

**CHAPTER 21  
STREETS AND SIDEWALKS**

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**PART 1  
EXCAVATIONS IN STREETS**

**[53 P.S. § 46202(17)]**

**§ 21-101. Definitions. [Ord. 913, 8/12/1981, § 1; as amended by Ord. No. 2112, 9/13/2021]**

1. The following words, when used in this Part 1, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

APPLICANT — Any person who makes application for a permit.

EMERGENCY — Any unforeseen circumstance which calls for immediate action.

PERMITTEE — Any person who has been issued a permit and has agreed to fulfill the terms of this Part 1.

PERSON — Any natural person, partnership, firm, association, utility, authority or corporation.

STREET — Any public street, avenue, road, square, alley, highway, or other public place located in the Borough of Scottsdale and established for the use of vehicles.

2. In this Part 1, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

**§ 21-102. Permit Required; Emergency Openings. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

1. The opening of the surface of any street, alley or other public way or right-of-way owned, controlled or maintained by the Borough of Scottsdale (hereinafter referred to as "Borough street") is prohibited unless a permit is obtained for that purpose in the manner hereinafter described. Such permit shall only be granted when the applying party files an application on a form provided by the Borough, pays the required fees, posts security, as may be required, and otherwise complies with all other terms and conditions set forth herein.
2. Street-opening permits are not required for the installation or replacement of a sidewalk or curb, provided that a sidewalk or curb permit has been obtained, and provided that such installation in no way affects the street surface.
3. Street-opening permits shall not be required for work performed by Scottsdale Borough or by a party performing work under contract with the Borough. At the discretion of the Borough Council, permit fees may be waived for contractors performing work on behalf of the Borough of Scottsdale. Such contractors are required to apply for a street-opening permit and to post a bond or other security, as set forth herein, or in accordance with the terms or conditions of any contract between the contractor and the Borough.
4. The Borough office or the Borough Manager must be notified within 24 hours of any street opening or excavation necessitated by an emergency. A party performing such emergency street opening must apply for the street-opening or excavation permit, in accordance with this Part 1, on the first business day following such emergency. Any party who commences any emergency

street opening or excavation will be deemed to have impliedly consented to all of the provisions of this Part 1, including, but not limited to, those provisions dealing with fees, security and backfilling. In addition to the penalties set forth in § 21-111 herein, as well as any and all remedies for penalties provided by law, the Borough Manager is authorized to order the immediate cessation of any opening or excavation activity and the immediate repair and replacement of the surface to its original condition if the notice and application provisions set forth above are not complied with.

**§ 21-103. Provisions for Granting of Permit. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

Street-opening permits shall only be granted upon compliance with the following express provisions:

- A. A written application, on a Borough form, shall be filed with the office of the Borough Manager. Such application shall set forth the purpose for which such excavation is to be made, the site and location of the work, the full scope of work to be included in the project and the anticipated commencement and completion dates of the project, including refilling and resurfacing. The applicant shall furnish a drawing or plan of the proposed opening or excavation upon request by the Borough Engineer or the Borough Manager. In addition to the above, the applicant must set forth the estimated cost of the entire project. The Borough shall have the right to require production of written verifications of such cost as may be appropriate.
- B. Prior to the issuance of such permit, every applicant shall pay to the Borough the amount hereinafter required for the purposes specified.
- C. No permit shall be granted to any applicant unless all moneys due the Borough for prior excavations made or for loss, damages or expenses in any manner occasioned by or arising from prior work done by the applicant are paid in full.
- D. The written application shall contain a provision in which the applicant agrees to indemnify and hold harmless the Borough, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue arising out of any work.
- E. Depending upon the size, scope and nature of the opening or excavation project applied for or upon the advice and recommendation of the Borough Solicitor, the applicant may be required to obtain and file with the Borough a certificate of insurance protecting the Borough against liability arising out of the work to be done. The amount of coverage shall be determined in accordance with the risk to the Borough, the scope and length of the project and other such factors. Failure of an applicant to secure such certificate of insurance shall be sufficient reason for denying a permit.

- F. The applicant must comply with all applicable requirements of the Pennsylvania Workers' Compensation Act<sup>1</sup> and provide proof of coverage to the Borough, if applicable.

**§ 21-104. Bond required. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

1. All public utility companies requesting a permit to open or excavate the surface of a street shall furnish a properly executed corporate surety bond.
2. All other persons or parties, including contractors, developers, and property owners, may be required to furnish a corporate surety bond if, in the opinion of the Borough Engineer or the Borough Manager and based upon the size, scope and expected effect of a proposed excavation or opening, such security is necessary in order to guarantee surface replacement in accordance with the terms set forth herein.
3. The bond, when required, shall be in effect for a period of not less than three years from the commencement date of the project. The amount of the surety bond shall be a minimum of \$50,000. If the cost of any street excavation, opening and required restoration exceeds such amount, additional bonding in an amount equal to 125% of the estimated cost of the project shall be required.
4. Whenever any public utility or municipal authority which owns, controls or maintains underground facilities in Scottdale Borough reasonably anticipates more than one street opening or excavation per calendar year, it may post a bond for the calendar year or part thereof to cover any and all street openings anticipated. In such case, the amount of the bond shall be approved by the Borough Council, and the applicant's initial street-opening permit in a calendar year will only be issued if the bond has been posted and the applicant has provided the Borough with an accurate and up-to-date map of its underground facilities. The approval of a calendar-year bond does not absolve the applicant of its obligation to obtain a separate street-opening permit for each street opening to be performed by the applicant.

**§ 21-105. Fees. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

The minimum fee of \$150 shall be paid upon application for a permit, as set forth herein. In addition to the minimum application fee, the Borough shall be entitled to assess such additional fees as are set forth on the Fee Schedule.<sup>2</sup> The Borough Council reserves the right to review the said Fee Schedule from time to time and amend the same by resolution of Council. All such additional fees assessed by the

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1. Editor's Note: See 77 P.S. § 1 et seq.

2. Editor's Note: The current Fee Schedule is on file in the Borough offices.

Borough Council must be paid by the applicant within 30 days of its receipt of notice of the assessed fees.

**§ 21-106. Revocation of Permit; Notice of Violation. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

1. All street-opening permits are subject to revocation at any time by the Borough, upon recommendation of its Engineer or the Borough Manager, for:
  - A. Violation of any condition of the permit.
  - B. Violation of any provision of this Part 1 or chapter or any other applicable ordinance or law relating to the work.
  - C. The existence of any condition or act constituting or creating a nuisance or endangering the welfare, safety, lives, or property of others.
2. Written notice of such violation shall be served upon the applicant/permittee or party engaged in the work. Such notice shall contain a brief statement of the reasons for revoking such permit and/or may contain a time period and method by which the permittee may cure any such violation. Notice may be given either by personal delivery or by United States Mail sent to the address listed on the original application.

**§ 21-107. Request for Extension. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

If any permittee is unable to complete the street opening or excavation on or before the date specified in the permit, the permittee must file a written application for an extension of time with the Borough. Said application shall set forth the reasons for the request for the extension of time and shall contain an estimate of the additional time required to complete the project. A fee, as set forth on the Fee Schedule, shall accompany the extension application to defer the cost of processing and filing the same.

**§ 21-108. Backfilling and Restoration; Costs. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

The permittee shall be and remain responsible for backfilling in any street, alley, or road in the Borough. All backfilling shall be in accordance with the most current Department of Transportation Publication 408 Standards at the time the application for a permit is made.

- A. All bituminous surface paving shall be restored on all streets, alleys, and roads in the Borough by a uniform cut in the surface by an approved method which will provide a straight nonragged joint. The entire road surface from curb to center line plus 12 inches on each side of the street opening. In the

event that the street opening extends beyond the center line of the street pavement, replacement shall consist of curb to curb and five feet in each direction on either side of the street opening.

- B. Cold patch material is to be replaced with permanent surface replacement, (April 1 to Oct 31-Bituminous plant operations) 30 days after plant opening, of its installation; provided, further, however that the cold patch surface replacement shall be maintained at all times until the permanent surface replacement is installed.
- C. If, within three years after the restoration of the surface as herein provided, defects in the backfilling or surfacing by the applicant, the applicant shall, within 10 days' notice by the Borough, refill and/or resurface the opening or excavation as herein provided. If the applicant fails to refill and/or resurface the opening or excavation within 10 days, the Borough may make the repair and invoice the applicant for the cost of same plus 20%. In the event payment is not made within 30 days of the date of the invoice, the Borough may collect same as set forth hereafter.

**§ 21-109. Additional Requirements of Permittee. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

In addition to any other requirements of this Chapter, or the conditions of any permit, the permittee shall:

- A. Ensure that all stormwater drains, or gutters are left open so as not to obstruct the free passage of water during any period of construction.
- B. Ensure that all sidewalks and footways are kept in a safe and passable condition during construction.
- C. Ensure that all materials removed by the excavation, as well as backfilling materials, are stored in a location determined by the Borough, pending completion of the project and backfilling.
- D. The permittee shall install or cause to be installed all necessary warning lights, illumination, barricades or other safety device necessary for the protection of the public.
- E. Ensure that proper traffic control and warning signs are in place and maintained in accordance with the current edition of Publication 213 of the Pennsylvania Department of Transportation.
- F. In the event excavation in, or the replacement of, any thoroughfare results in three cuts (hereinafter referred to as a "patch" or "patches") within a single block, then the applicant or permittee making the third opening shall be responsible to mill and pave or overlay the area of the street in which such patches are located, for a distance of 250 feet or to the nearest intersection with an alley, from curb to curb. For purposes of this section, a "block" is

defined as an area of roadway between cross streets or nearest intersections. Such reconstruction and overlaying shall be conducted either using the practices and procedures established for repairing street openings or other provisions of this Part associated with construction requirements for new roads, or by another method proposed by the applicant/permittee if, in the sole and exclusive judgment of the Borough, same will obtain an equal or better result. The selection of methods shall be within the sole discretion of the Borough and determined by the nature and extent of the repairs necessary. In addition to any overlay, the applicant or permittee shall also be required to install handicap accessible ramps at intersections consistent with the terms of the Americans with Disabilities Act.<sup>3</sup>

- G. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough, be unsatisfactory and the same be corrected to the Borough's satisfaction within the time fixed by the Borough of Scottsdale, the Borough may correct such unsatisfactory work and charge the cost of same plus 20% to the applicant/permittee.
- H. Ensure that any and all other conditions relating to the project imposed upon the applicant/permittee, and/or set forth on the permit, must be complied with.

**§ 21-110. Guarantee and Maintenance of Work. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

Notwithstanding any bonding or other security requirements, the permittee shall guarantee and maintain the backfilling and restoration work for a period of 36 months following completion. Within this thirty-six-month period, upon notification from the Borough of the necessary correction work required, the permittee shall correct or cause to be corrected all deficiencies within 10 days of receipt of notification from the Borough to do so. Any work not completed within this ten-day period may be completed by the Borough. The Borough shall then invoice the permittee for all costs incurred by the Borough in the performance of this work, plus 20% and invoice the applicant or permittee for same. Payment not made within 30 days of the invoice date will be subject to collection, together with all counsel fees, costs and expenses involved in the collection of this payment as set forth in § 21-111 hereafter all fees and costs involved in the collection of this payment.

**§ 21-111. Violations and Penalties. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

1. Any person violating any provision of this Part 1 shall, upon conviction thereof, be fined not less than \$300 nor more than \$1,000 each and every offense, together with costs, and in default of payment thereof shall be imprisoned for not more than 30 days. Each failure to obtain a permit or to comply with any of the requirements of this Part 1, as well as each and every

3. Editor's Note: See 42 U.S.C.A. § 12101 et seq.

day during which such violation continues, shall constitute a separate offense.

2. In addition to the foregoing, the Borough may recover any indebtedness incurred: 1) in the administration of this Part; 2) in the repair, replacement or maintenance of an applicant's work; 3) any other cost or expense it incurs as a result of the violation of any term of this Part; or 4) enjoin or compel the remediation of any current or future violation of this Part through the initiation of any appropriate action at law, or in equity, including, but not limited to, the initiation of proceedings against the applicant's bond. In the event the Borough initiates any such action, it will be entitled to recover all costs, expenses and attorneys' fees it incurs.
3. In addition to the penalties set forth in the preceding subsection, the Borough reserves the right to deny the issuance of any future street-opening permit to any person or party who violates the provisions of this Part 1.
4. Any person, party, organization, corporation or other entity who commences any opening, cutting, excavation, other digging or disturbance of the improved or unimproved surface or adjacent area of any public roadway, alley, or right-of-way, as defined in the applicable ordinances, without first obtaining a valid permit from the Borough office, and paying the required fee, will be deemed guilty of a separate violation of said ordinance, in addition to any other sanctions or penalties imposed therein. If said person, party, organization, corporation or other entity, upon notice by the Borough or its duly authorized or appointed officials, ceases all activity and applies for the applicable permit, the Borough office shall have the discretion to issue same upon payment of a fee which shall be no less than double the usual, timely application fee. This provision shall apply only to a first offense by any person, party, organization, corporation or other entity.
5. In addition to any penalties or application fees set forth above in this Part 1, any person, party, organization, corporation or other entity who fails to obtain permits before conducting any of the activities set forth above, after the first offense, shall be assessed an additional penalty which shall be no less than double the prescribed fine for violations of said Part 1.

**§ 21-112. Construal of Provisions. [Ord. 913, 8/12/1981; as amended by Ord. of 1/11/1983; by Ord. 957, 10/13/1986; and by Ord. 1180, 9/9/2013; and by Ord. No. 2112, 9/13/2021]**

Nothing contained in this Part 1 or any provision thereof shall be interpreted as prohibiting or limiting any other right or cause of action the Borough may have, in law or in equity, against any party for any violation of the terms of this Part 1 or matters related thereto.



## PART 2

**PROHIBITED DISCHARGES INTO PUBLIC STREETS****§ 21-201. Statement of Purpose Findings. [Ord. No. 2113, 11/14/2022]**

The Borough has an obligation to keep and maintain public streets and alleyways in such a condition so as not to create an increased risk of harm to the travelling public. The Council of Scottsdale Borough finds that allowing stone, gravel, paving materials, mud, debris or other materials to discharge onto public road and alleyways creates a hazard for motor vehicles, clogs storm drains and storm grates and diminishes the capacity of the Borough's stormwater management facilities. The Council of Scottsdale Borough also finds that discharging water onto public roads and alleyways during times when it may freeze, or discharging water onto public roads and alleyways in large quantities or with high velocity, adversely impacts travel on public roads and alleyways, and causes a threat to the public health, safety and welfare. The following provisions are enacted to address and eliminate these conditions.

**§ 21-202. Duties of Owners and Occupants of Properties. [Ord. No. 2113, 11/14/2022]**

1. It is the duty of all owners and occupants of property within the Borough to maintain their property, including all driveways, parking areas, sidewalks or other entryways, in such a condition so as to prevent stone, gravel, paving materials, mud, debris or other materials from discharging onto public roads and alleyways.
2. It is the duty of all owners and occupants of property within the Borough to maintain their property in such a condition that water from same does not discharge from their property onto public roads or alleyways at times or under circumstances when it may freeze upon same.
3. It is the duty of all owners and occupants of property within the Borough to maintain their property in such a condition that water from same does not discharge from their property onto public roads or alleyways in large quantities or with such velocity that same would affect travel on public roads and alleyways.
4. It is the duty of all owners and occupants of property within the Borough to stop, clean up, remove or otherwise dispose of any prohibited discharge as hereafter defined immediately after such discharge occurs.

**§ 21-203. Prohibited Discharges. [Ord. No. 2113, 11/14/2022]**

1. Stone, Gravel, Paving Materials, Mud, Debris and Other Materials. It shall be unlawful and a violation of this Part of Chapter 21 of the Code of Scottsdale Borough for any owner or occupant of property within the Borough to discharge, or to cause or permit the discharge, of any stone, gravel, paving

materials, mud, debris or other materials from their property onto a public road or alleyway.

2. **Water.** It shall be unlawful and a violation of this Part of Chapter 21 of the Code of Scottsdale Borough for any owner or occupant of property within the Borough to discharge, or to cause or permit the discharge of water onto public roads and alleyways during times when it may freeze. It shall be unlawful and a violation of this Part of Chapter 21 of the Code of Scottsdale Borough for any owner or occupant of property within the Borough to discharge, or to cause or permit the discharge, of water onto public roads and alleyways in such quantities or with such velocity that it affects travel on public roads and alleyways.
3. **Driveways and Off-Street Parking Areas.** It shall be unlawful and a violation of this Part of Chapter 21 of the Code of Scottsdale Borough for any owner or occupant of property within the Borough to maintain any driveway, parking area or sidewalk in a condition which allows or facilitates the discharge, of any stone, gravel, paving materials, mud, debris or other materials from their property onto a public road or alleyway.

**§ 21-204. Improved Areas; Impervious, Semi-Impervious and Permeable Surfaces. [Ord. No. 2113, 11/14/2022]**

All driveways, walkways or off-street parking areas on property within the Borough shall, and are hereafter required to be, improved, constructed or maintained with impervious, semi-impervious or permeable materials. All new sidewalks, driveways or off-street parking areas laid out, constructed and/or installed after the effective date of this Part 2, must be constructed with impervious or semi-impervious surfaces. Existing sidewalks, driveways or off-street parking areas laid out, constructed and/or installed prior to the effective date of this Part 2 with permeable surfaces may be permitted to remain, provided that the condition of same does not deteriorate to a condition where stone, gravel, paving materials, mud, debris or other materials from same begin to discharge onto a public road or alleyway. For purposes of this Part, the term "impervious surface" shall mean those surfaces consisting of concrete, asphalt or other similar materials, the term "semi-impervious surface" shall mean those surfaces consisting of brick or concrete pavers or similar materials, and the term "permeable surface" shall mean those surfaces consisting of gravel, stone, pellets and other similar materials.

**§ 21-205. Enforcement; Notice of Violation. [Ord. No. 2113, 11/14/2022]**

This Part shall be enforced by the Code Enforcement Officer designated by the Borough to do so. In the event the Code Enforcement Officer determines that a violation exists, the Code Enforcement Officer shall send a notice of same to the owner and/or occupant of the property describing the nature of the violation, the manner in which it is to be corrected and the date by which corrective action is to be taken. Notices will be deemed to be served when they are sent by first-class U.S. Mail to the property address or to the address of the owner of the property as described in the tax records for the property (if different than the property address). Notice may also be given by posting the property upon which the condition giving rise to the violation is located.

**§ 21-206. Violations and Penalties. [Ord. No. 2113, 11/14/2022]**

1. Any person, corporation, entity, firm or any other business entity who fails to comply with the terms of any notice issued by a Code Enforcement Officer, who maintains or causes property to be maintained in violation of this Part, who fails to perform any duty required under this Part, or who causes, allows or permits any prohibited discharge set forth above, shall be in violation of this Part and, upon being adjudicated in violation by a Magisterial District Judge or other court having jurisdiction, shall be subject to a fine of not less than \$300 nor more than \$600. Each day that a violation exists after the initial violation is finally adjudicated to exist shall constitute a separate violation without the filing of multiple actions. In addition to the imposition of the within fine, the Borough may pursue any action at law or in equity necessary to:
  - A. Abate any condition on property giving rise to the violation; or
  - B. Compel any person, corporation, entity, firm or any other business entity to correct such condition; or
  - C. Upon notice to the owner of the property, and at the Borough's sole discretion, enter upon the property to correct the condition giving rise to the violation and recover the costs of same through any legal means, including, but not limited to, the filing of an action in assumpsit or the filing and prosecution of a municipal claim against the property.
2. In any litigation initiated by the Borough, the Borough shall be entitled to recover all costs and expenses it has incurred in the correction of any condition giving rise to the violation, together with all costs, expenses and legal fees it incurs. All remedies of the Borough shall be cumulative in nature.

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