

BOROUGH OF PINE GROVE

County of Schuylkill in the
Commonwealth of Pennsylvania

Ordinance No. 254

AN ORDINANCE OF THE BOROUGH OF PINE GROVE, COUNTY OF SCHUYLKILL IN THE COMMONWEALTH OF PENNSYLVANIA REQUIRING THE CONSTRUCTION OF CURBS AND SIDEWALKS; PROVIDING FOR THE REGULATION OF GRADING OF SIDEWALK AREAS, THE CONSTRUCTION AND REPAIR OF CURBS, GUTTERS, SIDEWALKS, DRIVEWAY ENTRANCES, AND RETAINING WALLS AND REQUIRING PERMITS THEREFOR; REGULATING THE PLANTING AND MAINTENANCE OF TREES AND SHRUBBERY IN OR NEAR THE SIDEWALK AREA; REQUIRING THE CLEANING OR SNOW FROM SIDEWALKS; REGULATING THE MAKING OF OPENINGS OR EXCAVATIONS IN OR UNDER STREETS, ALLEYS AND SIDEWALK AREAS, AND THE STORAGE OR DEPOSITING OF MATERIAL ON STREETS, ALLEYS AND SIDEWALK AREAS, AND REQUIRING PERMITS THEREFOR; REQUIRING THE PLACEMENT OF SIGNS, BARRIERS AND LIGHTS; PROVIDING FOR INDEMNIFICATION OF THE BOROUGH FROM LIABILITY; PROVIDING PENALTIES AND REMEDIES FOR VIOLATION THEREOF; AND REPEALING AND REPLACING ALL ORDINANCES AND PARTS OF ORDINANCES DEALING WITH THIS SUBJECT; HOWEVER SAVING ALL RIGHTS AND LIABILITIES WHICH HAVE ACCRUED UNDER SAID ORDINANCES.

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Pine Grove, and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE I - GENERAL PROVISIONS

Section 101 – SHORT TITLE

This Ordinance shall be known as and may be cited as the “Pine Grove Curb and Sidewalk Ordinance.”

Section 102 – INTENT

The intent of the Ordinance is to exercise the authority granted by the General Assembly of the Commonwealth of Pennsylvania Act of February 1, 1966, P.L. 1656, No. 581, as amended (the Borough Code), including specifically provisions of § 1202 [53 P.S. §46202], §1801 thru §1806 [53 P.S. §46801 thru §46806], and §2721 thru §2743 [53 P.S. §47721 thru §47743], in an effort to promote the general health, welfare, and safety of the Borough of Pine Grove and to provide for the uniform regulation and administration of the areas bordering the streets and highways within the Borough of Pine Grove.

Section 103 – APPLICABILITY

This Ordinance shall apply uniformly to all persons, property, and property owners within the Borough of Pine Grove, and is applicable to any property owned by the Borough of Pine Grove and over which it exercises control.

Section 104 – DEFINITIONS AND WORD USAGE

a) Unless specifically defined, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application consistent with the intent and applicability herein expressed.

b) Except as specifically provided, words and phrases herein shall have the definitions provided in the Borough Code; act of February 1, 1966, P.L. 1656, No. 581, as amended.

c) the word “shall” is always mandatory and not merely directory.

d) Words used in the present tense includes the future and past, words in the plural number include the singular, words in the singular number include words in the plural, and words either in the feminine, masculine or neuter shall include words of the other two genders.

e) Throughout this Ordinance, the following words and phrases shall have the specific definitions provided:

1. Borough – the Borough of Pine Grove, County of Schuylkill in the Commonwealth of Pennsylvania, a Pennsylvania municipal corporation, acting by and through its Council or, in appropriate cases, acting by the through its authorized agents, representatives, officers, officials, or employees.
2. Building – a combination of materials to form a permanent structure having walls and a roof intended for use by humans or animals for habitation, business, or storage. Included shall be all mobile homes and trailers, warehouses, schools, and churches.
3. Building line – the line behind which building is permitted as shown on the topographical survey of the Borough, as defined by ordinance of the Borough or the County of Schuylkill, as shown on the Borough street plan, or shown on an approved and recorded Subdivision Plan; or, where a building line is not officially established, the line behind which most buildings on a given side of a street are currently built.
4. Development – any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures. the placement of mobile homes, street and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.
5. Improved property – any property upon which there is erected a building or upon which there has been development. The entire lot, tract, piece or parcel upon which there has been any development shall be improved property.
6. Owner – any person vested with ownership, legal or equitable, sole or partial, of any property within the Borough; including specifically the person holding title after a subdivision.
7. Person – a natural person or persons, an individual, a partnership, a business, an association, a corporation, a trust, an estate, an unincorporated association, a government body, a political subdivision, a municipality, a municipal authority, or any other group or entity, including State and local governments and agencies.

8. Sidewalk area – the area located between the topographical curb line and the topographical building line as from time to time shown on the topographical survey of the Borough of Pine Grove or as defined by the ordinance accepting and adopting the street plan of the Borough of Pine Grove, an approved and recorded Subdivision Plan, or an applicable ordinance of the Borough of Pine Grove or the County of Schuylkill.
9. Structure – anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, mobile homes and trailers, warehouses, schools, churches, athletic stadiums, a gas or liquid storage tank that is partially above ground, driveways, sidewalks, carports, porches, swimming pools, and other similar items.
10. Subdivision – the division or redivision of a lot, tract, piece, or parcel of land by any means into two or more lots, tracts, pieces, parcels, or other division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, building, or lot development; provided however, that the division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street, highway, or easement of access, shall be exempt.

Section 105 – APPLICATION OF STATUTES AND ORDINANCES

a) The provisions of §1801 thru §1806 and §2721 thru §2743 of the Borough Code and all other applicable provisions of the Borough Code or any other Laws of the Commonwealth of Pennsylvania including any amends thereto shall apply within the Borough of Pine Grove; except, the specific provisions of this Ordinance shall be read to expand and clarify those provisions. All provisions herein are to be construed, whenever possible, to be consistent with the provisions of the Laws of the Commonwealth of Pennsylvania; and all provisions herein shall be construed as

b) Notwithstanding anything herein provided, whenever the provisions of this Ordinance, or any rules, regulations, or policies promulgated under the provisions of this Ordinance, are inconsistent with the provisions of Schuylkill County Ordinances related to Planning, Zoning or subdivision, or with any rules, regulations or policies duly promulgated under the provisions of such Schuylkill

County Ordinance, as from time to time are in effect and the provisions of such Schuylkill County Ordinances, rules regulations or policies are more restrictive or contain more stringent requirements than are set forth in this Ordinance, then in such the provisions of Schuylkill County shall prevail and be applicable.

c) The provisions of Borough Ordinance No. 243, enacted November 1, 1979 (the Pine Grove Building Permit and Flood Plain Management Ordinance), and consistent provisions of all other Borough Ordinances, including specifically those related to Borough Streets, where not specifically inconsistent herewith (and thus repealed in part as hereinafter provided) shall be construed as expanding, clarifying, and augmenting the provisions of this Ordinance.

Section 106 – REPEALER AND AMENDMENT

a) All Ordinances or parts of Ordinances expressly inconsistent herewith, or dealing with the same or similar subject matter of this Ordinance, are expressly repealed. Specifically repealed, effective on even date with the effective date of this Ordinance, are all provisions, sections, sentences, clauses and parts of Ordinance No. 2, enacted June 7, 1912; Ordinance No. 8, enacted October 11, 1912; Ordinance No. 10, enacted October 11, 1912; Ordinance No. 106, enacted February 6, 1941; and Ordinance No. 182, enacted October 6, 1966. Also, specifically repealed, effective on even date with the effective date of this Ordinance, are all provisions, sections, sentences, clauses, and parts dealing with specific streets; but such ordinances are not repeal as to provisions, sections, sentences, clauses, and parts dealing with matters other than curbs and sidewalks which are not included herein with this Ordinance therefore only serving as amendment of such ordinances. PROVIDED, HOWEVER, that all existing rights and liabilities which have accrued under the repealed ordinance or parts of ordinances shall remain fully enforceable as heretofore and, to the extent possible, the provisions of this Ordinance shall be construed as a continuation, expansion, clarification, and augmentation of such repealed ordinance or parts of ordinance.

b) To the extent that Permits are required by this Ordinance and are to be Administered consistently with Building Permits required by Ordinance No. 243, Section 301 thru 310 (in Article III) of Ordinance 243, enacted November 2, 1979, and effective December 1, 1979, are expressly amended by the provisions related to Permits in Article VI hereof, PROVIDED, HOWEVER, that all other provisions, sections, sentences, clauses, articles and parts of Ordinance No. 243 shall remain in full force and effective as heretofore, including all of Article III, aforementioned, not specifically amended by reference hereinafter.

Section 107 – SEVERABILITY

a) In the event any provision, section, sentence, clause, or part of this Ordinance shall be held to be invalid, such in validity shall not effect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Borough that such remainder shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable.

b) In the event any Legislation by the Commonwealth of Pennsylvania or by the United States or any Regulation promulgated by a duly authorized agency of the Commonwealth or the Federal Government shall be or become effective dealing with the same or similar subject matter as that included in any provision, section, sentence, clause or part of this Ordinance, such shall remain in full force and effect if it is more restrictive, and not inconsistent with, such Legislation or Regulation; but if such Legislation or Regulation is more restrictive, and/or inconsistent with any provision, section, sentence, clause or part of this Ordinance shall be interpreted according to such Legislation or Regulation and be superseded by it. However, all the remaining parts of this Ordinance shall be and shall remain in full force and effect and for this purpose the provisions of this Ordinance are hereby declared to be severable, and also consistent herewith, the provisions of this Ordinance may be superseded and automatically amended by any more restrictive State or Federal Legislation or any Regulations promulgated by a duly authorized State or Federal agency.

Section 108 – EFFECTIVE DATE

This Ordinance shall become fully effective and applicable thirty (30) days after enactment by the Pine Grove Borough Council.

Section 109 – WARNING AND DISCLAIMER OF LIABILITY

The degree of protection sought by the provision of this Ordinance is considered reasonable for regulatory purposes.

This Ordinance shall not create liability on the part of the Borough or any officer, official, representative, or employee thereof for enforcement or failure to enforce, nor any damages or injury resulting from reliance on this Ordinance or any administrative decision lawfully made hereunder. No permit issued under the

provision of this Ordinance shall be considered to provide a Warranty of any kind by the Borough or any officer, official, representative, or employee thereof. Nor is any construction undertaken under the provision of this Ordinance or the Borough Warranted in any way.

ARTICLE II – SIDEWALKS AND CURBING

Section 201 – CURBING REQUIRED

Curbing uniform in appearance, with a smooth surface on the top and the side toward the cartway of the street, and meeting the other requirements herein provided shall be constructed or reconstructed and maintained along the curb line as from time to time shown or established in the Ordinance accepting and adopting the street, the street plans of the Borough, a recorded Subdivision Plan, or other applicable Ordinance of all streets and highways within the Borough which border on improved property. The owner of the improved property shall be responsible for constructing or reconstructing and maintaining such curbing in accordance with the provisions of this Ordinance; EXCEPT as otherwise provided in this Ordinance.

Section 202 – SIDEWALKS REQUIRED

A sidewalk meeting the requirements herein provided shall be constructed or reconstructed and maintained between the curb line and the building line as from time to time shown or established in the Ordinance accepting and adopting the street, the street plans of the Borough, a recorded Subdivision Plan or other applicable ordinance along all streets and highways within the Borough which border on improved property. The owner of the improved property shall be responsible for construction or reconstruction and maintenance of such sidewalk in accordance with the provisions of this Ordinance; EXCEPT as otherwise provided in this Ordinance.

Section 203 – MAINTENANCE REQUIRED

a) Each person who is the owner of improved property bordering on any street within the Borough shall keep his sidewalks and curbing along that improved property in good order, repair and alignment according to the standards provided in

this Ordinance. This duty to maintain is in addition to the duty to construct and reconstruct as provided for in Section 201 and Section 202 herein-above.

b) In the event any concrete block in a concrete sidewalk requires the replacement of more than twenty-five (25%) percent of the total area, the said concrete block shall be replaced in its entirety.

c) Each owner of improved property bordering on any Borough street shall keep his sidewalks generally free of rocks, dirt, debris, bottles, cans, garbage, litter, and other matter. It shall be unlawful for an owner of improved property to allow his sidewalks to accumulate rocks, dirt, debris, bottles, cans, garbage, liter, and other matter over a period of time or for such to accumulate to the extent that it interferes with pedestrian traffic. Where more than ten (10%) percent of the total area of a sidewalk is covered, the owner shall be presumed to be in violation of this Subsection.

Section 204 - COMPLIANCE REQUIRED

a) It is hereby declared unlawful for any person to grade and sidewalk area, construct, reconstruct, repair, or maintain any sidewalk, curb, gutter, driveway entrance, or front or rear retaining wall within the Borough, except in compliance with the provisions of this Ordinance.

b) In the case of a corner lot, curbing and sidewalks shall be constructed along both the front of the lot and the side of the lot adjacent to the public street, road or highway.

Section 205 - GRADE AND CONSTRUCTION

a) The grading of sidewalk areas, the construction, reconstructing, maintaining, or repairing of sidewalks, curbing, and driveway entrances along the streets of the Borough shall be done by the owner of the improved property abutting thereon in accordance with the lines and grades established in the Ordinance accepting and adopting the street, the street plans of the Borough, a recorded Subdivision Plan, or other applicable ordinance in accordance with details shown on a plan of curb and sidewalk details prepared by C.L. Frantz and Associates, Borough Engineer, being Plan No. 54-42-3-B-1, a copy of which plan is attached to this Ordinance, marked Exhibit A, and made part hereof.

b) All sidewalk areas shall be graded and all sidewalks, curbs, gutters, driveway entrances and front or rear retaining walls shall be constructed, reconstructed, maintained, or repaired only in accordance with the following provisions:

1. All sidewalk areas shall conform to curb grades except that the area shall have a one-fourth inch ($\frac{1}{4}$ ') ascending pitch per foot measured from the outside curb line to the building line of the respective lot or property.
2. All separate curbs shall be eight inches (8") wide across the top, nine inches (9") wide at gutter line, and shall extend for that width to a depth twenty-four inches (24") from the top of the finished curb; provided, however, that wherever it is necessary to replace or repair existing curb which does not meet the requirements of this provision and the adjacent sidewalk shall not be in need of replacement and there is no grass plot area separating a curb from sidewalk, then in such instances the Borough Secretary is authorized to approve an application for a permit to replace the curb at its former width.
3. The outside edge of all sidewalks shall be set back two (2') feet from the inside face of the curb, and a grass plot area shall separate curbing from the sidewalk; PROVIDED, however, that where the sidewalk area is less than eight (8') feet in width, then the concrete portion of the sidewalk may be constructed next to the inside face of the curb or said grass plot area may be paved as an addition to the sidewalk if a permit application is approved for such. Also, where no grass plot presently exists and the existing sidewalk is to be reconstructed, replaced, or repaired, then the grass plot requirement may be waived and the width of the sidewalk area be reduced to such width as may be deemed necessary and appropriate under the particular circumstances if the Borough Engineer shall approved a permit application for such.
4. No surface gutters are permitted on newly constructed sidewalks. All drains shall be constructed of three inch (3") cast iron pipe, or P. V. C. Schedule 40 plastic pipe. All sidewalks shall not be less than five inches (5") in thickness and the surface shall have a one-quarter inch ($\frac{1}{4}$ ") pitch per lineal foot ascending from the outside face of the curb. Sidewalks shall be four feet (4') on sidewalk areas less than eight feet (8') in width and shall be five feet (5') wide on sidewalk areas having a width of ten feet (10') or more. Notwithstanding anything to the contrary contained in this Ordinance, all sidewalks, curbs and gutters

shall conform as to size with the majority type of then existing sidewalks, curbs and gutters in the same block.

5. Except as hereinafter provided, all driveway entrances shall have a minimum curb radius of two feet (2') and a maximum curb radius of four feet eight inches (4' 8") from the outside face of the curb, shall have a sidewalk surface of the same grade and width prescribed for sidewalks, and all driveway entrances including gutter, slope and sidewalk surface shall be eight inches (8") in thickness. No single driveway entrance for a one-car garage shall be constructed with a frontage exceeding twelve feet (12') measured along the building line.

In lieu of a driveway entrance having curb radii as part of its construction, a depressed curb driveway entrance may be used as set forth on the Plan of curb and sidewalk details herein before referred to as Plan No. 54-42-3-B-1 shown as Exhibit A.

No single driveway entrance for a garage for two or more cars shall be constructed with a frontage or width exceeding sixteen feet (16') measured along the building line except upon specific approval of an exception. Such specific approval shall be given only when it is not contrary to the public interest and when owing to special conditions, unnecessary hardship would result.

In the case of areas zoned as a general commercial (C-1), traveler's commercial (C-2), light industrial (I-1), or heavy industrial (I-2) district by the Schuylkill County Zoning ordinances, all driveway entrances shall have a minimum curb radius of two feet (2') and a maximum curb radius of twelve feet (12') on each side, the exact radius to be subject to the approval of the Borough Engineer. Except as hereinafter provided, such driveway entrances shall have the outside edge raised one and three-quarter inches (1-3/4") above the flow-line of the gutter and shall have a straight slope therefrom to the prescribed outside sidewalk edge and shall have a sidewalk surface of the same grade in width prescribed for sidewalks. In the case of step-down driveway entrances, such driveway entrances shall be constructed seven inches (7") below the top of the curb radius from the curb line to the inside sidewalk edge. The width of any single driveway entrance in such zoned areas shall not exceed thirty-five feet (35') in width and shall be subject to the approval of Borough Council.

Bituminous concrete material and/or any other approved material placed upon driveway entrances shall in no way impede the flow of storm water run-off in the cartway area of the streets.

6. The outside edge of all front retaining walls, defined as those located along any street, shall be on or in back of the building line and the outside edge of all rear retaining walls shall be on or in back of the rear property line, and shall be constructed in accordance with good engineering practice of such height, thickness and materials as shall be approved by the Borough Engineer.
7. All sidewalks, curbs, retaining walls, and driveway entrances shall have a three inch (3") to four inch (4") base of PennDOT No. 2RC limestone material.

When curb or driveway entrances are constructed or repaired, all areas of excavation within the cartway shall be backfilled with PennDOT No. 2RC aggregate material and the base and surface courses of paving restored in kind; the finished surface shall be sealed with a hot bituminous material of the class and type designated for the surface course to provide a watertight joint along the curb and/or driveway.

The top surfaces of sidewalks, curbs, and driveway entrances shall receive a wood floated finish, and the finish tolerance shall be a true plane with one-fourth inch (1/4") in ten feet (10'). The exposed vertical surfaces of curbs and driveway entrances shall be repaired of all honeycombed and defective areas, and shall receive a smooth-rubbed finish to a depth of 12". This finish shall be produced by wetting the surfaces and rubbing with a carborundum, brick or other abrasive, until a uniform color and texture are produced. The finishing shall be completed before the concrete is thirty-six (36) hours old.

Immediately after finishing, all concrete shall be cured by using either an approved, impervious, light-colored plastic covering placed and maintained in contact with the concrete surface, or an approved, impervious, light-colored liquid curing compound sprayed on the concrete surface. The curing shall be continued for at least five (5) days.

Expansion joints made with three-eighth inch (3/8") thick performed non-extruding and resilient bituminous joint filler shall be placed every twenty feet (20') to the full depth of curb and sidewalk, and where the sidewalk meets the outside face of a wall and/or curbing. All curb and sidewalk shall be scored every five feet (5') for five feet (5') wide sidewalks and every four feet (4') for four feet (4') wide sidewalks.

- c) All curbing and sidewalks required by the provisions of Schuylkill County ordinances relating to Planning, Zoning or Subdivision, with any rules, regulations or policies duly promulgated under the provisions of same, or included

on any subdivision plan submitted under same shall be constructed in accordance with the provisions of this Ordinance.

d) Before any street in the Borough is constructed or reconstructed, all abutting improved property owners shall provide for sidewalks curbing of their respective properties in accordance with the provisions of this Ordinance.

e) In conformance with the provisions of Ordinance No. 78, enacted September 6, 1928, or any subsequent amendments thereof, curbing and sidewalks in accordance with the provisions of this Ordinance shall be laid out and constructed by the person dividing and subdividing property before streets of such subdivision shall be accepted by the Borough.

Section 206 – CROSSING FOR PHYSICALLY HANDICAPPED PERSONS

Notwithstanding other provisions of this Ordinance, at the time of construction or reconstruction of curbing and sidewalks, improved property owners shall provide adequate and reasonable access for the safe and convenient movement of the physically handicapped persons at all pedestrian crosswalks within the Borough in conformance with Section 228 of the 1973 Highway Safety Act (Section 402 F of Title 23 USC). This shall be according to the guidelines set further in the attached, marked Exhibit B, and made part hereof.

Section 207 – EXCEPTIONS

a) Present brick sidewalks shall be permitted, PROVIDED, however, that when such sidewalks fall in such disrepair as to require the replacement of more than thirty (30%) percent of the total area, the sidewalk shall be replaced in its entirety in complete conformance with the provisions of this Ordinance.

b) Present sidewalks which fail to comply with the provisions of this Ordinance by virtue of interference from trees or roots of trees in existence prior to the effective date of this Ordinance shall be brought into substantial compliance according to a plan approved by the Borough Engineer and Tree Commission. As a minimum standard, the sidewalk shall meet existing neighboring sidewalks, not impede the flow of surface water or create puddling of surface water, and pose no potential danger to pedestrians. It is the intent hereby to preserve existing trees within the Borough concurrently with providing for the maintenance of the sidewalk area in a condition which will provide for the safe use thereof by pedestrian traffic.

c) Those areas within the Borough specified on the list attached, marked Exhibit C and made part hereof shall be exempt from the requirements for a sidewalk or from the requirements for a sidewalk or from both the requirements for curbing and a sidewalk as indicated. It is the intent hereby to provide for exemption from the requirements related to development of the sidewalk area provided in this Ordinance; and by so doing to fully provide for those prior existing conditions which justify exemption.

d) Any exceptions not specifically provided for in this Section shall be permitted only after approval of a variance according to the procedure hereinafter provided.

ARTICLE III – TREES AND SHRUBBERY IN OR NEAR SIDEWALK AREA

Section 301 – PLANTING NEAR SIDEWALK AREA

It is hereby declared to be unlawful for any person to plant any trees, evergreens, plants or shrubbery within two (2') feet of the building line along any street, road, or highway within the Borough.

Section 302 – PLANING IN SIDEWALK AREA

It is hereby declared to be unlawful for any person to plant any trees, evergreens, hedges, plants or shrubbery with the sidewalk area, EXCEPT as hereinafter proved.

Section 303 – TREES AND SHRUBBERY PERMITTED

a) Only those trees, evergreens, hedges, plants, and shrubbery listed on the attached, marked Exhibit D and made part hereof, shall be permitted in the sidewalk area, but they shall only be permitted in the grass plot area between the curbing and the sidewalk hereinabove provided.

b) Specific authority is hereby granted to a duly authorized committee of the Borough Council to recommend to the Council changes in the list of permitted trees included in Subsection a of this Section by reference and also to recommend such additional action with reference to trees, evergreens, hedges, plants and shrubbery in the sidewalk area provided for in Subsection a of this Section under applicable Laws of the Commonwealth of Pennsylvania, whereupon the Borough Council shall act on such recommendation by Resolution. Without further amendment hereof, the authority to act, herein provided, shall vest in such Shade Tree Commission as the Borough may by ordinance hereafter establish.

Section 304 – TRIMMING OF TREES REQUIRED

All trees in the sidewalk area and all trees near the sidewalk area shall be trimmed and kept trimmed by the property owners of the abutting premises, so that the same shall be without branches to the height of ten feet above streets, highways, and sidewalks on both sides of all streets, highways and alleys within the Borough.

Section 305 – COMPLIANCE REQUIRED

Any trees, evergreens, hedges, plants or shrubbery planted or maintained in violation of Section 301 thru Section 304 of this Ordinance are hereby declared to be a nuisance and must be brought into compliance herewith; PROVIDED, however, that same which are now in existence are exempt from Section 301 and Section 302, but, upon removal of any such tree, evergreen, hedge, plat or shrubbery now in existence, any replacement shall be in full compliance.

ARTICLE IV – SNOW REMOVAL FROM SIDEWALKS AND DRIVEWAYS

Section 401 – DEFINITIONS

The following definitions shall apply to this Article:

a) Snow Storm shall mean any continuous snow fall resulting in an accumulation of snow three (3) inches or more in depth, notwithstanding that same part thereof may be sleet or ice.

b) Snow Fall shall mean any snow storm or any snow, sleet or ice fall, whether continuous or interrupted, which results in an accumulation of snow over one inch in depth, notwithstanding that some part thereof may be sleet or ice, or which results in the formation of a continuous coating of ice on sidewalks.

c) End of a Snow Fall shall mean that time recorded by the Borough Works Manager as the time at which snow or ice ceased to fall or form at the conclusion of any snow fall which was not followed by additional falling snow or ice within twelve (12) hours. When there is such a subsequent accumulation, the end of the snow fall shall be at the time at which snow or ice ceased to fall or form at the conclusion of such subsequent accumulation.

Section 402 - REMOVAL OF SNOW AND ICE REQUIRED

a) The owner of each improved property abutting any street or highway within the Borough shall have removed so much snow and ice from a snow fall so as to clear or make a pathway or passageway not less than two (2') feet in width within twenty four (24) hours after the end of a snow fall; PROVIDED, however that by proclamation the Mayor may provide a period within which such removal shall be made, which greater period shall not exceed seventy-two (72) hours, in the event of a snow storm which in his sole discretion is deemed so major as to make removal within the twenty-four (24) hours after the end of such snow storm burdensome upon property owners.

b) The owner of each improved property abutting any street or highway within the Borough upon which a driveway crosses the sidewalk area shall also have made a pathway or passageway not less than two(2') feet in width across such driveway so that the pathway or passage cleared along sidewalks as required by Subsection a of this Section shall be continuous across such driveway and such removal from driveways shall be made within the same time required for removal from sidewalks in Subsection a of this Section.

Section 403 - CASTING OF SNOW AND ICE IN CARTWAY PROHIBITED

It is hereby declared unlawful for any person to shovel, or cast either manually or by mechanical devise any snow, ice, or sleet into the cartway of any street or highway within the Borough after such street or highway has been cleared, in part or entirety, of snow, ice or sleet. This shall include specifically snow, ice, or sleet. This shall include specifically snow, ice, or sleet cleared by such person from sidewalks or driveway in compliance with Section 402 of this Ordinance or any

snow, ice, or sleet cleared from any other portion of the property. The owner of property abutting each street or highway, shall not directly, or by his agent, violate this Section and shall promptly remove any snow, sleet, or ice placed on the cartway of each street or highway abutting his property which was placed there in violation of this Section; and it shall be presumed that such snow, sleet, or ice was placed upon the cartway of such street or highway by, or at the direction of, the property owner when any areas on the abutting property where such violations exists have been cleared of snow, sleet or ice.

Section 404 – COMPLIANCE REQUIRED

Any snow, sleet, or ice on sidewalks, driveways, or cartways in violation of Section 402 or Section 403, hereof, are declared to be a nuisance and must be brought into compliance herewith.

Section 405 – ENFORCEMENT

The Police officers of the Borough are hereby specifically given authority and shall enforce the provisions of this Article (Section 402 thru Section 404 of this Ordinance).

ARTICLE V – MISCELLANEOUS

Section 501 – OBSTRUCTION OF SIDEWALKS

a) It is hereby declared unlawful for any property owner abutting a street or highway within the Borough to place, have placed, or allow to be placed anything on any sidewalk, whether that item is built, parked, sitting, standing, lying, or in any other manner upon the sidewalk, which obstructs reduces the area of the sidewalk open to pedestrian traffic to a width of less than three (3') feet.

b) The temporary placement of obstruction upon sidewalks in violation of Subsection a of this Section shall be exempt when such obstruction is made by permit duly issued as hereinafter provided.

c) An obstruction for less than two (2) hours which does not place property or person who may be or come into the sidewalk area in the vicinity in danger of personal or property damage is exempt provided there is compliance with Section 502 of this Ordinance.

d) The police officers of the Borough are hereby specifically given authority and shall enforce the provisions of this Section.

Section 502 - WARNING DEVICES REQUIRED BEFORE OBSTRUCTION OF SIDEWALKS

a) Any person, whether the property owner, the owner's agent, or the owner's employer, obstructing the sidewalk area while constructing, reconstructing, maintaining or repairing of a building or other structure on the property, or grading any sidewalk areas, or constructing, reconstructing, maintaining, or repairing any curbs, gutters, sidewalks, driveway entrances, retaining walls, or trimming, removing, or planting any trees, evergreens, hedges, plants, or shrubbery in or near the sidewalk areas, or opening or excavating in or under any street, alley, highway, or sidewalk area, or temporarily obstructing any street, alley, or sidewalk or by temporarily storing or depositing of materials, for delivery of materials, or for any other legitimate purpose, shall place suitable signs, barriers, and/or lights so as to protect the users of streets, highways, alleys, or sidewalk areas in the vicinity thereof from injury to person or property.

b) The actions provided for and required by Subsection a of this Section shall be taken only after a permit has been duly issued as hereinafter provided or when exempt under Section 501 c of this Ordinance.

c) The police officers of the Borough are hereby specifically given authority and shall enforce the provisions of this Section.

Section 503 - RAIN WATER CONDUCTORS

All subsurface rain water conductors shall be placed in such a manner that the top of the pipe shall be three (3") inches from the top of curb with expansion joints placed vertically to the center line of pipe.

Section 504 – PUBLIC UTILITIES SERVICE

All individual building service for public utilities shall be raised and/or lowered to proper curb elevation by the person installing the curb, driveway, and/or sidewalks at such premises.

Section 505 – TRAFFIC DEVICE REPLACEMENT

All traffic devices removed during construction of curbs, driveways, and/or sidewalks shall be replaced by the person installing same at such premises.

Section 506 – RULES AND REGULATIONS

a) The Borough, from time to time, by appropriate ordinance or resolution, may adopt such additional rules and regulations as, in the opinion of the Council of the Borough, may be desirable, beneficial or necessary based on new developments or for or in connection with the provisions of this Ordinance; including, but not limited to, appointment of appropriate Borough officials, officers, employees, or Council committees to administer provisions of this Ordinance, adoption of rules, regulation, or policies related to enforcement of requirements of this Ordinance, and adoption or rules, regulations, or policies related to administration of this Ordinance.

b) Any such rules, regulations, and policies shall be construed in conjunction with provisions hereof and such other Borough Ordinances specifically referred to, and shall become effective upon the date fixed by this Borough upon adoption thereof.

c) It is not the intent of the Borough to exhaust its authority under applicable Laws of this Commonwealth as to matters contained in this Ordinance by enactment of this Ordinance.

ARTICLE VI – PERMIT ADMINISTRATION

Section 601 – PERMITS REQUIRED

Section 301 of Ordinance No. 243, enacted November 2, 1979, is amended to include the provisions of this Section.

a) Permits, issued by the Permit Officer, shall be required before any construction or development, including reconstruction, enlargement, alteration, or relocation of any building or structure, is undertaken within any area within the Borough.

b) Permits, issued by the Permit Officer, shall be required before any person desiring to grade any sidewalk area, construct, reconstruct, repair or maintain any sidewalk, curb, gutter, driveway entrance, or front or rear retaining wall shall proceed with same within any area of the Borough.

c) Permits, issued by the Permit Officer, shall be required before any person shall plant, remove, trim, or maintain any trees, evergreens, hedges, plants, or shrubbery in or near any sidewalk area within the Borough; PROVIDED, however that the Borough and its employees conducting such operation for the benefit of the Borough shall be exempt (the exemption does not exist if the work is for the benefit of a property owner) and any person specifically exempt by other ordinances shall be exempt.

d) Permits, issued by the Permit Officer, shall be required before any person shall open or excavate in or under any street, alley, highway, or sidewalk area within the Borough; PROVIDED, however that the Borough and its employees conducting such operation for the benefit of the Borough shall be exempt (the exemption does not exist if the work is for the benefit of a property owner) and any person specifically exempt by other ordinances shall be exempt.

e) Permits, issued by the Permit Officer, shall be required before any person shall temporarily obstruct any street, alley, or sidewalk area within the Borough by temporarily storing or depositing of materials, for delivery of materials, for the delivery of materials or for any other legitimate purpose in violation of Section 501 of this Ordinance; PROVIDED, however, that the Borough and employees of the Borough when acting in their capacity as Borough employees shall be exempt from the provisions of this Subsection.

Section 602 – APPLICATION PROCEDURES

Section 303 of Ordinance No. 243, enacted November 2, 1979 is amended to include the provisions of this Section.

a) Application for a permit shall be made, in writing, to the Permit Officer on forms supplied by the Borough. Such application shall contain at least the following:

1. Date of Application
2. Type of permit requested.
3. Name and address of applicant.
4. Name and address of owner of land or along which proposed is to be done.
5. Name and address of contractor who will perform or have performed the proposed work.
6. Site location.
7. Brief description of proposed work and estimated cost.
8. Type of warning devise, if any, to be used in compliance with Section 502 of this Ordinance.
9. An indemnification, signed by the applicant, against all liability of whatever nature arising during the performance of work or as a result of work for which the permit may be granted.

b) If the permit request is for a Building Permit under Ordinance No. 243 (see Section 601 a above) for construction or development wholly outside any identified flood-prone area, the application shall include the following in addition to that required by Subsection a of this Section:

1. Listing of other permits required.
2. Proposed lowest floor and basement elevation in relation to mean sea level, i.e., National Geodetic Vertical Datum of 1929.
3. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings and structures.

c) If the permit request is for a Building Permit under Ordinance No. 243 (see Section 602 a above) for construction or development within or partially within any identified flood-prone area, the application shall include the following in addition to that required by the provisions of Subsection a and b of this Section:

1. A plan which accurately delineates the identified flood-prone area, the location of the proposed construction, the location of any adjacent flood-prone development or structures, and the location of any existing or proposed subdivision and land

development in order to assure that:

- i. all such proposals are consistent with the need to minimize flood damage;
 - ii. all utilities and facilities, such as sewer, gas, electrical and water systems are located, and constructed to minimize or eliminate flood damage; and
 - iii. adequate draining is provided so as to reduce exposure to flood hazards.
2. Such plan shall also include existing and proposed contours; information concerning one hundred (100) year flood elevations, velocities, and other applicable information such as pressures, impact and uplift forces, associated with the one hundred (100) year flood; size of structures, location and elevations of streets; water supply and sanitary sewage facilities; soil types; and floodproofing measures.
 3. A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact, and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the one hundred (100) year flood.

Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure.

d) If the permit required is for a Permit for curbing, sidewalks, driveway entrances, gutters, retaining walls, or other sidewalk area work under this Ordinance (see Section 601 b above) but for which a Building Permit under Ordinance No. 243 would not be also required, the application shall include the following in addition to that required by the provisions of Subsection a of this Section:

1. Listing of other permits required.
2. A plan of the site showing the exact size, location, and distance from existing buildings and structures of the proposed construction and also details as to grade, materials of construction and other matters specified by this Ordinance.

e) If the permit requested is for planting, removing or trimming trees, evergreens, hedges, plants or shrubbery in or near a sidewalk area under this

Ordinance (see Section 601 c above), the application shall include the following in addition to that required by the provisions of Subsection a of this Section:

1. The type of trees, evergreens, hedges, plants or shrubbery to be planted, removed, or trimmed and the plan of the site showing the location of same.
2. Details on how the work will be carried out.

f) If the permit requested is for opening or excavating in or under any street, alley highway, or sidewalk area under this Ordinance (see Section 601 d above) and such does not relate to a permit under Subsection b thru e of this Section, the application shall include the following in addition to that required by the provisions of Subsection a of this Section:

1. Type and reason for conducting the work which requires the opening or excavation.
2. A plan of the site showing the exact size, location and distance from existing buildings and structure of the proposed opening or excavation.

g) If the permit requested is for temporarily obstructing any street, alley, or sidewalk area within the Borough by temporary storage or depositing of materials, for delivery of materials or for any other legitimate purpose, the application shall include the following in addition to that required by the provided Subsection a of this Section”

1. List of other permits required.
2. Type and reason for obstruction.
3. Duration of obstruction.
4. Location of obstruction.

Section 603 – FEES

Section 310 of Ordinance No. 234, enacted November 2, 1979 is amended to include the provisions of this Section.

a) Applications for a permit, required by Section 601 of this Ordinance, shall be accompanied by a fee, payable to the Borough of Pine Grove based upon the estimated cost of the proposed work or construction as determined by the Permit Officer at the following rates:

<u>Estimated Cost</u>	<u>Fee</u>
\$ 0.00 to \$200.00	\$2.00
\$ 201.00 to \$1,000.00	5.00
Each additional \$1,000.00 or part thereof beyond the first \$1,000.00	1.00

b) Should the Permit Officer in his sole discretion deem that review of a permit application requires detailed review by the Borough Engineer or any other Borough official or employee, the actual costs to the Borough of Pine Grove before the permit is issued; PROVIDED, however, that such additional charge of costs shall not exceed the following:

<u>Final Estimated Cost (determined by Permit Officer)</u>	<u>Cost of Review</u>
\$ 0.00 to \$ 200.00	\$ 10.00
Over \$ 200.00	\$10.00 plus 1% of Est. Cost

c) All persons exempt from Federal Income Taxation shall be exempt from the fee provided by Subsection a of this Section; but shall be liable for any costs of review provided for in Subsection b of this Section and at the time of application shall pay against potential review costs the fee required by Subsection a which may be refunded in whole or in part upon permit approval if the review costs are less than the fee paid upon application.

d) All persons applying for a permit required by Section 601 c (related to trees, etc.) shall be exempt from all fees and costs provided for in this Section, and in lieu thereof shall pay a fee of \$1.00; PROVIDED, however, that if such application is for any other permit required by Section 601 of this Ordinance but which also includes an application under Section 601 c, or if the application is related to any other permit required by Section 601 of this Ordinance which application was made within one year of the application under Section 601 c, the exemption provided by this Subsection shall not apply.

Section 604 – REVIEW OF APPLICATION BY OTHERS

Section 304 and Section 302 of Ordinance No. 243, enacted November 2, 1979 are amended to include the provisions of this Section.

a) A copy of all applications and plans for any proposed construction or development in any flood-prone area, under the provisions of Ordinance No. 243, shall be submitted by the Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the County Conservation District shall be considered by the Borough Permit Officer for possible incorporation into the proposed plan.

b) A copy of all applications and plans for any proposed planting, removal, or trimming of trees, evergreens, hedges, plants or shrubbery in or near a sidewalk area shall be submitted by the Permit Officer to the person, Council Committee, or Commissioner, who or which may from time to time be designated by the Borough Council, for review and comment prior to the issuance of a permit. The recommendation of such person or body shall be considered by the Borough Permit Officer for possible incorporation into the proposed plan.

c) A copy of all plans and applications related to the issuance of any permit required by Section 601 of this Ordinance may be submitted by the Permit Officer to any appropriate agencies, officials, and or individuals (e.g., planning commission, Borough Engineer, Borough Works Manager, Borough Police Chief, etc.) for review and comment. The recommendations then obtained may be considered by the Borough Permit Officer for possible incorporation into the proposed plan.

Section 605 – ISSUANCE OF PERMITS

Section 302 of Ordinance No. 243, enacted November 2, 1979 is amended to include the provisions of this Section.

a) The Permit Officer shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of Ordinance No. 243, this Ordinance and other applicable ordinances, rules and regulations of the Borough and County of Schuylkill and applicable laws, rules, and regulations of the Commonwealth of Federal authorities.

b) Prior to the issuance of any permit the Permit Officer shall review the permit application to determine if all other necessary governmental permits such as

those required by the County of Schuylkill, the Commonwealth and Federal laws have been obtained, including but not limited to those required by the Pennsylvania Department of Transportation Regulations, County

Section 609 – INSPECTION AND REVOCATION

Section 309 of Ordinance No. 243, enacted November 2, 1979, is amended to include the provisions of this Section.

a) During the construction period under any permit provided for in this Ordinance, the Permit Officer or other authorized official, including, but not limited to, the Borough Engineer and the Borough Works Manager, may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application, that required warning devices are properly placed, and that there is compliance with all applicable Borough ordinances and other laws applicable within the Borough.

b) In the event the Permit Officer discovers, directly or by report of an authorized Borough official, that the work, or any condition on the premises, does not comply with the permit application or any applicable laws, ordinances, rules or regulations, or that there has been a false statement or misrepresentation by the applicant, the Borough Permit Officer shall revoke the permit and report such fact to the Borough Council, and/or such other Borough official duly designated by said Council, for whatever action is considered necessary and, where applicable, the Borough Police Chief shall take such action as appears necessary and proper under the circumstances.

c) The Borough Works Manager may reject any concrete sidewalks, curbs and driveway entrances which do not conform to the requirements of this Ordinance or the generally accepted standards of the American Concrete Institute. Upon receiving report of such rejection from the Borough Works Manager, the Borough Permit Officer shall revoke the permit and the owner may be required to replace the rejected sidewalk, curbing and driveway entrance, as the case may be, according to specifications provided by this Ordinance.

ARTICLE VII – ENFORCEMENT

Section 701 – NOTICES AND PRESUMPTION

a) Whenever the Borough Permit Officer, or other duly authorized municipal representative including, but not limited to the Mayor, the Borough Solicitor, the Borough Engineer, and the Chairman of a Borough Commission or Council Committee, determines there are reasonable grounds to believe there is or has been a violation of any provision of this Ordinance, of a related ordinance, or of any rule or regulation adopted pursuant to this or a related ordinance, such authority may give notice of such alleged violation as follows:

1. Notice shall be in writing.
2. Notice shall contain a statement of the reasons for its issuance.
3. Notice shall allow a stated period of time for the performance of any acts required for compliance. The time provided shall not be less than thirty (30) days; PROVIDED, however that a shorter period for compliance may be stated where there may be danger to persons or property from an unsafe condition associated with noncompliance.
4. Notice shall contain an outline of remedial action which, if taken, will affect compliance.
5. Notice shall be served upon the applicant where a permit has issued, upon the property owner, or an agent of the property owner, or an agent of the property owner; PROVIDED, however, that such notice shall be deemed to have been properly served upon such person when a copy thereof has been premises where the alleged violation exists.

b) Where there has been no action to comply with a notice or no application made for a required permit and the greater of a period of time fifteen (15) days greater than that stated in the notice has passed or a period of forty-five (45) days from the time of service has passed, it shall be presumed that the allegations of the notice are accurate and the person served has been and is continuing to be in violation alleged in the notice.

Section 702 – HEARINGS

a) Any person affected by any notice which has been issued as provided in Section 701 of this Ordinance may request and shall be granted a hearing on the matter before the Borough Council, or a Council Committee or Borough Commission empowered by said Council, provided such person shall file a written petition requesting such hearing with the Borough Secretary within the time period within which compliance is required (see Section 701 a 3 above).

b) The filing of the request for a hearing shall operate as a stay of the notice.

c) Upon receipt of such petition, the Borough Secretary shall set a time and place for such hearing and shall give the petitioner not less than three (3) days written notice thereof. The hearing shall be commenced not later than twenty (20) days nor less than five (5) days after the day on which the petition was filed; PROVIDED, however, that upon written application by the petitioner, the Borough Secretary may continue the date of the hearing for a greater period of time beyond the twenty (20) days which greater period shall not be later than thirty (30) days after the period of time for compliance (see Section 701 a 3 above) stated in the notice would have expired, when in her sole judgment the petitioner has submitted good and sufficient reason for such continuance.

d) At such hearing the petitioner shall be given an opportunity to be heard and to show cause why the allegations of the notice are inaccurate and the notice shall be modified or withdrawn.

e) After such hearing the Borough Council, or the Borough Commission or Council Committee, shall make findings as to compliance with the allegedly violated provisions and shall issue an order in writing, sustaining, modifying, or withdrawing the notice which order shall be served in the same manner provided for service of notice in Section 701 (a)(5) of this Ordinance. The order may include a modification of the notice to include violation or required actions which go beyond the scope of the notice upon which hearing was held provided there has been information to such at the hearing.

f) The proceedings at such a hearing, including the findings and decision, together with a copy of every notice and order related hereto shall be entered as a matter of public record with the Borough Secretary, but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought by appeal to a court of competent jurisdiction as provided by the Laws of this Commonwealth.

Section 703 – VARIANCES OR SPECIAL EXEMPTIONS

a) If compliance with the requirements of this Ordinance would result in an exceptional hardship for a prospective builder or property owner, the Borough of Pine Grove, may, upon written request, grant relief from the strict application of the requirement.

b) Requests for variances shall be considered by the full Borough Council in accordance with the procedures contained in Section 702 and the following procedures:

1. If granted, a variance shall involve only the lease modification necessary to provide relief.
2. In granting any variance, the Borough Council shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objective of this Ordinance.
3. In reviewing any request for a variance, the Borough Council shall consider, but not be limited to, the following:
 - i. that there is good and sufficient cause.
 - ii. that failure to grant the variance would result in exceptional hardship to the applicant.
 - iii. that the granting of the variance will not result in an unacceptable or prohibited increase in threats to public expense, create nuisances, cause fraud on, or victimization of the public, or conflict with any other applicable local or State ordinance and regulations.

Section 704 – APPEALS

a) Any person aggrieved by an action or decision of the Permit Officer, or by any requirement of this Ordinance, may appeal to the Borough Council, or the properly empowered Borough Commission or Council Committee. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Permit Officer with the Borough Secretary. Upon receipt of such appeal the Borough Secretary shall set a time and place, within not less than ten (10) days nor more than thirty (30) days, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time

they may appear and be heard. Hearing shall be in conformance with the requirements set forth in Section 702 of this Ordinance.

b) Any person aggrieved by any order of decision upon an appeal provided for in Subsection a of this Section or any Hearing, whether on notice or after application for variance, held under Section 702 of this Ordinance may seek relief within thirty (30) days from filing of same with the Borough Secretary by appeal to a court of competent jurisdiction as provided by the Laws of this Commonwealth.

Section 705 – ASSESSMENT AND PENALTIES

a) Upon any person failing to comply with a notice issued in conformance with Section 701 of this Ordinance which gives notice of violation of Section 201, Section 202, Section 204, Section 206, Section 305, or Section 503 thru 505, the Borough Secretary shall give notice of such failure to the Borough Works Manager who shall, by use of Borough employees or by contract, have the work completed to remove the violation. The owner of the property upon which or along which work hereunder has been performed shall be liable for the costs thereof, which shall include related administrative costs associated therewith, with ten (10%) percent added and such shall be assessed against the property. In addition, if payment is not made within thirty (30) days after the owner has been billed, interest shall be charged on the full amount due at the rate of nine (9%) percent per year compounded quarterly.

b) Where there is a violation of Section 402 and the property owner, or his agent in possession of the property, has been given written notice by a police officer and continue in violation six (6) hours after being given such written notice shall have his sidewalk area brought in compliance with the provisions of Section 402 by Borough employees or a private contractor under the direction of the Borough Works Manager. The owner of the property upon which or along which work hereunder has been performed shall be liable for the costs thereof, which shall include related administration costs and travel time of workers associated therewith, with ten (10%) percent added and such shall be assessed against the property. In addition, if payment is not made within thirty (30) days after the owner has been billed, interest shall be charged on the full amount due at the rate of nine (9%) percent per year compounded quarterly

c) Where there is a violation of Section 501, Section 502, or a violation of any other provisions of this Ordinance and such violation poses a potential danger to persons or property in the vicinity of the violation and the property owner, or his agent in possession of the property, has been given written notice by an authorized Borough representative and the violation continues for beyond the time within which compliance was required by the notice which period of time shall not be less than

twelve (12) hours nor more than seventy-two (72) hours, the violation shall be eliminated by Borough employees or a private contractor under the direction of the Borough Works Manager. The owner of the property upon which or along which work hereunder has been performed shall be liable for the costs thereof, which shall include related administrative costs and travel time of workers associated therewith, with ten (10%) percent added and such shall be assessed against the property. In addition, if payment is not made within thirty (30) days after the owner has been billed, interest shall be charged on the full amount due at the rate of nine (9%) percent per year compounded quarterly.

d) If it shall be necessary to resort to legal action for the collection of any amount due under Subsection a, b, or c of this Section, the property owner shall also be liable for all costs and expenses associated with such collection. Action for collecting may be assumpsit, by municipal lien, or any other action and procedure provided or permitted by the Laws of this Commonwealth.

e) Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order or directive of the Borough Permit Officer or any other authorized representative of the Borough, the Borough Council or any Borough Commission or Council Committee authorized by the Council to act hereunder, shall be guilty of a summary offense and upon conviction shall pay a fine to the Borough of Pine Grove not less than twenty-five (\$25.00) dollars nor more than three hundred (\$300.00) dollars plus costs and expenses of prosecution; PROVIDED, however, that, notwithstanding the foregoing, the following specific fines shall apply:

1. Failure to comply with a notice of violation of Section 304, through application of Section 305, for each tree, evergreen, hedge, plant and shrubbery a fine of \$5.00 for the first offense, \$10.00 for the second offense,; and \$25.00 for each offense after the second.
2. Failure to comply with Section 402 (no notice required prior to fine), with each twenty-four hours period the violation continues is considered a separate offense, a \$10.00 fine for the first offense; \$15.00 for the second offense whether a second twenty-four hour period after a snow fall or a subsequent offense from a late snow fall within one year of the first offense; and \$20.00 for each offense after the second when there is a subsequent offense for a late snow fall within one year of the first offense.
3. Violation of Section 403 (no notice required prior to fine) a fine of \$10.00 for the first offense; \$20.00 for the second offense; and \$30.00 for each offense after the second.

4. Violation of Section 501 (no notice required prior to fine) a fine of \$15.00 for the first offense; \$30.00 for the second offense with each twenty-four hour period after notice or summons constituting a separate offense; and \$50.00 for each offense after the second.
5. Violation of Section 502 (no notice required prior to fine) a fine of \$20.00 for the first offense; \$40.00 for the second offense with each twenty-four hour period after notice or summons constituting a separate offense; and \$100.00 for each offense after the second.
6. Violation of any other provision of this Ordinance after notice, a fine of \$25.00 for the first offense; \$50.00 for the second offense with each day a violation continues constitutes a separate offense; and \$100.00 for each offense after the second and if the violation constitutes a potential hazard to persons who may come into the vicinity an additional fine of \$25.00 for the first offense; \$75.00 for the second offense with each day a violation continues constituting a separate offense; and \$150.00 for each offense after the second.

f) In default of payment of any fine provided for in Subsection e of this Section where a fine includes a second or subsequent offense, such person shall be imprisoned in county prison for a period not to exceed fifteen (15) days or an additional fine of the greater of \$50.00 or 25% of the sum of the prior unpaid fines.

g) In addition to the above assessments and fines all other actions are hereby reserved including in equity for the proper enforcement of this Ordinance.

h) The imposition of a fine or other penalty for any violation of, or noncompliance with, provisions of this Ordinance shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violation or noncompliance within a reasonable time. The assessments, fines, penalties, and other actions provided in this Section shall be cumulative and resorting to any one remedy shall not preclude the Borough from pursuing other remedies provided herein or by applicable Laws of this Commonwealth.

DULY ENACTED AND ORDAINED, this 7th day of May 1981, by the Council of the Borough of Pine Grove, County of Schuylkill in the Commonwealth of Pennsylvania, in lawful session duly assembled.

BOROUGH OF PINE GROVE
Schuylkill County, Pennsylvania

BY: Frank R. Winsheimer
President of Council

ATTEST:

Rosemary J. Kramer
Secretary

(SEAL)

Examined and approved this
8th day of May
1981.

Robert R. Long
Major for Borough of Pine Grove