

BOROUGH OF KOPPEL

ORDINANCE No. 2 of 2006

STREET EXCAVATIONS

Article 1 – Street Excavations

1.1 Permit Required

No person, firm or entity, private or public, shall open or make any excavation of any kind in any street, alley and / or public right-of-way or tunnel under same with the Borough unless such person, firm or entity has first obtained a permit as hereinafter provided.

1.2 Permit application; indemnity

Any person, firm or entity who desires to make any opening or excavation in any street, alley and / or public right-of-way or to tunnel under same within the Borough shall make application in writing to the Borough Secretary for a permit. Such application shall be made upon forms to be furnished by the Borough and shall set forth the following:

- 1.2.1 The name of the applicant.
- 1.2.2 The exact location of the proposed opening, excavation or tunneling.
- 1.2.3 The approximate size (length and width) and depth of the proposed opening, excavation or tunneling.
- 1.2.4 The approximate times of starting and completing the work.
- 1.2.5 That the applicant covenants and agrees that the proposed work shall be done in full compliance with the requirements and provisions of the Borough and the laws of the Commonwealth of Pennsylvania in relation to such work, and that the applicant shall well and truly save, defend and keep harmless the Borough and the Borough's authorized representatives from and indemnify them against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening, excavation or tunneling and all damages to persons or property resulting in any manner there from, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

1.3 Insurance

- 1.3.1 Each applicant, upon submission of an application for a permit, shall provide the Borough with an acceptable certificate of insurance indicating the applicant (or his contractor) is insured against claims for damages for personal injury, as well as claims for property damage which may arise from or out of the performance of the work, whether by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards and

underground work by equipment on the street, alley or public right-of-way, and shall include protection against liability arising from completed operations.

- 1.3.2 The amount of insurance shall be prescribed by Borough Council in accordance with the nature of the risk involved. However, the liability insurance for bodily injury in effect shall not be less than \$300,000 for each person, \$500,000 for each accident, and for property damages, not less than \$200,000 with an aggregate of \$300,000 for all accidents. The Borough Solicitor shall be consulted for his / her opinion if there are any questions concerning the adequacy of the amount of insurance which may be required.
- 1.3.3 A public utility may be relieved of the obligation of submitting such a certificate if it submits satisfactory evidence that it is insured, or has adequate provisions for self-insurance, in accordance with the requirements of this Ordinance.

1.4 Fees

Before any permit shall be issued to open, excavate or tunnel under any street, alley or public right-of-way within the Borough, the applicant shall pay to the Borough Secretary the application and inspection fees as adopted by Borough Council by separate resolution, which are established hereby for the purpose of partially defraying the actual administration and inspection costs to the Borough in administering this Ordinance.

1.5 Guarantee for surface restoration

- 1.5.1 No application shall be accepted, nor shall any permit be issued, unless the applicant deposits with the Borough Secretary a surety bond written by a surety company authorized to do business in the Commonwealth of Pennsylvania, cash, a certified check or a letter of credit issued by a bank or savings and loan institution to guarantee the restoration of the surface of the excavation as required by this Ordinance in the total amount as determined by the appropriate summation of the following items:
- 1.5.1.1 Fixed amount to cover mobilization and demobilization: \$1,000.00
 - 1.5.1.2 Paved streets or alleys, including "shot and chip", surface treatments, hot-mix bituminous applications, concrete (including sidewalks) or brick: \$15.00 per square foot of surface to be opened or disturbed as a part of the excavation proposed
 - 1.5.1.3 Aggregate alleys: \$8.00 per square foot of surface to be opened or disturbed as a part of the excavation proposed
 - 1.5.1.4 Other areas within the public right-of-way: \$4.00 per square foot of surface to be opened or disturbed as a part of the excavation proposed
- 1.5.2 The bond, deposit of cash, certified check or letter of credit shall be retained for eighteen (18) months from the date of completion of the work. In the event the restoration of the surface of the excavated street, alley or public right-of-way is

deemed by Borough Council to be improper, faulty, defective or not done at all, then, in such case, the permit holder shall be given a ten (10) day written notice by the Borough Secretary to make such repair or restoration as the Borough Council shall deem proper. Upon the failure of the permit holder to comply with the terms of the notice, the Borough Secretary is hereby authorized to have such repair or restoration immediately done and to charge the cost thereof plus twenty (20) percent for Borough overhead to the permit holder. Any subsidence or any other defect which can be attributed to improper or inadequate restoration within eighteen (18) months of the completion of the work shall be considered to be the responsibility of the permit holder and the permit holder shall be required to correct the improper or inadequate restoration as above set forth. At the expiration of the eighteen (18) months, the Borough Secretary shall return or refund to the permit holder his bond, cash, certified check or letter of credit, or that portion of the same to which the permit holder is entitled.

- 1.5.3 A public utility shall be permitted to file one continuing bond, cash, certified check or letter of credit for street, alley or public right-of-way excavation work within the Borough in a minimum amount of \$25,000.00. This continuing guarantee amount may be modified by resolution of Borough Council.

1.6 Procedure

- 1.6.1 No opening or excavation in any street, alley or public right-of-way shall extend from the curb or side line into the street a distance greater than one (1) foot beyond the center line of the street before being properly backfilled, and the surface of the street or alley restored to a condition safe and convenient for travel.
- 1.6.2 No more that one hundred fifty (150) feet longitudinally shall be opened in any street or alley at any one time.
- 1.6.3 The work of excavation shall be so conducted as not to interfere with water lines, gas lines, electric lines, storm lines, sanitary lines or their connections with buildings, or any other sub-surface lines or constructions until permission of the proper authorities in connection with such sub-surface lines or constructions shall have been obtained.
- 1.6.4 No tunneling shall be allowed without the prior approval of Borough Council or the Borough Secretary and permission therefore endorsed upon the permit. The backfilling of a tunnel excavation shall be done only in the presence of an authorized representative of the Borough and shall be done only in a method as approved by the Borough.
- 1.6.5 All openings or excavations shall be backfilled (to the subbase level of the final surface restoration work) promptly in accordance with the following requirements:

- 1.6.5.1 Under and within five (5) feet of paved areas (including streets, alleys, sidewalks, driveways, and the like): Full depth PaDOT 2A coarse

aggregate material (do not use steel slag) compacted in 6" loose lifts. Compact backfill material to 100% of the dry weight density.

1.6.5.2 Beyond five (5) feet of paved areas: Suitable backfill compacted in 6" loose lifts. Compact backfill material to 95% of the dry weight density.

1.6.6 All openings or excavations shall have the surface (above the subbase level, see 1.6.5) of the disturbed areas promptly restored in accordance with the following requirements:

1.6.6.1 Bituminous paved streets: Compacted 6" - 2A coarse aggregate, Type C or better as specified in PaDOT 408 Section 703.2 (steel slag shall not be permitted); compacted 4" BCBC base course as specified in PaDOT 408 Section 305; and compacted 1.5" bituminous ID-2 wearing course as specified in PaDOT 408 Section 420. Seal all joints.

1.6.6.2 "Shot and chip" or surface treatment alleys: Compacted 6" - 2A coarse aggregate, Type C or better as specified in PaDOT 408 Section 703.2 (steel slag shall not be permitted); compacted 2" BCBC base course as specified in PaDOT 408 Section 305; and bituminous surface treatment as specified in PaDOT 408 Section 480.

1.6.6.3 Gravel-only alleys and aggregate berms: Compacted 6" - 2A coarse aggregate, Type C or better as specified in PaDOT 408 Section 703.2 (steel slag shall not be permitted); and bituminous seal coat as specified in PaDOT 408 Section 470.

1.6.6.4 Concrete streets, driveways or sidewalks: Compacted 6" - 2A coarse aggregate, Type C or better as specified in PaDOT 408 Section 703.2; and 6" PaDOT Class AA (3750 psi design compressive strength) with #4 bar reinforcement, 12" C to C, each way, top and bottom for streets or 6 X 6 WWF for driveways and sidewalks as specified in the applicable sections of PaDOT 408 Sections 501 and 676 (as specified herein).

1.6.6.5 Lawn areas: 6" minimum topsoil, seed (Formula B), soil supplements and mulch as specified in the applicable sections of PaDOT 408 Sections 801, 802, 803, 804 and 805.

1.6.7 On improved streets, when ordered installed by Borough Council, a temporary paving of suitable materials thoroughly bound and compacted shall be installed by the applicant flush with the surface of the adjoining paving.

1.6.8 During the making of any excavation in any street, alley or public right-of-way, every necessary and reasonable precaution shall be taken by the applicant, and the parties making the same, to keep the work areas in a safe and passable condition during both day and night by guards, barriers, lanterns and other appropriate devices, and all opening and excavating permits are authorized to be granted only under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough and its employees and designated representatives from any loss in damages whatsoever, which may

or shall be occasioned at any time by the opening or excavation, or by any leak, explosion or other injury from any pipe, line, apparatus, conduit or any other matter placed in the opening or excavation. The applicant shall be totally responsible to comply with all applicable safety laws and requirements of OSHA.

- 1.6.9 The applicant shall notify the Borough Secretary when the opening or excavation is ready for backfilling and before any backfilling is actually done. The Borough Secretary shall thereupon notify an appropriate Borough representative who shall undertake his inspection duties.
- 1.6.10 The applicant, upon completion of his work, shall restore the surface of the street, alley or public right-of-way to the minimum specifications as outline in this Ordinance.

1.7 Emergencies

In case of any leak, explosion or other accident to any sub-surface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for the same to commence an excavation to remedy such condition before securing a permit provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of the Ordinance are fully complied with.

1.8 Penalties

- 1.8.1 Any person, whether as principal, employee or agent, violating or assisting in the violation of any portion of the Ordinance, shall be subject to penalties as follows (with the exception where specific maximum penalties are provided in other applicable Borough ordinances or in a law of the Commonwealth uniformly effective for political subdivisions): Minimum first offense: \$100.00; Minimum second offense: \$200.00; and 3rd or more frequent offenses: \$600.00.
- 1.8.2 The Borough shall issue a written notice of violation which shall set forth the time period in which to correct said violation (see Paragraph 1.5.2) and the minimum civil penalty. If the person charged with the civil violation shall elect to correct the violation within the prescribed time period and pay the prescribed penalty such action shall constitute settlement of the violation. Failure to correct the violation any pay the prescribed penalty shall result in the filing of a civil complaint with the District Magistrate.
- 1.8.3 Any continuation of a violation for each successive day shall constitute a separate offense and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.
- 1.8.4 The imposition of a penalty as provided in this Ordinance or other applicable ordinances of the Borough shall be in addition to any injunctive or remedial relief that is authorized under the laws of the Commonwealth, with the same force and effect as though provided for herein. Such penalty shall not be deemed to be in lieu of any provision for revocation or suspension of any permit.

1.8.5 Unless provided otherwise in the laws of the Commonwealth, all fines or penalties collected for violations of the provisions of this Ordinance or other applicable ordinances of the Borough shall be paid over to the Borough Secretary.

1.9 Appeals

1.9.1 Any person aggrieved by any action of the Borough or its agents may appeal to the Borough Council within 20 days of that action.

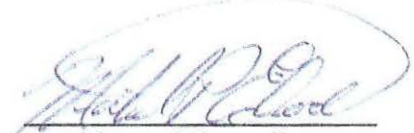
1.9.2 Any person aggrieved by any decision of the Borough Council may appeal to the County Court of Beaver County Common Pleas within 30 days of that decision.

1.10 Adoption

Be it known, the invalidity of any part of this Ordinance shall not affect the validity of any other part of this Ordinance and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

ORDAINED AND ENACTED into an Ordinance on this 21 day of NOV., 2006.

[BOROUGH SEAL]



President of Council

ATTEST:



Borough Secretary

EXAMINED AND APPROVED by me on this 21 day of NOV., 2006.



Mayor