

ORDINANCE NO. 79-2 - STREET OPENINGS

An Ordinance regulating the making of openings and excavations in the streets in the Borough of Hop Bottom, and the protection, refilling, resurfacing and repaving of the same and providing penalties for violation.

The Borough of Hop Bottom hereby ordains as follows:

SECTION 1. 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:

(a) The word "street" shall mean any public street, avenue, road, square, alley, highway or other public place located in the Borough of Hop Bottom and established for the use of vehicles.

(b) The word "person" shall mean and include any natural person, partnership, firm, association or corporation.

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

SECTION 2. It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Borough of Hop Bottom without first securing a permit therefor, as hereinafter provided.

SECTION 3. Any person who shall desire to make any opening or excavation in any of the streets in the Borough of Hop Bottom shall make application to the Borough Secretary in writing for the purpose. Such application shall be made upon blanks to be furnished by the Borough and 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 the Borough and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend, and keep harmless the Borough 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.

SECTION 4. Before any permit shall be issued to open or excavate any street in the Borough, the applicant shall pay to the Borough Secretary a permit fee in the minimum amount of twenty-five dollars (\$25.00) to cover the cost of inspection and other incidental services in connection therewith. When application shall be made to open or excavate longitudinal opening or excavation in excess of ten (10) feet, before any permit shall be issued so to open or excavate, the applicant shall pay, in addition to such minimum fee, an additional fee at the rate of fifty (\$50.) dollars for each one hundred (100) feet or fraction thereof to be opened or excavated upon such street.

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SECTION 5. Any person who shall open or excavate any improved street in the Borough shall thoroughly and completely refill the opening or excavation, puddling and robbing so as to prevent any settling thereafter; and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Highways of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Borough of restoration of surfaces of streets in the Borough; as restored, the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within two (2) years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Borough for the cost of all necessary repairs to the permanent paving.

SECTION 6. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by the applicant at his expense, and all such work shall be subject to the provisions of this Ordinance and to the supervision and approval of such person as designated by the Borough Council, provided such person as designated by the Borough Council may require that cutting of the surface of improved streets and the back-filling of all excavations therein shall be done by the Borough, and the charge therefor shall be paid by the applicant on the basis of actual cost of the work plus twenty per centum (20%).

SECTION 7.

- (a) No opening or excavation in any street shall extend from the curb line into the highway a distance greater than one (1) foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
- (b) No more than five hundred (500) feet longitudinally shall be opened in any street at any one time.
- (c) The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, 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.
- (d) No tunneling shall be allowed without the express approval of the Borough Secretary and permission therefor endorsed upon the permit. The back-filling of a tunnel excavation shall be made only in the presence of such person as designated by the Borough Council, and shall be done only in a method approved by him.
- (e) All openings or excavations shall be backfilled promptly with suitable materials and thoroughly compacted in layers, each of which shall not exceed six (6) inches in depth. On improved streets, the backfilling shall be placed to within ten (10) inches of the surface.

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SECTION 7. (continued)

(f) On improved streets, a temporary paving of suitable stony materials, thoroughly bound and compacted shall be installed flush with the surface of the adjoining paving, paving.

(g) During the making of any excavation in any street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.

(h) The applicant shall notify such person as designated by the Borough Council when the opening or excavation is ready for backfilling before any backfilling is done, and when the work is completed by proper backfilling in the case of unimproved streets and by temporary paving in the case of improved streets.

(j) In the event that any work performed by or for a permit holder shall, in the opinion of such person as designated by the Borough Council, be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed with the time fixed by such person as designated by the Borough Council, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof plus 20%, to the applicant.

SECTION 8. In the case of any leak, explosion or other accident in any sub-surface 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 such 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. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction or apparatus, such person as designated by the Borough Council, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus 20% to such owner or person.

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SECTION 9. The Borough Secretary shall give timely notice to all persons owning property abutting on any street with the Borough about to be paved or improved, and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within thirty (30) days from the giving of such notice, unless time is extending in writing for cause shown by the Borough Secretary. New paving shall not be opened for a period of five (5) years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening of such paving to be determined by such person designated by the Borough Council. If it is sought to excavate upon or open a street within five (5) years after the completion of the paving thereof for any other reason than an emergency as above stated, the applicant shall make written application to the Borough Council, and a permit for such opening shall only be issued after express approval of Council.

SECTION 10. No new water or gas main shall hereafter be laid or constructed and no existing water or gas main shall be extended in any of the streets of the Borough until the exact location thereto and the plan therefor shall have been first approved by the Borough Council.

SECTION 11. Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefore ~~under the~~ provisions hereof within thirty (30) days after a bill therefor is sent to such person by the Borough. Upon failure to pay such charges with such time, the same shall be collectible by the Borough in the manner provided by law for the collection of municipal claims.

SECTION 12. Any person, whether as principal, agent or employee violating or assisting in the violation of any of the provisions of this ordinance, shall, upon conviction thereof before the District Magistrate, pay a fine of not less than one hundred dollars (\$100), and in default of the payment of such fine and costs of prosecution, shall be imprisoned for not more than thirty (30) days.

SECTION 13. The provisions of this ordinance shall not apply to laying sidewalks or curbs or to the planting of poles.

SECTION 14. The provisions of this ordinance shall be severable, and if any provision thereof shall be declared unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as a legislative intent of the Borough Council that this Ordinance would have been enacted had such unconstitutional, illegal, or invalid provision not been included, herein.

Adopted this 6th day of March, 1979.

Attest: K. L. Whaite
Secretary.

Thomas A. Nulton Jr. President of Council

Approved this 6th day of March, 1979.

Gerald Zablotzky Mayor.