to Trees and Shrubbery.

15.48.010 Trees and Shrubbery to be Trimmed. The owner of any premises abutting on any street of the Borough shall trim all trees and shrubbery growing in the parking, between the sidewalks and the roadway, of any such street and all trees and shrubbery growing on any street, alley or sidewalk, in such manner that the boughs or limbs thereof shall not obstruct free and convenient passage and travel along the streets, sidewalks and alleys. When such premises are occupied by some person other than the owner, such occupant shall trim the trees and shrubbery in the same manner as required of the owner. Such trees and shrubbery shall be trimmed so that the lowest branches or foliage shall not be lower than ten feet above the roadway of a street or alley, and not lower than eight feet above the sidewalk.

15.48.020 Tree Planting -- Prohibited Trees. No one shall plant in any public place any tree or shrub or any other plant the roots of which will cause injury to the sewers, sidewalks or pavements.

15.48.030 Care of Trees. It shall be the duty of any person who is responsible for trees growing on property abutting on public places:

A. To treat or remove diseased trees or plants, and to treat or remove any tree or plant which creates a nuisance or is a hazard to any public place by reason of being diseased or insect ridden; and

B. To remove any tree which has become dead or is in such condition as to be hazardous to the public.

15.48.040 Contact with Public Service Company Wires -- Trimming. No trees shall be allowed to come in contact with telephone, telegraph, electric or power wires of public

service companies or of the Borough. When the director of public works shall find that trees are coming in contact with the wires of public service companies or of the Borough, he may order the trees trimmed, and if not so trimmed within ten days after service of written notice upon the owner of such trees, or the posting of written notice thereof upon the premises, he may issue a permit to the owners of the wires, authorizing them to trim such trees at their own expense. If the work be done by the owners of the wires, the director of public works may accompany them and have charge of the work, and the cost of supervision shall be borne by the owners of the wires.

15.48.050 Injury to Trees and Shrubbery. It is unlawful for any person to injure any tree or shrubbery on a street, alley or other public area in the Borough, provided that this shall not prohibit the lawful and proper care and removal of such trees and shrubbery.