

**CODE OF THE BOROUGH OF PROSPECT PARK PENNSYLVANIA, v25 Updated
08-01-2011 / PART II GENERAL LEGISLATION / Chapter 145, STREETS AND
SIDEWALKS**

Chapter 145, STREETS AND SIDEWALKS

[HISTORY: Adopted by the Borough of Prospect Park as indicated in article histories.
Amendments noted where applicable.]

GENERAL REFERENCES

Development -- See Ch. 70.
Sewers -- See Ch. 138.

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approved 12-13-1933]**

**ARTICLE I, Excavations [Adopted 12-13-1933 by Ord. No. 464, approved
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approved 12-13-1933] / § 145-1. Permit required.**

§ 145-1. Permit required.

No person, firm, unincorporated association or corporation shall open or break any part of the surface of any highway, street, lane, alley, curb, gutter or sidewalk within the Borough of Prospect Park, for any purpose whatsoever, without first making application for and obtaining a permit therefor from the Secretary of the Council and complying with all of the provisions of this Article; provided, however, that emergency repairs may be made to pipes, conduits or other underground structures without first applying for or obtaining a permit, provided that a permit is obtained for such work within 36 hours after the work is commenced. During the time within which any of the streets, alleys, curbs, gutters or sidewalks are under course of reconstruction and until such street, alley, curb, gutter or sidewalk reconstruction work shall have been accepted by

the borough, no applicant will be permitted to enter thereon for the purpose of making any excavation whatever without first having obtained the consent for the issuance of a permit from the Highway Committee of the Council in writing.

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§ 145-2. Permit: application, duration and nontransferability.

- A. Applications for the permit required by § 145-1 of this Article shall be in writing on a form which shall be available at the office of the Secretary of the Council; shall set forth the purpose, location and dimensions of such opening or breaking; shall contain an acceptance by the applicant of the provisions of this Article and an agreement to comply therewith; and shall be signed by the person, firm, unincorporated association or corporation which is to do the work.
- B. All permits shall expire at the end of 30 days from the date of issue, unless the work for which the permit is issued is commenced within that time, and shall lapse at the expiration of six months from the date of issue.
- C. No permit, except for emergency repairs, shall be issued during the months of November, December, January and February.
- D. Work commenced under a permit issued under this Article shall be prosecuted and completed with reasonable diligence.
- E. Permits issued under this Article shall not be transferable.

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§ 145-3. Prerequisites for permit issuance. [Amended 6-13-1934 by Ord. No. 470, approved 6-13-1934]

- A. No permit shall be issued to any applicant who has, prior to the time of making application, failed to comply with the provisions of this Article in carrying out work previously done under a permit issued in pursuance of this Article, nor to any applicant who has failed or refused to obtain a permit where such is required by this Article.
- B. An applicant for a permit shall, before the permit issues, deliver to the Secretary of the Council his, her or its agreement in writing with the borough to comply with the provisions of this Article and to indemnify and save harmless the Borough of Prospect Park from any and all actions, suits, claims, demands, damages and liabilities which may thereafter arise or result from or by reason of any opening, breaking or excavation for which the permit is sought, and failure to guard and/or refill the same properly.
- C. The applicant shall also, before the permit issues, furnish a certificate from a responsible indemnity insurance company showing that the applicant has public liability insurance in the amount of \$5,000 for death of or injury to one person in one accident and \$10,000 for death of or injury to more than one person in one accident, and that such insurance is then in force and will cover accidents resulting from the opening proposed.

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approved 12-13-1933] / § 145-4. Fees. [Amended 6-13-1934 by Ord. No. 470,
approved 6-13-1934; 7-9-1941 by Ord. No. 574, approved 7-9-1941]**

**§ 145-4. Fees. [Amended 6-13-1934 by Ord. No. 470, approved 6-13-1934; 7-9-1941 by
Ord. No. 574, approved 7-9-1941]**

- A. The fees for the permit provided for in this Article shall be as fixed and amended from time to time by resolution of the Borough Council.^{EN(1)} [Amended 12-14-1993 by Ord. No. 1147, approved 12-14-1999^{EN(2)3}]
- B. The fee shall be paid to the Secretary of the Council for the use of the borough before the issuance of the permit.

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approved 12-13-1933] / § 145-5. Deposit for resurfacing. [Amended 6-13-1934 by
Ord. No. 470, approved 6-13-1934; 7-9-1941 by Ord. No. 574, approved 7-9-1941;
5-14-1952 by Ord. No. 665, approved 5-14-1952]**

§ 145-5. Deposit for resurfacing. [Amended 6-13-1934 by Ord. No. 470, approved 6-13-1934; 7-9-1941 by Ord. No. 574, approved 7-9-1941; 5-14-1952 by Ord. No. 665, approved 5-14-1952]

- A. The applicant shall, at the time the permit issues, deposit with the Secretary of the Council, for each square yard or fraction thereof of paved surface of any highway, street, lane, alley, curb, gutter or sidewalk to be opened or broken, the sum set forth in the following schedule:
- (1) Highway surfaces:
 - (a) Water-bound macadam, \$8 for the first square yard or fraction thereof and \$5 for each additional square yard or fraction thereof.
 - (b) Tarvia, asphalt or other bituminous bound material, \$14 for the first square yard or fraction thereof and \$8 for each additional square yard or fraction thereof.
 - (c) Cement, concrete, brick or bituminous concrete, \$25 for first square yard or fraction thereof and \$10 for each additional square yard or fraction thereof.
 - (2) Sidewalk surfaces:
 - (a) The sum of \$6.50.
 - (3) Between curb and sidewalk:
 - (a) One dollar per square yard, provided that the person securing the permit makes restoration.
- B. The deposits provided for in this section shall be immediately paid into the treasury of the borough and shall be kept segregated from all other funds. So much of any deposit as shall be necessary shall be used by the borough to defray the cost of resurfacing the opening for which the deposit is made, and any excess deposit shall be refunded to the depositor. In any case in which the expense of resurfacing shall exceed the amount deposited, the applicant shall be liable for the excess and shall, upon demand by the borough, pay the amount of such excess to the Secretary.

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§ 145-6. Maximum excavation at one time; tunneling prohibited.

- A. In case it shall be necessary to cross any street or highway with a conduit or trench, not more than 1/2 of the width of such street or highway shall be opened or obstructed at any one time.
- B. In case a conduit or pipe parallels a street or highway, the trench for such construction shall not be opened up for a distance of more than 200 feet at any one time.
- C. Tunneling under any portion of any highway, except under a sidewalk and at right angles thereto, is hereby prohibited.

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§ 145-7. Disposition of excavated material.

- A. It shall be the duty of the person securing the permit to make the necessary excavation, but the material excavated during the work shall in no case be placed on that portion of the street used by the traveling public.
- B. Excavated materials shall be so placed and all operations conducted that there be no interference with the flow of water in any gutter, sewer, drain, pipe, ditch, culvert or waterway; any gutter, sewer, drain, pipe, ditch, culvert or waterway which has been injured or obstructed by any operation under the permit shall, upon notice from the Highway Committee of the Council, be promptly repaired and such obstruction removed by the person to whom the permit has been granted.
- C. Upon completion of the work all excess material from excavations, together with all other materials not incorporated into the construction, shall be completely removed from the highway and the sidewalks and pathways adjacent thereto, and the gutters, ditches, drains and slopes shall be left in as good condition as they were before the commencement of operations.

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§ 145-8. Safety precautions.

- A. Whenever any applicant shall make or cause to be made any excavation, trench or hole for any purpose as provided in this Article, he shall, during the progress of the work and until the full completion of the refilling thereof, cause all necessary barriers and guards to be placed and stationed in the immediate vicinity thereof during the daytime in such a way as to provide due and proper warning and precaution against accident or damage or injury to pedestrians, teams, vehicles and occupants of vehicles passing or traveling thereby, and shall from sunset to sunrise cause a red light or lights to be displayed at all points on the work where necessary to make the existence of such obstruction or excavation therewith plainly and distinctly visible from all directions; it shall be the duty of the person to whom the permit has been issued to keep such red light or lights burning during the entire night.
- B. Upon notice from the Highway Committee of the Council, the holder of the permit shall place proper vents at points at which gas may accumulate and become dangerous.
- C. All machinery employed on the work shall be operated and all work shall be conducted so that travel will not be endangered.

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6-13-1934 by Ord. No. 470, approved 6-13-1934]**

**§ 145-9. Inspection, refilling and resurfacing. [Amended 6-13-1934 by Ord. No. 470,
approved 6-13-1934]**

Whenever any opening shall have been made pursuant to the provisions of this Article, the applicant shall notify the Highway Supervisor of the borough immediately upon completion of the underground work. The Supervisor of Highways shall, upon notice from the Inspector that the underground work has been properly done, where inspection is required by any other ordinance or law, direct the person to whom the permit has been issued to fill the excavation or cause the same to be done. The refilling shall be done in accordance with the best accepted practice so as to prevent future settling in the excavation and of the surface of the highway and shall be subject to the inspection of the Highway Supervisor, whose duty it shall be to make inspection of such work. The applicant shall, except in cases of emergency repairs, complete the refilling before November 15 of the year in which the permit is issued. Upon completion of the refilling and the lapse of three weeks thereafter, the borough shall, where the opening or breaking is in a paved or

improved surface, cause the surface to be relaid over any such excavation so as to give a surface of the same character and quality and on the same grade as that existing before the work was commenced; where the opening or breaking is in an unpaved portion of the highway or alley the person to whom the permit is issued shall cause the surface to be relaid over any such excavation so as to give a surface of the same character and on the same grade as that existing before the work was commenced.

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§ 145-10. Nonliability of borough.

In no case shall any opening, breaking or excavation for which a permit shall issue under this Article be considered in the charge or care of the borough or any officer or person employed by the borough. No officer or employee of the borough is authorized to take or assume any jurisdiction or control in any way over any such opening, breaking or excavation, except as to inspection thereof as herein provided and as set forth in § 145-12 hereof.

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§ 145-11. Refund of deposit.

Upon completion of the work of resurfacing over any excavation made pursuant to this Article, the Treasurer shall, at the direction of the Council, refund to the person who deposited the same, any portion of the deposit, made in accordance with § 145-5 hereof, not expended in replacing the said surface.

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§ 145-12. Stoppage of work upon noncompliance.

- A. In the event of the failure of any applicant to perform and comply with all of the requirements of this Article, the Highway Committee of the Council may revoke or annul any permit which may have been issued to such applicant and order and direct such person to remove any and all structures and property belonging to such person or placed upon the highway by such person from the highway within the area affected by such failure to comply with the provisions hereof. And in the event of the failure of such person so to do, the borough, by the said Highway Committee, may take possession of and remove any personal property from the highway and restore the highway to its former condition at the expense of such person.
- B. The said Highway Committee shall have corresponding powers where work, which under this Article requires the application for and the issuance of a permit, is done without a permit.

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approved 12-13-1933] / § 145-13. Violations and penalties. EN**

§ 145-13. Violations and penalties. EN⁽³⁾

Any person who shall violate any provisions of this Article shall, upon conviction thereof, be punishable by a fine of not more than \$300 and costs of such proceedings or, upon default of payment of such fine and costs, by imprisonment in the county jail for a term of not more than 30 days. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

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approved 12-13-1933] / § 145-14. Construction of provisions.**

§ 145-14. Construction of provisions.

This Article shall not be construed to relieve any person, firm, unincorporated association or corporation from compliance with any provision of any Article now in force or hereafter to be adopted relating to and regulating house drainage or from compliance with any ordinance now in

force or hereafter to be adopted relating to construction of and repairs to sidewalks.^{EN(4)} It is hereby declared that this Article includes no provision relating to the construction, reconstruction or repair of sidewalks except where the same may have been broken in the doing of work in which a permit shall or should have been issued under this Article.

Endnotes

1 (Popup - Popup)

Editor's Note: The fees resolution is on file in the Borough Secretary's office.

2 (Popup - Popup)

Editor's Note: This ordinance also provided that the current fees remain in full force and effect until the Borough Council enacts changes by resolution.

3 (Popup - Popup)

Editor's Note: Amended 4-4-1977 by Ord. No. 948, approved 4-4-1977.

4 (Popup - Popup)

Editor's Note: See Ch. 138, Sewers, Article II, Roof Runoff; Article II, Discharge of Fluids, of this chapter; and Article III, Construction and Encroachments, of this chapter.