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[**HISTORY:** Adopted by the Council of the Borough of Berwick as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Code enforcement and administration -- See Ch. 9.

ARTICLE I

Obstructions and Nuisances

[Adopted 1-12-1970 as Ch. 85, Art. I, of the 1970 Code]

§ 149-1. Removal; violations and penalties.¹

Pavements and footwalks shall at all times be kept free from snow and ice, grass, weeds and other obstructions interfering with the free and full use of the same and be maintained in a safe and sanitary condition. Snow and ice shall be removed from sidewalks within 10 hours after the same shall have ceased to fall or form, provided that snow and ice falling or forming after 6:00 p.m. may be removed at any time before 10:00 a.m. of the next following day. Failure to comply with this section will make owners liable to a fine of not less than \$5 nor more than \$300, to be recovered for the use of said borough before the District Justice, and upon failure of the owners to pay such fine, they shall be imprisoned in the borough lockup for a period not exceeding 30 days, and the said work shall be done and the costs and penalties collected from the owner.

ARTICLE II

Use of Streets

[Adopted 1-12-1970 as Ch. 85, Art. II, of the 1970 Code]

§ 149-2. Use regulation.

Any tree, shrub, bush, hedge, plant, structure, material or thing or group of things, animate or inanimate, or part or portion thereof, on, under or over any portion of any street, avenue, highway, lane or alley, including the sidewalks thereof in the Borough of Berwick, is hereby declared to be unlawful and to be a nuisance and removable as such, except only in the following instances and circumstances, and provided that in these excepted instances they are maintained or used, in the judgment of the Borough Council, so as not to endanger the safety of persons or property, so as not to interfere with the health, comfort and convenience of the users of the highways and the inhabitants residing thereon and so as to carry out the purposes for which they are permitted.

§ 149-3. Permitted uses and conditions.

The following construction and conditions are hereby permitted:

- A. Any construction or use under a valid borough ordinance.
- B. Any construction or use which cannot be subjected to municipal regulation of the character herein proposed.

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

- C. Any construction or use made or maintained by the borough itself.
- D. Any construction or use for which the Borough Council shall issue a special or specific permit or permission.
- E. Any tree, shrub, bush, hedge or plant overhanging a street, highway, lane, avenue or alley or growing between the sidewalk line and the curblineline of any street, highway, lane, avenue or alley and overhanging the street, including the sidewalk thereof, unless such tree, shrub, bush, hedge or plant shall, in the judgment of the Borough Council or its agents, interfere with the health, safety, comfort or convenience of the users of the highways or the borough workmen in their work on, in or about said streets, highways, avenues, lanes or alleys or the inhabitants residing thereon.

§ 149-4. Violations and penalties.²

Any person, firm or corporation doing, causing or permitting (if within his or its control) anything contrary to this article, directly or indirectly, or in any way violating the provisions hereof, or refusing or failing to remove any tree, shrub, bush, hedge, plant, structure, materials or thing or group of things, animate or inanimate, or part or portion thereof, within five days or less of notice to do so from the Borough Council, is subject to a fine for each offense of not exceeding \$300, or in default of payment thereof, to imprisonment not exceeding 30 days; each weekly repetition or continuation is a separate offense. The penalty herein vested is in addition to any fees required, costs of removal or damages resulting.

ARTICLE III

Street Widths; Planting Trees

[Adopted 1-12-1970 as Ch. 85, Art. III, of the 1970 Code]

§ 149-5. Minimum width for acceptance or improvement.

After the passage of this chapter, the Borough of Berwick will not accept, improve or maintain any street not already accepted by the borough which is of a width of less than 55 feet, unless it is done under § 149-6 hereof.

§ 149-6. Exception.

The Borough Council may, under exceptional circumstances, in its discretion, accept, improve or maintain streets not already accepted which are less than 55 feet in width.

§ 149-7. Permits required; costs; appeals. [Amended 6-1-1992 by Ord. No. 92-5]

- A. Permit required to plant trees. From and after the passage of this article, it shall be unlawful for any person, firm or corporation to plant or permit to be planted any tree or trees between the sidewalk line and the curblineline within the Borough of Berwick except in

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

those cases where the Council, because of exceptional circumstances, decides to grant a permit prior to the planting thereof.

- B. Permit to trim, cut and replace trees. It shall be unlawful for any person, firm, partnership or corporation to trim to excess or remove more than 10% of the branches of a tree, or to remove and not replace any tree or trees between the sidewalk line and the curblines within the Borough of Berwick except in cases where the Code Enforcement Officer has granted a permit for such removal and replacement or trimming. In addition, it shall be unlawful for any person, without first obtaining a permit from the Code Enforcement Officer, to break, climb with spurs, injure in any manner or remove any tree, to cut down or interfere in any way with the main roots of any tree or to affix, other than by string, wire or cable which does not injure said tree, any signs, posters or other fixtures on a tree or to injure, misuse or remove any device placed to protect trees. Notwithstanding any of the prior provisions, it is expressly understood and agreed that no person shall be prosecuted under the terms and conditions of this agreement in the event that a tree is dangerous to a person or persons or property because the tree has been injured and a branch or portion of the tree or the tree is in danger of falling or otherwise injuring a person or property.
- C. Obtaining a permit. The application for any permit required shall be made in writing to the Code Enforcement Officer of the Borough of Berwick or his designee. Said application shall specify the particular kind of work or operation that the applicant desires to perform and shall state the exact location and species of any trees or trees affected. The Code Enforcement Officer shall review every application received by him and may refer any application to the Borough Engineer for his opinion on said application. The permit, when issued, shall be effective for a period of 60 days and may be renewed one time upon written request. Such permit may be revoked at any time if the terms and conditions upon which the permit had been issued have been violated. If the Code Enforcement Officer deems it in the borough's best interest, the Code Enforcement Officer may request Council to require any applicant to post a bond insuring proper compliance with this article. The Council may, at its discretion as a condition for the issuance of the permit, require the applicant to file a bond satisfactory to Council or to deposit moneys satisfactory to guarantee the compliance by the applicant with the terms and conditions upon which the permit has been issued.
- D. Cost of planting or removal of trees. The cost of planting, transplanting, trimming or removing any tree in or along the streets of the curblines of the Borough of Berwick shall be paid by the owner of the real estate abutting the area where the work is being done. As a condition for granting of a permit as set forth herein, the Code Enforcement Officer shall require that the permittee plant another tree in the place of the one removed at the applicant's sole expense. The Council of the Borough of Berwick or its designee shall provide a list of trees acceptable for planting as replacements if a tree is removed under the terms and conditions of this article.
- E. Removal of trees by borough. On failure of the owner after notice to comply with the terms of this article, the Council may cause trees to be planted, replanted, maintained or protected as the case may be at the expense of the Borough of Berwick and thereafter may in the name of the Borough of Berwick collect the cost of such work, together with 10% for any legal fees or other court costs, from the abutting owner and/or any applicant who requested a permit under this article.

- F. **Dangerous trees.** In the event that a landowner has a tree on his land which is rotten or which poses unreasonable danger to others off or outside of the land where the tree is located or in the event that a landowner owns a tree, the branches of which extend over to the land of an adjoining owner and which may cause damage or spread leaves, needles, debris or sap on the adjoining owner's land, or in the further event that a tree is located on the property line between two properties and in the event that said tree is spreading leaves, needles, debris or sap on the land of one of the property owners or is dangerous, the Borough of Berwick, through its Code Enforcement Officer, may notify the landowner who owns the dangerous trees or tree with branches overhanging his neighbor's land and may order the owner of the tree to trim said tree or cut down and remove the tree. In the event that an owner of property fails to trim a tree or in the event that an owner fails to remove a tree which violates the terms and conditions of this Subsection F within the time frame set forth by the Code Enforcement Officer, then in that event, the Borough of Berwick shall have the right to trim the tree or remove the tree and collect the cost of such work, together with 10% for any legal fees or other court costs, from the owner of the property who has violated the terms and conditions of this article. Notice from the Berwick Borough Code Enforcement Officer shall be in writing and shall give the landowner 30 days to trim or remove the tree unless, in the judgment of the Code Enforcement Officer, action is needed before the expiration of 30 days in order to protect the health, safety and welfare of the citizens of the Borough of Berwick. In the event of an emergency situation, the Code Enforcement Officer shall notify the owner of a tree which is dangerous or which contains branches which extend over a neighbor's line to trim or remove the tree within 24 hours. The Code Enforcement Officer of the Borough of Berwick shall attempt to notify the landowner by personal service if the tree is going to be removed after the expiration of the 24 hour period in an emergency situation.
- G. **Permit costs.** The cost of permits shall be established by the Council of the Borough of Berwick from time to time by a resolution of the Borough Council.
- H. **Appeals.** Any person aggrieved by any action or decision of the Code Enforcement Officer under the terms and conditions of this article may appeal the decision of the Code Enforcement Officer of the Borough of Berwick to the Council of the Borough of Berwick by filing an appeal within 30 days of receipt of notice from the Code Enforcement Officer. The fee for filing such an appeal shall be the fee established for code appeals by resolution of the Council of the Borough of Berwick, which fee may be amended by the Council of the Borough of Berwick by subsequent resolution.
- I. **Ordinances inconsistent.** All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.
- J. **Constitutionality.** If any sentence, clause, section or other part of this article is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentence, clauses, sections or parts of this article. It is hereby declared as the intent of the Council of the Borough of Berwick that this article would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§ 149-8. Violations and penalties.³

Any person, firm, corporation or copartner violating this article shall be, upon summary conviction before District Justice, sentenced to pay a fine not to exceed \$300 or to undergo imprisonment in the county jail, not to exceed 30 days in default of payment thereof. Each week that the violation continues shall constitute a separate offense.

ARTICLE IV**Construction of Curbs and Sidewalks**

[Adopted 1-12-1970 as Ch. 85, Art. VIII, of the 1970 Code]

§ 149-9. Responsibility for construction or repair; work by borough. [Amended 2-24-1975 by Ord. No. 1091]

- A. No sidewalks or curbs shall be constructed or reconstructed within the Borough of Berwick except upon the condition of the materials and in the manner hereinafter set forth in this article. The provisions of this article shall regulate the owner or owners of the property abutting the proposed construction or reconstruction and the agent, employee or contractor performing the work.
- B. The grading, paving, repaving and repairing of all sidewalks on the streets and the constructing and repairing of curbs shall be the responsibility of the owner or owners of a lot or lots fronting thereon.
- C. Upon the neglect or refusal of the owner of the lot or lots aforesaid to grade, pave, repave or repair any sidewalk or to set, place, construct or repair any curb after 30 days' notice to do so from the Council of said borough, through its proper officials, the borough shall cause the same to be done and shall collect from such owner or owners of the lot or lots the cost thereof and 10% additional, together with all charges and expenses, and shall file a municipal lien therefor against such lot or lots or collect the same by action in assumpsit.

§ 149-10. Permit required; application; fees.

- A. No sidewalk or curb shall be constructed or reconstructed within the Borough of Berwick unless and until the owner of the property abutting thereon shall first have secured from the Secretary of the Borough of Berwick a permit for the construction or reconstruction thereof and unless and until the said owner shall first have paid to the said Borough Secretary a license fee as hereinafter provided.
- B. Application for the permit hereinabove referred to shall be made upon a form supplied by the Secretary of the Borough of Berwick, which said application form may require the disclosure of any and all facts deemed necessary by the Borough of Berwick for the enforcement of the provisions of this article.
- C. For the purpose of partially defraying the costs of inspection arising from the enforcement of this article, there is hereby imposed a license fee of \$1 for each 50 linear feet or fractional portion thereof to be constructed or reconstructed under the permit applied for.

³ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

When sidewalks and curbs are constructed at the same time, so that both projects may be inspected at the same time, only one permit fee, for the length of the longer project, if lengths of sidewalk and curb are different, need be paid. Such license fee shall be payable prior to the issuance of the permit.

§ 149-11. Material and construction specifications. [Amended 8-16-1976 by Ord. No. 1105]

- A. Except upon the prior written approval of the Borough Engineer and consent thereto by the Council on such terms and conditions as hereinafter set forth, which exceptions shall be applicable to nonresidential areas or areas wherein no sidewalks or curbs exist, in the Borough of Berwick sidewalks and curbs shall be constructed or reconstructed of the following materials, in the following manner and in strict accordance with the following specifications:
- (1) Sidewalks and curbs shall be constructed of portland cement concrete equal to or higher in quality than Class A concrete as described in Section 2.25.4(2) in the 1960 Pennsylvania Department of Highways Specifications and any amendment thereof or supplement thereto or revision thereof.
 - (2) The forms used shall preferably be of metal, but wood forms may be used. All forms shall be smooth, straight, free from warp and of sufficient strength to resist the pressure of concrete without springing. Sufficient stakes shall be used to hold the forms firmly to line and grade. Satisfactory devices shall be used to ensure the proper spacing of the forms. Forms shall extend the full depth of the sidewalks and at least 12 inches below the top of curbs. Forms may be required to the full depth of the curb when uniform density of concrete and proper cross section cannot otherwise be obtained.
 - (3) Excavation shall be made to the required depth, and the material on which the sidewalk or curb is to be placed shall be compacted to a uniformly firm, even surface.
 - (4) The concrete shall be placed in the forms in horizontal layers and spaded sufficiently to eliminate all voids. The top surface shall be finished true to line and grade, in an even, neat manner, with sidewalk surfaces slightly roughened. Edges of inside face of curb shall be rounded to a radius of $\frac{3}{4}$ inch, all other edges to a radius of $\frac{1}{4}$ inch.
 - (5) Expansion joints $\frac{1}{4}$ inch in thickness shall be placed at the beginning of each new section, at the end of sections of curved construction and at intervals of not more than 123 feet. Construction joints shall be formed of two thicknesses of one-ply bituminous paper. Joints between blocks of sidewalk shall be spaced to present a pleasing appearance. All joints shall be properly sealed.
 - (6) At the end of curved curbs, there shall be embedded in the concrete two reinforcement bars $\frac{1}{2}$ inch in diameter and 24 inches in length. The bars shall be placed three and nine inches, respectively, below the top of the curb, and shall extend 12 inches on each side of the joint. One end of the bars shall be coated with grease and enclosed in a capped tube at least $\frac{1}{2}$ inch longer than the bar.

- (7) Unless written permission for earlier removal is received from the inspector, the forms shall not be removed until 48 hours after the concrete has been placed. Any irregular surface shall be corrected by rubbing with a carborundum stone. Brush finishing or plastering will not be permitted.
 - (8) The concrete shall be protected from drying or freezing, by the use of approved methods, for at least 72 hours after placing.
 - (9) After the concrete has set sufficiently, the spaces adjacent to the concrete shall be backfilled to the required depth with acceptable material placed in layers not more than four inches in depth and thoroughly compacted.
 - (10) Sidewalks shall have a uniform depth of four inches, except when crossed by driveways, where the thickness shall be at least six inches for residential driveways and eight inches for commercial driveways. The entire sidewalk and grass plot area shall have a slope of $\frac{1}{4}$ inch per foot toward the curb. The width shall be as established by general or specific ordinance.
 - (11) Curbs shall be at least 22 inches deep overall, eight inches wide for the lower 14 inches, with a vertical back, and the upper eight inches of the face battered one inch, to a seven-inch top. Edges shall be rounded as specified in Subsection A(4) above.
 - (12) At intersections of streets and alleys, curbs shall be built at a radius fixed by the Borough of Berwick or authorized representatives.
 - (13) No sidewalk or curb shall be constructed until the grade has been given by the Borough of Berwick or its authorized representative.
- B. Exception to general specifications. In nonresidential areas of the Borough of Berwick or in the areas of the borough wherein no sidewalks or curbs presently exist, upon application of the owner, prior written recommendation of the Borough Engineer and the consent of the Borough Council, the Borough Council may authorize construction of sidewalks or curbs not in conformity with the above specifications without voiding the provisions of this article, provided that the said exception is specifically conditioned upon agreement of the property owner, supported as may be required by the Council, to remove and replace construction completed as an exception, with the materials, pursuant to specification and on grades established by the Engineer, all as set forth in this article at no cost to the borough.
- C. [Added 8-18-1997 by Ord. No. 97-3] Exception to general specifications in nonresidential and residential areas of the Borough of Berwick, where curbs presently do not exist as of the passage of this Ordinance No. 97-3. Notwithstanding any other provisions of this article, curbs known as "concrete bumper blocks" may be installed in accordance with the provisions of this article by obtaining a permit from the appropriate borough officials, including the Code Enforcement Officer or his or her designate, provided that the following conditions are met:
- (1) That the Secretary or Code Enforcement Officer or his or her designee of the Borough of Berwick approves the size and form of the concrete bumper block curbs. All concrete bumper block curbs must, however, be at least five feet long.

- (2) That the concrete bumper block curb shall be set back at least one foot from the paved surface of any road.
- (3) That the concrete bumper block curb is securely anchored with a rebar spike or its equivalent which has been driven into the ground to securely anchor the concrete bumper block curb; said anchor spike or stake shall be driven into the ground in such a manner so that no portion of the spike or stake extends above the top of the bumper block curb.
- (4) That the applicant for any such permit shall agree in writing to mow around the concrete bumper block curb so that the concrete bumper block curb is visible to any motorists parking on the street. Grass and weeds shall be mowed or trimmed so that the concrete bumper block curb is visible at all times to motorists and pedestrians.
- (5) Any applicant for a permit to place concrete bumper block curbs along a state route or highway must first obtain the approval of the Commonwealth of Pennsylvania prior to obtaining any permit from the Borough of Berwick.
- (6) All concrete bumper block curbs shall be laid out so that all blocks are laid end to end so that each of the blocks touches the next block.
- (7) All bumper block curbs shall be laid out so that they are in a straight line.

§ 149-12. Inspection; correction of defective work.

- A. No concrete shall be poured until the forms and preparations have been approved by the inspector. The inspector shall have the right to secure a sample of the concrete being used, to determine by standard tests if the strength meets the requirements of § 149-11 of this article.
- B. When the inspector finds that any of the work or material is not in compliance with the requirement of this article, he shall notify the owner as soon as possible. Any sidewalk or curb not constructed in accordance with this article shall be removed and replaced with properly constructed sidewalk or curb. In the event of the failure of the owner to correct improper construction, the borough shall have the right to remove the defective portion and replace such portion with sidewalk or curb constructed in accordance with the provisions of this article, the cost to the Borough of Berwick, plus 15% for overhead, to be recovered from the owner as provided by law.
- C. When the construction is in accordance with the requirements of this article, the inspector shall furnish the owner with a certificate of satisfactory completion.
- D. The Borough Engineer of the Borough of Berwick or his authorized representative shall perform the duties of the inspector as set forth in this article.

§ 149-13. Noncompliance with specifications.

- A. By property owners. Pavements, walks and curbs not laid in conformity with the provisions of this article and the established grade of the street on which they are constructed are hereby declared to be nuisances and must be taken up and relaid according

to the provisions of this article within 30 days after notice by the borough to the owner or owners so to do; and upon failure of said owner or owners thereof to regrade, recurb and repave said sidewalk within the time stipulated, they shall be liable to a fine of not less than \$25 and not more than \$300, to be collected for the use of said borough as fines are now by law recoverable, the same to be paid into the borough treasury; and the said borough shall cause said sidewalk or curb to be regraded, recurbed or repaved in the manner herein and hereby required, and the said borough shall collect the cost thereof, together with all charges and expenses, from the owner or owners of the lot or lots as aforesaid according to law and this article. ⁴

- B. By contractors. Any person who, as agent, employee or contractor for the owner or owners of the abutting property, constructs or reconstructs any pavements, walks or curbs except in conformity with the provisions of this article shall be liable to a fine of not less than \$25 and not more than \$300, to be collected for the use of said borough as fines are now by law recoverable, the same to be paid into the borough treasury.

§ 149-14. Marking of legal limits of sidewalk area.

In all cases where the pavement extends beyond the normal sidewalk area so that the legal limits thereof are not readily discernible, the owner or owners thereof shall, immediately upon construction thereof in the case of future sidewalks and within 30 days after notice so to do in the case of existing sidewalks, mark the edges of the legal sidewalk area and keep the same visibly marked with a stripe of good quality yellow paint four inches in width.

§ 149-15. Right to revise or change rules and regulations.

The borough shall have the right to and may, from time to time, adopt, revise, amend and readopt such rules and regulations as it deems necessary and proper for the effective administration and enforcement of this article, and all such rules and regulations shall be and become a part of this article.

ARTICLE V

Curbs: Costs, Assessments

[Adopted 1-12-1970 as Ch. 85, Art. IX, of the 1970 Code]

§ 149-16. Petition by owners.

Upon petition of the owners of 50% of the properties fronting upon both sides of the street in any block or blocks, the Borough of Berwick shall ordain and authorize the construction of curbs in said street in accordance with the provisions of Ordinance No. 890 enacted March 13, 1967, as amended, and the provisions hereinafter mentioned. ⁵

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

⁵ Editor's Note: The provisions of Ordinance No. 890, as amended, are included in Art. IV of this chapter.

§ 149-17. Construction costs assessed.

The Borough of Berwick shall assess and collect $\frac{2}{3}$ of the cost of constructing curbs from the owners of the real estate abutting on the street improved with said curbs by an equal assessment according to the front-foot rule, and the Borough of Berwick shall pay the remaining $\frac{1}{3}$.

ARTICLE VI

**Streets, Roads and Alleys: Construction and Dedication Plans
[Adopted 1-12-1970 as Ch. 87 of the 1970 Code]****§ 149-18. Submission of plans required.**

No person shall construct, open or dedicate any road, street, lane or alley or any drainage facilities in connection therewith for public use or travel in the borough without first submitting suitable plans thereof to the Borough Council for its approval in accordance with the following rules and regulations:

- A. The plans shall be dated and contain the names of the person preparing the plan and the owner.
- B. The plans shall show courses and distances of all highways, together with the size of lots and any building restrictions.
- C. The plans shall show the total area and also the area of each drainage section.
- D. The plans shall show the profiles of roads, streets, lanes and alleys; the course, structure and capacity of drainage facilities; and the method of drainage of the adjacent or contiguous territory.
- E. The plans shall show the details whereby the proposed highways connect to highways adopted by the borough, and also show the connecting plans for drainage facilities along the proposed highways and those of the borough.
- F. The plans shall show what unusual conditions exist either as to grades, obstructions, streams or public utility facilities and such further details as Council may require.
- G. Upon application therefor, a public hearing may, at the discretion of the Council, be arranged for by the borough authorities after giving such notice as Council may deem desirable in each case.
- H. No plans shall be approved by Council until at least three weeks after presentation at a Council meeting.

§ 149-19. Authority to alter, change or modify.

The Borough Council shall have the power to alter such plans and to specify any changes or modifications of any kind which it, in its discretion, may deem necessary with respect thereto and may make its approval of such plans subject to any such alterations, changes or modifications.

§ 149-20. Signing of plans; availability for inspection.

Any plans, when so approved by Council, shall be signed on behalf of the Borough Council by the Chairman of the Street Committee and the Borough Secretary and shall be filed in the office of the Borough Engineer, where the same shall be available to public inspection.

§ 149-21. Responsibility.

If any street or drainage facilities in connection therewith shall be opened, constructed or dedicated for public use or travel except in strict accordance with plans approved by the Council or the court on appeal as provided by law, neither the Borough Council nor any public authorities shall have any responsibility of any kind in respect to any such street or drainage facilities notwithstanding any use of the same by the public; provided, however, that nothing herein contained shall prevent the laying of trunk sewers, drains, water or gas mains if required by the engineering necessity for the accommodation of other territory.

§ 149-22. Violations and penalties.⁶

Any person who fails, neglects, refuses to comply with or violates the terms of this article or who fails or refuses to comply with the terms of a permit issued hereunder or the rules and regulations adopted herein shall, upon conviction before any District Justice be sentenced to pay a fine of not less than \$100 and no more than \$300 and cost for each and every offense. Each day of continuation of the violation shall be deemed to be a separate offense.

ARTICLE VII**Driveways**

[Adopted 5-19-1980 by Ord. No. 1140]

§ 149-23. Submission of application for permit.

Hereafter every person, association, corporation or other entity desiring or ordered to provide for, construct or install a driveway to or from a borough street and adjacent property shall submit an application for a permit, on a form to be provided by the borough, to the designated borough agent or employee, which application shall contain a sketch of the location involved, proposed driveway, width, length, construction materials, distances to public street, distances to intersection at location and such other information as may be required from time to time.

§ 149-24. Construction or reconstruction specifications.

All driveways shall be constructed or reconstructed and installed with materials and pursuant to specifications set forth in rules and regulations adopted by Council, entitled "Driveway Installation and Construction Rules and Regulations," or those amendments as may hereafter be

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

adopted, provided that such rules and regulations or amendments shall not be effective until approved by Council.⁷

§ 149-25. Enforcement officer.

The application for a permit required herein shall be submitted to the Borough of Berwick Code Enforcement Officer, who shall be responsible for enforcement of rules and regulations relating to installation and construction and the issuance of permits pursuant thereto.⁸

§ 149-26. Right of appeal.

- A. Any person aggrieved by a decision or ruling of the Code Enforcement Officer has a right to appeal said determination by filing written notice of appeal with the Code Enforcement Officer within 30 days of the determination of the Code Enforcement Officer and by the payment of such fee as may be established from time to time for the cost of advertisement, transcripts and hearing, and thereupon Borough Council or Council's appeal board duly created and designated shall conduct a hearing on the appeal within 45 days of receipt of notice of appeal.
- B. Any person aggrieved by such determination on appeal may thereupon appeal to the Court of Common Pleas within 30 days of written notice of determination.

§ 149-27. Violations and penalties.

- A. Any person who fails, neglects, refuses to comply with or violates the terms of this article or who fails or refuses to comply with the terms of a permit issued hereunder or the rules and regulations adopted herein shall, upon conviction before any District Justice, be sentenced to pay a fine of not less than \$100 and no more than \$300 and cost for each and every offense. Each day of continuation of the violation shall be deemed to be a separate offense.
- B. In addition to the penalty of a fine for violations, the Borough of Berwick Code Enforcement Officer may institute suit before a District Justice or in the Court of Common Pleas for recovery of the cost of correcting any driveway construction or installation completed after the effective date of this article contrary to the terms of the article or Driveway Installation and Construction Rules and Regulations upon failure of the owner or person responsible for compliance to comply within 30 days of notice of violation.

⁷ Editor's Note: The Driveway Installation and Construction Rules and Regulations, which were adopted as part of the ordinance included in this article, are on file in the office of the Borough Secretary.

⁸ Editor's Note: As to the Code Enforcement Officer, see Ch. 9, Code Enforcement and Administration.

