

Ordinance No. 2 of 2021

The Township of Kiskiminetas,
Armstrong County, Pennsylvania

AN ORDINANCE REGULATING ACCESS TO AND THE OPENING AND EXCAVATION OF ANY AREA LOCATED WITHIN THE STREET OR ROAD RIGHTS-OF-WAY OWNED AND MAINTAINED BY THE TOWNSHIP OF KISKIMINETAS, AND THE PROTECTION, BACKFILLING, RESURFACING AND REPAVING OF THE SAME, PROVIDING PROCEDURES FOR THE ISSUANCE OF PERMITS FOR SUCH WORK, AND PENALTIES FOR VIOLATION.

WHEREAS, it is the intent of the Kiskiminetas Township Board of Supervisors that, in order to protect the health, safety, and welfare of the general community, the opening of streets be regulated by permit, pursuant to section 2322 of the Pennsylvania Second Class Township Code, as amended; and

WHEREAS, it is necessary to access, open or otherwise excavate areas within Township owned and maintained rights-of-way for vehicle circulation and to place, maintain or repair components of the underground utility infrastructure within the Township; and

WHEREAS, the monitoring of such construction activity through the issuance of permits requiring inspection and restoration is deemed to be in the Township's best interest;

NOW, THEREFORE, be it ordained and enacted by the Board of Supervisors of the Township of Kiskiminetas, and it is hereby ordained and enacted by the authority of the same, as follows:

SECTION 1: DEFINITIONS

- a. **STREET:** Any public street, avenue, road, square, alley, highway or other public place located in the Township of Kiskiminetas and established for the use of vehicles including the sidewalks adjacent thereto.
- b. **PERSON:** Any natural person, partnership, firm, association, corporation, or utility.
- c. **STREET OPENING PERMIT:** Authorization from the Township of Kiskiminetas for vehicular access to a Township street from an abutting property, or for opening of a portion of pavement and backfilling and resurfacing the same.
- d. **EMERGENCY:** A condition arising from actual or imminent failure and resulting in a health or safety hazard which requires immediate action.
- e. **TOWNSHIP -** Kiskiminetas Township, Armstrong County, Pennsylvania.

- f. Permittee – Upon the issuance of a permit upon proper application, the person to whom the permit is issued shall be known as the Permittee, which shall include any co- applicants to which a permit is issued.

SECTION 2: PERMIT REQUIREMENTS AND EMERGENCY OPENINGS

- a. No person, firm or corporation shall enter upon or occupy any public right-of-way within the Township for the purpose of making an excavation or opening and/or to construct, install, repair and/or reconstruct any storm sewer or driveway culvert in or under any public right of-way without first having obtained a permit from the Township to do so. The permit shall be granted by the Township Engineer, Township Secretary, Township Roadmaster or any other individual so designated by the Township Board of Supervisors and shall be conditioned upon the permittee agreeing to faithfully comply with each and every provision of the rules and regulations governing this type of work.
- b. A municipal authority making or causing an excavation or opening to be made and/or engaging in sewer construction work in any public right-of-way shall obtain a permit prior to such work. All applicable laws, ordinances and regulations governing such work shall apply.
- c. Any person working in the vicinity of a Township street who in any manner disturbs or who in any manner causes damage to a street shall be required by this article to obtain a permit and correct this damage in accordance with the standards of the Township Engineer, Township Secretary, Township Roadmaster or any other individual so designated by the Township Board of Supervisors.
- d. All contractors performing work under contract for the Township or any municipal authority shall obtain the street excavation permit for street opening work.
- e. If street openings or sewer repairs are necessitated by emergencies, street opening permits shall be obtained on the first regular business day on which the office of the Township is open for business, and such permit shall be retroactive to the date when the work was begun. Emergency work shall not serve to relieve anyone from compliance with the rules and regulations governing this type of work.
- f. A person performing street openings and/or sewer repairs for an emergency shall verify the emergency nature of the circumstance in writing to the Township Engineer, Township Secretary, Township Roadmaster or any other individual so designated by the Township Board of Supervisors within five days after such emergency on the street cut opening application.
- g. For work on PennDOT highways within the Township limits, no Township street excavation permit is required, but a PennDOT permit is required.

SECTION 3: ISSUANCE OF STREET OPENING PERMIT AND BOND

- a. Issuance of a street opening permit, shall constitute an agreement between the Permittee and the Township that the work shall be done in full compliance with all applicable Ordinances of the Township and the laws of the Commonwealth in relation thereto, and that the Permittee shall hold harmless the Township from, and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed access, opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the performance of the work connected therewith, or from any other matter, or cause relating thereto, by providing the Township a bond in such sum, and with such sureties as recommended by the Township Engineer and as may be approved by the Chairman of the Board of Supervisors and the Township Solicitor.
- b. Permittee agrees to save the Township, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of such work to be done by the Permittee under the provisions of this article. The acceptance of any permit under this article shall constitute such an agreement by the Permittee, whether the same is expressed or not.
- c. The bond shall be paid over to the Township prior to issuance of a permit by the Township Engineer, Township Secretary, Township Roadmaster or any other individual so designated by the Township Board of Supervisors. The bond shall be held by the Township Treasurer and administered in accordance with these regulations.
- d. The bond shall be refunded to the permit holder after work under the permit and required restoration work has been completed, and after the guarantee period has expired.
- e. A separate bond shall be required for each street opening, storm sewer work and/or other work regulated by this article.
- f. The bond required by the Township shall not relieve any Permittee to also secure a permit and/or tender security, if required, from PennDOT or other governmental agency having jurisdiction over work.

SECTION 4: FEES

- a. A permit fee shall be paid to the Township prior to permit issuing. The inspection fee and degradation fee shall be paid when the work is completed, inspected and measured by the Township Engineer, Township Roadmaster or any other individual so designated by the Township Board of Supervisors. The Township shall have the right to waive fees for contractors performing work under contract with the Township and/or a municipal authority.
- b. Permit fees, inspection fees and degradation fees shall be in the amounts established by resolution of the Board of Supervisors and amended from time to time.

- c. Should work be completed or substantially commenced without a permit having been obtained, the fee shall be doubled in amount.
- d. The degradation fee and inspection fee shall be calculated by actual measurement after the work is completed. The number of square yards computed for the inspection fee will be used on the actual size of excavation including any pavement that shall be removed to provide one-foot trench beyond the original trench wall.
- e. No permit shall be granted to any Permittee unless the Permittee has paid to the Township any and all money, then due to the Township, for prior excavations made or for any loss, damage or expense in any manner occasioned by or arising from the work done by the Permittee under the provisions of this article.
- f. When application is made to access, open or excavate any longitudinal opening or excavation in excess of twenty linear feet (20'), as a scheduled line extension or replacement, before any permit shall be issued to access, open or excavate, the Permittee shall deposit, in addition to paying such permit fee, an amount commensurate with inspection costs during such work and upon completion, during the restoration, backfilling and repaving. The amount of the deposit shall be based on the Township Engineer's estimate of costs for inspection services and the Township Solicitor shall approve the form of the deposit.

SECTION 5: BACKFILLING, PAVING AND RESTORATION.

- a. The Permittee shall be responsible for backfilling and paving the opening and restoring the street surface to its original condition prior to the street cut and/or other excavation and work.
- b. When warranted by sufficient disturbance of the road surface as determined by the Township, the Township may require the complete overlay of the road from curb to curb for the entire length of the street opening. If there is less than 200 feet from edge to edge of separate street openings the Township may require overlay of the area between the openings. If required, the overlay shall be completed in accordance with current Township standards. The Township may require the road surface to be milled prior to completion of the overlay. Unless otherwise directed by the Townships engineer and/or roadmaster, All road millings belong to the township and shall not be removed from Township, but be transported to destination designated by the Township.
- c. All millings belonging to the Township or installed by the Township are not to be removed by a Permittee.
- d. It shall be the duty of the Permittee to restore any area excavated to its original condition. This shall include, but not be limited to, the replacement of pavement, sidewalks, driveways and landscaped areas.

- e. The Township Engineer and/or the Township Roadmaster shall have the full authority to establish and update standards for paving the backfilled materials and associated procedures. Details specifying paving and backfill procedures and materials shall be obtained from the Township Engineer and/or the Township Roadmaster prior to any street opening work.
- f. Any person who shall access, open or excavate any improved street in the Township shall thoroughly and completely backfill the opening or excavation, using accepted materials and compaction techniques so as to prevent any settling thereafter; and shall restore the surface to the same condition as it was before the access, opening or excavation.
- g. The surface shall conform to the existing grade and curb elevations, and be of the same surface materials and treatment as the part of the thoroughfare immediately adjoining the access, opening or excavation.
- h. If within one (1) year after the restoration of the street surface as herein provided is completed, defects shall appear therein resulting from defective backfilling or restoration by the Permittee, the Permittee shall reimburse the Township for the cost of all necessary repairs to the permanent cartway pavement as determined by the Township Engineer and/or the Township Roadmaster.
- i. All other work in connection with access, opening or excavation of any street, including emergency excavation, protection of vehicular and pedestrian traffic, backfilling and temporary pavement, shall be done by the Permittee at his expense, and all such work shall be subject to the provisions of this Ordinance and to the supervision and approval of the Township, provided that the Township Supervisors may require that the cutting of the surface of improved streets and the backfilling of all excavation therein shall be done by the Township, and the charge therefore shall be paid by the Permittee on the basis of actual cost of the work plus twenty percent (20%) for inspection, design and administrative services.

SECTION 6: BACKFILLING, PAVING AND REPLACING SURFACE BY TOWNSHIP.

- a. In case the work has not been completed before the date of expiration as shown on the permit, which time shall be fixed when the permit and/or time extension is granted, the Township Engineer and/or Township Roadmaster may take steps to backfill the trench and replace the street surface over the opening for which the permit has been issued upon proper notification from the Township Engineer, Township Secretary, Township Roadmaster or any other individual so designated by the Township Board of Supervisors to the Permittee.
- b. The Township shall invoice the permittee for all costs incurred by the Township in the performance of this work. Payment not made within 30 days will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.

SECTION 7: GUARANTEE OF WORK.

- a. The permittee shall guarantee and maintain his work for 24 months from the completion of the restoration and replacement work. Work shall be deemed to be completed upon the Contractor's submission of a "Notice of Completion of Street Excavation Permit" and the Township's acceptance thereof.
- b. Within this twenty-four-month period, upon notification from the Township of necessary correction work required, the permittee shall correct or cause to be corrected all restoration work required within five working days of receipt of the notification. The Township Engineer shall determine the extent of restoration required and the method of correction.
- c. Any and all work not completed within this five-day period may be completed by the Township at the discretion of the Township Engineer. The Township shall invoice the permittee for all costs incurred by the Township in performance of this work. Payment not made within 30 days of the invoice date will be chargeable against the posted bond, including fees and costs involved in the collection of this payment.

SECTION 8: OPENING OR EXCAVATION OF ANY STREET

- a. No access, opening or excavation of any street shall extend from the curb line into the street a distance greater than one foot (1') beyond the centerline of the paved portion of the street before being backfilled and the surface of the street restored to a condition safe and convenient for vehicular and pedestrian travel.
- b. No more than four hundred and fifty linear feet (450') shall be opened in any street at any one time, unless otherwise specified by agreement or contract.
- c. The work of excavation and restoration shall be so conducted as not to interfere with the water mains, sanitary and storm sewers, or their connections with structures, or any other subsurface lines or facilities, until permission is authorized by the utility, agency or person owning and maintaining such lines.
- d. No tunneling or boring shall be allowed without the express approval of the Township Board of Supervisors and permission therefore is indicated upon the street opening permit. The backfilling of a tunnel excavation or bore shall be made only in the presence of the Township Engineer or representative thereof where Commonwealth or Township owned facilities are involved.
- e. All openings or excavation shall be backfilled promptly with materials approved by either the Township Engineer or Township Roadmaster.
- f. During excavation in any street, every necessary and reasonable precaution shall be taken by the Permittee and/or the Permittee's contractor to keep the street in a safe and passable condition both day and night by guards, barriers, warning signs, safety lights, 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, and hold harmless the Township, from any loss in damages, or otherwise, which may occur at any time by

reason of said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other material placed in the said excavation.

- g. The Permittee shall notify the Township when the opening or excavation is ready for backfilling and before any backfilling is done, in order for inspection to occur while the work is being completed by approved backfilling and compaction in the case of unimproved streets and by restoration of temporary or permanent paving in the case of improved streets.
- h. In the event that any work performed by or for a permit holder shall, in the opinion of the Township Engineer be unsatisfactory and the same shall not be corrected in accordance with the Engineer's instructions within the time fixed by the Township Engineer, or in the event that the work for which the permit was issued is not completed within the time fixed by the street opening permit, the Township may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the actual cost thereof, plus twenty percent (20%) for inspection services, to the Permittee.

SECTION 9: INSTALLATION/REPLACEMENT OF UNDERGROUND UTILITIES

- a. No new underground waterline, sanitary sewer, storm sewer, electric, cable TV, internet, or gas main shall hereafter be laid or constructed and no existing underground transmission or collection facility line shall be extended in any of the streets of the Township until the exact location has been identified and the plan therefore shall have been first reviewed by the Township Engineer and approved by the Township Board of Supervisors.

SECTION 10: ENFORCEMENT; VIOLATIONS AND PENALTIES.

- a. Any person who fails to comply with any of the requirements of this article, upon being found by a Magisterial District Judge to have violated this article, shall pay a fine or penalty for violation for each violation in an amount not less than \$300 and not more than \$500.
- b. Each failure to obtain a permit and/or to comply with all of the requirements of this article shall constitute a separate violation.
- c. Each day during which a violation continues shall constitute a separate offense.
- d. The Township reserves the right to deny issuance of any future street opening or other permit provided for in this article to any person who has violated the provisions of this article.
- e. The Township shall retain and exercise all available legal and equitable remedies to secure enforcement of the regulations of this article, whether in addition to or in lieu of civil enforcement of violations.

SECTION 11: SEVERABILITY

- a. The provisions of this Ordinance shall be severable and if any provision herein 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 Township Board of Supervisors that this Ordinance would have been enacted if such unconstitutional, illegal or invalid provision had not been included herein.

DULY ENACTED AND ORDAINED, this 10th day of Feb,

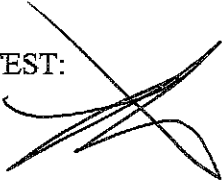
200, by the Board of Supervisors of Kiskiminetas Township, Armstrong County,

Pennsylvania, in lawful session duly assembled.



Michael Bash, Chairman

ATTEST:



Township Secretary