



## STREET EXCAVATION/OPENING PERMIT APPLICATION



Application Type:    ☐ Emergency Repair    ☐ Maintenance    ☐ Replacement

**Property Owner Information:**

*Is this the projects main contact?* ☐

Property Owner: \_\_\_\_\_ Phone: \_\_\_\_\_

Owner Address: \_\_\_\_\_

**Contractor/Plumber Information**

*Is this the projects main contact?* ☐

Contractor/Plumber Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Contractor/Plumber Address: \_\_\_\_\_

**Applicant Information:** (only if it differs from the above contacts)

*Is this the projects main contact?* ☐

Applicant Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Name of Street to be Opened: \_\_\_\_\_

Location of Street Opening: \_\_\_\_\_

Nearest Intersecting Street: \_\_\_\_\_

Estimated Start Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Size of Opening: \_\_\_\_\_

Detailed Description of Work:

***No permit shall be issued by the Borough Manager which would allow an excavation or opening in a paved and improved street surface less than five years old unless the Applicant can demonstrate clearly that public health or safety require that the proposed work be permitted or unless an emergency condition exists.***

By submitting this application, the Applicant (i) agrees to be bound by the provisions of the Ordinances, Specifications, and Regulations of the Borough governing openings in or under municipal streets and to such special conditions, restrictions and regulations as may be imposed by the Borough Manager; (ii) understands that permits may be revoked by the Borough Manager after notice to the Permittee in accordance with Section 21-102 of the Borough of Aspinwall Code of Ordinances, and (iii) agrees to save the Borough, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit.

\_\_\_\_\_  
Applicant's Printed Name

\_\_\_\_\_  
Applicant's Signature & Date

# STREET EXCAVATION/OPENING PERMIT CHECKLIST

*A street excavation/opening permit application will not be considered complete unless it includes the following items:*

- ☐ Complete Application form
- ☐ Three copies of a plan showing the work to be performed
- ☐ Negotiated Contribution (\*where necessary)

*\*If the Borough Manager finds that paving surfaces adjacent to the street openings may be damaged where trenches are made parallel to the street, or where a number of cross trenches are laid in proximity to one another, or where the equipment used may cause such damage, the Borough Manager may require negotiated contribution from the Permittee for the resurfacing in place of patching such street if the total area of the proposed patch or probably damaged area exceeds 25% of the total pavement surfacing between curb faces or between concrete gutter edges.*

*A street excavation/opening Permittee **must submit** the below items to the Borough Manager **prior to** the start of **opening and excavation** work:*

- ☐ Minimum Permit Fee (See Borough Council Fee Schedule)
- ☐ A deposit covering any additional costs borne by the Borough for restoration of the street surface removed or damaged by work performed under the permit (to be determined by the Borough Manager)
- ☐ Maintenance Bond
- ☐ Certificate of Insurance
- ☐ A list of owners and/or tenants and/or addresses of all properties abutting the area where the work authorized by the permit is to be performed
- ☐ Present evidence that all materials, labor, and equipment are available
- ☐ Present evidence that advance notification was provided to operators of underground facilities (OneCall)

*A street excavation/opening Permittee **must submit** the below items to the Borough Manager **prior to** the start of **backfilling and restoration** work:*

- ☐ Inspection by Borough Engineer
- ☐ Performance Bond
- ☐ Obtain permission from Borough Manager or Borough Engineer for commencement of backfilling and restoration work
- ☐ Provide notice to the Borough Manager recommencement and approximate time of commencement for backfilling and restoration work

*The Application and plans will be reviewed and analyzed in comparison to the following regulations as stated more fully in Chapter 21 of the Borough of Aspinwall Code of Ordinances before being approved or denied:*

### **Opening and Excavation:**

No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.

♦ Special permission of the Borough Manager is required for:

- An opening measuring more than 250 feet longitudinally in any street at any one time.
- Use of a mechanical device for the breaking of pavement, such as a hydra-hammer, headache ball, etc.
- Completion of work any time other than between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday.
- Remove or disturb monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey benchmark with the Borough.

- ♦ All utility facilities shall be exposed sufficiently, or a definite location be determined ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- ♦ The Permittee shall protect pipe drains, pipe culverts, or other facilities encountered.
- ♦ When work performed by the Permittee interferes with the established drainage system of any street, provision shall be made by the Permittee to provide proper drainage.
- ♦ When any earth, gravel or other excavated material is caused to flow, roll or wash upon any street, the Permittee shall cause removal of same from the street within eight hours after deposit to permit safe flow of traffic.
- ♦ Every Permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Borough Manager to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Borough Manager, and where applicable, shall be in conformance with the requirements set forth in 67 Pa. Code § 203.1 *et seq.* (dealing with work zone traffic control).
- ♦ The Permittee must provide access (i) to fire hydrants at all times and (ii) to private driveways except during working hours when construction operations prohibit provision of such access.
- ♦ Excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate dirt or dust nuisance, the Borough Manager may require the Permittee to provide toe boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the Permittee as directed by the Borough Manager. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the Permittee shall keep a passageway at least 1/2 the sidewalk width open along such sidewalk line.
- ♦ In granting any permit, the Borough Manager may attach such conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to: (i) limitations on the period of the year in which the work may be performed; (ii) restrictions as to the size, weight and type of equipment; (iii) designation of routes upon which materials may be transported; (iv) designation of the place and manner of disposal of excavated materials; (v) requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof; and (vi) regulations as the use of streets in the course of work.

*\*In no case shall any opening made by a Permittee be considered in the charge or care of the Borough, or any of its officers or employees, and no officer or employee of the Borough is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of police power, when it is necessary to protect life and property; provided, however, that the Borough assumes charge when making final surface restoration, unless Permittee has been granted permission to perform the work of restoration of the street surface.*

### **Backfilling and Restoration:**

- ◆ All pavement cuts, opening and excavations shall be made properly and backfilled properly by the Permittee in accordance with Borough Specifications (set forth at the Appendix to Chapter 21 and Part 9 of Chapter 22). Unless the Permittee has been granted permission to restore the street surface, Permittee shall place a temporary surface on the pavement cut, opening or excavation in accordance with Borough Specifications. If the Permittee has been granted permission to restore the street surface but weather conditions are such as to prevent the completion of permanent restoration of the street surface at the time backfilling is completed, Permittee shall install a temporary surface in accordance with Borough Specifications until such time as weather conditions will permit permanent restoration.
- ◆ The Permittee must notify the Borough Manager within 48 hours of beginning and the approximate commencement time for (i) backfilling and (ii) restoration.
- ◆ No backfilling or restoration may begin until the Borough Manager is present of permission has been granted by the Borough Manager after inspection.
- ◆ The Borough shall complete final restoration unless the Borough has granted permission to the Permittee and in those cases, the paving surface and paving base must be performed according to Borough Specifications.
- ◆ Unless the provisions of Section 21-204 apply, the Permittee is required to complete permanent restoration of the street surface in accordance with Borough Specifications within 7 days after repairs and/or installation are completed.
- ◆ The Permittee is required to install and maintain a temporary surface in accordance with the Borough Specifications during: (i) the period between the completion of repairs and/or installation and the commencement of final restoration; and (ii) the periods during the actual work when workers do not require access to the excavation.
- ◆ Upon completion of all work accomplished under the provisions of a permit, the Permittee shall notify the Borough Manager in writing. A certificate of final inspection shall be issued by the Borough Manager to each Permittee no sooner than one year and not later than 18 months after the permanent restoration of the excavation has been made, providing the work authorized by the permit has been performed according to Borough Specifications.
- ◆ If any settlement in a restored area occurs within a period of two years from date of completion of the permanent restoration, and Permittee fails to make such correction after notification, any expense incurred by the Borough in correcting such settlement shall be paid by the Permittee or recovered from his bond, unless the Permittee submits proof satisfactory to the Borough Manager that the settlement was not due to defective backfilling.

***See Chapter 21 of the Borough Code of Ordinances for additional details regarding the above requirements.***

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#### **FOR ADMINISTRATIVE USE ONLY**

Plans Approved By: \_\_\_\_\_

Date Approved: \_\_\_\_\_

##### **Deposit Information:**

Permit Fee: \$ \_\_\_\_\_  
Deposit Amount: \$ \_\_\_\_\_  
Inspection Fee: \$ \_\_\_\_\_  
**Total Due:** \$ \_\_\_\_\_

##### **Bond Information:**

Maintenance Bond: \$ \_\_\_\_\_  
*Expiration:* \_\_\_\_\_  
Performance Bond: \$ \_\_\_\_\_  
*Expiration:* \_\_\_\_\_

# **Part 1**

## **STREET OPENINGS AND PAVEMENT CUTS**

### **§ 21-101. Definitions. [Ord. 906, 2/8/1995, § 1]**

The following words, when used in this Part, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates **Part 1**

**APPLICANT** — Any person who makes application for a permit.

**EMERGENCY** — Any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

**MANAGER** — The Manager of the Borough, or his authorized deputy, representative or inspector.

**NEWLY-IMPROVED STREET** — Newly-constructed cartways including base and surfacing of either concrete or asphalt and reconstructed cartways surfaced with at least 1-1/4 inch top to asphalt. It shall be the prerogative of the Manager and/or Superintendent of Public Works to define the category of "newly-improved street" and advise the proper utility companies of this designation.

**PERMITTEES** — Any person who has been issued a permit and has agreed to fulfill all the terms of this Part.

**PUBLIC UTILITY COMPANY** — Allegheny County Sanitary Authority (ALCOSAN), any cable television company or any company subject to the jurisdiction of and control by the Pennsylvania Public Utility Commission.

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

### **§ 21-102. Street Openings and Pavement Cuts. [Ord. 906, 2/8/1995, § 2; Ord. No. 1100, 2/14/2024]**

#### **1. Permit Required.**

A. It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface of any street without first securing a permit from the Manager for each separate undertaking; provided, however, any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practically have been obtained beforehand. In such cases where emergency openings are necessary, however, the Borough shall be notified prior to such openings in one of the following manners:

**1. Fax notification.**

**2. Telephone notification**

**3. PA one call**

- B. The person shall thereafter apply for a permit on the first regular business day on which the office of the Manager is open for business and said permit shall be retroactive to the date when the work was begun.
2. Street Openings Limited. No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount greater than that specified in the permit, except that where the permittee desires to perform additional work not in excess of an amount greater than 10% of the amount specified in the permit, permittees may apply to the Manager for an amended permit to permit the additional work. If the additional work desired to be formed by the permittee exceeds 10% of the amount specified in the original permit, an application for a new permit shall be made. Any deposit or bond posted in connection with the original permit shall be deemed to cover any such additional work as may be added pursuant to the issuance of an amended permit within the limit specified herein.
  3. Commencement of Work. Work for which a permit has been issued shall commence within 30 days after the issuance of the permit therefor. If not so commenced, the permit shall be terminated automatically unless the permittee applies for an extension of time within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension. Permits which terminate by reason of failure to commence work within 30 days after issuance or within any extension of time granted hereunder may be renewed only upon the payment of an additional permit fee as originally required.
  4. Permits Nontransferable. Permits are not transferable from one person to another, and the work shall not be performed in any place other than the location specifically designated in the permit.
  5. Expiration of Permits. Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the Manager a request for an extension of time, setting forth therein the reasons for the requested extension. If the Manager finds that the failure to complete the work under the permit within the time specified therein was due to circumstances reasonably beyond the control of the permittee and that an extension of time to complete the work under the permit is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.
  6. Municipal Utility Cuts. All street openings required by utilities owned and/or operated by the Borough shall be made and restored under the direction and supervision of the Manager. The permit, fee, deposit, insurance and bond requirements of this Part shall not be applicable to any openings made by Borough owned and/or operated utilities.
  7. State and County Highways. The provisions of this Part shall not be applicable in those instances where the street or highway is maintained by the Commonwealth or by the County of Allegheny; provided, however, that any person applying for a permit to do work within the right-of-way of a street or highway maintained by the Commonwealth of Pennsylvania or by the County of Allegheny which would otherwise require a permit under the terms of this Part shall notify the Manager at the time that said application is made and at the time that the work under any permit issued pursuant to said application is begun, so that proper safety precautions may be taken by the Borough during the continuation of said work.
  8. Rights of Borough. Every permit shall be granted subject to the right of the Borough or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used not inconsistent with the permit.
  9. Revocation or Denial of Permits.

**A. Any permit may be revoked by the Manager after notice to the permittee, for:**

- (1) Violation of any condition of the permit or of any provision of this Part.
- (2) Violation of any other applicable provision of the Municipal Code or any law relating to the work..
- (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.

- B. A permittee shall be granted a period of three days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
- C. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be notified.
- D. When any permit has been revoked or the work authorized by the permit has not been completed, the Manager shall:
  - (1) Do or cause to be done such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses thereby incurred by the Borough shall be recovered from the deposit or bond the permittee has made or filed with the Borough; or
  - (2) Deny an application for a permit under this Part to any applicant or public utility company where the applicant failed to complete or complete satisfactorily the work permitted under a prior permit. The Manager may continue to deny applications to any applicant or public utility company until prior work is completed and done so to Borough specifications and in compliance with this Part, all applicable laws and regulations, and any conditions of the prior permit or permits.

**§ 21-103. Applications and Permits. [Ord. 906, 2/8/1995, § 3; as amended by Ord. 995, 12/10/2003]**

- 1. Duties and Responsibilities of Applicants. It shall be the duty and responsibility of any applicant:
  - A. Make written application for such permit with the Manager on such form as he shall prescribe. No work shall commence until the Manager has approved the application and plan and issued a permit and until the permittee has paid and provided all required fees, deposits, certificates and bonds.
  - B. Furnish in triplicate a plan showing the work to be performed under said permit. Two copies of such plan shall be returned to the applicant at the time the permit is granted.
  - C. Agree to save the Borough, its officers, employees and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit. The acceptance of a permit shall constitute such an agreement by the applicant whether the same is expressed or not.
- 2. Duties and Responsibilities of Permittees. It shall be the duty and responsibility of any person receiving a permit to:
  - A. Pay a minimum permit fee, in an amount as established from time to time by resolution of Borough Council, provided, however, that public utility companies may elect to be billed monthly for such fees as they accrue, upon written notice to the Manager.
  - B. Make a deposit to cover:
    - (1) Any additional costs borne by the Borough specifically related to the work authorized by the permit and, unless the permittee is granted permission to restore the street surface as provided in § 21-104, Subsection 2D, of this Part.
    - (2) The cost of restoring the street surface removed or damaged by the work done under such permit. The amount of such deposit shall be computed by the Manager as provided in § 21-105 of this Part. In the case of a public utility company, the Borough may waive this requirement of a deposit if said utility company files with the Borough, its corporate bond in a form satisfactory to the Borough Solicitor, conditioned upon the payment to the Borough of all costs which would otherwise be covered by and paid out of such a deposit. In the event such utility company elects to file such a bond, the Borough shall bill such utility company monthly for such costs as they accrue.

- C. Furnish a maintenance bond as required in § 21-106 of this Part and, when the permittee is granted permission to restore the street surface as provided in § 21-104, Subsection 2D, of this Part, a performance bond as required in § 21-106 of this Part.
- D. Furnish a certificate of insurance as required in § 2-107 of this Part unless excepted from such requirement by the provisions of § 21-107.
- E. Submit, when required by the Manager, a list of owners and/or tenants and/or addresses of all properties abutting the area where the work authorized by the permit is to be performed.
- F. Present evidence, when required, that all materials, labor and equipment which are needed to complete such work as authorized by the permit are available.
- G. Keep the original copy of the permit and an approved copy of the plan (see Subsection 1B above) at all times while such work is in progress at the location for which such permit was granted and show such permit and/or plan upon demand by a Borough official.
- H. Provide advance notification to operators of underground facilities about excavation, augering, blasting or other activities which may endanger underground facilities, using a one call system if one is in operation.

## **§ 21-104. Street Opening Regulations.**

**[Ord. 906, 2/8/1995, § 4; as amended by Ord. 995, 12/ 10/2003]**

### **1. Opening and Excavation Restrictions.**

- A. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
- B. No more than 250 feet measured longitudinally shall be opened in any street at any one time, except by special permission of the Manager.
- C. All utility facilities shall be exposed sufficiently or definite location be determined ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- D. Pipe drains, pipe culverts or other facilities encountered shall be protected by the permittee.
- E. Any person whose facilities are damaged, or caused to be relocated by the permittee shall notify the permittee and the Borough of such damage and thereafter may make the necessary repairs or relocation and in conjunction with notifying the Borough for the cost of such repairs or relocation. Public utility companies concerned shall be notified by the Borough in sufficient time to determine the validity of the damage or relocation claims. The cost of such repair work or relocation work may be withheld by the Manager from the deposit pending determination of liability for the damage.
- F. Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey bench mark with the Borough shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Manager. Permission shall be granted only upon condition that the permittee shall pay all expenses incident to the proper replacement of the monument.
- G. When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage.
- H. When any earth, gravel or other excavated material is caused to flow, roll or wash upon any street, the permittee shall cause removal of same from the street within eight hours after deposit to permit safe flow of traffic. In the event the earth, gravel or other excavated material so deposited is not removed as specified, the Manager shall cause such removal and the cost incurred shall be paid by the permittee or deducted from his deposit.



- I. Every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Manager to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Manager, and where applicable, shall be in conformance with the requirements set forth in 67 Pa. Code § 203.1 et seq. Dealing with work zone traffic control. Copies of the publication shall be made available in the office of the Manager for inspection by the public. Whenever any person fails to provide or maintain the required safety devices, such devices shall be installed and maintained by the Borough. The amount of the cost incurred shall be paid by the permittee or deducted from his deposit. No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this section.
- J. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.
- K. Excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate dirt or dust nuisance, the Manager may require the permittee to provide toe boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the Manager. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the permittee shall keep a passageway at least 1/2 the sidewalk width open along such sidewalk line.
- L. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the permittee obtains written consent from the Manager to do the work at an earlier or later hour. Such permission shall be granted only in the case of an emergency or in the event the work authorized by the permit is to be performed in traffic-congested areas.
- M. In granting any permit, the Manager may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:
  - (1) Limitations on the period of the year in which the work may be performed.
  - (2) Restrictions as to the size, weight and type of equipment.
  - (3) Designation of routes upon which materials may be transported.
  - (4) Designation of the place and manner of disposal of excavated materials.
  - (5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof.
  - (6) Regulations as to the use of streets in the course of the work.
- N. Hydra-Hammer, Headache Ball. The use of a mechanical device for the breaking of pavement, such as a hydra-hammer, headache ball, etc., will be permitted only under special written permission of the Manager.

## **2. Backfilling and Restoring Opening.**

- A. All pavement cuts, openings and excavations shall be made properly and backfilled properly by the permittees in accordance with the Borough Specifications set forth and incorporated herein at the Appendix to this chapter and Part 9 of Chapter 22 (referred to herein as the "Borough Specifications"). Unless permittee has been granted permission to restore the street surface as provided in § 21-104, Subsection 2D, permittee also shall place a temporary surface on the pavement cut, opening or excavation in accordance with Borough specification. If the permittee has been granted permission to restore the street surface but weather conditions are such as to prevent the completion of permanent restoration of the street surface at the time backfilling is completed, permittee shall install a temporary surface in accordance with Borough Specifications until such time as weather conditions will permit permanent restoration of the street surface.

- B. The Manager shall be notified by the permittee during the forty-eight hour periods preceding the beginnings of:
- (1) Backfilling;
  - (2) Restoration; and the approximate time each will be begun.
- C. No backfilling or restoration shall be accomplished unless or until the Manager is present or permission has been granted for backfilling or restoration after inspection by the Manager.
- D. The work of final restoration, including both paving surface and paving base, shall be performed directly by the Borough under the supervision of the Manager; provided, however, that upon a public utility company's application for permission to perform the work of restoration, the Borough may grant permission to such public utility company to perform the work of restoration. In those cases where such permission is granted, the work of restoration, including both paving surface and paving base, shall be performed by the permittee according to Borough Specifications and shall be subject to inspection by the Borough.
- E. If the Manager finds that paving surfaces adjacent to the street openings may be damaged where trenches are made parallel to the street, or where a number of cross trenches are laid in proximity to one another, or where the equipment used may cause such damage, he may require negotiated contribution from the permittee for the resurfacing in place of patching of such street if the total area of the proposed patch or probably damaged area exceeds 25% of the total pavement surfacing between curb faces or between concrete gutter edges. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
- F. After excavation is commenced, the work of making and backfilling the name shall be prosecuted with due diligence. Unless the provisions of § 21-104, Subsection 2A, of this Part apply, the permittee is required to complete permanent restoration of the street surface in accordance with Borough Specifications within seven days after repairs and/ or installation are completed. Furthermore, the permittee shall be required to install and maintain a temporary surface in accordance with Borough Specifications during:
- (1) The period between the completion of repairs and/or installation and the commencement of final restoration.
  - (2) The periods during the actual work when workers do not require access to the excavation.
- G. Inspections of all work authorized by a permit shall be made by the Manager at such times and in such manner as required to assure compliance with provisions of this Part. If the nature of the work to be performed under any permit is such as to require the services of a full-time inspector, the Manager shall provide for the services of such an inspector.
- H. All inspection costs shall be borne by the permittee. Such costs shall be based upon a schedule of charges on file in the office of the Manager.
- I. Upon completion of all work accomplished under the provisions of a permit, the permittee shall notify the Manager in writing. A certificate of final inspection shall be issued by the Manager to each permittee no sooner than one year and not later than 18 months after the permanent restoration of the excavation has been made, providing the work authorized by the permit has been performed according to Borough Specifications. Prior to the issuance of a certificate, the Manager shall make a final inspection of the restoration to determine whether Borough Specifications have been adhered to.
- J. If any settlement in a restored area occurs within a period of two years from date of completion of the permanent restoration, and permittee fails to make such correction after notification, any expense incurred by the Borough in correcting such settlement shall be paid by the permittee or recovered from his bond, unless the permittee submits proof satisfactory to the Manager that the settlement was not due to defective backfilling.
- K. In no case shall any opening made by a permittee be considered in the charge or care of the Borough, or any of its officers or employees, and no officer or employee of the Borough is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it

is necessary to protect life and property; provided, however, that the Borough assumes charge when making final surface restoration, unless permittee has been granted permission to perform the work of restoration of the street surface as provided in § [21-104](#), Subsection [2D](#).

**§ 21-105. Deposits. [Ord. 906, § 21-105. Deposits. [Ord. 906, 2/8/1995, § 1; Ord. No. 1100, 2/14/2024]**

1. Computation of Deposit. The Manager, upon receipt of a properly completed application, shall determine the amount of the deposit to be made by the permittee in accordance with the schedule of charges established pursuant to Subsection 5 of this section; provided, however, that the minimum deposit required shall not be less than \$500. The deposit shall be paid at the time the permit is issued, and the deposit shall be used to reimburse the Borough for the cost of any work and/or materials furnished by it in connection with work authorized by the permit, to cover the cost of all necessary inspections of said work or any other expenses incurred by the Borough in carrying out the provisions of this Part. In the case of a public utility company, the requirement of such deposit may be waived if such public utility company files with the Borough its corporate bond as provided in § 21-103, Subsection 2B, of this Part.
2. Form of Deposit. The deposit may be either in the form of a certified, treasurer's or cashier's check or in lawful money of the United States.
3. Insufficient Deposit. If any deposit is less than sufficient to pay all costs the permittee shall, upon demand, pay to the Borough an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the Borough may institute an action to recover the same in any court or competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.
4. Yearly Deposit. Whenever any public utility company shall anticipate applying for permits for more than one street opening or excavation per calendar year and does not elect to file a corporate bond as hereinbefore provided, such public utility company may post one deposit in an amount and form as hereinbefore provided for the calendar year or part thereof to cover the cost of deposits which would otherwise be required for the anticipated permits.
5. Deposit and Cost Schedules. The Manager shall establish a schedule of charges for inspections, labor, materials and other such expenses as may be incurred by the Borough in carrying out the provisions of this Part. This schedule shall be established by the Manager in accordance with the reasonably anticipated costs to be incurred by the Borough in making such inspections, including reasonable administrative and overhead expenses, and in accordance with the currently prevailing costs in the area for any labor and materials which may be provided by the Borough. The Manager shall revise said schedule from time to time to reflect any increase or decrease in the costs used to establish said charges. The schedule shall be open to public inspection in the office of the Manager upon request.
6. Decision on Costs. The decision of the Manager as to the cost of any work done or repairs made by him or under his direction, pursuant to the provisions of this Part, shall be final and conclusive as to such cost.
7. Refund of Deposit. Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening, the Manager shall refund to the permittee his deposit less all costs incurred by the Borough in connection with said permit. In no event shall the permit fee be refunded.

**§ 21-106. Bond Requirements. [Ord. 906, 2/8/1995, § 6; Ord. No. 1100, 2/14/2024]**

1. Performance Bond Where Municipality Does Not Restore Opening. In those instances where the applicant has received or intends to apply for permission to perform the work of restoration of the street surface, each such applicant or permittee, upon receipt of a permit shall provide the Borough with an acceptable corporate surety bond to guarantee faithful performance of the work authorized by a permit granted pursuant to this Part. The amount of the bond shall be 110% of the estimated cost of restoring the street opening. The term of the bond shall begin upon the date of posting thereof and shall terminate

upon the receipt by the permittee of a certificate of final inspection from the Manager. If the permittee anticipates requesting more than one permit per year as required by this Part, he may furnish one continuing corporate surety bond to guarantee faithful performance in such amount as the Manager deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. In the case of a public utility company, its corporate bond in a form satisfactory to the Solicitor may be accepted in lieu of the corporate surety bond required by this section.

2. **Maintenance Bond.** Each applicant, upon the receipt of a permit, shall provide the Borough with an acceptable corporate surety bond conditioned for compliance with the street opening specifications of the Borough and the provisions of this Part. The Manager shall determine the amount of the bond, and it shall be in relation to the cost of restoring the pavement cut to be made by the permittee; provided, however, the minimum amount of the bond shall not be less than \$2,000. The term of each such bond shall begin from the completion date of the permanent restoration of the opening by the Borough and shall terminate upon the receipt by the permittee of a certificate of final inspection from the Manager. If the permittee anticipates requesting more than one permit a year, he may file a continuing corporate surety bond conditioned for compliance with the specifications of the Borough and the provisions of this Part in such amount as the Manager deems this Part in such amount as the Manager deems necessary. The amount of such bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. In the case of a public utility company, its corporate bond in a form satisfactory to the Solicitor may be accepted in lieu of the corporate surety bond required by this section.
3. **Default in Performance.** Whenever the Manager shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Manager to be reasonably necessary for the completion of such work.
4. **Correction of Default.** In the event that, after receipt of the notice of default, the default shall not be corrected by the permittee within five days, then, in the case of a corporate surety, the surety shall be required, within the time specified, to either cause the required corrections be made or, in the alternative, pay to the Borough a sum equal to the estimated cost determined by the Manager for making the corrections. Upon receipt of such funds, the Manager shall then proceed to have the work completed; however, no liability shall be incurred by the Borough as a result of any such action taken by it, other than its responsibility to see the proper expenditure of any funds so received by it.
5. **Completion of Work.** After receipt of such notice the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough for the cost of doing the work as set forth in the notice.

## **§ 21-107. Liability Insurance. [Ord. 906, 2/8/1995, § 7]**

1. **Insurance Requirements.** Each applicant, upon the receipt of a permit, shall provide the Borough with an acceptable certificate of insurance indicating that he is insured against claims for damages for personal injury as well as against claims for property damages which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the Manager in accordance with the nature of the risk involved; provided, however, it shall provide for a minimum of comprehensive bodily injury liability insurance including coverage on a personal injury basis and comprehensive property damage liability insurance not less than \$2,000,000 combined single limit. Public utility companies and authorities may be relieved of the obligation of submitting such a certificate if they submit satisfactory evidence that they are insured in accordance with the requirements of this Part or have adequate provision for self-insurance. Public utility companies may file an annual certificate of insurance in lieu of individual certificates for each permit.

## **§ 21-108. Openings in Newly-Improved Streets. [Ord. 906, 2/8/1995, § 8]**

1. Notice of Proposed Improvement. When the Borough shall improve or pave any street, the Manager first shall give notice to all persons owning property abutting on the street about to be paved or improved, and to all public utility companies and authorities operating in the Borough and all such persons, public utility companies and authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street, within 30 days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Manager after consultation with the Borough Engineer.
2. Restrictions Upon Opening Newly-Improved Street. No permit shall be issued by the Manager which would allow an excavation or opening in a paved and improved street surface less than five years old unless the applicant can demonstrate clearly that public health or safety require that the proposed work be permitted or unless an emergency condition exists.
3. Penalty for Opening Newly-Improved Street. If, by special action of the Manager, a permit is issued to open any paved and improved street surface less than five years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to 2% of the cost of restoring the opening for each unelapsed month or fraction thereof of the five year restricted period. Said penalty may be waived by action of the Borough Council.

## **§ 21-109. General Provisions. [Ord. 906, 2/8/1995, § 9]**

### **1. Street List of Underground Utility Installations.**

- A. Every person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Borough or to or from premises of its inhabitants, or for any other purposes, shall file with the Manager, within 120 days after the adoption of this Part, a written statement containing the names of the Borough's streets wherein the aforementioned facilities owned by such person are located.
- B. Within 90 days after the first day of January of each and every year, such person shall notify in writing the Manager of the changes necessary to maintain the street list required under Subsection 1A above.

### **2. Abandoned Facilities.**

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

### **3. Notice to Property Owners and Tenants Abutting Project.**

- A. If the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project, the Manager may require the permittee to submit a list of owners and/or tenants and/or addresses of all properties abutting the area where the work authorized by the permit is to be performed. Upon receipt of such list, the Manager shall notify the affected property owners and/or tenants of the proposed work to be done.
  - B. If the work to be undertaken by a permittee will affect other subsurface installation(s) in the vicinity of the proposed opening, the Manager shall notify the owner(s) of such facilities of the proposed work.
4. Notice to Police and Fire Authorities. The Manager shall notify in writing Borough police and fire authorities of all street opening permits he grants of a nature that would require a street being closed. Such notification shall state the nature of the work to be done, proposed beginning and completion dates, and the location of such project.

### **§ 21-110. Penalties. [Ord. 906, 2/8/1995, § 10; Ord. 995, 12/10/2003; Ord. No. 1100, 2/14/2024]**

- 1. Any person, firm or corporation who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- 2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this Part found to have been violated. All fines and penalties for the violation of this Part shall be paid to the Borough Treasurer.
- 3. The Borough may also commence appropriate actions in equity or other to prevent, restrain, correct, enjoin, or abate violations of this Part.
- 4. The initial determination of violation of this Part is hereby delegated to the Borough Manager, the authorized designee of the Borough Manager, and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.