

ARTICLE II Excavations and Openings (§ 136-7 — § 136-27)

[Adopted 4-30-1997 by Ord. No. 132

Editor's Note: This ordinance also repealed former Art. II, Obstructions to Township Roads, adopted 5-29-1974 by Ord. No. 30, as amended.

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§ 136-7 Definitions; interpretation.

A.

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

EXCAVATION

Any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking or disturbing the surface thereof. In this article, the term "opening" shall have essentially the same meaning as "excavation."

STREET

Any public street, avenue, road, square, alley, highway or other public place located in Athens Township and established for the use of vehicles but shall not include state highways.

PERSON

Any natural person, partnership, firm, association, corporation or municipal authority.

B.

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

§ 136-8 Permit required.

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

§ 136-9 Application for permit.

Any person who shall desire to make any opening or excavation in any of the streets in Athens Township shall make application to the Permit Officer in writing for that purpose. Such application shall be made upon blanks to be furnished by Athens Township 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 Athens Township and the laws of the commonwealth in relation thereto; and that the applicant shall well and truly save, defend and keep harmless Athens Township from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation and all damages to persons or property resulting in any manner therefrom or occurring in the prosecution of the work connected therewith or from any other matter, cause or thing relating thereto.

§ 136-10 Permit fee.

Before any permit shall be issued to open or excavate any street in Athens Township, the applicant shall pay a permit fee in the amount fixed according to a schedule established pursuant to resolution. When application shall be made to open or excavate any longitudinal opening or excavation in excess of 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 a rate, for each 100 feet or fraction thereof to be opened or excavated upon such street, pursuant to the fee schedule.

§ 136-11 Issuance of permits restricted.

Permits shall be issued only to persons furnishing public utility services or to the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

§ 136-12 Information to be contained on permit.

Any permit issued hereunder shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof and the time within which the work for which the permit is granted to be completed.

§ 136-13 Permit approval/disapproval.

A permit may be issued to the applicant after all the requirements therefor have been filed. If the application is disapproved, written notice of disapproval, together with reasons therefor, shall be given to the applicant.

§ 136-14 Responsibility to contact utilities.

The work authorized by the permit is subject to all provisions of the Act of December 10, 1974, P.L. 852, No. 287, § 1 et seq.,

Editor's Note: See 73 P.S. § 176 et seq.

as amended or supplemented from time to time. It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing service in Athens Township and their office addresses may be obtained from the County Recorder of Deeds.

§ 136-15 Refilling of opening or excavation; restoration of surface; responsibility for defects.

Any person who shall open or excavate any street in Athens Township shall thoroughly and completely refill the opening or excavation in such a manner 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 Transportation of the Commonwealth of Pennsylvania which are hereby adopted as specifications of Athens Township for restoration of surfaces of streets in Athens Township 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 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 Athens Township for the cost of all necessary repairs to the permanent paving.

§ 136-16 Responsibility of permit holder for certain work; right of Township to do certain work; charges.

All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued, at his or its expenses, and all such work shall be subject to the provisions of this article and to the supervision and approval of the Permit Officer, provided that the Permit Officer may, if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all

excavations therein shall be done by Athens Township, in which event the applicant shall pay the actual cost of the work performed by Athens Township.

§ 136-17 Requirements for work; correction of unsatisfactory work; completion of incomplete work.

A.

No opening or excavation in any street shall extend from the curblin into the highway a distance greater than one 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 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 subsurface lines or constructions until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.

D.

No tunneling shall be allowed without the express approval of the Permit Officer and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Permit Officer or an inspector designated by him and shall be done only in a method approved by him.

E.

All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed eight inches in depth. Backfilling shall be placed to within 10 inches of the surface.

F.

A temporary paving of coldpatch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for period of 90 days.

G.

On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.

H.

During the making of any excavation in the 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 granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless Athens Township from any loss in damages, or

otherwise whatsoever, which may or shall be occasioned at any time by said excavation or by any leak, explosion or other injury from any pipe, apparatus, conduit or any other matter placed in said excavation.

I.

The applicant shall notify the Permit Officer when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street has been permanently restored so that inspections may be made.

J.

In the event that any work performed by or for a permit holder shall, in the opinion of the Permit Officer, 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 within the time fixed by the Permit Officer, Athens Township may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof, plus 20%, to the applicant.

§ 136-18 Emergency openings.

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this article 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, the Permit Officer, 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.

§ 136-19 Restrictions regarding trees and shrubbery.

The permission herein granted does not confer upon the owner or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way except under specification, regulation and conditions as Athens Township may prescribe.

§ 136-20 Time limits on excavations in improved streets; exception.

The Permit Officer shall give timely notice to all persons owning property abutting on any street within Athens Township about to be paved or improved and to all public utility companies who shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of said street within 30 days from giving of such notice, unless such time is extended in writing for cause shown by the Permit Officer. New paving shall not be opened or excavated for a period of five years after the completion thereof, except in cases of emergency, the existence of which emergency and the necessity for the opening or excavating of such paving to be determined by the Permit Officer. If it is sought to excavate upon or open a sewer within five years after the completion of the paving, the applicant shall make written application to the Board of Supervisors, and a permit for such opening shall be issued only after express approval of the Board of Supervisors.

§ 136-21 Permittee's responsibilities for future relocation.

If at any time in the future the roadway is widened or reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway, at its own cost and expense.

§ 136-22 Conditions for laying and extending of utility lines.

No new water, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed and no such existing main or line shall be extended in any of the streets of Athens Township until the plan therefor shall have been first filed with the Permit Officer. The Permit Officer shall not approve the locating of any such main or line at a depth of less than 30 inches from the surface of the street unless he shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

§ 136-23 Bond required.

No company, corporation or association shall dig up any street or alley without first giving to Athens Township a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from digging up, opening or closing of said streets and alleys.

§ 136-24 Payment for work done by Township.

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

§ 136-25 Special conditions for subsurface operations.

A.

Drilling, boring, driving or tunneling across improved area. Drilling, boring, driving or tunneling across improved areas shall comply with the following conditions as well as the remainder of the article.

(1)

When crossing under an improved area, the opening for a utility facility shall be drilled, bored, driven or tunneled a minimum depth of three feet from the surface to the top of the opening.

(a)

If the facility or its casing is 30 inches or greater in diameter, the bored cylindrical space surrounding either an uncased facility or a facility casing shall be filled with grout in a manner authorized by the district office.

(b)

Jet or other nonmechanical boring methods are prohibited. Water may be used under low pressure only to cool the drill bit and to facilitate removal of cuttings from the bore opening, if retrievable liquid is immediately removed from the boring pit.

(2)

No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling may be made closer than three feet to the edge of the shoulder, unless the permit authorizes a lesser clearance.

(3)

A facility or other structure crossing under the improved area shall be constructed 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.

B.

Trenching across the improved areas. Trenching across an improved area may be performed only when specifically authorized by the permit, in accordance with the following:

(1)

The top of every utility facility shall be installed at least 30 inches beneath the surface, except as provided in § 136-22.

(2)

Trenching across the improved area may be authorized by the permit where drilling, boring, drilling or tunneling are:

(a)

Not feasible because:

[1]

The subsurface is solid rock, as documented with satisfactory evidence, such as drill records, or where boring was attempted without success.

[2]

There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching, as documented with a detailed plan.

[3]

Adjacent development in a very congested urban area makes the construction of a tunneling or boring shaft impossible.

(b)

Not required because of one of the following:

[1]

The highway is unpaved.

[2]

The wearing course is older than 10 years, and the highway average daily traffic (ADT) does not exceed 500.

(3)

When trenching is authorized by the permit, the trenching operation shall be performed by one of the following methods:

(a)

Utility facility placed in one piece across the highway.

[1]

Traffic shall be routed over 1/2 of the pavement ditch.

[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 restored half of the pavement.

[4]

The remaining half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section.

[5]

The remaining half of the pavement shall be opened to the required depth.

[6]

The facility shall be placed full width.

[7]

The open trench shall be backfilled and restored half-width in accordance with this section.

[8]

Traffic shall be shifted to the restored half of the pavement.

[9]

The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section.

(b)

Utility facility placed in more than one piece across highway.

[1]

Traffic shall be routed over 1/2 of the pavement width.

[2]

The closed half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with the provision of this section.

[3]

Traffic shall be shifted to the restored half of the pavement.

[4]

The remaining half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with the provisions of this section.

(4)

The permittee shall protect its openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

(5)

The permit may authorize depths less than 30 inches which are not capable of operating more than 30 inches below the surface.

C.

Openings parallel to the highway. Requirements for openings parallel to the highway are as follows:

(1)

A utility facility shall be placed outside the pavement and shoulder unless there is no feasible space outside the pavement and shoulder for placing the facility, in which case occupancy within the pavement or shoulder may be authorized by the permit.

(2)

The top of a utility facility shall be installed at least 30 inches beneath the surface.

(3)

On an unpaved highway, the near edge of the opening shall be at least 12 feet from the general center line of the traveled highway, or as authorized in Subsection C(1).

§ 136-26 Violations and penalties.

Any person who shall violate any of the provisions of this article shall be guilty of a civil violation. The Permit Officer shall determine in each case whether a violation has occurred under this article. Upon determining that a violation has occurred, the Permit Officer shall impose a civil penalty of not less than \$300 and not more than \$600 upon the violator.

§ 136-27 Applicability.

The provisions of this article shall not apply to laying sidewalks or curbs.

