

BOROUGH OF PENNINGTON
ORDINANCE NO. 2008 - 11

**AN ORDINANCE MODIFYING INSURANCE REQUIREMENTS
FOR SIDEWALK REPAIR AND OTHERWISE AMENDING THE
CODE OF THE BOROUGH OF PENNINGTON**

WHEREAS, all repair and maintenance of sidewalks and driveways in the Borough is the responsibility of adjacent property owners;

WHEREAS, the Borough Code requires that all installation, repair and maintenance of sidewalks and driveways in the public right of way, other than minor repairs, be regulated by the Borough to promote public safety, to protect drainage along roads within the Borough, and to ensure consistency of design;

WHEREAS, the Code provides that no such installation, repair or maintenance may be undertaken unless, among other things, the property owner first obtains a permit from the Borough;

WHEREAS, requirements for obtaining a sidewalk repair permit have included the inclusion of the Borough and the borough Engineer as additional insureds on the applicant's insurance policy;

WHEREAS, Borough Council has determined that this requirement is not feasible for many landowners and that proof of insurance by the applicant landowner is sufficient to protect the Borough;

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Pennington, Mercer County, as follows:

1. Section 177-24 of the Code of the Borough of Pennington, concerning permits for certain installation, repair and maintenance of sidewalks and driveways, is hereby amended by the deletion of the requirement that the Borough and the Borough Engineer be included as additional insureds on the applicant's insurance policy, and as further indicated below, the amended Section 177-24 thereafter to read in its entirety as follows: ¹

§ 177-24.

No individual shall remove an existing sidewalk within the borough except as provided herein. No person shall install, repair or maintain a driveway or sidewalk within the public right-of-way in the Borough except in compliance with the following:

(a) All repair and maintenance of sidewalks and driveways shall be the responsibility of the adjacent property owner [as required by law]. All installation, repair and maintenance of sidewalks and driveways in the public right-of-way, other than minor repairs as herein defined, shall require a permit from the Borough. Permits shall be obtained by application to the Borough. When a permit is required, no work shall commence until the permit has been issued and notice given to the Borough Engineer.

(b) Minor repairs not requiring a permit shall be limited to the filling of small holes or cracks which do not affect the gutter line or drainage along the municipal street and do not materially affect the appearance of the sidewalk or the driveway area within the public right-of-way.

(c) All installation, repair and maintenance of sidewalks and driveways within the public right-of-way shall comply with specifications and requirements established by the Borough and kept on file in the office of the Borough Clerk. All such work shall be subject to the inspection and approval of the Borough Engineer as further provided below.

(d) Prior to the issuance of any permit for the installation, repair or maintenance of any driveway or sidewalk within the Borough right-of-way, the applicant shall file with the Borough Clerk [certificate] proof of insurance [certifying] establishing that there is in full force and effect liability and property damage insurance for the protection of the applicant and the Borough of Pennington from any and all claims relating to the work, including personal injury and property damage, in minimum amounts of one hundred thousand dollars (\$100,000.00) per claim and three hundred thousand dollars (\$300,000.00) per occurrence. [The Borough and the Borough Engineer shall be included as additional insureds on the applicant's insurance policy.]

(e) All installations, repairs and maintenance of driveways or sidewalks shall be made under the supervision of the Borough Engineer or Borough authorized agent and shall be subject to such periodic inspection as the Engineer may deem necessary. Except as further

¹Brackets [] denote deleted language; underlining ____ indicates new language.

provided herein, each applicant for a permit shall pay a fee of fifty dollars (\$50) provided the work covered by the permit is proposed to affect not more than three square yards of driveway or sidewalk in the public right of way, and a fee of one hundred dollars (\$100) for work which will affect a larger area. The applicable fee shall cover the issuance of the permit, examination of drawings, supervision and inspection of work. However, no fees shall be required for any permit lawfully applied for during the one-year period beginning September 19, 2008.

(f) The pavement adjacent to the work shall be neatly saw cut.

(g) If repair or replacement of the driveway or sidewalk is necessitated in whole or in part by changes in the roots or root systems of one or more trees in the public right of way, the Borough alone shall be authorized to prune or otherwise modify the involved roots or root systems. However, the permittee in these instances shall be responsible for removing the affected area of driveway or sidewalk to permit the Borough to do its work and shall reconstruct the affected area of driveway or sidewalk after the Borough has completed its work.

(h) Every person installing, repairing or maintaining driveways and sidewalks shall be required to place and maintain suitable warning devices, caution notices and barriers pursuant to the requirements of the Borough Engineer. All work shall be conducted in such manner as to minimize the obstruction of traffic, preserve the safety of pedestrians and limit inconvenience to the public and occupants of adjoining property.

(i) Every permittee, as a condition of accepting any permit issued hereunder, shall save and hold harmless the Borough of Pennington and indemnify the Borough, its officers, agents, servants and employees from and against any and all loss, damage, claim, expense or demand whatsoever arising out of or relating in any way to the installation, repair or maintenance of any driveway or sidewalk and the issuance of any permit therefor as provided in this section.

(j) Any person violating any provision of this section shall, upon conviction thereof, be subject to a fine not exceeding \$1,000.00. Such person also shall be required to correct the work as necessary to bring it into compliance with applicable specifications and requirements.

2. This ordinance shall take effect upon final passage and publication as provided by law.

Introduced: October 6, 2008

Advertised: November 20, 2008

Public Hearing: December 1, 2008

Adoption: December 1, 2008

Advertised: December 11, 2008

ATTEST:

APPROVED:

Elizabeth Sterling, Borough Clerk

Anthony Persichilli, Mayor