

CHAPTER 21

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PART 1**STREET EXCAVATION AND OBSTRUCTION****§101. Definitions and Interpretation.**

The following words, when used in this Ordinance, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

Borough. The Borough of Wyomissing, Berks County, Pennsylvania.

Excavation. Any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking or disturbing the surface thereof. In this Ordinance, the term "opening" shall have essentially the same meaning as excavation.

Person. Any natural person, partnership, firm, association, corporation or municipal authority.

Public Works Manager. The person then serving as the duly appointed public works manager of the Borough, or his or her designee.

Streets. Any public street, avenue, road, square, alley, highway or other public place located in the Borough and established for use of vehicles, including all portions of the right-of-way thereof, but not including state highways.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 560, 10/11/1955, §1; as amended by Ord. 1277, 3/11/2008, §1)

§102. Permit Required to Make Opening or Excavation.

It shall be unlawful for any person to open or make any excavation of any kind in any of the streets in the Borough without first securing a permit therefore, as hereinafter provided.

(Ord. 560, 10/11/1955, §2; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1277, 3/11/2008, §1)

§103. Application for Permit.

Any person who shall desire to make any opening or excavation in any of the streets in the Borough shall make application to the Borough Public Works Manager in writing for that purpose. Such application shall be made upon blanks to be furnished by the Borough and shall set forth the name of the applicant, the exact location of the proposed opening or excavation and the approximate size or depth thereof, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances and resolutions of the Borough and the laws of the Commonwealth of Pennsylvania in relation thereto, and that the applicant shall well and truly save, defend and keep harmless the Borough from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

(Ord. 560, 10/11/1955, §3; as amended by Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §1)

§104. Permit Fees and Fee Schedule.

Before any permit shall be issued to open or excavate any street in the Borough, the applicant shall pay a permit fee in the amount fixed according to the currently adopted schedule of fees for permit issuance and inspection for each requested opening or excavation. The aforementioned schedule of fees may from time to time be amended by the adoption of a Resolution by the Borough Council and may, but need not, be based upon the quantity of surface area proposed to be disturbed. All fees and charges shall be paid by the permittee to the Borough before the issuance of the requested permit.

Where, in the opinion of the Borough's Public Works Manager and at his sole discretion, site conditions are such that additional effort is required to protect the integrity of the street(s) of the Borough, the permittee may be required to perform additional work and/or pay (or provide adequate security for the payment of) additional costs. This option could include permanent restoration of the street surface by the permittee along with payment of all above stipulated fees and charges, or the reconstruction and/or resurfacing of an area of street exceeding the area directly affected by the opening or excavation at the permittee's expense. Where additional work is required, a legally binding agreement to perform such work, acceptable to the Borough in form and substance, shall be executed by the applicant before issuance of the permit.

Upon inspection, if it be determined that the permittee actually removed, disturbed or damaged, either in the initial or subsequent restoration, an area of yardage greater than that set forth in his or her application, the permittee shall forthwith pay a proportionate amount to be fixed by the Borough's Public

Works Manager within three (3) days after demand therefore shall be made in writing.

(Ord. 560, 10/11/1955, §4; as amended by Ord. 1277, 3/11/2008, §1)

§105. Computation of Area of Street Pavement or Surface to be Charged.

In computing the square yards of the pavement or surface area to be disturbed as the basis of any fee to be charged which is based upon quantity of surface area disturbed, twelve inches (12") shall be added to all sides of the proposed opening or excavation.

(Ord. 560, 19/11/1955, §5; as amended by Ord. 1277, 3/11/2008, §1)

§106. Issuance of Permits Restricted.

Permits shall be issued only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

(Ord. 560, 10/11/1955, §6; as amended by Ord. 1277, 3/11/2008, §1)

§107. Information Contained on Permit.

Any permit issued hereunder shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof and the times within which the work for which the permit is granted shall be performed and completed.

(Ord. 560, 10/11/1955, §7; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1277, 3/11/2008, §1)

§108. Permit Approval or Disapproval.

A permit may be issued to the applicant within twenty (20) days after all of the requirements therefor have been fulfilled. If the application is disapproved for any reason, written notice of disapproval together with reasons therefor shall be given to the applicant within five (5) days of such disapproval.

(Ord. 560, 10/11/1955, §8; as amended by Ord. 1277, 3/11/2008, §1)

§109. Compliance with Other Ordinances and Laws.

No permit shall be issued to any person indebted to the Borough because of any previous application or permit, or in violation of any previous permit. Any permit is issued subject to all ordinances and resolutions of the Borough, all state and federal laws, and to the following conditions:

- A. Bore Holes. Bore holes will be considered openings and a restoration charge will be levied in the amount fixed according to the currently adopted schedule of fees for permit issuance and inspection for each bore hole made. A permit will be required for each bore hole grouping. The permittee shall plug and seal bore holes, in a manner and with materials approved by the Borough Public Works Manager, to the street surface within thirty (30) days of boring. If the applicant does not plug and seal these holes within the given time period, the Borough reserves the right to take any steps deemed necessary to repair the street, and the associated costs shall then be paid by the permittee upon the Borough's demand.
- B. Ahead of Paving Permit. Permits for excavation performed in advance of Borough scheduled street improvements at the same location, where the required work is completed in accordance with a schedule approved by the Borough Public Works Manager, will be issued at no charge. A detailed construction plan must accompany each application for an "Ahead of Paving Permit". Excavation, backfilling and temporary street opening restoration will be performed by the permittee at his or her cost as directed by the Borough Public Works Manager.
- C. Subsurface Plans. Upon completion of work, the permittee shall furnish to the Borough Public Works Manager completely dimensioned plans showing accurately and distinctly, and in such detail as required, the size, shape and kind of pipe, wire or structure the permittee has installed or altered and its location with reference to the street surface and the nearest curb line and curb intersection. No refunds will be allowed until such plans have been furnished and accepted.
- D. Time Limit. In case the work has not been completed on or before the date as shown on the permit, the Borough Public Works Manager may, if he deems advisable, take steps to backfill the trench and replace permanent pavement over the opening for which the permit had been issued. If an extension of time beyond said date is necessary for the completion of the work, a written application therefor must be filed and approved by the Borough Public Works Manager.

- E. Excavation Notice. PA Act 287 of 1974 as amended by Act 121 of 2008 73 P.S. §176 et.seq., (the “Act”) or as last amended requires those who intend to excavate, demolish or blast to file certain notices (one-call, etc.) before commencing work. Applicants for permits to excavate or open any public street of the Borough shall comply with all of the requirements of the Act. Permits issued by the Borough shall be deemed null and void unless the requirements of the Act have been met.
- F. Barricade Cover, Lighting and Traffic Control. All street openings shall be completely barricaded and protected by the permittee. Excavations left open or incompletely repaired after dark shall be marked by PennDOT approved flashing lights. Where work is interrupted, the person(s) responsible for the opening shall secure and cover the excavation with an appropriate metal plate. All required traffic control shall be provided by the permittee in accordance with PennDOT’s current publication (Work Zone Traffic Control Plan) or any future PennDOT publication(s) dealing with this subject. Nothing contained in this Ordinance or other legislation of the Borough shall release the person opening the street from all liability associated with claims for injury or damage resulting therefrom.
- G. All openings shall be in accordance with the Borough’s Standard Specifications as adopted by resolution of Borough Council and amended from time to time.
- H. Paving Restoration. Permanent restoration must be placed in accordance with Borough standards no later than the expiration of such three (3) month period or two (2) weeks after the permittee is given notice by the Public Works Manager, whichever occurs first. Failure to abide by any of these restoration criteria will subject the permittee to pay the full amount plus 10% of any costs incurred by the Borough to repair the street.
- I. Additional Restoration. All disturbed portions of the street, including all appurtenances and structures, such as guiderails or drain pipes, shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.
 - (1) If the permittee opens any street pavement having a bituminous concrete surface, whether to install a new facility or to modify an existing facility, the permittee shall, in addition to the restoration conditions outlined in the Borough’s Standard Specifications as adopted by resolution of Borough Council and amended from time to time, overlay the street pavement in accordance with the following conditions:

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- (i) When a longitudinal opening longer than ten feet (10') and wider than three feet (3') is made in the street pavement, the permittee shall overlay the traffic lanes in which the openings were made for the entire length of the street between such openings, as directed by the Borough Public Works Manager.
- (ii) When two (2) or more transverse trench openings are made in the street pavement less than two hundred feet (200') apart, the permittee shall overlay all traffic lanes in which the openings were made for the entire length of street between such openings, as directed by the Borough Public Works Manager.
- (iii) When five (5) or more emergency openings have been made by the same permittee in the street pavement less than two hundred feet (200') apart within five (5) years of the last resurfacing by the Borough, the permittee shall overlay all traffic lanes in which the openings were made, in accordance with the Borough's Standard Specifications as adopted by resolution of Borough Council and amended from time to time for the entire length of street between such openings.
- (iv) Where disturbed lanes adjacent to shoulders are overlaid, the shoulder shall be raised so that the overlaid pavement and shoulder edges are at the same elevation.

(2) Regardless of the age of the wearing course:

- (i) When both longitudinal and transverse trench openings are made in the street pavement, the Borough Public Works Manager may require the permittee to overlay all traffic lanes in which such openings are made for the entire length of the street that was opened if the Borough Public Works Manager determines that the street has been impaired by the opening; or
- (ii) When five (5) or more openings are made by the same permittee in the street pavement less than one hundred feet (100') apart, the Borough Public Works Manager may require the permittee to overlay the entire disturbed area.

- J. Notice to Borough Public Works Manager. The Borough Public Works Manager shall be notified at telephone number (610) 376-7481 at least three (3) business days prior to the time when the opening in the pavement is to be made, and shall be further notified at least two (2) hours prior to the time when an opening is to be backfilled and completed, so that the proper instructions may be issued for permanent pavement replacement.
- K. Work for Borough of Wyomissing. Contractors doing work of this nature for the Borough shall be required to obtain a permit therefor, however said permits shall be issued without charge.
- L. Work to Conform to Borough Standards. All work shall be done at such a time and in such a manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Borough. If the Borough discovers that the work has been discontinued or has not been properly performed, the permittee, upon being notified thereof in writing by the Borough, shall immediately take all necessary steps, at his or its expense, to place the work in such condition as to conform to the Borough's requirements or standards. If a dispute arises between the permittee and any Borough employee charged with the responsibility to inspect such work, the employee shall have the authority to suspend work until the matter can be referred to and be decided by the Borough consulting engineer.
- M. Additional Inspection Fees. If the Borough determines that the permitted work is of sufficient magnitude or importance to warrant assignment of one (1) or more Borough employees to inspect the permitted work on a more than spot inspection basis, the permit shall so indicate, and the permittee shall be charged for all salary, overhead and expenses incurred by the Borough for inspection.

(Ord. 560, 10/11/1955, §10; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3 and §4)

§110. Responsibility for Defects Occurring Within Two (2) Years.

If within two (2) years after the restoration of the surface as herein provided defects shall appear therein resulting from defective backfilling by the permittee, the permittee shall reimburse the Borough for the cost of all necessary repairs to the permanent paving.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§111. Responsibility of Permittee for Certain Work; Right of Borough to Do Certain Work; Charges Therefor.

All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or for which the permit has been issued, at such person's expense, and all such work shall be subject to the provisions of this Ordinance and to the supervision and approval of the Borough Public Works Manager, provided that the Borough Public Works Manager may, if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by the Borough, in which event the applicant shall pay the actual cost of the work to be performed by the Borough.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§112. Emergency Openings.

In the case of any leak, explosion or other accident in any subsurface pipe, line, structure, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, structure, construction or apparatus to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that such person shall comply with all other provisions of this Ordinance. If an emergency condition exists, the Borough Police Department shall be notified immediately at telephone number 610-375-6101. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, structure, construction or apparatus, the Borough Public Works Manager, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to cause the Borough to do the work necessary and required by such emergency, and charge the same on the basis of cost plus twenty percent (20%) to such owner or person.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§113. Restrictions Regarding Trees and Shrubbery.

The permission herein granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way, except under specifications, regulations and conditions as the Borough Public Works Manager may prescribe or as otherwise permitted by the laws of the Commonwealth of Pennsylvania.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§114. Permittee Responsibilities for Future Relocation of Work.

If at any time in the future the roadway is widened or reconstructed, or the alignment of grades thereof are changed, the permittee further agrees to change or relocate all or any part of the structures covered by the permit which interfere with the improvement of the roadway, at the permittee's own cost and expense.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§115. Conditions for Laying and Extending Utility Lines.

No new water, sewer, steam or gas main or electric, shall hereafter be laid or constructed, and no such existing main or line shall be extended in any of the streets of the Borough until the plan therefor shall have been first filed with the Borough consulting engineer and such plan and the exact location of such main or line approved by him. The Borough consulting engineer shall not approve the locating of any such main or line at a depth of less than thirty inches (30") from the surface of the street unless he shall be convinced that locating the same at a depth of more than thirty inches (30") from the surface is impossible or impractical. Within ninety (90) days of completion of the construction project, an "as-built" plan and/or Geographic Information System (GIS) information, as designated by the Borough, establishing the exact location where such main or line was installed shall be filed with the Borough Public Works Manager.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§116. Bond and Insurance Required. No person shall dig up any street or alley without first giving to the Borough:

- A. Bond. A bond with an acceptable trust or surety company as surety or a letter of credit with an acceptable bank as issuer, in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys. Such bond or letter of credit shall be valid without need of renewal for a period of five (5) years from the date of issuance.
- B. Permittee's Liability Insurance. The permittee shall purchase and maintain insurance that will afford the following protection from claims:

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(1) Coverage. For damages because of bodily injury, sickness or disease, or death of any person other than employees including claims insured by usual personal injury liability coverage; property damages and loss of use resulting therefrom; any or all of which may arise out of or result from the operations and completed operations of the contractor, whether such operations and completed operations be by the contractor or by any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. Before starting the work, the contractor will file with the Borough a certificate of such insurance, acceptable to the Borough. Insurance covering comprehensive general liability shall be maintained by the contractor for the duration of the work.

(2) Limits of Insurance. The permittee shall provide insurance in the following minimum amounts:

FORM	MINIMUM LIMITS
Comprehensive General Liability	
Bodily Injury	\$3,000,000
Property Damage	\$3,000,000
Personal Injury	\$3,000,000
Workers Compensation	Statutory Limits
Including premises operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent contractors and personal injury, including employees.	

(3) Additional Insureds. This policy shall name both the Borough, Borough Engineer any Building Official or other person the Borough of Wyomissing may from time to time appoint by ordinance, resolution or other to carry the administration, enforcement and all other responsibilities of this Part as "additional insured."

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§116. Payment for Work Done by Borough.

Payment for all work done by the Borough under the provisions hereof, including but not limited to all expenses incurred by the Borough as a result of delay

to the completion of the street reconstruction project which is attributable to the repair or relocation of the utility line, shall be paid by the person liable therefor under the provisions hereof within thirty (30) calendar days after a bill therefore is sent to such person by the Borough. Any property owner failing to make payment within the allotted time shall be subject to a penalty charge of ten percent (10%) of the bill. All delinquent bills for work done the Borough shall be collectible by the Borough by an action at law or in the manner provided by law for the collection of municipal claims. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. § 7101 et seq, 53 P.S. § 7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bills is paid and recovery of all charges, costs, expenses and attorneys fees incurred in the recovery of the account.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1322, 12/13/2011, §1; as amended by Ord. 1359, 1/14/2014, §3)

§118. Penalties.

Any person who opens or excavates in any manner the pavement or surface of any public street of the Borough without first having obtained the proper permit and paid the application fees and charges hereinbefore set forth, including any extension fee, or who violates any of the other provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not exceeding six Hundred Dollars (\$600.00) for each offense, plus costs, and in default of the payment of such fine and costs, said person and/or the responsible agents or officer of firms and corporations violating the provisions of this Ordinance, shall be imprisoned in the Berks County Prison for a period not exceeding thirty (30) days. Every day that a violation of this Ordinance continues shall constitute a separate offense.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

§120. Applicability.

The provisions of the Ordinance shall not apply to laying sidewalks or curbs.

(Ord. 1277, 3/11/2008, §1; as amended by Ord. 1359, 1/14/2014, §3)

PART 2

GRADING, CONSTRUCTION AND REPAIR OF CURBS, SIDEWALKS, HANDI-CAPPED RAMPS AND DRIVEWAYS

§201. Definitions and Interpretations.

The following words when used in this Part, unless the context clearly indicates otherwise, shall be defined as follows:

BOROUGH — the Borough of Wyomissing.

CODE ENFORCEMENT OFFICER/BUILDING OFFICIAL — the person and/or firm appointed to enforce this Part and various other Borough ordinances, resolutions, regulations, etc., by the Council of the Borough.

CONSTRUCT OR RECONSTRUCT — to originally build or fabricate and/or to repair/repave or replace any curb, sidewalk, driveway entrance, retaining wall, gutter or drain with the approved materials set forth in this Part to new or like condition as determined by the Borough.

COUNCIL — the Borough Council of Wyomissing Borough.

ENGINEER — the person and/or firm appointed to perform or render professional engineering services to the Borough of Wyomissing.

IMPROVEMENT — for the purposes of this Part, a curb, sidewalk, driveway entrance, retaining wall, gutter or drain.

PAVE OR REPAVE — to lay or cover broken, deteriorated or damaged curbs, sidewalks, driveway entrances, retaining walls, gutters or drains with approved materials set forth in this Part to a new or like condition as determined by the Borough, which shall include, but is not limited to, construction or reconstruction.

PUBLIC WORKS DIRECTOR — the person appointed by the Borough in charge of the Public Works Department who shall have designated duties including the maintenance procedures and services for Borough streets, curbs, sidewalks, storm sewers and related rights-of-way.

REPAIR — to construct, reconstruct, replace or restore unaligned, broken, deteriorated or damaged curbs, sidewalks, driveway entrances, retaining walls, gutters or drains with the approved materials set forth in this Part to new or like new condition as determined by the Borough.

REPLACE — to construct, reconstruct, pave, repave, repair or restore any unaligned, broken, deteriorated or damaged curbs, sidewalks, driveway entrances, retaining walls, gutters or drains with approved materials set forth in this Part to a new or like new condition as determined by the Borough.

SIDEWALK AREA — the area between the street curb line and the right-of-way line of a street as shown on recorded subdivision plans, as shown on the topographical survey and revisions thereto of the Borough or as established by ordinance.

STREET — as defined in the Land Subdivision Ordinance [Chapter 22] of the Borough of Wyomissing. It includes street, avenue, boulevard, road, highway, expressway, thoroughfare, court, lane, alley and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private. Included is all the land between the street right-of-way lines, whether improved or unimproved. Streets may comprise pavement, shoulders, gutters, sidewalks, division strips or other areas within the street right-of-way lines.

(Ord. 1250, 8/10/2004, §1)

§202. Grading of Sidewalk Areas and Construction and Repair of Sidewalks, Curbs and Driveway Entrances.

1. The grading of sidewalk areas, the constructing and repairing of sidewalks, curbs, curb ramps and driveway entrances along the streets of the Borough of Wyomissing shall be done by the owner or owners of the lot or lots abutting thereon in accordance with the lines and grades established by ordinance or as shown on the topographical survey and revisions thereto of the Borough's Standard Specifications as adopted by resolution of Borough Council and amended from time to time other copies thereof being on file with the Borough.
2. It is hereby declared unlawful for any person, firm or corporation to grade any sidewalk area, construct or repair any retaining wall within the Borough, except in compliance with the provisions of this Part.
3. Any person, firm or corporation desiring to grade any sidewalk area or desiring to construct or repair any sidewalk, curb, curb ramp, driveway entrance, or front or rear retaining wall, shall first obtain an application therefor from the Borough. A permit shall be issued by the Borough only after the following conditions have been satisfied:
 - A. The filing of a written application with the Borough upon such form as may be approved by the Borough from time to time, setting forth the location, purpose and detailed description of the improvements. A copy thereof shall remain on file with the Borough.
 - B. The approval of said application by the Code Enforcement Official.
 - C. The payment of an established fee in accordance with the fee schedule adopted by resolution of the Borough from time to time shall be paid

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to the Borough at the time of filing written application; which fee shall be the aggregate fee regardless of the number of improvements set forth in the application.

- D. In all cases of new construction of any curb or in the case of any other type improvement when requested by the applicant, the Borough Engineer, if he or she deems it necessary, shall furnish the applicant with necessary lines and/or grades.
- E. A permit shall be effective for a period of ninety (90) days from the date of issuance, and may, prior to expiration of the original or renewal period be renewed by the Code Enforcement Official, for a period of ninety (90) days upon the application and established renewal fee in accordance with the fee schedule for each 90 days by the person, firm or corporation to whom the original permit was issued, providing that the original permit was issued, providing that the reference points have not been disturbed or destroyed. When reference points have been disturbed, they shall be re-established at the applicant's expense.
- F. Notification shall be given to the applicant that all work for which a permit is required shall be inspected throughout the time of construction by Borough officials.
- G. The applicant for a permit for any improvements covered by this Part shall state in writing on the application for permit that he is thoroughly familiar with all terms and provisions of this Part.

- 4. On neglect or refusal of the owner or owners of the abutting lot or lots to grade any sidewalk areas, to construct and/or repair any sidewalk, to construct, set, reset, repair any curb, curb ramp or driveway entrance, within thirty (30) calendar days after notice so to do from Borough Council by and through its proper officials, Borough Council shall cause the same to be done and shall collect from said owner or owners of the lot or lots the cost thereof and a penalty in the amount ten percent (10%) additional, together with all charges and expenses, and if payment is not made within thirty (30) days after the bill is sent, shall file a municipal lien therefore against such lot or lots or shall bring an action in assumpsit against said owner or owners for collection thereof. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. §7101 et seq, 53 P.S. §7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorney fees incurred in the recovery of the account.
- 5. Sidewalk areas not graded, or sidewalks, curbs, curb ramps and driveway entrances not laid in conformity with the provisions of this Part and with the established grades and lines shown on the topographical survey and re-

visions thereto of the Borough, are hereby declared to be nuisances, and must be taken up and regraded, and/or relaid according to the provisions of this Part within thirty (30) calendar days after notice to the owner or owners so to do by Borough Council by and through its proper officials, and upon failure of said owner or owners thereof to regrade said sidewalk area, and/or relay said sidewalk, curb, curb ramp or driveway entrance within the time stipulated, Borough Council shall cause the same to be done in the manner herein provided and Borough Council shall collect the cost thereof and a penalty in the amount of ten percent (10%) additional, together with all charges and expenses, and if payment is not made within thirty (30) days after the bill is sent shall file a municipal lien therefore against such lot or lots or shall bring an action in assumpsit against said owner or owners for collection thereof. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. §7101 et seq, 53 P.S. §7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorney fees incurred in the recovery of the account.

6. No sidewalk, curb, curb ramp or driveway entrance heretofore laid with material or materials not described herein shall be permitted to be repaired, but whenever any such sidewalk, curb, curb ramp or driveway entrance becomes, in the opinion of Borough Council either on its own or through its proper officials, in a dangerous and/or deteriorated condition, notice shall be given to the owner or owners of the lot or lots abutting thereon to replace the sidewalk, curb, curb ramp or driveway entrance with the material herein provided, and upon his, her, its or their failure to do so within thirty (30) calendar days after notice, Borough Council shall cause the same to be done in the manner herein provided and Borough Council shall collect the cost thereof and a penalty in the amount of ten percent (10%) additional, together with all charges and expenses, and if payment is not made within thirty (30) days after the bill is sent, shall file a municipal lien therefore against such lot or lots or shall bring an action in assumpsit against said owner or owners for collection thereof. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. §7101 et seq, 53 P.S. §7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorney fees incurred in the recovery of the account.
7. In the case of concrete sidewalks, in the event any concrete block thereof requires the replacement of more than twenty percent (20%) of the total area of said concrete block, then said concrete block in need of repair shall be replaced in its entirety; provided, however, where a portion of such a concrete block is removed for installation or repairs to utilities, then said block shall be replaced in its entirety.

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8. Curb and sidewalk shall be constructed along the front of each lot within the Borough on which a new building or structure other than a private garage is constructed where said lot adjoins a public street, road or highway. In the case of a corner lot, curbing and sidewalk shall be constructed along both the front of the lot and side of the lot adjacent to the public street, road or highway. In the case of industrial or commercial development, Borough Council may by resolution waive any or all of the requirements in this subsection (8) if in its opinion said development is located in an area of the Borough where curb and/or sidewalk is neither desirable nor necessary. Such curb and sidewalk shall be constructed within sixty (60) days after such a new building or structure is completed and/or ready for occupancy.

(Ord. 1250, 8/10/2004, §1; as amended by Ord. 1302, 12/8/2009, §1; as amended by Ord. 1322, 12/13/2011, §2; as amended by Ord. 1359, 1/14/2014, §7)

§203. Planting of Trees and Shrubbery in or Near Sidewalk Areas.

1. It is unlawful for any trees, evergreens, hedges, plants or shrubbery to be planted by any person, firm or corporation within two feet of the topographical building line along any street, or for any trees, evergreens, hedges, plants or shrubbery to be planted by any person, firm or corporation in any sidewalk area, in the prescribed planting strip areas between the curb and sidewalk, whether the grass plot area exists in fact or whether it is paved as an addition to the sidewalk. Shade trees may be planted in the prescribed planting strip areas between the curb and sidewalk only by the Borough.
2. Any trees, evergreens, hedges, plants or shrubbery planted in violation of this Section are hereby declared to be nuisances or creates a hazardous or potentially hazardous condition, must be removed within 30 days after notice to the owner or owners of the respective lot or lots of property, so to do by Borough Council, and upon failure of said owner or owners to accomplish this removal, Borough Council shall cause the same to be done and shall collect from said owner or owners of the lot or lots the cost thereof and 10% additional, together with all charges and expenses, and if payment is not made, shall file a municipal lien therefore against such lot or lots or property, or shall bring an action in assumpsit against said owner or owners for collection thereof.
3. No trees or shrubbery shall be planted on a corner property in any manner that would not conform with sight distance requirements of the Land Development and Subdivision and/or Zoning Ordinance [Chapter 22 and Chapter 27].

(Ord. 1250, 8/10/2004, §1)

§204. Placement of Signs, Barriers and Lights.

Any person, firm or corporation grading any sidewalk areas, or constructing or repairing any curbs, gutters, sidewalks, curb ramps, driveway entrances or retaining walls, or removing any trees or shrubbery, or opening or excavating in or under any streets, alleys or sidewalk areas, or storing or depositing materials on any streets, alleys or sidewalk areas, shall place suitable signs, barriers and/or lights so as to protect the users of streets, alleys or sidewalk areas in the vicinity thereof from injury to person or property. In the event that Borough Council through its authorized officials, directs the person, firm or corporation conducting the work to place a certain type and/or quantity of signs, barriers or lights in a certain manner, said person, firm or corporation shall promptly comply with such direction. If work is being performed in or along any State highway located in the Borough of Wyomissing, a highway occupancy permit shall be obtained from the Pennsylvania Department of Transportation (PennDOT) prior to the start of any construction. All PennDOT regulations shall be followed regarding traffic control devices while construction is being done in or along any State highway.

(Ord. 1250, 8/10/2004, §1)

§205. Miscellaneous.

1. With respect to vertical curb areas, all subsurface rainwater conductors shall be placed in such a manner that the top of pipe will not be less than three inches from top of curb with expansion joints placed vertically to the center line of pipe.
2. All individual home services for public utilities (excluding gas services) shall be raised and/or lowered to proper curb elevation by the person, firm or corporation installing the concrete curb, curb ramps, driveways and sidewalks.
3. All traffic signs removed during construction of concrete curb, curb ramps, sidewalk and/or driveways shall be replaced by person, firm or corporation performing the installation.

(Ord. 1250, 8/10/2004, §1)

§206. Inspection of Existing Curbing.

1. As scheduled by Borough Council, the Public Works Director or Code Enforcement Official shall verify that the suitability of existing curbing is of adequate structural condition, proper alignment and conformance with this Part and other applicable ordinances. The Borough shall inspect curbing along all streets which are scheduled for the annual street improvements project.
2. The Borough shall mark areas of existing curbing to be removed and replaced, official notices shall be given to the owner to complete the curb replacement in accordance with this Part.

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3. All inspected curbing must meet the minimum criteria listed below or be replaced in order to come into compliance.
 - A. The top, street side, edge of curb shall be within one inch horizontally and vertically of the curb line established on the Borough topographic plan.
 - B. Each section of curbing must be structurally sound and in one continuous unit.
 - C. The face of curb shall have a one inch batter from vertical, away from the street, beginning at the gutter line.
 - D. Curbing shall not be out of horizontal or vertical alignment by more than one inch.
 - E. Patching is only acceptable by a method approved by the Public Works Director for minor damage to curb.
 - F. In the case of curbing, if more than 20% of any scored section must be replaced, then the curb shall be sawed and the entire section replaced, with expansion joints placed at both ends of the section.

(Ord. 1250, 8/10/2004, §1)

§207. Inspection of Existing Sidewalks.

As scheduled by Borough Council, existing sidewalks will be inspected to verify that the existing sidewalk is of adequate condition and in proper alignment. All inspected sidewalks must meet the minimum criteria listed below or be replaced in order to come in compliance.

- A. Adjacent concrete panels may have a maximum elevation difference between panels of 1 1/2 inches at any point.
- B. Sidewalk panels abutting curbs or curb ramps may have a maximum elevation difference between the sidewalk and the curb or curb ramp of 1 1/2 inches at any point within the normal pedestrian path of said sidewalk.
- C. Sidewalk panels abutting and parallel to curbs, may have a maximum elevation difference between the sidewalk and the curb of 1 1/2 inches provided said elevation difference is not within the normal pedestrian path of said sidewalk.
- D. Sidewalk panels shall have no more than one crack, crossing the full length or width, in any panel.

- E. Sidewalk panels shall have a structurally sound surface without any spalling, crazing or other deterioration of the surface.
- F. Sidewalk grade/location for sidewalks not abutting curbs, curb ramps or other sidewalk panels shall be within 1 1/2 inches horizontally and vertically of the grade/location as established by this Part.
- G. In the case of concrete sidewalks, if more than 20% of the area of any scored block requires replacement, then said concrete block shall be replaced in its entirety; provided, however, where a portion of such a concrete block is removed for installation or repairs to utilities, then entire block shall be replaced in its entirety.
- H. In the case of concrete driveway entrances, if more than 20% of the total area requires replacement, then the entire area shall be replaced.

(Ord. 1250, 8/10/2004, §1)

§208. Curb Ramps/ADA Ramps.

Curb ramps and ADA ramps shall be in accordance with the Borough Standard Specifications adopted by resolution of Borough Council and amended from time to time.

(Ord. 1250, 8/10/2004, §1; as amended by Ord. 1302, 12/8/2009, §2; as amended by Ord. 1359, 1/14/2014, §8)

§209. Indemnification of Borough.

Any person, firm or corporation applying for any permit under this Part shall indemnify the Borough of Wyomissing against all liability of whatever nature arising during the performance of work or as a result of work for which a permit is granted, whether or not said liability arises as a result of the negligence of the person, firm or corporation to whom the permit was issued.

(Ord. 1250, 8/10/2004, §1)

§210. Penalties and Remedies for Violations.

- 1. Any person violating any of the provisions of this Part shall be liable to pay a fine of not less than \$50 or more than \$1,000 and costs, to be recovered in the name of the Borough of Wyomissing before the district justice according to law, and in default of payment thereof shall undergo imprisonment for a period of not more than 30 days.

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2. Borough Council may revoke any permit issued to any person, firm or corporation violating any of the provisions of this Part.
3. The imposition of penalties herein prescribed shall not preclude the Borough from instituting an appropriate action or proceeding to prevent the performance of work or acts declared to be unlawful under the provisions of this Part, or to restrain, correct or abate a violation, or seek relief by a complaint in equity.

(Ord. 1250, 8/10/2004, §1)

§211. Subdivision Regulations.

Notwithstanding anything hereinabove set forth, whenever the provisions of this Part shall be inconsistent with the provisions of the subdivision regulations of the Borough of Wyomissing as from time to time are in effect and the provisions of said subdivision regulations are more restrictive or contain more stringent requirements than are set forth in the within Part, then in such event the provisions of said subdivision regulations shall prevail and be applicable.

(Ord. 1250, 8/10/2004, §1)

PART 3**OPENING OF ALLEYS AS BOROUGH STREETS****§301. Written Request.**

Any person or persons owning real estate abutting upon any area consisting of a narrow passageway (otherwise too limited in width to comply with standard Borough street widths) and situate behind or between established properties may indicate such desire by filing in writing a written request asking Council to consider the opening of such alley as a Borough street. The request must be signed by abutting property owners representing both a majority in number and majority in interest (lineal footage) abutting said alley. (See Exhibit "A").

(Res. 12/14/1982-B, 12/14/1982, §1)

§302. Receipt of Written Request.

The Borough, on receipt of a written request as noted, shall:

- A. Review the same and satisfy itself to the accuracy of the representations made therein and to the adequacy of the width of the alley.
- B. The Borough, on satisfying itself as to accuracy of the representations made in the request and width of the proposed passageway, shall cause to be prepared a "Petition for Street Opening," which shall include:
 - (1) A prayer for the placing of said alley as a street on the Borough's official plan and for the official opening of the same as a public and Borough street (Borough cost).
 - (2) A plan showing the dimensions of the passageway, the grades for the same and any requisite drainage provisions (Borough cost).
 - (3) A listing of the names of all record owners of property abutting said alley.
 - (4) A release provision whereby the Borough shall be released from any and all damages which the abutting property owners might otherwise assert against the Borough for property damage by reason of said opening.
 - (5) A provision that the subscribers agree to be assessed for paving and improvements as provided by law.
 - (6) A copy of the alley policy.

(Res. 12/14/1982-B, 12/14/1982, §2)

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§303. Responsibility of Property Owners.

It shall be the responsibility of property owners requesting the Borough to undertake the opening of the alley and its inclusion as an officially designated street to do either of the following:

- A. Secure the signature and approvals of all the current abutting property owners to the terms of the petition; or,
- B. Secure the signature and approvals of less than all, but more than the property owners constituting a majority in number and interest of abutting real estate on the alley, who agree to indemnify the Borough for any damages and expenses (including litigation expenses) it might incur to nonconsenting abutting property owners by reason of undertaking to carry out the prayer of the petition to open said alley as a street. Appropriate provisions for indemnity would first be received and approved by the Borough prior to proceeding.

(Res. 12/14/1982-B, 12/14/1982, §3)

§304. Procedures.

It would be intended that all procedures for hearings, adoption of ordinances and otherwise as required by the Borough Code would likewise be followed in all respects.

(Res. 12/14/1982-B, 12/14/1982, §4)

EXHIBIT A

100'	100'	100'	100'	100'	100'
			600' Alley		
125'	125'	100'	125'	125'	

In the illustration set forth above, there are 11 property owners abutting the alley with a total lineal footage of 1,200 feet along both side of said alley. Of the above 11 property owners, a majority in number would be six or more property owners. A majority in interest (lineal footage) would be the number of property owners whose combined total lineal footage is more than 600 feet along said alley. Borough policy provides that a written request asking Council to consider the opening of an alley as a Borough street must be signed by both a majority in number and a majority in interest (lineal footage) of property owners abutting such alley.

PART 4

STREET OBSTRUCTION BY TREES

§401. Short Title.

This Part shall be known and may be cited as the “Borough of Wyomissing Ordinance Prohibiting Street Obstruction by Trees.”

(Ord. 922, 8/14/1973, §1)

§402. Definitions.

1. The following words, as used in this Part, shall have the following meanings hereby ascribed thereto:

PERSON — any natural person, partnership, association, firm or corporation. It shall not include the Borough of Wyomissing or its Shade Tree Commission, employees or agents thereof.

STREET — includes any public alley, highway, right-of-way, roadway, street, walk or other public way in the Borough of Wyomissing, including the cartway, the sidewalk area and any other area outside the line of private property as shown on the Borough Topographical Survey or Official Map of the Borough.

TREE — any species of or kind of tree and shall include, but not be limited to, any bush, crop, hedge, shrub, plant or similar growth, including any portion of the roots, stem, trunk, branches, limbs, foliage, leaves, flowers or other part thereof, whether above or below ground in whole or in part.

2. The singular shall include the plural, and the masculine shall include the feminine and neuter.

(Ord. 922, 8/14/1973, §2)

§403. Prohibited Situations.

So there shall be no obstruction or interference as to the use of or passage over any street by pedestrian or vehicular traffic no person shall permit:

- A. Any portion of any tree to extend into or overhang the sidewalk area of a street unless any such portion thereof is at least 10 feet above any part of the sidewalk area surface below.

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- B. Any portion of any tree to extend into or overhang the cartway of any street unless any such portion thereof is at least 14 feet above any part of the cartway surface below.
- C. Any portion of any tree to extend into or overhang any street so as to obscure or interfere with any traffic signal or sign or with the illumination from any street light.
- D. Any portion of any tree to extend into or overhang any street so as to create a hazard to anyone below by reason of being dead or diseased or partly dead or diseased; by being broken off or partially broken off or in any other condition which could result in harm to anyone on the street below.
- E. Any portion of any tree to extend into or overhang any street so as to create a nuisance or hazard due to fruit, sap or other similar droppings.

(Ord. 922, 8/14/1973, §3)

§404. Planting of Trees.

No person shall plant or cause to be planted any tree unless such planting is a minimum of two feet center from any property line abutting a street and on the property owner's side of such line.

(Ord. 922, 8/14/1973, §4)

§405. Violations.

- 1. No person shall plant or cause to be planted any tree in violation of the terms of this Part.
- 2. No person shall permit any tree to exist, remain or grow on property owned by him/her or upon any portion of the street abutting such property in violation of the terms of this Part. [Ord. 1185]

(Ord. 922, 8/14/1973, §5; as amended by Ord. 1185, 5/13/1997)

§406. Written Notice.

- 1. The owner of any property upon or abutting which any tree exists, remains or is growing contrary to the provisions of this Part shall, within 15 days of the date of written notice from the Borough, take the necessary measure or cause the same to be done, by trimming, removal or otherwise as the case may be, to rectify such conditions so the same shall conform to the requirements of this Part.

2. Written notice may be by:
 - A. Certified mail to the residence of the owner.
 - B. Personal service on the owner.
 - C. Posting such notice on the property.
 - D. If, at the expiration of 15 days, such condition shall not have been corrected or rectified by the owner of the property or his/her agent, the Borough may do so or cause the same to be done and collect the whole cost thereof, plus any additional amount allowed by law, from the owner of the property. [Ord. 1185]

(Ord. 922, 8/14/1973, §6; as amended by Ord. 1185, 5/13/1997)

§407. Penalties.

Any person violating any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day a violation of this Part continues shall constitute a separate offense.

(Ord. 922, 8/14/1973, §7; as amended by Ord. 1185, 5/13/1997)

PART 5

SPECIFICATIONS FOR GRADING AND PAVING BOROUGH STREETS

§501. Paving.

1. All grading and paving associated with Borough streets shall be in accordance with the Borough's Standard Specifications as adopted by resolution of Borough Council and amended from time to time.
2. The Borough reserves the right to increase the minimum requirements established in the Borough Standard Specifications based upon the existing or proposed traffic information for a street and/or based upon unforeseen conditions.

(Ord. 1185, 5/13/1997; as amended by Ord. 1192, 4/14/1998, §2; as amended by Or. 1359, 1/14/2014, §9)

§502. General Conditions.

1. Bond and Insurance Required. No person shall make any opening or excavation in any of the streets or alleys without first giving to the Borough:
 - A. **Bond.** A bond with an acceptable trust or surety company as surety or a letter of credit with an acceptable bank as issuer, in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys. Such bond or letter of credit shall be valid without need of renewal for a period of five (5) years from the date of issuance.
 - B. **Permittee's Liability Insurance.** The permittee shall purchase and maintain insurance that will afford the following protection from claims:
 - (1) **Coverage.** For damages because of bodily injury, sickness or disease, or death of any person other than employees including claims insured by usual personal injury liability coverage; property damages and loss of use resulting therefrom; any or all of which may arise out of or result from the operations and completed operations of the contractor, whether such operations and completed operations be by the contractor or by any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. Before starting the work, the contractor will file with the Borough a certificate of such insurance, acceptable to the Borough. Insurance covering comprehensive

general liability shall be maintained by the contractor for the duration of the work.

(2) Limits of Insurance. The permittee shall provide insurance in the following minimum amounts:

FORM	MINIMUM LIMITS
Comprehensive General ¹	
Liability	
Bodily Injury	\$3,000,000
Property Damage	\$3,000,000
Personal Injury	\$3,000,000
Workers Compensation	Statutory Limits
Including premises operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent contractors and personal injury, including employees.	

(3) Additional Insureds. This policy shall name both the Borough, Borough Engineer any Building Official or other person the Borough of Wyomissing may from time to time appoint by ordinance, resolution or other to carry the administration, enforcement and all other responsibilities of this Part as "additional insured."

[Ord. 1359]

2. Contractor's Responsibilities.
 - A. Supervision and Superintendence. The contractor shall supervise and direct the work efficiently with the best skill and attention, and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The contractor shall be responsible to see that the finished work complies accurately with the Borough's specifications.
 3. Record Drawings. The contractor shall keep one record copy of all drawings at the site in good order. They shall be annotated to show all changes made during construction to reflect the "as-built" condition of the work. These shall be delivered to the Borough upon completion of the work. After the Borough has approved the "record set" drawings, the developer shall provide the Borough with reproducible mylars of all improvements.

¹ For sidewalk/curb installation only minimum limits shall be \$1,000,000.

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4. Safety and Protection.
 - A. The contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to: (a) all employees on the work and other persons who may be affected thereby, (b) all the work and materials or equipment to be incorporated therein, whether in storage on or off the site, and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
 - B. The contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The contractor shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection.
 - C. The contractor shall remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the contractor, any subcontractor or anyone directly or indirectly employed by them, or anyone for whose acts they are liable.
5. Shop Drawings and Samples. After checking and verifying all field measurements, the contractor shall submit to the Borough for approval, four copies of all shop drawings, three copies for the use of the Borough, and one copy for return to the contractor, which shall have been checked by and stamped with approval of the contractor and identified as the Borough may require.
6. Work Schedule. No work will be permitted at night, on weekends, on legal holidays, after eight hours have been worked in any day, or after 40 hours have been worked in any one week period, except upon written authorization of the Borough. Any work performed during the absence of the Borough will be done at the risk and responsibility of the contractor and may be subject to rejection upon later inspection.
7. Cleaning Up. The contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work, and at the completion of the work shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials. The contractor shall restore to their original condition those portions of the site not designated for alteration by the drawings.
8. Building Official/That Person That the Borough of Wyomissing May Appoint From Time to Time by Ordinance, Resolution or Otherwise to Carry Out the Administration, Enforcement and All Other Responsibilities of the Ordinance, In Which This Term Was Formally Contained, Status During Construction.

- A. Borough's Representative. The Building Official/that person that the Borough may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part may be the Borough's representative during the construction period. This will be clarified at the mandatory preconstruction job conference, which shall be held a minimum of three days before any work commences. The conference shall be at the mutual convenience of the Borough and the contractor. [Ord. 1192]
- B. Visits to Site. If so directed by the Borough, the Building Official/that person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part will make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the drawings and the Borough's specifications. The Building Official/that person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part will not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the work. [Ord. 1192]
- C. Rejecting Defective Work. The Building Official/that person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part will have the authority to disapprove or reject work which is "defective" (which term is hereinafter used to describe work that is unsatisfactory, faulty or does not conform to the requirements of the drawings or Borough specifications or that does not meet the requirements of any required inspection, test or approval), whether or not the work is fabricated, installed or completed. [Ord. 1192]

9. Warranty and Guarantee. The contractor warrants and guarantees to the Borough that all materials and equipment shall be new unless otherwise specified and that all work shall be of good quality and free from faults or defects. All unsatisfactory work or all faulty or defective work shall be considered defective. All defective work, whether or not in place, may be rejected, corrected or accepted by the Borough.
10. Access to the Work. The Borough and its Building Official/that person that the Borough of Wyomissing may from time to time appoint by ordinance, resolution or otherwise to carry out the administration, enforcement and all other responsibilities of this Part will at all times have access to the work. The contractor shall provide proper facilities for such access and observation of the work and also for any inspection or testing thereof by others. [Ord. 1192]
11. Correction, Removal or Acceptance of Defective Work.

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- A. Uncovering Work. If any work is covered without the approval of the Borough, it must, if requested by the Borough, be uncovered for observation and replaced at the expense of the contractor.
- B. Borough May Stop the Work. If the work is defective or if the contractor fails to supply sufficient skilled workmen or suitable materials or equipment, the Borough may order the contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated.

(Ord. 1185, 5/13/1997; as amended by Ord. 1192, 4/14/1998, §2; as amended by Ord. 1359, 1/14/2014, §10 and §11)

PART 6**SPECIFICATIONS FOR STORM SEWER INSTALLATION****A. General Conditions.****§601. General.**

All storm sewer installation shall be in accordance with the Borough's Standard Specifications as adopted by resolution of Borough Council and amended from time to time.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§602. Bond and Insurance Required.

No person shall make any opening or excavation in any of the streets or alleys without first giving to the Borough:

- A. Bond. A bond with an acceptable trust or surety company as surety or a letter of credit with an acceptable bank as issuer, in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys. Such bond or letter of credit shall be valid without need of renewal for a period of five (5) years from the date of issuance.
- B. Permittee's Liability Insurance. The permittee shall purchase and maintain insurance that will afford the following protection from claims:
 - (1) Coverage. For damages because of bodily injury, sickness or disease, or death of any person other than employees including claims insured by usual personal injury liability coverage; property damages and loss of use resulting therefrom; any or all of which may arise out of or result from the operations and completed operations of the contractor, whether such operations and completed operations be by the contractor or by any subcontractor or anyone directly or indirectly employed by any of them or for whose acts any of them may be legally liable. Before starting the work, the contractor will file with the Borough a certificate of such insurance, acceptable to the Borough. Insurance covering comprehensive general liability shall be maintained by the contractor for the duration of the work.

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(2) Limits of Insurance. The permittee shall provide insurance in the following minimum amounts:

FORM	MINIMUM LIMITS
Comprehensive General Liability	
Bodily Injury	\$3,000,000
Property Damage	\$3,000,000
Personal Injury	\$3,000,000
Workers Compensation	Statutory Limits
Including premises operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, independent contractors and personal injury, including employees.	

(3) Additional Insureds. This policy shall name both the Borough, Borough Engineer any Building Official or other person the Borough of Wyomissing may from time to time appoint by ordinance, resolution or other to carry the administration, enforcement and all other responsibilities of this Part as "additional insured."

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§603. Contractor's Responsibilities.

Supervision and Superintendence. The contractor shall supervise and direct the work efficiently with the best skill and attention, and shall be solely responsible for the means, methods, techniques, sequences and procedures of construction. The contractor shall be responsible to see that the finished work complies accurately with the Borough's specifications.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§604. Record Drawings.

The contractor shall keep one record copy of all drawings at the site in good order. They shall be annotated to show all changes made during construction to reflect the "as-built" condition of the work. These shall be delivered to the Borough upon completion of the work. After the Borough, has approved the "record set" drawings, the developer shall provide the Borough with reproducible mylars of all improvements.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§605. Safety and Protection.

1. The contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. The contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to: (a) all employees on the work and other persons who may be affected thereby, (b) all the work and materials or equipment to be incorporated therein, whether in storage on or off the site, and (c) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
2. The contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. The contractor shall erect and maintain, as required by the conditions and progress of the work, all necessary safeguards for safety and protection.
3. The contractor shall remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the contractor, any subcontractor or anyone directly or indirectly employed by them, or anyone for whose acts they are liable.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§606. Shop Drawings and Samples.

After checking and verifying all field measurements, the contractor shall submit to the Borough for approval, four copies of all shop drawings, three copies for the use of the Borough, and one copy for return to the contractor, which shall have been checked by and stamped with approval of the contractor and identified as the Borough may require.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§607. Work Schedule.

No work will be permitted at night, on weekends, on legal holidays, after eight hours have been worked in any day, or after 40 hours have been worked in any one week period, except upon written authorization of the Borough. Any work performed during the absence of the Borough will be done at the risk and responsibility of the contractor and may be subject to rejection upon later inspection.

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(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§608. Cleaning Up.

The contractor shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the work, and at the completion of the work shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, construction equipment and machinery, and surplus materials. The contractor shall restore to their original condition those portions of the site not designated for alteration by the drawings.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§609. Borough Engineer's Status During Construction.

1. **Borough's Representative.** The Borough Engineer may be the Borough's representative during the construction period. This will be clarified at the mandatory preconstruction job conference, which shall be held a minimum of three days before any work commences. The conference shall be at the mutual convenience of the Borough and the contractor.
2. **Visits to Site.** The Borough Engineer will make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the drawings and the Borough's specifications. The Borough Engineer will not be required to make exhaustive or continuous onsite inspections to check the quality or quantity of the work.
3. **Rejecting Defective Work.** The Borough Engineer will have the authority to disapprove or reject work which is "defective" (which term is hereinafter used to describe work that is unsatisfactory, faulty or does not conform to the requirements of the drawings or Borough specifications or that does not meet the requirements of any required inspection test or approval), whether or not the work is fabricated, installed or completed.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§610. Warranty and Guarantee.

The contractor will warrant and guarantee to the Borough that all materials and equipment shall be new unless otherwise specified and that all work shall be of good quality and free from faults or defects. All unsatisfactory work or all faulty or defective work shall be considered defective. All defective work whether or not in place, may be rejected, corrected or accepted by the Borough.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§611. Access to the Work.

The Borough and its Engineer will at all times have access to the work. The contractor shall provide proper facilities for such access and observation of the work and also for any inspection or testing thereof by others.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

§612. Correction, Removal or Acceptance of Defective Work.

1. Uncovering Work. If any work is covered without the approval of the Borough, it must, if requested by the Borough, be uncovered for observation and replaced at the expense of the contractor.
2. Borough May Stop the Work. If the work is defective or if the contractor fails to supply sufficient skilled workmen or suitable materials or equipment, the Borough may order the contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated.

(Ord. 1185, 5/13/1997; as amended by Ord. 1359, 1/14/2014, §12)

PART 7

UTILITY EASEMENT OBSTRUCTIONS

§701. Short Title.

This Part shall be known and may be cited as the “Borough of Wyomissing Ordinance Prohibiting Utility Easement Obstructions.”

(Ord. 1195, 6/9/1998, §1)

§702. Definitions.

The following words, as used in this Part, shall have the following meanings:

PERSON — any natural person, partnership, association, firm or corporation.

OBSTRUCTION — any structure, building, fence, pole, etc., or any species of or kind of tree, plant, flowers, etc., including, but not be limited to, any bush, crop, hedge, shrub, plant or similar growth, including any portion of the roots, stem, trunk, branches, limbs, foliage, leaves, flowers or other part thereof, whether above or below ground in whole or in part.

UTILITY EASEMENT — any right-of-way or easement in which utilities are located, including, but not limited to, utilities for electricity, gas, sanitary sewer, storm sewer, water, etc., owned by the Borough of Wyomissing.

The singular shall include the plural and the masculine shall include the feminine and neuter.

(Ord. 1195, 6/9/1998, §1)

§703. Prohibited Utility Easement Obstructions.

There shall be no obstruction placed in a utility easement and no person shall permit an obstruction to remain or exist in a utility easement.

(Ord. 1195, 6/9/1998, §1)

§704. Written Notice.

1. The owner of any property shall, within 15 calendar days of the date of written notice from the Borough, take the necessary measure or cause the same to be done, to remove any obstruction from a utility easement.

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2. Written notice may be by:

- A. Certified mail to the owner's residence.
- B. Personal service on the owner.
- C. Posting notice on the property.
- D. If, at the expiration of fifteen (15) calendar days, the obstruction shall not have been corrected or rectified by the owner of the property or his/her agent, the Borough may do so or cause the same to be done and collect the whole cost thereof, and a penalty in the amount of ten percent (10%) additional, together with all charges and expenses from the property owner. If payment is not made within thirty (30) days after the bill is sent, the Borough shall file a municipal lien therefore against such lot or lots or shall bring an action in assumpsit against said owner or owners for collection thereof. Filing of said actions shall be in accordance with the Municipal Claims and Tax Liens Act of 1923, May 16, P.L. 207 as amended (53 P.S. §7101 et seq, 53 P.S. §7143) with the accrual of interest calculated at the rate of ten percent (10%) per annum from thirty (30) days after the date of the bill until the bill is paid and recovery of all charges, costs, expenses and attorney fees incurred in the recovery of the account.

(Ord. 1195, 6/9/1998, §1; as amended by Ord. 1322, 12/13/2011, §3)

§705. Penalties.

Any person violating any of the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$600 plus costs and, in default of payment of this fine and costs, to a term of imprisonment not to exceed 30 days. Each day a violation of this Part continues shall constitute a separate offense.

(Ord. 1195, 6/9/1998, §1)