

ORDINANCE NO. 2016 - 1

AN ORDINANCE OF TOWAMENSING TOWNSHIP DEFINING AND REGULATING STREET EXCAVATIONS AND OPENINGS; SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, FORMS AND FEES AND THE APPROVAL AND ISSUANCE OR DISAPPROVAL THEREOF; REQUIRING NOTIFICATION OF UTILITIES; FIXING RESPONSIBILITY FOR RESTORATION OF OPENINGS AND SURFACES AND DEFECTS THEREFROM; ESTABLISHING REQUIREMENTS AND SPECIFICATIONS FOR WORK UNDER PERMIT; AUTHORIZING EMERGENCY WORK; AUTHORIZING TOWAMENSING TOWNSHIP TO DO WORK AND COLLECT COSTS; REQUIRING POSTING OF FINANCIAL SECURITY; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Board of Supervisors of Towamensing Township hereby ordains:

Section 1. Purpose. The purpose of these requirements is to provide a method to enforce necessary repairs to township streets from excavations.

Section 2. Definitions and Interpretation. The following words, when used in this Ordinance, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

APPLICANT – Any person who has filed an application for a permit pursuant to this Ordinance, including his heirs, successors and assigns.

CARTWAY – That portion of a street right-of-way that is intended for vehicular movement (equals travelway plus shoulders) – as defined in Section 202 of the Subdivision and Land Development Ordinance.

EXCAVATION – Any activity within the right-of-way of any township street which involves cutting, breaking, or opening the surface thereof, usually for the installation of utility lines and/or drainage facilities.

PERSON – Any individual, partnership, entity, firm, association, corporation or authority.

STREET – as defined in Section 202 of the Zoning Ordinance.

SURFACE, IMPERVIOUS – as defined in Section 202 of the Zoning Ordinance.

SURFACE, PERVIOUS – as defined in Section 202 of the Zoning Ordinance.

TUNNELING – The act of creating an underground passage beneath a township street without affecting the street surface, usually for the installation of utility lines.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

Section 3. Application for Permit.

A. Any person proposing to make any **excavation** within a township street right-of-way shall make application to the Township Secretary utilizing the '*Township Street Excavation Permit*' application form. In addition to such other information as the Township may reasonably require, such application shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof, and shall contain an agreement on the part of the Applicant that the work shall be done in full compliance with the ordinances of Towamensing Township and the laws of the Commonwealth of Pennsylvania in relation thereto, and that the Applicant shall well and truly save, defend and hold harmless Towamensing Township from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

B. Any person proposing **tunneling** beneath a township street right-of-way shall make application to the Township Secretary utilizing the application form set forth in Section 3(A) above. Applications for **tunneling** must include copies of any necessary temporary construction easements for areas outside of the street right-of-way area.

C. Applications for a permit shall be submitted a minimum of twenty-one (21) days prior to the start of proposed activity. If deemed necessary by the Township Road Master and/or Township Engineer, a sketch plan shall be provided with the permit Application submittal.

D. Areas of proposed excavations and tunneling shall be marked with white paint at the time of permit application submittal.

E. The application will be reviewed by the Township Road Master and/or Township Engineer and, once deemed satisfactory, will be signed by the Township Road Master or Township Engineer and a copy returned to the Applicant. This will allow the work to proceed according to the permit.

F. Work must commence on the project within six (6) months of the permit application being approved.

G. Permits are good for a period of one (1) year. If construction has not been completed within one (1) year, a new complete permit application must be submitted.

Section 4. Fees. At the time of submittal of the application for a '*Township Street Excavation Permit*', the Applicant shall pay a permit fee in the amount of \$300.00, which amount may be changed from time to time by a resolution duly adopted by the Board of Supervisors at any regular or special meeting.

Section 5. Issuance of Permits Restricted. Permits shall be issued only to utility companies or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

Section 6. Permit Approval/Disapproval. A permit may be issued to the Applicant after all requirements therefore have been filed. If the application is disapproved, written notice of disapproval together with reasons therefore shall be given to the applicant.

Section 7. Responsibility to Contact Utilities. The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, 1 et seq., as amended or supplemented from time to time (i.e. the "One Call System"). It shall be the Applicant's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. The One Call System Serial Number obtained shall be listed on the '*Township Street Excavation Permit*' application form.

Section 8. Emergency Openings. In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, 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 this ordinance are fully complied with.

Section 9. Excavation Surface Restoration Requirements.

A. All bituminous paved areas to be excavated shall be neatly saw cut the entire depth of the existing bituminous material at the limits of trench excavation. After installation and backfill operations, additional saw cutting shall be performed a minimum of twenty-four (24) inches beyond the limits of trench excavation and the additional existing material removed. The vertical saw cut surfaces at that time shall be painted with PG 64-22 asphalt cement prior to the placement of new bituminous paving.

B. All excavations shall be backfilled in such a manner so as to restore the surface to the same condition as it existed prior to the excavation, including grade, as follows.

1. Bituminous paved areas shall be restored according to the following requirements:

- Flowable Backfill, meeting Commonwealth of Pennsylvania, Department of Transportation, Publication 408 Specifications, including all changes, revisions and updates (PennDOT Pub. 408), Section 220
- Base Course, Superpave 25.0 mm, 4.5" minimum compacted depth, meeting PennDOT Pub. 408, Section 309
- Wearing Course, Superpave 9.5 mm, 2.5" minimum compacted depth, meeting PennDOT Pub. 408, Section 409

2. Gravel areas shall be restored according to the following requirements:

- No. 2A Course Aggregate, meeting PennDOT Pub. 408, Section 703

All backfilling of No. 2A Course Aggregate shall be placed in eight inch (8") loose lifts and compacted thoroughly. Compaction shall be achieved with a vibratory plate, jumping jack, or smooth drum roller.

3. Areas beyond the shoulder shall be restored according to the following requirements:

- Topsoil, 4" minimum depth, meeting PennDOT Pub. 408, Section 802
- Permanent Seed (Formula B), meeting PennDOT Pub. 408, Section 804 and straw mulch, meeting PennDOT Pub. 408, Section 805

C. The Township Road Master or Township Engineer may inspect/be present for all restoration activities.

D. No excavation shall extend from the edge of travelway into the street past the centerline before being completely backfilled and restored. One-way traffic must always be maintained. All traffic control shall be in accordance with PennDOT Pub. 408, Section 900.

Note: In certain instances, the Township Road Master may allow for the entire width of the street to be blocked off. This shall be determined at the time of Application submittal.

E. No more than fifty (50) feet longitudinally shall be opened at any time.

F. All excavations must be completely backfilled and restored at the end of each day.

G. Temporary paving utilizing "coldpatch premix" shall not be permitted.

Note: In certain instances, the Township Road Master may allow for the use of "coldpatch premix" placement if a detailed sequence of construction activities is provided with the Application submittal that explains when this temporary material will be entirely removed and replaced with the required permanent restoration materials. This shall be determined at the time of Application submittal.

H. All work shall be so conducted as to not interfere with any existing utility line. Should utility lines need to be impacted, either temporarily or permanently, by the proposed excavation it shall be the Applicant's responsibility to coordinate the work with the utility company.

I. All joints where newly placed bituminous material meets existing bituminous material shall be sealed with joint sealer in accordance with PennDOT Specifications, Publication 408, Sections 469 and 705.

J. Copies of all delivery slips of material utilized in the restoration of excavation areas shall be provided to the Township Secretary at the completion of the work.

K. For longitudinal excavations - if the saw cut limits extend greater than 2/3 the width of the lane of the township street, then the entire lane width shall be reconstructed.

L. For multiple transverse excavations - if the saw cut limits are within ten (10) feet of each other, then the entire existing bituminous pavement between the excavations shall be reconstructed.

M. All utility lines beneath township streets shall be installed within conduits meeting the American Society for Testing and Materials (ASTM) D1784 Standard Specification for Rigid Polyvinyl Chloride

(PVC) Compounds for Schedule 40 pipe, or a cast iron casing pipe, for ease of future removal and replacement.

N. Any existing roadside drainage conveyance facilities (swales or channels) which have been temporarily impacted within the limit of excavation shall be re-established upon the completion of the project by the Applicant.

O. Any existing pavement markings within the limits of excavation shall be replaced upon completion of the project by the Applicant.

P. Any signs, guide rail, fence or other item temporarily removed within the limits of excavation shall be replaced upon completion of the project by the Applicant.

Q. Blasting is not permitted.

Section 10. Tunneling Requirements.

A. The top of proposed conduit or casing pipe for tunneling shall be a minimum of three (3) feet below the existing surface.

B. If the conduit or casing pipe is thirty (30) inches or greater in diameter, any bored cylindrical space surrounding the conduit or casing pipe shall be filled with grout.

C. Jet or other nonmechanical boring methods are prohibited. The Applicant shall describe the proposed method of tunneling on the permit application. Water may be used under low pressure only to cool the drill bit and to facilitate removal of cuttings from the bore opening, if retrievable liquid is immediately removed from the boring pit.

Section 11. Defects in Work.

A. If within two (2) years after the restoration of the surface has been completed, defects appear from the work (i.e. settlement, cracking, etc.) by the Applicant, the Township shall notify the Applicant in writing that additional repairs are necessary. The Applicant shall have thirty (30) days to repair the areas noted.

1. If the Applicant fails to repair the areas noted within the designated time period, the Township shall perform the repairs and the Applicant will reimburse the Township for all costs incurred, plus twenty (20%) percent for administrative costs.

Section 12. Financial Security Required.

A. No person shall excavate any street without first giving to Towamensing Township financial security in the form of a bond with a trust or surety company acceptable to the Township, or a restrictive or escrow account in a federal or commonwealth chartered lending institution, in the sum determined by the Township Engineer during the permit application review process, conditioned for the faithful performance of the provisions of this Ordinance and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets.

B. A 10% contingency amount shall be added to the sum determined by the Township Engineer.

C. The financial security shall not be released to the Applicant until after the Township inspection is performed two (2) years following the completion of the work.

Section 13. Payment for Work Done by Towamensing Township. Payment for all work done by Towamensing Township under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within thirty (30) days after a bill therefor is sent to such person Towamensing Township. Upon failure to pay such charges within such time, the same shall be collectible by Towamensing Township by an action in assumpsit or in the manner provided by law for the collection of municipal claims.

Section 14. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1000.00); and in default of payment, to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

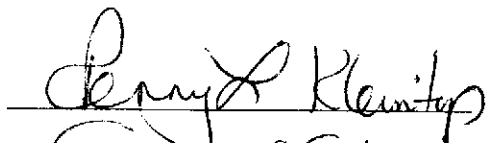
Section 15. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

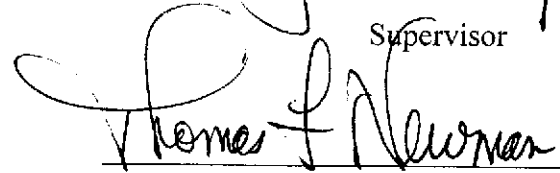
Section 16. Severability. If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, legality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of Towamensing Township that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

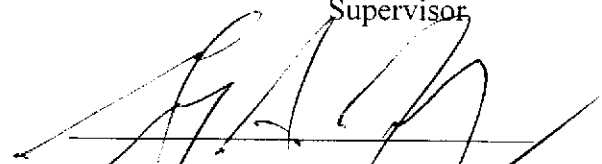
Section 17. Effective Date. This ordinance shall become effective five (5) days from the date of adoption.

ENACTED and ORDAINED this 4th day of February, 2016.

BOARD OF SUPERVISORS OF
TOWAMENSING TOWNSHIP


Supervisor


Supervisor


Supervisor

ATTEST:



Brenda Drew, Secretary