

Part 4

Maintenance of Rights-of-Way

§21-401. Definitions.

1. Unless otherwise expressly stated, the following words shall, for the purpose of this Part, have the meaning herein indicated. The present tense shall include the future; the singular number shall include the plural; words used in the masculine gender shall include the feminine and the neuter; the word “shall” is always mandatory; the word “may” is always permissive.

Curb—a raised line of concrete, stone, or asphalt at and/or forming the edge of the paved cartway.

Gutter—a concrete or stone ditch constructed along the edge of a cartway or between the cartway and the curb used to carry surface water runoff.

Owner—the legal owner or owners of land within the Township including a lessee, if he/she is authorized under the lease to exercise the rights of the legal owner, or other person having a proprietary interest in the land.

Right-of-way, existing—the legal right-of-way as established by the Commonwealth of Pennsylvania or other appropriate governing authority and currently in existence.

Right-of-way, ultimate—the right-of-way deemed necessary to provide adequate width for future street improvements as set forth in the Township’s Zoning Ordinance [Chapter 27] and Subdivision and Land Development Ordinance [Chapter 22]. Ultimate right-of-way may also be referred to as future right-of-way.

Sidewalk—a path for pedestrians alongside a street or alley, usually constructed of concrete, stone, or brick.

Bikepath / pedestrian walkway—a paved path for pedestrians/bicycles alongside a street or alley or reverse frontage properties, usually constructed of asphalt.

Street tree—a tree installed or maintained in the right-of-way in accordance with approved subdivision or land development plans and/or in compliance with the Township’s Zoning Ordinance [Chapter 27] and Subdivision and Land Development Ordinance [Chapter 22] (those trees adjacent to sidewalks and roadways).

Swale—a low-lying stretch of land characterized as a depression used to carry surface water runoff.

Township—Lower Macungie Township, Lehigh County, Pennsylvania.

2. Any word or term not defined herein shall be used with a meaning of standard usage.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-402. Care and Maintenance.

1. Owners of real property abutting any curb, sidewalk, bikepath, pedestrian walkway, or gutter shall keep same free of refuse, debris and vegetation. Owners of real property abutting any swale shall keep same free of refuse and debris and shall

properly maintain vegetation in the swale. Such care and maintenance shall be undertaken to ensure that all sidewalks, bikepaths, and pedestrian walkways remain passable by pedestrians, and that all swales and gutters permit the unrestricted flow of storm water.

2. Owners of unwooded, developed real property within the Township shall maintain their properties up to the edge of the cartway of all adjacent streets and alleys with well-maintained gardens or properly trimmed grass.

3. Owners shall maintain all curbs and sidewalks, within or adjacent to their property without breaks, irregular surfaces, or missing parts, and shall promptly repair or replace curbs and sidewalks, when such breaks, irregular surfaces or missing parts occur.

4. Owners shall maintain all street trees within or abutting their property to ensure that they are free of damage and disease, and shall not create a risk of harm to passersby. Owners trimming and/or maintaining street trees must take all proper precautions to protect the public from these activities. Where street tree maintenance will possibly affect the safe use of a public street, the area affected shall be cordoned off and the Township's approval of such work and street closure shall be obtained.

5. No street trees may be removed by an owner unless such trees are dead, diseased, or at risk of collapse, and only then upon receipt of a tree removal permit from the Township. Any street tree removed from a property in the Township shall be replaced by the owner of the property within 6 months of such removal (unless ordered to act more promptly pursuant to §21-407 of this Part). All replacement trees shall be of a size and species required by the Township Subdivision and Land Development Ordinance [Chapter 22] for street trees and shall be approved by the Township. Prior to removing or replacing street trees, an owner shall apply for and receive a permit from the Township for this work. There shall be no fee for this permit.

6. With the exception of leaves on public streets during Autumn, no debris may be thrown onto or into public streets, sidewalks, bikepaths, pedestrian walkways, swales, gutters, or storm sewer facilities.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-403. Ice and Snow Removal.

1. Owners of property abutting any sidewalk, swale, or gutter shall keep same free of ice and snow such that all swales and gutters shall, at all times, be unobstructed and all sidewalks shall be cleared of snow and ice and passable by pedestrians within 48 hours of completion of each snow event. No owner shall be responsible, however, for cleaning snow and ice from Township bikepaths and pedestrian paths which do not abut streets or alleys or are completely physically separated from the remainder of the owner's property by a buffer and/or berm.

2. No snow or ice shall be plowed, pushed, thrown, or cleared from private property onto a public street or a neighboring property.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-404. Construction and Repair Required.

The Township may require owners of property abutting any street or alley,

including State highways, to construct, pave, repave, and repair sidewalks, curbs, swales, and gutters along such property, at such grades as may be prescribed by the Township Engineer or Township representative, and under such regulations as may be prescribed by the Board of Commissioners, and to maintain or replace missing, dead, damaged, or diseased street trees. Prior to conducting such work, an owner shall apply for and receive a permit from the Township for this work. There shall be no fee for this permit.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-405. Supports under Sidewalks and Curbs.

Where sidewalks or curbs are to be constructed, paved, repaved, or repaired over swales, gutters, or excavations of any kind, such sidewalks shall be supported by iron or steel beams, girders, stone, or concrete arches. Any supports constructed of wood or other material prone to decay, rot, or erosion shall be prohibited.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-406. Conformity to Line and Grade.

All sidewalks, curbs, swales, and gutters shall be constructed, paved, repaved, or repaired, upon the line and grade obtained by the owner from the Township Engineer or Township representative, following application by the owner to the Township for all necessary permits. There shall be no fee for these permits.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-407. Notice to Do Work.

Any notice from the Township to an owner to construct, pave, repave, and repair sidewalks, curbs, swales, or gutters or to maintain or replace street trees shall grant the owner 90 days to comply with said notice in conformity with any construction specifications prescribed by the Township Engineer or Township representative. No work shall be conducted without a permit, and there shall be no fee for such permit.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-408. Inspection.

At any time during the performance of the required work, the Township Engineer or Township representative may inspect the work to determine whether construction specifications are being observed.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-409. Township May Do Work and Collect Costs.

Upon the failure or refusal of any owner to timely construct, pave, repave, or maintain any sidewalk, curb, swale, or gutter or to maintain or replace street trees in compliance with a Township notice to do so, the Township may do the same or cause the same to be done, and may levy the cost of this work, together with the cost of collection, and a reasonable administrative charge, on the owner as a property lien to be collected as provided by law.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-410. Emergency Repairs.

Where, in the opinion of the Township, a dangerous condition exists that must be repaired, the Township shall send the owner of the property containing this condition a notice by registered or certified mail stating emergency repairs are required. Upon failure of such owner to comply with the notice within 48 hours after receiving it, the Township may make the required emergency repairs, and levy the cost of this work, together with the cost of collection, and a reasonable administrative charge, on the owner as a property lien to be collected as provided by law.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-411. Removal of Ice and Snow.

Ice or snow on sidewalks or in swales or gutters is hereby decreed a public nuisance, and may be removed by Township without prior notice to the owner. Should the Township remove ice or snow on sidewalks or in swales and gutters in the interest of public safety, the cost of such work may be levied upon the owner, and upon non-payment for a period in excess of 30 days, the cost thereof may be assessed as a lien, together with the cost of collection, and a reasonable administrative charge, and may be collected from the owner as provided by law.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-412. Construction and Repair Done on Owner's Initiative Without Notice.

Any owner not required by notice to construct, pave, repave, or keep in repair sidewalks, curbs, swales, or gutters, may construct, pave, repave, or repair the sidewalk, curb, swale and gutter abutting his/her property; provided such owner shall make application to the Township for a permit before commencing work, shall obtain property grades from the Township Engineer or Township representative before commencement of work, shall conform to the provisions of this Part and other regulations as to specifications for construction and repair work, and shall notify the Township Engineer or Township representative no less than 48 hours before commencement of said work. There shall be no fees charged for any Township permits issued in conjunction with this work.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-413. Exemptions.

1. Owners of parkland, farm fields, undeveloped properties larger than 5 acres, and residential properties larger than 10 acres are exempt from complying with this Part.

2. All property owned by Lower Macungie Township containing sidewalks, bikepaths and pedestrian walkways are exempt from §21-403 of this Part.

(Ord. 2010-12, 12/2/2010, Art. II)

§21-414. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs

and attorney fees. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense. This penalty may be levied upon the owner, any tenant, and any other occupant of the real property containing the violation subject to the provisions hereof.

(Ord. 2010-12, 12/2/2010, Art. II; as amended by Ord. 2011-12, 10/6/2011)