

**BOROUGH OF PATTERSON HEIGHTS,
BEAVER COUNTY, PENNSYLVANIA
ORDINANCE NO. 270**

**AN ORDINANCE OF THE BOROUGH OF PATTERSON
HEIGHTS, BEAVER COUNTY, PENNSYLVANIA, AMENDING
PREVIOUS STREET OPENING ORDINANCE NO. 161 OF THE
BOROUGH OF PATTERSON HEIGHTS.**

WHEREAS, the Municipal Code of Ordinances authorizes the Borough of Patterson Heights to regulate street openings and excavations, and

WHEREAS, the the Council of the Borough of Patterson Heights desires to amend Ordinance No. 161 of the Borough of Patterson Heights, to further clarify and define same, in order to protect the public health, safety, and welfare of the Borough of Patterson Heights.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Council of the Borough of Patterson Heights, and it is thereby ordained and enacted by and with the authority of the same that:

SECTION 1. The Borough of Patterson Heights Ordinance No. 161 is amended as follows:

Section 1: Definitions

The following words, when used in this article, shall have the meaning ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

APPLICANT

Any person who makes application for a permit.

EMERGENCY

Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

NEW IMPROVED STREET

Newly constructed cartways, including base and surfacing of either concrete or asphalt and reconstructed cartways surfaced with at least 1 1/4 inch top of asphalt. It shall be the prerogative of the Public Works Director/Roadmaster to define the category of "newly improved street" and advise the proper utility companies of this designation.

PERMITTEE

Any person who has been issued a permit and has agreed to fulfill all the terms of this article.

PUBLIC UTILITY COMPANY

Any cable television company or any company subject to the jurisdiction of and control by the Pennsylvania Public Utility Commission.

STREET

A public street, public easement, right-of-way, public highway, public alley, public sidewalk, public way or public road accepted or maintained by the municipality or open for travel and use by the public, whether or not so accepted or maintained, including the entire area within the right-of-way thereof

Section 2. Permit required; emergency circumstances.

- A. It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface of any street without first securing a permit from the Borough of Patterson Heights for each separate undertaking.
- B. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided that the permit could not have reasonably and practically been obtained beforehand. In such cases where emergency openings are necessary the Borough of Patterson Heights shall be notified prior to such openings by either fax or telephone. The person shall thereafter apply for a permit on the first regular business day on which the Borough of Patterson Heights office is open for business, and said permit shall be retroactive to the date when the work was begun.

Section 3. Adherence to terms of permit.

No permittee shall perform any of the work authorized by such permit in any amount greater than that specified in such permit, except that where the permittee desires to perform additional work not in excess of an amount greater than 10% of the amount specified in such permit, the permittee may apply to the Borough of Patterson Heights for an amended permit to permit the additional work. If additional work desired to be performed by the permittee exceeds 10% of the amount specified in the original permit, an application for a new permit shall be deemed to cover any such additional work as may be added pursuant to the issuance of an amended permit within the limit specified herein.

Section 4. Time frame for commencement of work.

Work for which a permit has been issued shall commence within 30 days after the issuance of the permit thereof. If not so commenced, the permit shall be terminated automatically unless the permittee applies for an extension of time within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension. Permits which terminate by reason of failure to commence work within 30 days after issuance thereof or within any extension of time granted hereunder may be renewed only upon the payment of an additional permit fee as originally required.

Section 5. Permits nontransferable.

Permits are not transferable from one person to another, and the work shall not be performed in any place other than the location specifically designated in the permit.

Section 6. Expiration of permits.

Every permit shall expire after 60 days from issuance date. If the permittee shall be unable to complete the work within the specified time, he or she shall, prior to expiration of the permit, present, in writing, to the Borough of Patterson Heights a request for an extension of time setting forth therein the reasons for the requested extension. If the Borough of Patterson Heights finds that the failure to complete the work under the permit within the time specified therein was due to circumstances reasonably beyond the control of the permittee and that an extension of time to complete the work under the permit is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

Section 7. Cuts made by municipal utilities.

All street openings required by utilities owned and/or operated by the Borough of Patterson Heights shall be made and restored under the direction and supervision of the Municipal Engineer. The permit, fee, deposit, insurance and bond requirements of this article shall not be applicable to any openings made by municipally owned and/or operated facilities.

Section 8. State and county highways.

The provisions of this article shall not be applicable in those instances where the street or highway is maintained by the Commonwealth of Pennsylvania or by the County of Beaver; provided, however, that any person applying for a permit to do work within the right-of-way of a street or highway maintained by the Commonwealth of Pennsylvania or by the County of Beaver which would otherwise require a permit under the terms of this article shall notify the Borough of Patterson Heights at the time that said application is made and at the time that the work under any permit issued pursuant to said application is begun, so that proper safety precautions may be taken by the Borough of Patterson Heights during the continuation of said work.

Section 9. Right to use streets.

Every permit shall be granted subject to the right of the Borough of Patterson Heights, or of any other person entitled thereto, to use the street for any purpose for which such street may lawfully be used not inconsistent with the permit.

Section 10. Revocation of permit.

- A. Any permit may be revoked by the Borough of Patterson Heights, after written notice to the permittee, for:
 - 1. Violation of any condition of the permit or of any provision of this article.

2. Violation of any other applicable provision of the Borough of Patterson Heights Code or any other applicable ordinance, regulation or statute.
 3. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
- B. A permittee shall be granted a period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
 - C. Written notice of any such violation or condition shall be served upon the permittee or his or her agent engaged in the work. The notice shall contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be notified.
 - D. When any permit has been revoked and the work authorized by the permit has not been completed, the Borough of Patterson Heights shall do or cause to be done such works as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Borough of Patterson Heights shall be recovered from the deposit or bond of the permittee has made or filed with the Borough of Patterson Heights.

Section 11. Duties and responsibilities of applicant.

It shall be the duty and responsibility of any applicant to:

- A. Make written application for such permit with the Borough of Patterson Heights on such form as he or she shall prescribe. No work shall commence until the Borough of Patterson Heights has approved the application and plan and issued a permit, and until the permittee has paid and provided all required fees, deposits, certificates and bonds.
- B. Furnish, in triplicate, a plan showing the work to be performed under said permit. Two copies of such plan shall be returned to the applicant at the time the permit is granted.
- C. Agree to save the Borough of Patterson Heights, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit. The acceptance of a permit shall constitute such an agreement by the applicant whether the same is expressed or not.

Section 12. Duties and responsibilities of permittee; fees.

It shall be the duty and responsibility of any person receiving a permit to:

- A. Pay a permit fee in an amount established by resolution of the Council of the Borough of Patterson Heights; provided, however, that public utility companies may elect to

be billed monthly for such fees as they accrue, upon written notice to the Borough.

- B. Make a deposit to cover any additional costs borne by the Borough of Patterson Heights specifically related to the work authorized by the permit and, unless the permittee is granted permission to restore the street surface, the cost of restoring the street surface removed or damaged by the work done under such permit. The amount of such deposit shall be computed by the Borough of Patterson Heights of this article. In the case of public utility companies, the Borough of Patterson Heights may waive the requirement of a deposit if said utility companies file with the Borough of Patterson Heights their corporate bond in a form satisfactory to the Municipal Solicitor, conditioned upon the payment to the Borough of Patterson Heights of all costs which would otherwise be covered by and paid out of such a deposit. In the event that such utility companies elect to file such a bond, the Borough of Patterson Heights shall bill such utility companies monthly for such costs as they accrue.

Section 13. Regulations for openings and excavations.

- A. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
- B. No more than 250 feet measured longitudinally shall be opened in any street at any one time, except by special permission of the Borough of Patterson Heights.
- C. All utility facilities shall be exposed sufficiently or their definite location shall be determined ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- D. Pipe drains, pipe culverts or other facilities encountered shall be protected by the permittee.
- E. Any person whose facilities are damaged or caused to be relocated by the permittee shall notify the permittee and the Borough of Patterson Heights of such damage and thereafter may make the necessary repairs or relocation and file a claim against the permittee with the Borough of Patterson Heights for the costs of such repairs or relocation. Public utility companies concerned shall be notified by the Borough of Patterson Heights in sufficient time to determine the validity of the damage or relocation claims. The cost of such repair work or relocation work may be withheld by the Borough of Patterson Heights from the deposit pending determination of liability for the damage.
- F. Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point of a permanent survey bench mark within the Borough of Patterson Heights shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained, in writing, from the Borough of Patterson Heights. Permission shall be granted only upon the condition that the permittee shall pay all expenses incident to the proper replacement of the monument.

- G. When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage.
- H. When any earth, gravel or other excavated material is caused to flow, roll or wash upon any street, the permittee shall cause removal of the same from the street within eight hours after deposit to permit safe flow of traffic. In the event that the earth, gravel or other excavated material so deposited is not removed as specified, the Borough of Patterson Heights shall cause such removal, and the cost incurred shall be paid by the permittee or deducted from his or her deposit.
- I. Every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Borough of Patterson Heights to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Borough of Patterson Heights and, where applicable, shall be in conformance with the requirements set forth in PennDoT 67 Pa. Code §203.1 et seq., as amended, dealing with work-zone traffic control. Copies of the publication shall be made available in the office of the Borough of Patterson Heights for inspection by the public.
1. Whenever any person fails to provide or maintain the required safety devices, such devices shall be installed and maintained by the Borough of Patterson Heights. The amount of the cost incurred shall be paid by the permittee or deducted from his or her deposit.
 2. No person shall willfully move, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this section.
- J. Access to private driveways shall be provided except during working hours when construction operations prohibit provisions of such access. Free access must be provided at all times to fire hydrants.
- K. Excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate dirt or dust nuisance, the Borough of Patterson Heights may require the permittee to provide toe boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the Borough of Patterson Heights. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the permittee shall keep a passageway at least $\frac{1}{2}$ the sidewalk width open along the sidewalk line.
- L. Work authorized to be performed by a permittee shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the permittee obtains written consent from the Borough of Patterson Heights to do the work at an earlier or later hour. Such permission shall be granted only in the case of an

emergency or in the event that the work authorized by the permit is to be performed in traffic-congested areas.

M. In granting any permit, the Borough of Patterson Heights may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to:

1. Limitations on the period of the year in which the work may be performed.
2. Restrictions as to the size, weight and type of equipment.
3. Designation of routes upon which materials may be transported.
4. Designation of the place and manner of disposal of excavated materials.
5. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof.
6. Regulations as to the use of streets in the course of the work.

N. Hydra-hammer, headache ball. The use of a mechanical device for the breaking of pavement, such as a hydra-hammer, headache ball, etc., will be permitted only under special written permission of the Borough of Patterson Heights.

Section 14. Backfilling and restoration.

A. All pavement cuts, openings, and excavations shall be made properly and backfilled properly by the permittee according to Borough of Patterson Heights specifications, including but not limited to the details attached hereto and incorporated herein at the appendix to this chapter. Unless the permittee has been granted permission to restore the street surface, as provided in Subsection D, the permittee also shall place a temporary surface on the pavement cut, opening or excavation in accordance with municipal specification. If the permittee had been granted permission to restore the street surface, but weather conditions are such as to prevent the completion of permanent restorations of the street surface at the time backfilling is completed, the permittee shall install a temporary surface in accordance with municipal specifications until such time as weather conditions will permit permanent restoration of the street surface.

- B. The Borough of Patterson Heights shall be notified by the permittee 48 hours in advance of backfilling and restoration. Such notice shall provide the approximate time each will begin.
- C. No backfilling or restoration shall be accomplished unless or until the Municipal Engineer is present or permission has been granted for backfilling or restoration after inspection by the Municipal Engineer.
- D. The work of final restoration, including both paving surface and paving base, shall be performed directly by the Borough of Patterson Heights under the supervision of the Municipal Engineer; provided, however, that upon a public utility company's application for permission to perform the work or restoration, the Borough of Patterson Heights may grant permission to such public utility company to perform the work or restoration. In those cases, where such permission is granted, the work of restoration, including both paving surface and paving base, shall be performed by the permittee according to municipal specifications and shall be subject to inspection by the Municipal Engineer.
- E. If the Municipal Engineer finds that paving surfaces adjacent to the street openings may be damaged where trenches are made parallel to the street or where a number of cross trenches are laid in proximity to one another or where the equipment used may cause such damage, he or she may require negotiated contribution from the permittee for the resurfacing in place of patching of such street if the total area of the proposed patch or damaged area exceeds 25% of the total pavement surfacing between curb faces or between concrete gutter edges. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
- F. After excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence. Unless the provisions of Subsection A of this section apply, the permittee is required to complete permanent restoration of the street surface in accordance with municipal specifications within seven days after repairs and/or installation are completed. Furthermore, the permittee shall be required to install and maintain a temporary surface in accordance with municipal specification during:
 - 1. The period between the completion of repairs and/or installation and the commencement of final restoration; and
 - 2. The periods during the actual work when workers do not require access to the excavation.
- G. Inspections of all work authorized by a permit shall be made by the Municipal Engineer at such times and in such manner as required to assure compliance with provisions of the article. If the nature of the work to be performed under any permit is such as to require the services of a full-time inspector, the Municipal Engineer shall provide of the services of such inspector.

- H. All costs of inspection shall be borne by the permittee. Such costs shall be based upon a schedule of charges on file in the office of the Borough of Patterson Heights.
- I. Upon completion of all work accomplished under the provisions of a permit, the permittee shall notify the Borough of Patterson Heights, in writing. A certificate of final inspection shall be issued by the Municipal Engineer to each permittee no sooner than one year and not later than 18 months after the permanent restoration of the excavation has been made, provided that the work authorized by the permit has been performed according to municipal specifications. Prior to the issuance of a certificate, the Municipal Engineer shall make a final inspection of the restoration to determine whether municipal specifications have been adhered to and/or whether the restoration work was otherwise adequately and properly performed.
- J. If any settlement in a restored area occurs within a period of two years from the date of completion of the permanent restoration and the permittee fails to make such correction after notification, any expense incurred by the Borough in correcting such settlement shall be paid by the permittee or recovered from his or her bond, unless the permittee submits proof, satisfactory to the Borough of Patterson Heights, that the settlement was not due to defective backfilling.
- K. In no case shall any opening made by a permittee be considered in the charge or care of the Borough of Patterson Heights or any of its officers or employees, and no officer or employee of the Borough of Patterson Heights, or its agents, is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power when it is necessary to protect life and property; provided, however, that the Borough of Patterson Heights assumes charge when making final surface restoration, unless the permittee has been granted permission to perform the work or restoration of the street surface as provided in Subsection **D**.

Section 15. Restoration Guarantee.

- A. Computation of Guarantee. The Borough of Patterson Heights, upon receipt of a properly completed application, shall determine the amount of the guarantee to be made by the permittee in accordance with the schedule of charges established pursuant to Subsection **E** of this section. The guarantee shall be paid at the time the permit is issued, and the guarantee shall be used to reimburse the Borough of Patterson Heights for the cost of any work and/or materials furnished by it in connection with work authorized by the permit, to cover the cost of all necessary inspections of said work or any other expenses incurred by the Borough of Patterson Heights in carrying out the provisions of this article. In the case of a public utility company, the requirement of such guarantee may be waived if such public utility company files with the Borough of Patterson Heights its corporate bond.
- B. Form of Guarantee. The guarantee may be either in the form of a certified, treasurer's or cashier's check or in lawful money of the United States.

- C. Insufficient deposit. If any guarantee is less than sufficient to pay all costs, the permittee shall, upon demand, pay to the Borough of Patterson Heights an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the Borough of Patterson Heights may institute an action to recover the same in any court or competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.
- D. Yearly Guarantee. Whenever any public utility company shall anticipate applying for permits for more than one street opening or excavation per calendar year and does not elect to file a corporate bond as hereinbefore provided, such public utility company may post one guarantee in an amount and form as hereinbefore provided for the calendar year or part of thereof to cover the cost of guarantees which would otherwise be required for the anticipated permits.
- E. Guarantee and Fee schedules. The Borough of Patterson Heights shall establish a schedule of charges for inspections, labor, materials and other such expenses as may be incurred by the Borough in carrying out the provisions of this article. This schedule shall be established by the Borough of Patterson Heights in accordance with the reasonably anticipated costs to be incurred by the Borough of Patterson Heights, making such inspections, including reasonable administrative and overhead expenses, and in accordance with the currently prevailing costs in the area for any labor and materials which may be provided by the Borough of Patterson Heights. The Borough of Patterson Heights shall revise said schedule from time to time to reflect any increase or decrease in the costs used to establish said charges. The schedule shall be open to public inspection in the Borough of Patterson Heights Administrative office.
- F. Decision on costs. The decision of the Borough of Patterson Heights as to the cost of any work done or repairs made by the Borough of Patterson Heights, pursuant to the provisions of this article, shall be final and conclusive as to such cost, subject to such rights of appeal as may exist by statute.
- G. Refund of guarantee. Upon notification by the permittee that all work authorized by the permit has been completed, and after restoration of the opening, the Borough of Patterson Heights shall refund to the permittee his or her deposit, less all cost incurred by the Borough of Patterson Heights in connection with said permit. In no event shall the permit fee be refunded.

Section 16. Bond requirements.

- A. Performance Bond where Borough does not restore opening. In those instances where the applicant has received or intends to apply for permission to perform the work of restoration of the street surface, each such applicant or permittee, upon receipt of a permit, shall provide the Borough of Patterson Heights with financial security, in a form acceptable to the Municipal Solicitor, to guarantee faithful performance of work authorized by a permit granted pursuant to this article. The amount of the financial security shall be 100% of the estimated cost of restoring the street opening. The term of

the financial security shall begin upon the date of posting thereof and shall terminate upon the receipt by the permittee of a certificate of final inspection from the Borough of Patterson Heights. If the permittee anticipates requesting more than one permit per year, as required by this article, permittee may furnish a single financial security to guarantee faithful performance in such amount as the Borough of Patterson Heights deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. In the case of a public utility company, its corporate bond, in a form satisfactory to the Municipal Solicitor, may be accepted in lieu of the corporate surety bond required by this section.

- B. Maintenance bond. Each applicant, upon the receipt of a permit, shall provide the Borough of Patterson Heights with financial security, in a form acceptable to the Municipal Solicitor, to guarantee the maintenance of the work authorized by a permit granted pursuant to this article, as well as compliance with the street opening specifications of the Borough of Patterson Heights and the provisions of this article. The Borough of Patterson Heights shall determine the amount of the bond, and it shall be in relation to the cost of restoring the pavement cuts to be made by the permittee; provided, however, that the minimum amount of the bond shall not be less than \$2,000. The term of each bond shall begin from the completion date of permanent restoration of the opening by the Borough of Patterson Heights and shall terminate upon the receipt by the permittee of a certificate of final inspection from the Municipal Engineer. If the permittee anticipates requesting more than one permit a year, he or she may file a single financial security to guarantee maintenance of the work authorized by a permit granted under this article, as well as compliance with the specifications of the Borough of Patterson Heights and the provisions of this article, in such amount as the Borough of Patterson Heights deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. In the case of a public utility company, its corporate bond, in a form satisfactory to the Municipal Solicitor, may be accepted in lieu of the corporate surety bond required by this section.
- C. Default in performance. Whenever the Borough of Patterson Heights shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Borough of Patterson Heights to be reasonably necessary for the completion of such work.
- D. Completion of work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough of Patterson Heights for the cost of doing the work as set forth in the notice.

Section 17. Liability insurance.

Each applicant, upon the receipt of a permit and prior to performing work under the permit, shall procure and maintain adequate insurance in an amount of at least \$2,000,000 to protect it from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or be related to the performance of work under the permit,

whether such performance is by the applicant or the applicant's subcontractor or anyone directly or indirectly employed by the applicant. Such insurance shall cover collapse, explosive hazards, underground work and work by equipment on the street and shall not include protection against liability arising from completed operations. The specific amount of the insurance shall be prescribed by the Borough of Patterson Heights in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall be in an amount not less than \$250,000 for each person and \$500,000 for each accident, and for property damage in an amount not less than \$100,000 with an aggregate of \$300,000 for all accidents. A certificate of insurance, in the amount required by this action and in a form acceptable to the Municipal Solicitor, shall be filed with the Borough of Patterson Heights prior to commencement of work under the permit. This certificate of insurance shall also state that the Borough of Patterson Heights shall be given written notice at least 60 days prior to cancellation of such insurance. The Borough of Patterson Heights shall be listed as an additional insured and/or loss payee on all policies of insurance described in this section. Public utility companies and authorities may be relieved of the obligation of submitting such a certificate if they submit satisfactory evidence, in a form acceptable to the Municipal Solicitor, that they are insured in accordance with the requirements of this article or have adequate provision for self insurance. Public utility companies may file an annual certificate of insurance in lieu of individual certificates for each permit.

Section 18. Openings in new streets.

- A. Notice of proposed improvement. When the Borough of Patterson Heights shall improve or pave any street, the Borough of Patterson Heights first shall give notice to all persons owning property abutting on the street about to be paved or improved and to all public utility companies and authorities operating in the Borough of Patterson Heights, and all such persons, public utility companies and authorities operating in the Borough of Patterson Heights, and all such persons, public utility companies and authorities shall make all connections, as well as any repairs thereto, which would necessitate excavation of the street, within 30 days from the giving of such notice. The time shall be extended if permission is requested, in writing, and approved by the Borough of Patterson Heights after consultation with the Municipal Engineer.
- B. Restriction upon opening newly improved street. No permit shall be issued by the Borough of Patterson Heights which would allow an excavation or opening in a paved and improved street surface less than five years old unless the applicant can demonstrate clearly that public health or safety requires that the proposed work be permitted. Or unless an emergency condition exists, or unless approved by Borough of Patterson Heights governing body subject to the applicant's compliance with Subsection C hereof.
- C. Requirements for opening newly improved street. If by special action of the Borough of Patterson Heights governing body, a permit is issued to open any paved and improved street surface less than five years old, then the applicant for such permit shall improve the opening and/or excavation for the entire distance from curb to curb of the subject street and otherwise comply with the Borough of Patterson Heights Construction and Design Specifications, attached hereto and incorporated herein at the appendix to this chapter, in a manner acceptable to the Municipal Engineer.

These requirements may be waived by action of the Borough of Patterson Heights governing body.

Section 19. List of facilities beneath streets to be furnished to Borough of Patterson Heights.

- A. Every person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Borough of Patterson Heights or to or from premises of its inhabitants or for any other purposes shall file with the Borough of Patterson Heights, within 120 days after the adoption of this article, a written statement containing the names of the Borough of Patterson Heights streets wherein the aforementioned facilities owned by such person are located.
- B. Within 90 days after the first day of January of each and every year, such person shall notify, in writing, the Borough of Patterson Heights of the changes necessary to maintain the street list required under Subsection A. above.

Section 20. Abandoned facilities.

- A. Whenever any pipe, conduit, duct, tunnel or other structure located under the surface of any street is abandoned or the use thereof is abandoned, the person owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the Borough of Patterson Heights a statement, in writing, giving detail the location of the structure so abandoned. Whenever there are manholes or tunnels associated with any abandoned underground facilities, such manholes or tunnels shall be filled in at the time of abandonment and the Borough of Patterson Heights notified thereof in writing.
- B. When the Borough of Patterson Heights plans to pave or improve streets in which there are abandoned facilities, the owner of such facilities shall be notified to remove them if, in the opinion of the Borough of Patterson Heights and Municipal Engineer, their removal is in the best interest of the Borough of Patterson Heights. If the owner shall refuse to remove such abandoned facilities, the Borough of Patterson Heights shall remove the abandoned facilities and the owner shall reimburse the Borough of Patterson Heights for removal.

Section 21. Notice to abutting owners and tenants.

- A. If the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project, the Borough may require the permittee to submit a list of owners and/or tenants and/or addresses of all properties abutting the area where the work authorized by the permit is to be performed. Upon receipt of such list, the Borough of Patterson Heights shall notify the affected property owners and/or tenants of the proposed work to be done.
- B. If the work to be undertaken by a permittee will affect other subsurface installation(s) in the vicinity of the proposed opening, the Borough of Patterson Heights shall notify the owner(s) of such facilities of the proposed work.

Section 22. Notice to police and fire authorities.

The Borough of Patterson Heights shall notify, in writing, municipal police and fire authorities of all street opening permits he or she grants of a nature that would require a street being closed. Such notification shall state the nature of the work to be done, the proposed beginning and completion dates and the location of such project.

Section 23. Violations and penalties.

- A. Any person, firm or corporation who violates a provision of this article or who fails to comply therewith, or with any of the requirements thereof, shall be upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- B. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this article found to have been violated. All fines and penalties for the violation of this article shall be paid to the Municipal Treasurer.
- C. The Borough of Patterson Heights may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this article.

All prior ordinances are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION III: This Ordinance shall take effect in accordance with applicable law.

ORDAINED and **ENACTED** this _____ day of _____, 2014 by the Council of the Borough of Patterson Heights, in lawful session duly

ATTEST:

(MUNICIPALITY)

Municipal Secretary

President

EXAMINED and **APPROVED** this _____ day of _____, 2014.

Mayor