

ORDINANCE NO. 4, 29, 19

STREET EXCAVATIONS

BE IT ENACTED AND ORDAINED by the Borough Council of the Borough of Turbotville, Northumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION I – TITLE

This Ordinance shall be known and may be cited as the "Street Excavation Ordinance of the Borough of Turbotville." This Ordinance supplants and replaces Turbotville Borough Ordinance 99-05 "STREET EXCAVATIONS".

SECTION II - DEFINITIONS AND WORD USAGE

When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word "shall" be always mandatory and not merely directory. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein:

- APPLICANT** - Any person making application to the Borough for an excavation permit hereunder.
- BOROUGH** - The Borough of Turbotville.
- EXCAVATION WORK** - The excavation and other work permitted under an excavation permit and required to be performed under this Ordinance.
- PERMITEE** - Any person who has been granted and has in full force and effect an excavation permit issued hereunder.
- PERSON** - Any individual, firm, partnership, association or organization of any kind.
- STREET** - Any street, highway, sidewalk, alley, avenue or other public way or ground or public easements in the Borough of Turbotville.

SECTION III - PERMIT REQUIRED

It shall be unlawful for any person or business entity to dig up, break, excavate, tunnel, bore, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street or to place, deposit or leave upon any street any earth or unexcavated material obstructing or tending to interfere with the free use of the street unless such person shall first have obtained an excavation permit therefor from the Borough as herein provided.

SECTION IV - PERMIT APPLICATION

No excavation permit shall be issued unless an application for the issuance of an excavation permit or forms provided for that purpose are submitted to the Borough. The application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of the excavation and other data as may reasonably be required by the Borough. In the event that extensive excavation and construction is planned, the application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed elevated surfaces, the location of the excavation work and such other information as may be prescribed by the Borough. It is permissible for public utilities to telephone the Borough to submit permit information to perform emergency work on their facilities. In the event of an emergency excavation, a Permit shall be obtained from the Borough within two (2) business days from the time of the emergency.

SECTION V - FEE

As of the date of the amendment of this Ordinance, each applicant who files a request for the issuance of an excavation permit shall pay to the Borough of Turbotville at the time of filing said request the sum seventy-five (\$ 75.00)dollars, which shall be non-refundable and which shall be used by the Borough of Turbotville to pay the costs of processing the application and inspecting saidexcavation andbackfill by Borough Personnel. In the event that inspections by a third party (Borough's Engineer or other Engineer, PennDot, DEP, etc.) shall be required, Permittee shall be notified of said inspection and incur any and all associated additional cost(s).

A Permit shall be required for each "opening" unless contiguous with the initial opening or as part of a larger scope of Permitted work.

No proceedings shall be initiated until the aforesaid filing fees are paid by the applicant. Public utilities may be billed for permit fees on a monthly or annual basis at the discretion of the Borough.

SECTION VI - EXCAVATION PLACARD

The Borough shall provide each permittee, at the time the permit is issued, a suitable placard which shall state the permittee's name, the permit number and the date of expiration. It shall be unlawful for any person to exhibit such permit at or about any excavation not covered by such permittee to misrepresent the permit number or the date of expiration.

SECTION VII - SURETY BOND

Before an excavation permit is issued, the applicant shall deposit with the Borough Clerk or Secretary a surety bond in the amount of ten thousand (\$10,000.00) dollars in favor of the Borough or an amount equal to two (2) times the projected excavation costs, whichever is greater and as follows:

- A) Surety Bond shall remain in effect for a period of not less than 18 months from the date of completion of the excavation to comply with Section XI herein.
- B) With good and sufficient surety by a surety company authorized to do business in the Commonwealth of Pennsylvania.
- C) Satisfactory to the Borough Attorney in form and substance.
- D) Conditioned that the applicant will faithfully comply with all the terms and conditions of this Ordinance, all rules, regulations and requirements pursuant thereto and as required by the Borough and all reasonable requirements of the Borough
- E) Conditioned that the applicant will secure and hold the Borough and its officers harmless against any and all claims, judgments or other costs arising from the excavation permit or for which the Borough, the Borough Council or any Borough officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee.
- F) Recovery on such surety bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given.
- G) In the event of any suit or claim against the Borough by reason of the negligence or default of the permittee, upon the Borough giving written notice to the permittee of such suit or claim, any final judgment against the Borough requiring it to pay for such damage shall be conclusive upon the permittee and his surety.
- H) Utilities (Electrical, Gas, Water, Sewer, Communications) may supply an annual bond under this provision which shall remain in force for one (1) year conditioned as above, in the amount of one million dollars (\$ 1,000,000.00) and in other respects as specified herein, but applicable as to all excavation work in streets by the permittee during the term of one year from said date.

SECTION VIII- DIRECTION OF WORK; REGULATIONS

- A. All work done pursuant to an excavation permit issued under the provisions of this Ordinance shall be performed under the direction and to the satisfaction of the Borough or its duly authorized agent. Permittees shall comply with Regulations for Excavating and Backfilling Street Openings as listed herein:
- B. Any person or firm contemplating an excavation within the public rights-of-way must first obtain an

excavation permit from the Borough as provided by this Ordinance. Any person or firm to whom a street excavation permit or work contract has been issued shall notify all utility companies through Pennsylvania One Call System, Inc. of the intent to excavate. This notification shall be given not less than forty-eight (48) hours in advance of the commencement of the work and shall indicate the time, place and purpose of the street excavation.

- C. Any person or firm to whom a street excavation permit or work contract has been issued shall have the duty of determining the location and depth of all existing underground utility installations. If a utility line is broken or damaged in any way, the permittee or contractor shall immediately notify the utility owner and work with the utility to expedite repairs. The Permittee shall be responsible for any costs incurred by Borough Residents as a result of breaking and/or damaging Utilities.

D. Backfill:

1. All excavation in trenches shall be backfilled to the original ground surface or to grades specified. The backfill shall begin as soon as practical after the pipe or other construction has been placed and shall thereafter be carried on as rapidly as the protection of the balance of the work will permit. Depositing of the backfill shall be done so the shock of falling material will not injure the pipe or adjacent structures. Grading over and around all parts of the work shall be done as directed by the Borough representative.
2. Granular or other suitable material as determined by the Borough representative, free from rocks and boulders. PennDOT 2A graded in accordance with PennDOT Specifications, Section 703.2 shall be deposited in the trench simultaneously on both sides of the pipe for the full width of the trench to a height at least twelve (12) inches above the top of the pipe, below finished grade surface of the street. The PennDOT 2A aggregate shall be placed in 6-inch lifts and appropriately compacted by use of compaction equipment as specified in PennDOT Specifications Section 108.05 or in a manner receiving written approval from the Borough Engineer. placed and hand tamped to fill completely all spaces under and adjacent to the pipe.

E. Special requirements:

1. When the trench excavation is within the right-of-way of a Borough Street, State or County Highway, the backfilling of the trench, compaction of materials, subgrade preparation and resurfacing shall be done in strict accordance with the requirements and specifications of the Pennsylvania Department of Transportation as listed below. Further, When the trench excavation is within the right-of-way of a Borough Street, state or county highway; or blocks or impedes in any way an established pedestrian walkway, the permittee shall provide motor vehicle traffic and/or pedestrian traffic protection/control as specified in the requirements and/or specifications listed below.
2. The most current specification, at time of excavation, shall be the specification(s) of record:

i. General Road Repair:

1. Permanent Restoration: PennDOT Publication 408
2. General Earthwork: PennDOT Publication 408, Section 200
3. Backfill: PennDOT Publication 408, Section 206.3
4. Base Courses: PennDOT Publication 408, Section 300
5. Flexible Pavements: PennDOT Publication 408, Section 400
6. Rigid Pavements: PennDOT Publication 408, Section 500
7. Incidental Construction: PennDOT Publication 408, Section 600
8. Material: PennDOT Publication 408, Section 700
9. Roadside Development: PennDOT Publication 408, Section 800
10. Traffic Accommodation and Control: PennDOT Publication 408, Section 900
11. Structures: PennDOT Publication 408, Section 1000
12. Manufactured Material: PennDOT Publication 408, Section 1100
13. Intelligent Transportation System (ITS) Devices: PennDOT Publication 408, Section 1200

ii. Traffic Control:

1. Pennsylvania Consolidated Statutes Title 75 (Vehicle Code)
2. Pennsylvania Code Title 67 (Transportation), Chapter 212 (Official Traffic-Control Devices)
3. PennDOT Publication 46, Chapter 6, and PennDOT Publication 408, Section 901
4. PennDOT Publication 46 (Traffic Engineering Manual), Chapter 6: Temporary Traffic Control
5. PennDOT Publication 408 (Highway Construction Specifications), Section 901: Maintenance and Protection of Traffic during Construction
6. PennDOT Publication 213: Temporary Traffic Control Guidelines
7. Federal Highway Administration's Manual on Uniform Traffic Control Devices. Publication 213

iii. **Deficiencies:**

1. All deficiencies in the quantity of material for backfilling the trenches or for filling depressions caused by settlement shall be supplied by the contractor.
2. In all cases, the contractor shall blade and compact the roadway after the trench has been backfilled, so that it shall be passable to traffic at all times. The contractor shall maintain the roadway in a condition acceptable to the on-site Borough Representative or Borough Engineer at all times until final approval and acceptance of the entire work by the Borough.
3. The contractor shall remedy at his own expense any defects that appear in the backfill for a period of 18 months following as directed by the Borough or its duly authorized representative.

iv. **Repaving:**

1. When an applicant or permittee cuts a trench larger than three by twenty (3 x 20) feet or makes the fourth or more cuts in any section of a street, a "street section" being defined as the portion of a street between two (2) intersecting streets as previously defined in this Ordinance, the Borough shall require the applicant or permittee to overlay the full width of the paved surface of the street, with one and one half (1.5) inch of 9.5MM wearing surface.
 - a. The length to be overlaid will be determined by measuring one (1) foot on either side of the cut in the case of one (1) cut, and one (1) foot behind the first cut to one (1) foot behind the last cut in the case of one (1) or more cuts.
 - b. On the permit for the fourth or more cuts to a street section as defined above, Permittee shall overlay the full street section as outlined above.
 - c. Once a section is overlaid as aforesaid, the number of cuts per section shall be counted again and the requirements of this subsection shall apply to all subsequent cuts into the street section and all permits issued thereafter.

The Borough may waive the charge of future maintenance on the permit and the aforesaid requirement to overlay a trench or cuts as provided herein when the utility makes any cut within the six-month period prior to a date given by the Borough for planned resurfacing of a street section.

The permit issued hereunder will be kept at the site of the cuts while the work in progress.

SECTION IX – EMERGENCIES

In the event of any emergency in which a main, conduit or utility facility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such main, conduit or utility facility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than Two (2) business days following the

emergency.

SECTION X - NON-COMPLETION OR ABANDONMENT OF WORK

Work shall progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to the general public. In the event that the work shall not be performed in accordance with the applicable regulations of the Engineer or in accordance with the provisions of this Ordinance, or shall cease or be abandoned without due cause, the Borough may, after six (6) hours' notice, in writing, to the holder of said permit or intent to do so, correct said work or fill the excavation and repair the street, and in any such event the entire cost to the Borough of such work shall be a liability of and shall be paid by the person to whom the permit was issued and his surety.

SECTION XI - WARRANTY / GUARANTEES

Permittee, upon completion and acceptance by Turbotville Borough, shall warrant completed repair work for a period of Eighteen (18) Months from date of completion. In the event that additional work at location of the repair work shall be required, the permittee shall perform all necessary and appropriate repairs up to and/or including complete re-excavation, backfill, and/or paving without any cost to the Borough. Should the Permittee not initiate said repairs within 10 business days from written notification, Turbotville Borough shall have the repairs completed and any associated costs shall be charged to the Permittee's Bond. Repeated offenses (two or more) by any given Permittee within a twelve (12) month period shall subject the Permittee to penalties as described in Section XIV and/or Section XV of this Ordinance.

SECTION XII - INSURANCE REQUIREMENTS

A permittee, prior to the commencement of excavation work hereunder, shall furnish the Borough satisfactory evidence, in writing, that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than one million (\$ 1,000,000.00) dollars for any one (1) person and three million (\$ 3,000,000.00) dollars for any one (1) accident and property damage insurance of not less than one million (\$ 1,000,000.00) dollars, duly issued by an insurance company authorized to do business in the Commonwealth of Pennsylvania and on which policy the Borough is named as a co-insured.

SECTION XIII - INDEMNIFICATION OF BOROUGH

The permittee shall indemnify, keep and hold the Borough free and harmless from all liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in making any street excavation. In the event that suit shall be brought against the Borough, either independently or jointly with the permittee, on account thereof, the permittee, upon notice to him by the Borough, shall defend the Borough in any suit at the cost of the permittee, and in the event of a final judgment being obtained against the Borough, either independently or jointly with the permittee, the permittee shall pay such judgment with all costs and hold the Borough harmless therefrom.

SECTION XIV - REFUSAL OF ADDITIONAL PERMITS

If any person shall fail, refuse or neglect to comply with the provisions of this Ordinance or any rules or regulations or any reasonable orders or directions of the Borough representative in reference thereto, the Borough may refuse to issue further permits to such person until such conditions or orders are complied with. In addition, the person refusing or neglecting to comply with the provisions of this Ordinance or any rules or regulations or any reasonable orders or directions of the Borough representative in reference thereto shall be subject to the Penalties indicated in Section XV.

SECTION XV - VIOLATIONS AND PENALTIES

Any person, or permittee, violating any of the provisions of this Ordinance shall be punished by a fine of not less than five hundred (\$ 500.00) or of not more than one thousand (\$ 1,000.00) dollars, plus costs of prosecution per day of violation. A violation day shall be defined as any calendar day following receipt by the Permittee of notice of violation. Notice of violation may be by Registered U.S. Mail, or documented electronic notification.

Permittee(s) found in default of payment of such fine and costs may also face imprisonment for not more than thirty (30) days for each offense. In addition, the violator will be assessed all court costs and attorney's fees incurred by the Borough of Turbotville.

SECTION XVI – NOTIFICATION OF FUTURE WORK

Turbotville Borough, as part of an on-going street improvement program, will from time to time schedule a street, or streets for major improvements such as repaving or other type(s) of construction improvements. Such improvements are generally scheduled months in advance of the scheduled initiation of construction. Turbotville Borough shall notify all Utility Providers (Electrical, Gas, Water, Sewer, Communications) in writing no later than October 1 of the current year of planned work to commence within the subsequent calendar year. Any non-emergency street excavations by any Utility shall be completed prior to the scheduled work commence date. Non-emergency street excavations performed after the planned and scheduled Street Improvements shall require the Utility to resurface the entire affected work area to the specifications of the original construction. Such resurfacing shall be scheduled within 30 calendar days of the commencement of the excavation, and said schedule approved by Turbotville Borough. Failure to comply with terms of this provision shall result in Turbotville Borough performing the required resurfacing and all costs charged to the Utility's Bond or to the Utility directly in fault thereof.

All Ordinances or provisions thereof which are inconsistent with this Ordinance are hereby repealed insofar as the same affects this Ordinance.

ENACTED AND ORDAINED into an Ordinance this 29th day of April 2019.

ATTEST:

Diane K. Micea
Borough Secretary

Francis G. Bit
President of Borough Council

APPROVED the 29th day of April 2019.

[Signature]
Mayor