

ORDINANCE NO. 374

STREETS AND SIDEWALKS

WHEREAS, the Forest City Borough Council is desirous of updating, modifying and revising the Code of Ordinances of the Borough of Forest City, specifically Chapter XX, Streets and Sidewalks, and,

WHEREAS, Forest City Borough Council deems it necessary for the health, safety and welfare of the Borough to regulate the excavation and repair of streets; the construction, reconstruction and repair of sidewalks and curbs; and the removal of snow and ice from sidewalks.

NOW, therefore, Be It Ordained and Enacted by the Council of the Borough of Forest City, Susquehanna County, Pennsylvania, and it is hereby ordained and enacted by the authority of same as follows:

Part 1. Definitions

Part 2. Streets

Part 3. Sidewalks

A) Construction and Repair

B) Snow and Ice Removal

C) Vending Machines and Obstructions

Part 4. Streets and Sidewalks

Part 5. Severability and Repealer

Part 1

DEFINITIONS

Section 1. "Person" any natural person, partnership, association, for or corporation.

Section 2. "Street" any street, road, avenue or public alley in the Borough of Forest City.

Section 3. "Sidewalk" the term sidewalk shall in addition to the concrete, macadam or otherwise constructed walkway, include that section of bomenite, if any, between it and the curb.

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

Part 2

STREETS

Section 1. Permit Required To Excavate in Street; Fee;
Exception. It shall be unlawful for any person to make any opening or excavation in any street in the Borough of Forest City without first having obtained a permit therefor from the Borough Permit Officer, and paying a fee of ten (\$10.00) dollars, which shall be for the use of the Borough. Such permit shall specify the location and purpose of the excavation, the time when such opening or excavation shall be undertaken, and the time when such permit shall be valid.
Provided: In case of any emergency, including, but not limited to a break in a water main, an opening or excavation may be made without a permit, but the person making the opening or excavation shall apply for a permit at first opportunity, and in no case later than the next working day after the happening of such emergency, and such person shall also conform to all other requirements of this ordinance.

Section 2. Duties of Permit Holder. It shall be the duty of the holder of any permit under this ordinance:

(a) To place and maintain guards, barriers, warning signs and warning lights and flares, as necessary to indicate the location and nature of the opening or excavation and to protect the users of the street from danger;

(b) To confine his activities of opening and excavation of the street to the portion of the street and the extent specified upon his permit;

(c) On or before the time of expiration of the permit, to refill the opening or excavation, and, if such opening or excavation shall be in a paved or surfaced street, to restore the paving or surfacing using the same material as was removed for the excavation, and to the same condition as such paving or surfacing was in prior to such opening or excavation. Provided: at the discretion of the Borough authorities, resurfacing may be done by the Borough either by its own employees or by others employed by the Borough for the purpose, and in any such case, the permit holder shall reimburse the Borough for the expenses incurred in such work.

(d) In order to insure prompt and proper performance of the work, the applicant must submit to the permit officer, or other Borough Official designated to issue the permits, a performance bond in the amount of the projected job cost.

Section 3. Penalty for Violation. If any person shall violate any provision of Part 1 of this ordinance or fail to perform all duties required of him under Part 2 of this ordinance, he shall be

guilty of an offense, and for each and every such offense, upon conviction thereof, he shall be sentenced to pay a fine of not more than one hundred (100.00) dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than ten (10) days. Provided: The Borough Council at its discretion, shall have authority to direct the permit officer to issue no further permits under this ordinance, to any person who, having been issued a prior permit, shall not have conformed to all requirements of the second section of this ordinance.

Part 3

SIDEWALKS

A. Construction Reconstruction and Repair of Sidewalks and Curbs

Section 1. Responsibility for Constructing or Reconstructing Sidewalk and/or Curb; Time limit. Every owner of property in the Borough of Forest City shall, within thirty (30) days after notice from the Borough Council, construct or reconstruct a sidewalk and/or curb, which shall conform to all applicable requirements of this ordinance, in front of or alongside such property.

Section 2. Responsibility for Repairing Sidewalk and/or Curb; Time limit. Every owner of property in the Borough of Forest City shall, within ten (10) days after notice from the Borough Council, repair the sidewalk, and/or curb in the manner stipulated in such notice, in front of or alongside such property.

Section 3. Material for Sidewalks and Curbs; Specifications . Every sidewalk hereinafter constructed, reconstructed, replaced, or repaired, shall be constructed of concrete, bomenite, or macadam, in conformity with specifications therefor adopted by the Borough

Council from time to time. All curbs hereafter constructed, reconstructed, replaced or repaired shall be constructed of concrete or granite in conformity with specifications adopted by the Borough Council from time to time.

Section 4. Permit Required to Excavate in a Sidewalk Area.

It shall be unlawful for any person to make any opening or excavation in any sidewalk in the Borough of Forest City without first having obtained a permit therefore from the Borough Permit Officer, and paying a fee of ten (\$10.00) dollars which shall be for the use of the Borough. Such permit shall specify the location and purpose of the excavation, the time when such opening or excavation shall be undertaken, and the time when such permit shall be valid. Provided: in case of any emergency, including, but not limited to, a break in a water main, an opening or excavation may be made without a permit, but the person making the opening or excavation shall apply for a permit at first opportunity, and in no case later than the next working day after the happening of such emergency, and such person shall also conform to all other requirements of this ordinance.

In order to insure prompt and proper performance of the work, the applicant must submit to the permit officer, or other Borough Official designated to issue the permit, a performance bond in the amount of the projected job cost.

Section 5. Location and Width of Sidewalks and Curbs. All sidewalks hereafter constructed shall be paved to the width prescribed in each case by the Borough Council, but in no case less than five (5) feet. Provided: under unusual circumstances relating to the particular terrain or the character and extent of pedestrian

and/or vehicular traffic in the area, Council may authorize a sidewalk of a specified width that shall be less than the normally required five (5) feet.

Section 6. Conformity to Line and Grade; Work Done by Property Owners Upon Notice. No owner of property shall commence any work of construction, reconstruction or repair of any sidewalk or curb until he shall have obtained the proper line and grade for such sidewalk or curb and he shall construct, reconstruct or repair, as the case may be, such walk or curb in conformity with such official line and grade.

Section 7. Conformity of New and Existing Sidewalks. Sidewalks lawfully constructed prior to the enactment of this ordinance, or replaced, shall be reconstructed or replaced in conformity with the requirements of this ordinance for new sidewalks, but shall conform to the width and line of such walk as previously constructed. Sidewalks lawfully constructed prior to the enactment of this ordinance, of material other than concrete or macadam, may be repaired of the same material used in their prior construction, but the Council shall have the final authority to determine whether such walk is repairable, or whether its condition is such that complete replacement or reconstruction is necessary, and if the latter is the case, the requirements of this section on reconstruction or replacement shall apply.

Section 8. Authority of Property Owners to do Work on Own Initiative. Any property owner upon his own initiative, and without notice from the Borough, shall be permitted to construct, reconstruct, repair or replace the sidewalk and/or curb in front of or alongside his property, provided that such property owner

shall first notify the Borough Council of his intent to do such work, and shall conform to the provisions of this ordinance as to material to be used and line, width and grade to be adhered to.

Section 9. Remedies and Penalties. Upon neglect of any property owner to comply with the terms of any notice under Part 3 of this ordinance, within the time specified in the notice, the Borough may cause the repair, replacement or construction of the curbs and sidewalks to be done at the cost of the owner, and may collect the cost of the work and ten (10%) percent additional, together with charges and expenses, from that owner, and may file a municipal claim or collect the amount due by action of assumpsit in manner provided by the Borough Code; in addition, any person violating any provision or regulation specified in this article, shall be liable to a penalty of not less than twenty-five (\$25.00) dollars and not more than one hundred (\$100.00) dollars and costs for each and every violation, to be collected and recovered as debts by law are now collectible and a lien may be filed for any work done by the Borough under this article as above provided, with penalties authorized by the Borough Code. Each day's offense shall be a separate and distinct violation and subject to the remedies and penalties provided in this section. The above said remedies are not to be construed as exclusive and an extension of time will not constitute a waiver of the Borough's rights to enforce this ordinance or seek remedies.

B. Snow and Ice Removal from Sidewalks.

Section 1. Responsibility for Removal of Snow and Ice; Time Limit. The owner, occupant or tenant of every property fronting

upon or alongside any street in the Borough of Forest City is hereby required to remove or cause to be removed from all the paved sidewalks in front of or alongside such property, all snow and ice thereon fallen or formed, within forty-eight (48) hours after the same shall have ceased to fall or to be formed. Provided The owner of a property shall be responsible for conforming to the requirements of this section where such property is occupied by such owner, is unoccupied or vacant, or is a multiple-business or multiple-dwelling property, having more than one occupant or tenant; the tenant or occupant of every single-unit property, occupies by such tenant or occupier only, shall be responsible for conforming to the requirements of this section in the case of such single-unit property.

Section 2. Authority for Borough to Remove Snow and Ice and Collect Costs, Plus 10%. In any case where the owner, occupant or tenant, as aforesaid, shall fail, neglect or refuse to comply with any provision of Part 3 B of Section I of this Ordinance with in the time limit prescribed therein, the Borough authorities may proceed immediately to clear all snow and/or ice from the sidewalk of such delinquent, and to collect the expenses thereof, with an additional amount of ten (10%) per centum from such owner, occupant or tenant, as the case may be, which may be in addition to any fine or penalty imposed under the third section of this ordinance.

Section 3. Use of Rock Salt Prohibited in Certain Areas.

Due to its corrosive nature, the use of rock salt or sodium chloride based de-icing products is strictly prohibited on concrete and bomenite sections of sidewalk found in the commercially zoned

district of the Borough.

Section 4. Penalty for Violation. Any owner, occupant or tenant of any property in the Borough of Forest City who shall fail to remove any snow or ice from any sidewalk as required by Part 3B, Section 1 of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than one hundred (\$100.00) dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than ten (10) days. Provided: such fine and costs of prosecution may be in addition to any expenses and additional amount imposed as provided in the second section of Part 3B of this ordinance.

Any person violating Section 3, Part 3B of this ordinance shall upon conviction, be sentenced to pay a fine of not more than one hundred (\$100.00) dollars and costs of prosecution and in default of payment of such fine and costs, to imprisonment for not more than ten (10) days.

C. Vending Machines and Obstructions

Section 1. It shall be unlawful for any property owner to permit the placement or for any business proprietor to place upon the sidewalk area in front of his property or place of business, a vending machine. Existing machines may not extend onto the sidewalk area more than thirty-six (36) inches, as measured from the building side of the sidewalk and must be permanently removed from the sidewalk within five (5) years of the enactment of this ordinance. Existing machines may not be replaced, exchanged or transferred to other locations.

Section 2. It shall be unlawful for any person to place or allow to be placed upon a sidewalk in the Borough of Forest City, a mechanical amusement devise or cigarette machine.

Section 3. It shall be unlawful for any person to block or obstruct any sidewalk in the Borough of Forest City without first obtaining a permit to do so or, being so authorized, by action of Borough Council. Placement of signs, stands and displays which extend onto or are placed on the sidewalk more than thirty-six (36) inches as measured from the building side of the sidewalk or if no building exists, then from the side opposite the curb or street, shall be deemed an obstruction and a violation of this ordinance.

All signs, stands and displays which are placed on the sidewalk must be removed from said sidewalk if they are of a commercial nature. Non-commercial signs, stands and displays shall be allowed by permit or authorization of Borough Council only and shall be renewed as provided by said permit or pursuant to instructions of Borough Council.

Signs, stands and displays which are to be placed on a sidewalk or which extend out to a sidewalk more than thirty-six (36) inches as aforesaid, must have a permit or be authorized by action of Borough Council. It shall be unlawful for any person to hang a display over the sidewalk.

Permits shall be issued by the Borough Permit Officer and the fees for such shall be set by resolution of Council.

Section 4. Penalty of Violation. Any person violating any provision of Part 3C of this ordinance shall upon conviction thereof be sentenced to pay a fine of not more than one hundred (\$100.00) dollars and costs of prosectuion, and, in default of payment of such fine and costs, to imprisonment for not more than ten (10) days.

PART 4

STREETS AND SIDEWALKS

Section 1. Sledding and Snowmobiling Prohibited on Sidewalks, Restricted on Streets and Alleys.

It shall be unlawful for any person to coast or ride upon any sled, snowmobile or similar conveyance upon any sidewalk in the Borough of Forest City, or upon any street or alley in the said Borough unless such street or alley shall have been especially set apart and designated by the Mayor as a "play highway" for the purpose of sledding or snowmobiling and shall have been blocked off or otherwise adequately protected from vehicular traffic. Any person who shall violate any provision of Part 4 of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than twenty-five (\$25.00) dollars and costs of prosecution and, in default of payment of such fine and costs, to imprisonment for not more than five (5) days.

Part 5

SEVERABILITY AND REPEALER

Section 1. Severability and Repealer. Any ordinance or a part of ordinance in conflict with any of the provisions of this ordinance is hereby repealed to the extent of such conflict. If any one or more sections, subsections, sentences, clauses or phrases of this ordinance is for any reason held to be unconstitutional, unlawful or invalid, such decision shall not affect the constitutionality, legality or validity of the remaining portions of this ordinance. The Council of the Borough of Forest City declares that it would have passed this ordinance and any one or more remaining sections, subsections, sentences, clauses and phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

ORDAINED AND ENACTED by the Council for the Borough of Forest
City, this day of , 1984.

Borough of Forest City

By:

President of Council

Attest:

SECRETARY

Examined and Approved this day of , 1984.

MAYOR