

BOROUGH OF LINCOLN PARK
MORRIS COUNTY, NEW JERSEY

APPLICATION FOR

“EXCAVATIONS, OPENINGS AND OBSTRUCTIONS IN PUBLIC PLACES”

Pursuant to the “ORDINANCES OF THE BOROUGH OF LINCOLN PARK”, Chapter 408 and re: OPENINGS & EXCAVATIONS, the undersigned makes application for a Permit:

1. Location of excavation: Block No.: _____ Lot No.: _____
Address: _____
2. Owner: _____ Telephone No.: _____
3. Type of proposed excavation – (curb, wall, trench, driveway, sidewalk, etc.):

4. Approximate length & width of excavation: _____
5. Contractor performing work: Name: _____
Address: _____ Telephone No.: _____
6. Date work to begin: _____ 200____
7. Time for completion of work _____ days

Applications shall be accompanied by diagram (attach to reverse side of this sheet) indicating nature and extent of work to be done and excavation to be made. If, during the course of work any variation is required, an amended diagram (three copies) shall be filed for approval in the Office of the Borough Clerk.

THE UNDERSIGNED HEREBY AGREES AS FOLLOWS:

1. That all required fees and charges will be paid before work is started.
2. To furnish a PERFORMANCE BOND as specified in SECTION 408-13 and a CERTIFICATE OF INSURANCE as required in SECTION 408-24. **Please also furnish a W-9.**
3. Work WILL NOT interfere with proper drainage of the street.
4. All work will be properly guarded with suitable barriers, signs and lanterns and otherwise will take all precautions for the safety of the public.
5. If the work will affect the use of properties abutting or adjoining the project or subsurface installations in the vicinity of the proposed opening, the undersigned agrees to present evidence in affidavit form that he/she has served notice to the owners, tenants such properties or subsurface installations.
6. All excavated materials will be carted away. The trench or excavation MUST BE backfilled in layers not exceeding 6 inches in depth. Backfill materials shall be well moistened and tamped $\frac{3}{4}$ " stone and dust or bank run gravel with no stone more than 6 inches in diameter and no shale rock.
7. At least one day prior to backfilling and installation of pavement, the Department of Public Works MUST be called for an inspection; 9073-694-6100.
8. Permanent pavement WILL consist of 4 inch Quarry Process Stone base, 4 inch Bituminous Stabilized Base Course and 2 inch FABC Mix I-5 Surface Course.
9. If concrete is damaged it SHALL be replaced by concrete curb not less than 6" by 9" by 20". Likewise any damaged Granite Black Curb shall be repaired in-kind, to the satisfaction of the Borough.
10. Work MUST be commenced within 45 days of the effective date of this permit or it becomes void unless extended upon payment of an additional application fee.
11. Permits are NOT TRANSFERABLE FROM ONE PERSON TO ANOTHER and the work SHALL NOT be made in any place other than the location specifically designated in the permit.
12. To display the original and approved copy of the permit at the site of excavation, while the work is in progress.
13. To indemnify and save harmless the BOROUGH OF LINCOLN PARK from and against any and all loss, costs or damages incurred by reason of any damage to any property, injury to

any person, or any loss of life resulting from any negligence of the applicant, his agents, servants or employees in performing the work covered by this permit.

- 14. To comply with ALL BOROUGH ORDINANCES, specifically Article III, Openings, Excavations, etc. (attached).
- 15. To CALL BEFORE YOU DIG (1-800-272-1000) for Utility locations.

SIGNATURE OF CONTRACTOR: _____

SIGNATURE OF PROPERTY OWNER: _____

Address & Telephone No. if not Owner or Contractor: _____

ATTACH SKETCH OR DIAGRAM HERE
APPLICATION WILL NOT BE APPROVED WITHOUT THIS

DO NOT WRITE BELOW THIS LINE

Cash bond filed with the Borough Clerk in the amount of 100% of the estimated cost of excavation & repair of Borough Improvements.

Engineer Estimate Cost of Bond	_____
No. of Sq. Yds. Of Pavement	_____ (Square Yards)
Clerk Application/Permit Fee:	_____ \$100.00
Inspection Fee	_____ \$50.00 _____
Clerk Cash Bond Posted:	_____
Clerk Certificate of Insurance:	_____
Road Opening Approval:	_____
Insp. Of Excavation:	Date: _____
	By Whom: _____
Final Inspection:	Date: _____
	By Whom: _____
Cash Bond Release:	Date: _____
	Reso No.: _____

_____ Borough Engineer	_____ Date
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_____ Municipal Clerk	_____ Date
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Cc: DPW
Engineer
Water
Police

BOROUGH OF LINCOLN PARK
HOLD HARMLESS

BUSINESSES

1. DEFINITIONS:

"I/we/me/my" shall mean:

Name of Business:

Person Responsible: _____

Business Address: _____

Business Phone: _____

"You/Yours" shall mean the municipal corporation known as the BOROUGH of LINCOLN PARK its agents, servants, employees or contractors.

2. GENERAL INFORMATION:

Date Facility Needed: _____

Facility Requested: _____

Hours Facility is Needed: _____ am/pm to _____ am/pm

Activity to be held (describe in detail): _____

3. I sign this HOLD-HARMLESS as my voluntary act and by this act agree to hold YOU harmless and indemnify YOU from any claims, suits, or other actions arising from, caused by, or which are the alleged result of any act or omission of:

- a. YOU; (applicable only if the user of this site is a Corporation)
- b. Any quest, invitee, licensee, visitor or other person present on the premises listed above in order to participate in, organize, assist, enjoy, supervise or in any other way further the activity to be held (as described on page 1) on the date listed on page 1.

4. I also agree that where the Municipal Officer signing this Hold Harmless on YOUR behalf feels that I should provide to YOU a Certificate of Insurance I shall provide same to that Municipal Officer as soon as practicable and not less than two (2) business days before the date of the planned activity. The appropriate Municipal Official will check below if this paragraph is applicable to the activity listed on page 1.

_____ Applicable

_____ Not Applicable

5. (Applicable to Corporations Only)

I also agree that I am obligated to reimburse YOU for all reasonable Attorney's fees incurred by YOU to enforce the terms of this Hold Harmless or to defend YOURSELF against any claim, suit, demand for subrogation, or other action which a court of competent jurisdiction later determines by final order or judgment should have been defended by ME or MY sole cost and expense pursuant to this Hold Harmless.

6. LEGAL SIGNATURE

a. Individual: _____

On behalf of: _____
(Business)

(Corporation)

(Title)

b. Municipality: BOROUGH OF LINCOLN PARK

(Signature of Municipal Clerk)

Request for Taxpayer
Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification; check only one of the following seven boxes: ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ ☐ Other (see instructions) ▶ _____ ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate Note. For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>	
	5 Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 List account number(s) here (optional)	

Part I	Taxpayer Identification Number (TIN)										
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see <i>How to get a TIN</i> on page 3.											
Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.											
<table><tr><td colspan="2">Social security number</td></tr><tr><td> </td><td> </td></tr><tr><td colspan="2">or</td></tr><tr><td colspan="2">Employer identification number</td></tr><tr><td> </td><td> </td></tr></table>		Social security number				or		Employer identification number			
Social security number											
or											
Employer identification number											

Part II	Certification
Under penalties of perjury, I certify that:	
1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and	
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and	
3. I am a U.S. citizen or other U.S. person (defined below); and	
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.	
Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.	

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions Section references are to the Internal Revenue Code unless otherwise noted. Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at www.irs.gov/fw9 . Purpose of Form An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following: - Form 1099-INT (interest earned or paid) - Form 1099-DIV (dividends, including those from stocks or mutual funds) - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds) - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers) - Form 1099-S (proceeds from real estate transactions) - Form 1099-K (merchant card and third party network transactions)	- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition) - Form 1099-C (canceled debt) - Form 1099-A (acquisition or abandonment of secured property) Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN. If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See <i>What is backup withholding?</i> on page 2. By signing the filled-out form, you: - Certify that the TIN you are giving is correct (or you are waiting for a number to be issued), - Certify that you are not subject to backup withholding, or - Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and - Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See <i>What is FATCA reporting?</i> on page 2 for further information.
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Chapter 408

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Borough Council of the Borough of Lincoln Park 11-12-1991 by Ord. No. 1,032 as Ch. 185 of the 1991 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater control — See Ch. 24.
Numbering of buildings — See Ch. 186.
Littering — See Ch. 316.
Peddling and soliciting — See Ch. 344.

Stormwater protection — See Ch. 404.
Towing — See Ch. 426.
Vehicles and traffic — See Ch. 450.

ARTICLE I
Street Obstructions

§ 408-1. Placing of obstructions in streets. [Amended 11-19-2001 by Ord. No. 1,275, effective 12-9-2001]

- A. It shall be unlawful for any person to place, cause to be placed, maintain or suffer, or cause to be maintained or suffered, in or upon any public sidewalk, street or other form of public easement any object, thing or obstruction of any kind in such manner as to interfere with the use of the easement by the general public.
- B. The provisions of Subsection A shall particularly apply but shall not be limited to boxes, crates, displays of merchandise or produce, carts and the like.
- C. Persons who store vehicles or apparatus of any nature which either encroaches directly upon a public sidewalk or parts of which project over the sidewalk shall be deemed to be in violation of this section.
- D. Articles placed in the easement in the course of the making of commercial pickups or deliveries shall be exempted from the provisions of this section, provided that such article shall be removed from the easement within a reasonable time.
- E. It shall be unlawful for any person, firm, corporation, and/or business entity to throw, shovel, plow or otherwise deposit any amount of snow and/or ice in or upon any street in the Borough. [Added 5-25-2014 by Ord. No. 8-14, effective 6-8-2014]

§ 408-2. Time limit for snow and ice removal.

The owner or tenant of any land abutting a public highway, street or avenue in the Borough shall remove all snow and ice from the abutting sidewalks of such public highway, street or avenue within 12 hours of daylight after the same shall fall or otherwise be formed or accumulate thereon.

§ 408-3. Removal of overhanging or sight-obstructing vegetation.

The owner or tenant of any land abutting upon a public highway, street or avenue in the Borough shall remove all grass, weeds, hedges, bushes, low-hanging branches and other impediments from the abutting sidewalks, side lines or gutters of such highways within three days after written notice to remove the same and shall remove all grass, weeds, hedges, bushes, low-hanging branches and other impediments from the portion of any public highway, street or avenue which shall be a hindrance to or obstruct the view of operators of vehicles using such public highway, street or avenue within three days after written notice to remove the same.

§ 408-4. Sidewalk maintenance. [Added 11-19-2001 by Ord. No. 1,275, effective 12-9-2001]

- A. All persons owning or occupying residential property which has located thereon or abutting thereto any public or private sidewalks which are used by and/or are open to the general public shall be required to maintain, construct, replace and repair the same in a workmanlike state of maintenance and repair. All holes, cracks, excavations, or uneven pavement in sidewalks shall be maintained, filled, repaired or replaced as necessary, walks and steps repaired and other conditions removed where necessary to eliminate ground surface hazards or unsanitary conditions with reasonable dispatch upon their discovery. It shall be the responsibility of owners and occupants of residential property to take reasonable steps to discover any such ground surface hazards or unsanitary conditions which may exist on sidewalks on their premises or abutting thereto.
- B. The owner, tenant or occupant of residential property which has located thereon or abutting thereto any public or private sidewalk shall remove, abate, or repair any violations or unsafe conditions within 10 days after written notice. Pending removal, abatement, or repair, the owner, tenant, or occupant of such property shall install and maintain on such sidewalks sufficient warning signals or devices to protect or warn the general public of the ground surface hazards or unsanitary conditions located thereon.

§ 408-5. Notice to remove obstructions.

- A. The written notices provided in §§ 408-3 and 408-4 shall be prepared and served by the Director of the Department of Public Works and Utilities, or his designee, shall identify the lands abutting on the highways, streets, avenues or sidewalks affected, and shall contain a short statement identifying such violations or conditions which are directed to be removed, repaired or abated. Such notice shall also contain a statement that a violation of the terms of such sections maybe punishable by a fine, community service and/or imprisonment. [Amended 11-19-2001 by Ord. No. 1,275, effective 12-9-2001]
- B. Such notice may be served upon the owner or tenant resident of the Borough in person or by leaving the same at his house or place of residence with a member of his family above the age of 14 years. In case any such owner shall not reside in the Borough, such notice may be served upon him personally or mailed to his last known post office address or it may be served upon the occupant of the property or upon the agent in charge thereof. In case the owner of any such property is unknown or service cannot, for any reason, be made as above directed, notice thereof shall be published at least once in newspaper circulating in the Borough, and a copy of the notice shall be posted in a conspicuous place upon the premises.

§ 408-6. Removal Borough; cost as lien. [Amended 11-19-2001 by Ord. No. 1,275, effective 12-9-2001]

If the owner, tenant or occupant of any land abutting upon a public highway, street, avenue or sidewalk of the Borough shall violate the provisions of § 408-2, 408-3 or 408-4 and, after due notice thereof, shall fail, refuse or neglect to remove, repair or abate any such violations or conditions, the Director of the Department of Public Works and Utilities, or his designee,

may remove, repair or abate all violations or conditions and, after completion of the same, shall certify the costs thereof to the Mayor and Borough Council, which shall examine the certificate and, if found correct, shall cause the costs as shown thereon to be charged against the lands abutting on the public highway, street, avenue or sidewalk. The amount so charged shall forthwith become a lien upon such lands and shall be assessed and levied upon such lands. The same shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers in the same manner as taxes.

ARTICLE II

Acceptance of Streets or Roads

§ 408-7. Requirements for street acceptance.

No street or road which is a street shown upon a plat heretofore approved pursuant to law or approved by official action as set forth in the Municipal Land Use Law¹ will be accepted for public use unless such street has been approved in accordance with the minimum specifications of the development review ordinances of the Borough of Lincoln Park.² All such improvements shall be at the expense of the developer or the abutting property owner to be benefited, unless such street shall be wholly or partially considered as a general improvement.

ARTICLE III

Street Openings and Excavations

§ 408-8. Definitions.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

APPLICANT — Any person who makes application for a permit.

DIRECTOR — The Director of the Department of Public Works and Utilities or such person as may be designated by the Mayor to perform the duties of Director under the provisions of this article.

EMERGENCY — Any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

ENGINEER — The person duly appointed Borough Engineer or his authorized deputy, representative or inspector.

PERMITTEE — Any person who has been issued a permit and is obligated to fulfill all the terms of this article.

1. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

2. Editor's Note: See Ch. 17, Land Development Review, and Ch. 28, Zoning.

SIDEWALK — An improved walkway, made, used or intended to be used for pedestrian traffic and located along a public street, roadway or highway and wholly located within the public right-of-way. [Added 5-17-2004 by Ord. No. 1,330, effective 7-11-2004]

STREET — A public street, public easement, public right-of-way, public highway, public alley, public way or public road accepted or maintained by the Borough and any state or county road over which the Borough may have acquired jurisdiction by agreement.³

§ 408-9. Applicability to state and county highways.

The provisions of this article shall not be applicable in those instances where the highway is maintained by the state or by the county, except in such cases where the Borough may have special arrangements with the state or county.

§ 408-10. Adoption of regulations.

The Director is hereby authorized and directed to adopt such written regulations as may be necessary for the implementation and enforcement of the provisions of this article. Such regulations shall include but shall not be limited to:

- A. Limitations on the size of an opening.
- B. Restrictions for the protection of existing subsurface installations, monuments and drainage systems.
- C. Requirements for the storage and removal of excavated materials.
- D. Designation for safety precautions to be taken by the permittee.
- E. Restrictions as to the periods of day when the work may be performed.
- F. Requirements for backfilling, inspecting and restoring of openings.

§ 408-11. Schedule of charges for work by Borough.

The Director is authorized to establish a schedule of charges for labor, materials and such other expenses as may be incurred by the Borough in meeting the requirements of this article. The schedule shall be open to public inspection in the office of the Director upon demand.

§ 408-12. Determination of cost of work.

The decision of the Director as to the cost of any work done or repairs made by the Director under his direction, pursuant to the provisions of this article, shall be final and conclusive.

3. Editor's Note: The definition of "Superintendent" which immediately followed this definition was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). See the definition of "Director."

§ 408-13. Performance guaranty. [Amended 5-17-2004 by Ord. No. 1,330, effective 7-11-2004]

- A. Each applicant, prior to the receipt of a permit, shall provide the Borough with an acceptable corporate surety bond or letter of credit (hereinafter, "guaranty") to guarantee faithful performance of the work authorized by a permit granted pursuant to this article. The amount of the guaranty shall be 100% of the estimated cost of the street excavation and repair to be done by the permittee. The term of the guaranty shall begin upon the date of posting thereof and shall terminate upon the receipt by the permittee of the certificate of final inspection from the Director. If the permittee anticipates requesting more than one permit per year, as required by this article, he may furnish one continuing guaranty to guarantee faithful performance, in such amount as the Director deems necessary. The amount of such guaranty shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. Such guaranty shall have an automatic renewal clause at the end of its term, unless canceled by the permittee.
- B. Whenever the Director shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the guaranty. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Director to be reasonably necessary for the completion of such work.
- C. After receipt of such notice, the surety shall, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough for the cost of doing the work as set forth in the notice.

§ 408-14. Insurance.

Each applicant, prior to receipt of a permit, shall provide the Borough with an acceptable certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance is by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards and underground work by equipment on the street and shall include protection against liability arising from completed operations. The amount of liability insurance for bodily injury in effect shall not be less than \$1,000,000 for each person and \$1,000,000 for each accident and for property damages not less than \$1,000,000, with an aggregate of \$1,000,000 for all accidents. All certificates of insurance shall be subject to review and approval by the Borough Attorney prior to issuance of any permit.

§ 408-15. Notice of opening; opening of new streets.

- A. When the Borough shall improve or pave any street, the Borough Clerk shall first give notice to all persons owning property abutting on the street about to be paved or improved and to all public utilities and authorities operating in the Borough, and all such persons, utilities and authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within 30 days from the giving

of such notice. The time shall be extended if permission is requested, in writing, and approved by the Director.

- B. No permit shall be issued by the Director to any person given notice under this section which would allow an excavation or opening in a paved and improved street surface less than five years old, unless the applicant can clearly demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency condition exists.
- C. If, by special action of the Director, a permit is issued to open any paved and improved street surface less than five years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event that the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to 2% of the cost of restoring the opening for each unelapsed month or fraction thereof of the five-year restricted period.

§ 408-16. Filing of information on underground installations.

- A. Every person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Borough or to or from its inhabitants or for any other purpose shall file with the Director accurate information showing the location, size and description of all such installations.
- B. Within 30 days after the first day of January of each and every year, such person shall file with the Director additional information showing installations, including all those made or abandoned during the previous year, provided that, if no additions have been made to its installation during the previous year, a utility or authority may file with the Director written statement to that effect within the period of time specified above. A utility or authority may, at its own option, elect to provide additional information throughout the year as it is available rather than proceed as above noted.

§ 408-17. Notices to property owners and tenants.

If the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project or subsurface installations in the vicinity of the proposed opening, the Director shall require the permittee to submit evidence, in affidavit form, that the permittee has served the owners or tenants of such properties and subsurface installations notices personally or by certified mail, return receipt requested.

§ 408-18. Permit required; emergencies.

It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface of any street without first securing a permit from the Borough for each separate undertaking, provided that any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided that the permit could not reasonably and practicably have been obtained beforehand. The person shall

thereafter apply for a permit on the first regular business day. The permit shall be retroactive to the date when the work was begun.

§ 408-19. Additional work prohibited; exception. [Amended 5-17-2004 by Ord. No. 1,330, effective 7-11-2004]

No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that, upon the approval by the Director, additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit. Any deposit and guaranty posted in connection with the original permit shall be deemed to cover any such additional work and may be approved pursuant to this section within the limit mentioned herein.

§ 408-20. Time limit for commencement of work.

Work for which a permit has been issued shall commence within 45 days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required.

§ 408-21. Permit not transferable.

Permits are not transferable from one person to another, and the work shall not be made in any place other than the location specifically designated in the permit.

§ 408-22. Expiration of permit.

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to commence or complete the work within the specified time, he shall, prior to expiration of the permit, present, in writing, to the Director, a request for extension of time, setting forth therein the reasons for the requested extension. If such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time by the Director for the commencement or completion of the work.

§ 408-23. Revocation of permit.

- A. Any permit may be revoked by the Director, after notice to the permittee, for:
- (1) Violation of any condition of the permit or of any provision of this article.
 - (2) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others.

- B. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States Mail addressed to the person to be notified.
- C. A permittee may be granted a period of 48 hours from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before the permit is revoked.
- D. When any permit has been revoked and the work authorized by the permit has not been completed, the Director shall do such work as may be necessary to complete such work as was authorized by the permit and to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Borough shall be recovered from the deposit or bond the permittee has made or filed with the Borough.

§ 408-24. Responsibility of applicants; fees. [Amended 5-17-2004 by Ord. No. 1,330, effective 7-11-2004]

- A. It shall be the duty and responsibility of any applicant to:
 - (1) Make a written application for permit to the Director, of such form as the Borough shall prescribe. No work shall commence until the Director has approved the application and plan and issued a permit and until the applicant has paid and provided all fees, deposits, certificates and bonds required by this article.
 - (2) Furnish, in triplicate, a plan of approved scale showing the work to be performed under the permit. If approved by the Director, one copy of such plan shall be returned to the applicant at the time the permit is granted.
 - (3) Agree to save the Borough and its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under the permit. The acceptance of any permit under this article shall constitute such an agreement by the applicant, whether the same is expressed or not.
 - (4) Pay a permit fee as provided in Chapter 34, Fees, § 34-7, provided that public utilities or authorities may elect to be billed monthly for such fees as they may accrue.
 - (5) Pay a fee as provided in Chapter 34, Fees, § 34-7, to cover the cost of inspecting the work authorized by the permit.
 - (6) Furnish a performance guaranty required by § 408-13 for the proper repair of the street opening.
 - (7) Furnish a certificate of insurance, as required by § 408-14, or, in the case of a public utility or authority, furnish a self-insurer certificate issued by the Security

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Responsibility Bureau of the Division of Motor Vehicles, Department of Law and Public Safety, for the state.

- (8) Keep the original copy of the permit and an approved copy of the plan. The permit shall be in the possession of the party actually doing the work and shall be exhibited to the Director or duly authorized inspectors or, in the instances of county or state highways, to the respective inspectors of these organizations.
- B. Notwithstanding the requirements listed above, a public utility or authority may, in lieu of the requirements for a maintenance charge and a performance guaranty, furnish the Borough with a performance guaranty for the current year in the amount of \$15,000, guaranteeing compliance with all provisions of this article except § 408-24A(7). The performance guaranty shall be subject to review and approval by the Borough Attorney prior to the issuance of any permit.

§ 408-25. Exception; sidewalk repair. [Added 5-17-2004 by Ord. No. 1,330, effective 7-11-2004]

- A. An application for a road opening permit, which includes solely the repair of an existing sidewalk fronting or adjoining residential premises, shall be exempt from the provisions of § 408-13, Performance guaranty, and the fee requirements of § 408-24A(4), (5), (6) and (7) inclusive.
- B. The exemption provided by this section shall not apply to an application for a road opening permit submitted following the issuance of an order to repair by the Borough of Lincoln Park in enforcing this or any other provision of the Borough Code.
- C. Nothing in this section shall be construed as providing for any exemption, release or waiver from the requirements of any other sections of this chapter, including but not limited to the provisions, requirements, and responsibilities set forth in § 408-24, which shall remain in full force and effect with regard to all applications for road opening.

ARTICLE IV

Street Vacations

[Added 6-26-1995 by Ord. No. 1,156, effective 9-10-1995]

§ 408-26. Payment of costs.

All costs incurred by the Borough associated with the preparation, adoption and publication of any ordinance authorizing the vacation of any street, highway, lane, alley, square, place or park, or any part thereof (street), shall be paid by the owner(s) of the property or properties requesting such vacation. Such costs may include but are not necessarily limited to photocopying, advertisement costs or legal or engineering services.

§ 408-27. Determination of costs; notice.

Upon receipt of any request or authorization for the vacation of any street, the Borough Clerk shall prepare and submit to all adjoining property owners an estimate of costs associated with the preparation, adoption and publication of the ordinance authorizing vacation.

§ 408-28. Responsibility for costs.

Any property owner requesting a street vacation shall be responsible for all such costs as set forth in § 408-26.

§ 408-29. Condition of vacation.

The vacation of all streets shall be expressly conditioned upon the advanced payment of the estimated costs as herein set forth.