

TOWNSHIP OF TINICUM, DELAWARE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2014 - 867

AN ORDINANCE OF THE TOWNSHIP OF TINICUM, DELAWARE COUNTY, PENNSYLVANIA VACATING, AMENDING AND SUPPLEMENTING CHAPTER 48, STREETS AND SIDEWALKS, ARTICLE V, STREET OPENINGS, PROVIDING NO PUBLIC STREETS OF THE TOWNSHIP BE OPENED, CUT, EXCAVATED OR OCCUPIED BY ANY PERSON, FIRM, CORPORATION OR UTILITY WITHOUT FIRST SECURING A PERMIT, ESTABLISHING REGULATIONS FOR SAID OPENINGS, CUTS, BORINGS AND EXCAVATIONS IN PUBLIC STREETS AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

BE IT ORDAINED AND ENACTED by the Township of Tinicum, County of Delaware, Commonwealth of Pennsylvania, that the Code of the Township of Tinicum Chapter 48, is hereby vacated, amended and supplemented as follows:

WHEREAS, it is the intent of the Commissioners of Tinicum Township that in order to protect the health, safety and welfare of the general community, the opening of roads, roadways or streets be regulated by permit.

NOW, THEREFORE, be it ORDAINED AND ENACTED by the Commissioners of the Township of Tinicum, County of Delaware, Commonwealth of Pennsylvania that the Code of the Township of Tinicum Chapter 48 is hereby vacated, amended and supplemented as follows:

§48-29 Permit Required

No Township Street, Avenue, Road, Alley, Highway or other Township Real Estate located within the Township, including the Public Right-of-Way, may be opened, cut, bored, excavated or occupied unless in accordance with a permit and the procedures granted by the Township for that purpose.

§48-30 Application for Permit; Fee.

The application for permit shall be on a form prescribed by the Township and submitted to the Township no later than twenty-one (21) days prior to the requested street opening date. The application shall be accompanied by a fee in accordance with

the schedule of fees as established from time to time by Resolution of the Township. In addition, the Applicant shall submit three (3) copies of plans showing such dimensions as the size and location of the intended utility/facility, width of the traveled roadway, right-of-way lines and dimensions to the nearest intersecting street.

§48-31 Issuance of Permit.

The permit application shall be approved or denied within thirty (30) calendar days of submission. Said permit shall be issued by the Township upon review of the application by the Township's Engineer based on the complexity of the work to be performed after all the aforementioned requirements have been filed. Should the application and required documents not conform to the requirements of the Ordinance, the Township shall either issue a correction notice listing the deficiencies that must be corrected, or deny the permit application in writing stating the reasons. If the Township is satisfied that the work conforms to the aforesaid requirements, the permit shall be issued and it shall be valid for sixty (60) days from the date of issuance.

§48-32 Notification of PA One-Call

At least three (3) days prior to the proposed start of work, the Applicant or his representative shall contact the Pennsylvania One Call System at 1-800-242-1776, report the proposed work, and obtain a serial number, and provide such serial number to the Township. No work shall begin until such date and time as authorized by Pennsylvania One Call. When feasible the Applicant should include a PA One Call serial number on the permit application, such number can be obtained in the design process.

§48-33 Establishment of Regulations

This Section shall be known as the "Tinicum Township Pavement Opening Specifications".

A. Definitions.

The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.

Adjacent Area – The area surrounding the immediate area of the permitted work which can reasonably be assumed to have been affected by the permitted work.

Applicant – The person or entity filing an application under this article for a permit. Once a permit has been issued, the applicant, or his assignee if the assignment of the permit shall have been approved by the Township Manager or the Township's Engineer or their designee, shall be deemed the "permittee".

Backfill – Material used to replace excavated soils or other materials, or the act of replacing material that has been removed during construction.

Base Course – The layer or layers of specified or selected material of designed thickness placed on a subbase or a subgrade to support a surface course.

Bridge – A structure, including supports, erected over a depression or an obstruction, such as water, a street or railway, and having a track or passageway for carrying traffic or other moving loads and having an opening measured along the center of the cartway of more than twenty (20) feet between supports.

Cartway – That portion of a street improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder.

Clear Roadside Area – The portions of right-of way beyond the pavement edge within which no existing obstructions are located.

Code Enforcement Officer – A person employed or appointed by the Township to administer and enforce the adopted Ordinances of the Township.

Culvert – Any structure under the cartway with an opening of twenty (20) feet or less measured along the center of the cartway.

Design Manual, Part 5 – A publication containing PennDOT's utility relocation and accommodation policies, including any amendment thereto and any substitution or replacement thereof.

Facility – Shall mean and include all privately, publicly or cooperatively owned lines and systems for producing, transmitting or distributing communications, electricity, heat, gas, oil, crude products, water, steam, waste and other similar commodities which directly or indirectly serve the public and all appurtenances and attachments thereto.

Improved Area – The area within the right-of-way which has been constructed for street purposes, including roadbed, pavement, shoulders, slope, sidewalks, drainage facilities and any other appurtenances.

Inspector – The Township’s authorized representative assigned to inspect permit operations.

Pavement – The combination of subbase, base course, binder course and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

PennDOT – The Pennsylvania Department of transportation.

Permit – A street occupancy permit issued by the Township pursuant to this Article.

Permittee – See definition of “Applicant” above.

Person – Any natural person, firm, co-partnership, association, corporation or political subdivision.

Plowing – Placing utility cables underground by means of a plow mechanism.

Publication 408 – A publication containing PennDOT’s highway construction specifications, including any amendment thereto and any substitution or replacement thereof.

Right-of-Way – The area between the right-of-way lines of a street.

Township – Township of Tinicum, Delaware County, Pennsylvania.

Township Engineer – A civil engineer who is registered as a professional engineer in the Commonwealth of Pennsylvania and is employed, contracted or appointed by the Township.

Township Street – A street under the jurisdiction of the Township.

Township Commissioners – The Board of Commissioners of Tinicum Township, Delaware County, Pennsylvania.

Utility – A person owning a utility facility, including any wholly-owned or controlled subsidiary, and including any plumber or any other contractor hired or engaged by the owners.

B. Insurances, Bonding and Inspection Fees

1. Prior to start of work, the Applicant shall furnish a certificate of insurance naming the Township as an additional insured, with coverage pursuant to the requirements noted herein.
2. Deposit and bonding. Except for entities operating under a franchise agreement covering an area in whole or in part within the Township, the application shall be accompanied by a cash deposit or bond with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania in double the amount needed, in the judgment of the Township, to cover the cost of temporary and permanent restoration and to cover the cost of all inspections made by the Township within the improved area of the right-of-way of the street resulting from the permitted work in the event that the Township is required to make said restoration. The Township may, at its option, permit the applicant to make said restorations, but a deposit or bond in double the amount shall nevertheless accompany the application as a guaranty that said restorations will be made. In either event, the amount of the deposit or bond shall be established by the Township, and the minimum deposit amount shall be Five Hundred (\$500.00) Dollars.
3. Bonding of public utilities.
 - a. Public utility corporations operating under a franchise agreement covering an area located in whole or in part within the Township shall have on file with the Township a bond in the amount of Five Thousand (\$5,000.00) Dollars or as may from time to time be established by the Township with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania, which bond shall be renewed annually, covering the cost of temporary and permanent restoration and covering the cost of all inspections made by the Township pertaining to all openings or excavations made or to be made in a calendar year or shall furnish a bond in the amount determined by the Township covering the aforesaid costs pertaining to proposed openings or excavation set out in the application. The aforesaid bonds shall have either corporate surety or other surety approved by the Township and shall be conditioned to indemnify the Township in the event of any loss, liability or damage that may result or accrue from or be due to

the making, existence or manner of guarding or constructing any such opening or excavation during the term of said bond.

- b. Said bonds shall be approved or disapproved by the Township in its sole discretion. The bond shall then be filed with the Township.
- 4. Inspection Fees.
 - a. Prior to the start of work, and if deemed necessary by the Township Engineer, the Applicant shall establish with the Township an inspection escrow as determined by the Township's Engineer to cover the costs of all inspections that will be necessary throughout the completion of the project. At any time throughout the project, should the escrow fall below twenty-five (25%) percent of its initial amount, said escrow shall be replenished at an amount recommended by the Township Engineer.
- 5. Exemption. Any municipality authority created by the Township shall be exempt from filing the permit fees, deposits and bonds and from the inspection requirements as noted herein. Any department of the Township shall be exempt from all regulations and requirements of this Article.

C. Pre-construction Meeting with the Applicant to Discuss Project

A pre-construction meeting will be held prior to the start of work with the Township's Manager and/or the Township Engineer or representative thereof to discuss the project and what is expected of the Applicant. Other topics to touch upon at this meeting are noted below:

- 1. Blasting bond and preblast inspections. Should the Applicant realize or anticipate that blasting operations may be necessary in order to perform the permitted work, an executed blasting bond shall be submitted to the Township for review. The Township shall determine the amount of the blasting bond. In addition, the Township shall also determine the need for preblast inspections of structures or facilities which may be affected by the permitted work. Costs for said inspections shall be borne by the Applicant.

2. Traffic control requirements. When the applicant anticipates that it will be necessary to close a portion of a street to vehicular traffic in order to perform the permitted work, the Applicant shall provide a traffic control Plan.

D. Emergency Work.

1. Permit administration procedure. Emergency repairs involving the placing of public utility facilities or opening of the surface within the right-of-way may be performed prior to obtaining a permit, provided that the following procedure is adhered to:
 - a. The utility shall immediately notify the Township when the necessity for an emergency repair occurs. If the Township office is closed, the utility shall notify the Township immediately upon the opening of the Township office.
 - b. The following information is to be communicated to the Township:
 - 1) The date the emergency work was started.
 - 2) The time emergency work was started.
 - 3) The location of the emergency work site.
 - 4) A complete description of the emergency work.
 - c. A regular permit shall be applied for within five (5) days to confirm and set forth, in detail, any emergency work performed.
 - d. All work performed shall conform to the regulations as set forth in this Article.
2. Exceptions. Emergency repairs to utility facilities within the right-of-way do not require an emergency notification in the following instances; however, the provisions contained in PennDOT Publication 213 shall be adhered to:
 - a. Accessing the utility facility through a manhole.

E. General Conditions.

The following conditions shall apply to permits issued pursuant to this Article:

1. Scope of permit. The permit shall be binding upon the permittee, its agents, contractors, successors and assigns.
 - a. The permittee shall be responsible for causing compliance with all terms and conditions of the permit by its agents, contractors and successors.
 - b. The permit shall be located at the work site and shall be available for inspection by the Township.
 - c. The permit shall be maintained as a permanent record and remain in effect, subject to the permit conditions and regulations set forth in this Article, as long as the facilities authorized by the permit occupy the right-of-way.
 - d. Responsibility for compliance with the terms of the permit cannot be assigned or transferred by the permittee without first obtaining approval from the Township. Any facility installed under the authority of said permit shall be subject to removal or relocation by the Township, or by its designee, at the expense of the permittee.
2. Additional restrictions. All work authorized by the permit is subject to:
 - a. All applicable federal, state and Township laws, ordinances, rules and regulations, including but not limited to:
 - b. The Act of October 26, 1972 (P.L. 1017, No. 247) (53 P.S. §1611), as amended, concerning environmental control measures related to pollution and the preservation of public natural resources.
 - c. The Act of December 10, 1974 (P.L. 852, No.287) (72 P.S. §176-182), or as amended, concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utility facilities.

- d. Occupational Safety and Health Administration (OSHA) construction safety and health regulations, 39 FR 22801, June 24, 1974, as published in the Federal Register (29 CFR §1796.1 et seq.) or as amended and 29 CFR 1926.1-1926.1051 or as amended.
 - e. Any rights of any person.
 - f. The conditions, restrictions and provisions of the permit.
3. Township standards.
- a. The work shall be done at such time and in such manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Township. If at any time it shall be found by the Township that the work is not being done or has not been properly performed, the permittee, upon being notified by the Township, shall immediately take the necessary steps, at its own expense, to place the work in condition to conform to such requirements or standards.
 - b. Whenever any requirement or standard of the Township is superseded by a requirement or standard of the Federal Government or of the Commonwealth of Pennsylvania, the requirement or standard of the Federal Government or of the Commonwealth of Pennsylvania, as applicable, shall apply.
4. Permittee responsibilities.
- a. The permittee shall be responsible for all costs and expenses incident to or arising from the permitted work, including the prescribed fees for the same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration.
 - b. In the event of failure or neglect by the permittee to perform and comply with the permit or the regulations set forth in this Article, the Township may immediately revoke and annul the permit and order and direct the permittee to remove any and or all structures, equipment or property belonging to the permittee and/or its contractors from the legal limits of the right-of-way and to restore

the right-of-way to its former condition. In the event that the Township determines that such structures, equipment or property pose a threat to the public safety and the permittee fails to remove the same after notice from the Township to do so, any attorney of any court of record shall be authorized to appear and to enter an amicable action of ejectment and confess judgment against the permittee, and the Office of Judicial Support shall be authorized to issue forthwith a writ of possession with costs, without leave of court.

- c. If work is stopped on a project for any reason, other than at the end of any normal workday, and any excavations or openings, in the opinion of the Township, remain open for an unreasonable period, the permittee, if so directed, shall refill the excavations or openings, and work shall not be resumed until permittee is prepared to proceed immediately with the work to its completion. In the event that the permittee fails to refill the excavations or openings or proceed until completion of the work upon notice from the Township to do so, the Township may perform the necessary and required work and shall be reimbursed for the costs by the permittee within thirty (30) days after receipt of the Township's invoice.
 - d. If the permittee, after making an opening in the surface to place or repair a facility or for any other purpose, fails to restore any portion of the right-of-way to conform to this Ordinance, upon notice from the Township to do so, the Township reserves the right to do the work, and the permittee shall reimburse the Township for the costs within thirty (30) days after receipt of the Township's invoice.
- 5. Altering vegetation prohibited. This permit does not authorize the permittee to cut, remove or destroy trees or shrubbery within the right-of-way unless specifically noted on the permit.
- 6. Altering drainage prohibited.
 - a. Unless specifically authorized by the permit, the permittee shall not:

- 1) Alter the existing drainage pattern or the existing flow of drainage water.
 - 2) Direct additional drainage of surface water toward, onto or into or in any way affect the street right-of-way or street facilities.
 - b. The issuance of a permit does not authorize the permittee to direct, divert or otherwise drain surface waters over the property of any other property owner.
 - 1) The issuance of a permit does not in any way relieve the permittee from acquiring the consent, permission or other authorization from any property owner who may be adversely affected by drainage alterations.
 - 2) The permittee is responsible for any damage caused to any private or public property as a result of work done under the permit.
7. Equipment damage to street or sidewalk.
 - a. To protect the pavement, sidewalk and shoulders, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.
 - b. In the event that other than rubber-equipped machinery is authorized for use, the pavement, sidewalk and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four (4) inches, unless the permit requires the permittee to repave the roadway full width.
 - c. If the equipment damages the pavement, sidewalk or shoulders, the permittee shall restore the pavement, sidewalk or shoulders to their former condition, at the permittee's expense.
8. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of PennDOT as set forth in Publication No. 208 and Publication No. 213.

- a. The permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Township. A traffic control plan shall be submitted to the Township and approved by the Township before the detouring of any traffic.
 - b. Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any excavations or openings in the improved area.
 - c. Designated employees of the permittee shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with PennDOT Publication No. 208 and Publication No. 213.
- 9. Streets under construction. No permit application will be approved for occupancy of a section of right-of-way within which a street construction or reconstruction project is underway or, if a contract for such a project has been let, until the project is completed and accepted by the Township. The provisions of this subsection shall not apply:
 - a. In case of emergency, in which case the permittee shall procure the consent of the Township to do such work as deemed necessary to correct the existing emergency condition in accordance with the Article relating to emergency work; or,
 - b. Where the permittee has been authorized by the Township to relocate or adjust its facilities simultaneously with such street construction.
- 10. Sharing facilities.
 - a. Subsurface. The application shall identify any other utility's facility that will be sharing a trench or structure with the applicant's facilities.

11. Indemnification. The permittee shall fully indemnify and save harmless and defend the Township of and from all liability for damages or injury occurring to any person or persons or property through or in consequence of any act or omission of any contractor, agent, servant or employee of the permittee or other person engaged or employed in, about or upon the work by, at the instance or with the approval or consent of the permittee; from any failure of the permittee or any such person to comply with the permit or the regulations set forth in this Article; and from the failure, during the two (2) year period after completion of the permitted work, of the street in the immediate area of the work performed under the permit where there is no similar failure of the street beyond the area adjacent to the area of the permitted work.
12. Insurance. The permittee shall submit to the Township a certificate of insurance for public liability and property damage, naming the Township as an additional insured, and in form and amount satisfactory to the Township, to cover any loss that may be incurred for or on account of any matter, cause or thing arising out of the construction, reconstruction, repair, relocation or installation of the permitted structures or facilities.
13. Blasting. No predrilling or blasting shall be permitted within the right-of-way, unless authorized by the permit.
 - a. If the permittee proposes to blast, the permittee shall make, execute and deliver a bond to the Township in an amount determined by the Township, with surety by a company duly registered and authorized to do business in the Commonwealth of Pennsylvania, conditioned that the Township will be saved harmless from any damages whatsoever to the improved area and all other private and public property for a period of one (1) year from the date of the completion of the last work covered by the permit.
 - b. When blasting is anticipated within one hundred (100') feet of any building or structure, a detailed plan of excavating, shoring, blasting and backfilling procedures shall be submitted with the application to the Township for review and approval. The Township may require pre-blast inspections to be made of all structures or facilities which, in its opinion, may be affected by the permitted work.

- c. Only controlled blasting, as specified in PennDOT Publication 408, shall be permitted within the improved area.
- 14. Maintaining structure or facility. As long as the permittee operates and leaves in place any structure or facility in, upon or along the right-of-way, the permittee shall maintain and keep it in good order and repair.
- 15. Damaged structure or facility. If at any time the structure or facility shall become damaged from any cause whatsoever, the permittee shall have it removed, repaired or otherwise made safe immediately upon notification from the Township.
- 16. Damage to street, defects occurring within the area of opening or excavation and restoration of surface.
 - a. If there is a failure of the street, including slope or any other appurtenance thereto, in the immediate area of the permitted work within two (2) years after completion of the permitted work and there is no similar failure of the street beyond the area adjacent to the area of the permitted work, the permittee shall have absolute responsibility to make all temporary and permanent restoration, including restoration of the adjacent area if it has also failed.
 - b. If there is a failure of the street, including slope or any other appurtenance thereto, in the area adjacent to the immediate area of the permitted work within two (2) years after the completion of the permitted work and there is no similar failure of the street in the area of the permitted work or beyond the area adjacent to the area of the permitted work, it shall be presumed that the work done by the permittee was the proximate cause of the failure, and the permittee shall be responsible to make all temporary and permanent restoration unless the presumption is rebutted by clear and convincing evidence.
 - c. Where the permittee has the responsibility to restore the street, including slope or any other appurtenance thereto, under any of the above provisions, including instances where a presumption of responsibility has not been rebutted, the permittee shall have the duty to restore the improved area in accordance with the original permit. If the permittee fails to restore the improved area

properly, the Township shall have the authority to do the work at the permittee's expense, using Township employees and equipment and/or by contractor, as determined by the Township in its sole discretion. The permittee shall reimburse the Township for the costs within thirty (30) days after receipt of the Township's invoice.

17. Future street changes. If at any time in the future the street in which a permitted structure or facility is installed or constructed is altered for public convenience or necessity, the owner of the facility shall, at its own cost and expense, change or relocate all or any part of the structure or facility authorized by the permit which interferes with such street alterations or which is inconsistent with the purpose of the street alterations.
18. Approval by Inspector. Approval by the Township's Inspector of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval of the Inspector act as a release of the permittee or waiver by the Township of its right to seek performance or restitution from the permittee.

F. Special conditions: subsurface operations.

1. Drilling, boring, driving or tunneling across improved area.
 - a. When crossing under any improved area, the opening for a utility facility shall be drilled, bored or driven on a horizontal plane at a minimum depth of three (3') feet below the surface of the street and its swale ditches.
 - 1) The facility may be placed by tunneling when authorized by the permit. When tunneling, after the facility is placed the whole shall be backfilled with 1:3:6 concrete of dry consistency and tamped.
 - 2) Wet boring is prohibited.
 - b. No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling shall be made closer than three (3') feet to the edge of the roadway, unless the permit authorizes a lesser clearance.

- c. Facilities and other structures crossing under the improved area shall be constructed so as to assure the safety of the traveling public and to preclude the necessity of entering upon the improved area to effect future maintenance or replacement. Such facilities shall comply with applicable provisions of PennDOT Design Manual, Part 5.
- 2. Trenching across improved area.
 - a. No trenching shall be permitted across the improved area, unless authorized by the permit.
 - b. Trenching across the improved area may be authorized by the permit where drilling, boring, driving or tunneling is not feasible because:
 - 1) The subsurface is solid rock.
 - 2) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.
 - 3) Adjacent development in a very congested urban area makes the construction of a tunneling or boring shaft impossible.
 - 4) The Township determines that the disruption and length of exposure will be minimal.
 - c. When trenching is specified in the permit and the utility facility is to be placed across the street in one (1) piece, the trenching operation shall be performed by the following method:
 - 1) Traffic shall be routed over one-half (1/2) the pavement width.
 - 2) The closed half of the pavement shall be opened to the required depth and bridged with steel plates.

- 3) Traffic shall be shifted to the bridged half of the pavement.
 - 4) The remaining half of the pavement shall be opened to the required depth.
 - 5) The facility shall be placed full width.
 - 6) The open trench shall be backfilled and restored half-width in accordance with this section, relating to specific conditions – subsurface operations.
 - 7) Traffic shall be shifted to the restored half of the pavement.
 - 8) The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section, relating to special conditions – subsurface operations.
3. Installation while street closed. If the Township determines that the duration of trenching operation can be minimized by allowing a temporary closure of the street, the entire cartway may be opened to install the facility. The permission to do so must be stated on the permit.
4. Trench openings parallel to street.
 - a. Trench openings for utility facilities and other structures shall be made so that the near edge of the opening is at least three (3') feet outside the edge of the cartway, unless the permit authorizes a lesser clearance, with a minimum depth of three (3') feet from the surface to the top of the facility.
 - b. No trench opening shall be left open for a distance of more than two hundred (200') feet at any one time, unless authorized by the permit. In addition, no more than forty (40') feet of trench shall be left open on the shoulder of a street at the end of any workday, unless authorized by the permit.
5. Plates or bridging required. Except for emergency repairs of utility facilities or as set forth on the permit, work shall be stopped prior to peak traffic hours that exist on a particular street on a particular day. Steel

plates or bridging shall be placed over all openings made within the improved area which are less than six (6') feet in either length or width when work is stopped. The plates or bridging shall be extended a minimum of eighteen (18") inches from each edge of the opening and shall be secured in a safe manner.

6. Plowing installation of utility facilities.

- a. No plowing shall be permitted within the right-of-way, unless authorized by the permit.
- b. Plowing operations will be authorized only in unpaved shoulders.
- c. Plowing operations are not allowed from November through March, inclusive, unless authorized by the permit.
- d. No plowing shall be permitted within three (3') feet from the edge of the cartway. A greater distance shall be attained wherever possible.
- e. The opening shall be a minimum depth of three (3') feet. If this depth cannot be consistently maintained, the proper depth shall be achieved by trenching.
- f. The utility facility shall be installed under any structures that are less than three (3') feet deep. All disturbed structures shall be repaired or replaced by the permittee.
- g. The disturbed area shall be restored in conjunction with the plowing operation. If heaving occurs, the disturbed area shall be reshaped, backfilled with No. 2A modified aggregate and compacted until the disturbed area is restored to a condition equal to that which existed before plowing.

7. Disposition of materials.

- a. The permittee shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the street during the performance of work authorized by the permit.

- b. The permittee shall be responsible for controlling dust conditions created by its own operations.
 - c. All excess material and material that is not suitable for backfill shall be removed and disposed of outside the right-of-way as the work progresses.
 - d. All retained suitable material shall be placed or stored on the side of the operation farthest from traffic, unless otherwise authorized by the permit, and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch or waterway.
8. Backfilling. All openings made in the cartway or in paved shoulders shall be backfilled by the permittee in accordance with the following minimum standards:
- a. The opening shall be backfilled with No. 2A modified stone, compacted in not more than six (6") inch layers, with approved vibratory compaction equipment.
 - b. Compaction shall be completed to the bottom elevation of the existing pavement.
 - c. Temporary or permanent restoration shall be placed at the end of each working day.
9. Restoration of roadway surface. Restoration of pavement shall be done in accordance with the following as specified on the permit.
- a. Permanent Restoration: Prior to replacement of the pavement, one (1') foot from each edge of the trench shall be saw cut, in a neat straight line, to the bottom elevation of the existing asphalt, and the detached material shall be removed. Drilling shall not be permitted. All material shall comply with PennDOT Form 408.
 - 1) A minimum of eight (8") inches of 2A modified stone base shall be placed and compacted with approved vibratory

compaction equipment. A Class 4 geotextile shall be placed if one existed.

- 2) A minimum of eight (8") inches of Superpave Asphalt Mixture Design, HMA Base Course, PG 64-22, 0.3 to 3 Million ESALS, 37.5 mm Mix shall be placed on the stone subbase.
 - 3) The top wearing coat of the adjacent pavement shall be saw-cut an additional one (1') foot width for a depth of two (2") inches. A minimum of two (2") inches of Superpave Asphalt Mixture Design, HMA Wearing Course, PG 64-22, 0.3 to 3 Million ESALS, 9.5 mm Mix, SRL-L shall be placed on the base course. A tack coat shall be placed between the two (2) surfaces if wearing course is not immediately placed on base course.
 - 4) The edges of the repair shall be sealed with the type and class of material designated for the surface course for a width of twelve (12") inches centered on the repair joint in accordance with PennDOT Publication 408.
- b. The Township may require modified specifications if it is determined during construction that the existing road section is different than the specifications listed above in Section I. If a concrete road base is located below the asphalt roadway, the trench restoration must include a concrete base of similar depth and material.
- c. Temporary restoration.
- 1) Temporary restoration. The 2A modified aggregate backfill material shall be placed in accordance with this section with a surface of a three (3") inch compacted cold patch asphalt. The Township may require the temporary restoration to be made and kept in place for up to sixty (60) days after backfilling the trench.

10. Shoulder restoration.

- a. Paved and stabilized shoulders shall be restored in accordance with roadway restoration section listed above.
 - b. Unpaved shoulders.
 - 1) Retained material which complies with PennDOT Publication 408, may be used for backfill, up to within eighteen (18") inches of final grade. The final eighteen (18") inches of backfill shall consist of No. 2A modified aggregate. The width of the shoulder shall be no less than four (4') feet.
11. Appurtenances to underground installations.
- a. The top of every manhole, valve box or other access to the facility shall be at the same elevation as the surface in which it is located.
 - b. The surface surrounding manhole or valve covers located in shoulders shall be paved in such a manner as to prevent washouts.
12. Additional restoration following excavation.
- a. All disturbed portions of the street, including all appurtenances and structures, such as guardrail or drain pipes, shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.
 - b. If the Permittee opens the street pavement, whether to install a new facility or to modify an existing facility or for any reason, and the wearing course is less than seven (7) years old, the Permittee shall, in addition to the minimum restoration conditions outlined in this section, mill out one and one half (1½") inches and overlay the entire street pavement in accordance with the following conditions:
 - 1) When a longitudinal opening longer than eight (8') feet and wider than two (2') feet is made in the street pavement, the Permittee shall mill out one and one half (1½") inches and overlay the traffic lane(s) which the opening was made, for the entire length of street that was opened.

- 2) When two (2) or more transverse trench openings are made by the Permittee in the street pavement less than one hundred (100') feet apart, the Permittee shall mill out one and one half (1½") inches and overlay all traffic lanes in which the openings were made, for the entire length of the street between such openings.
 - 3) When four (4) or more openings or one (1) continuous opening have been made within one hundred (100') linear feet of street pavement, Permittee shall complete permanent pavement restoration as provided herein for the entire length of the street between the ends of the furthest openings extending from curb line to curb line.
 - 4) If the Township Manager or Township Engineer or a representative thereof finds that the paving surfaces adjacent to the street excavation is damaged, or where a number of cross cut trenches are laid in proximity to one another, or where equipment used by the Applicant causes damage to the street or adjacent streets where the street excavations occurs, the Township Manager or Township Engineer or their representative may order the permanent restoration as provided herein to the damaged street from curb line to curb line.
- c. Regardless of the age of the wearing course, when both longitudinal and transverse trench openings are made in the street pavement, the Township may require the Permittee to overlay all traffic lanes, curb line to curb line, for the entire length of street that was opened, if the Township determines that the present serviceability of the street has been impaired by the openings.
- d. Any lawn area disturbed as part of the work shall be restored to the condition prior to the start of work.
- 1) A minimum of six (6") inches of screened topsoil shall be placed at all locations of lawn restoration.
 - 2) Disturbed areas shall be permanently stabilized with quality seed mixture and straw mulch. Seed mixture shall match

existing grass type.

- 3) Erosion control blanket shall be placed on all slopes that are 3:1 or greater. Blanket must be placed on all areas where erosion occurs or on locations specified by the Township.
- 4) All wheel ruts created by the construction shall be restored to the condition prior to the start of work.

G. Special conditions: aboveground facilities.

1. General rule. Permits shall not be issued to install aboveground facilities which the Township determines to have a high accident potential.
2. Location of aboveground facilities.
 - a. New poles, guys and other aboveground facilities shall be installed outside the street's clear roadside area as near the right-of-way line as practicable, in accordance with PennDOT Design Manual, Part 5.
 - b. Replacement of poles, guys and other aboveground facilities shall comply with PennDOT Design Manual, Part 5.
 - c. Installation of poles, guys and other aboveground facilities in locations where highway curb exists shall comply with PennDOT Design Manual, Part 5.
3. Location of wires, cables or conductors. All wires, cables or conductors which overhang any portion of the right-of-way shall be placed so as to provide a minimum vertical clearance of eighteen (18') feet over the roadway, except where the National Electrical Safety Code requires vertical clearances in excess of eighteen (18') feet due to voltage and/or span lengths.
4. Guys.
 - a. Guys shall be placed so as to avoid interference with vehicular or pedestrian traffic.

- b. Guys shall be insulated or grounded in compliance with the National Electrical Safety Code.
- 5. Identification of poles. Each pole shall bear the name or initials of the facility owner and the pole number(s) assigned by the facility owner.

§48-34 Enforcement; Violations and Penalties.

A. Enforcement

- 1. Any violation of the regulations set forth in this Article shall constitute grounds for imposition of any or all of the following penalties:
 - a. Upon receipt of verbal or written notice of any violation(s) from the Township, the Permittee shall cease to perform any further work in the permitted area except to restore the area to a safe condition. No further work shall commence in the permitted area until the violation(s) has been remedied. Where the Permittee has received verbal notice of the violation(s), written notice shall be sent to the Permittee within five (5) days of receipt of the verbal notice.
 - b. Confiscation of the Applicant's permit or emergency permit by the Township.
 - c. Revocation of the Applicant's permit or emergency permit by the Township.
 - d. Removal by the utility facilities' owner of facilities installed without a permit or in violation of the regulations set forth in this Article.

B. Penalties.

- 1. Any person who shall violate any provision of this Article shall, upon conviction thereof in a summary proceeding before a District Justice, be sentenced to pay a fine of not less than Two Hundred (\$200.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, together with costs of prosecution. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of a violation may be punished as provided above for each separate offense.

§48-35 Permit fees not in lieu of license fees.

No permit fee paid under this Article shall be considered to be in lieu of any annual license fees now required to be paid or which may at any time be required to be paid by Ordinance of Tinicum Township.

§48-36 Repealer

All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict. The Township reserves the right at any time by Ordinance to amend or otherwise modify or repeal this Ordinance.

§48-37 Validity

The invalidity of any Section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts. It is hereby declared to be the intention of the Township that this Ordinance would have been adopted had such invalid Section, clause, sentence, or provision not been included therein.

§48-38 Effective Date

This Ordinance shall become effective immediately upon its adoption.

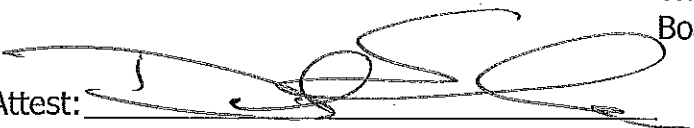
ORDAINED AND ENACTED this 21st day of January, 2014, by the Board of Commissioners of the Township of Tinicum, Delaware County, Pennsylvania.

TOWNSHIP OF TINICUM

BY:


Thomas J. Giancristoforo, President
Board of Commissioners

Attest:


David D. Schreiber, Township Manager