

**Public Notice**

Notice is hereby given that the Milford Borough Council, at their next regular council meeting on Tuesday August 17, 2021, 6PM, will vote to adopt an ordinance regulating excavating, openings and repairs in all roads, streets, avenues, courts, lanes, and alleys in Milford Borough .This Ordinance will be adopted pursuant to the powers of the Milford Borough Council as found in the Borough Code relative to regulation of streets and replaces in full Article II Openings and Excavations of Chapter 260 Streets and Sidewalks. A copy of this ordinance will be available in the Milford Borough Office located at 500 Broad Street, Milford, PA 18337.

**Anthony Magnotta  
Borough Solicitor**

**Laurie DiGeso  
Borough Secretary**



## *Milford Borough*

### *Pike County, Pennsylvania*

#### **Ordinance No. - 2021**

Ordinance regulating excavating, openings and repairs in all roads, streets, avenues, courts, lanes and alleys. This Ordinance is adopted pursuant to the powers of the Milford Borough Council as found in the Borough Code relative to regulation of streets and replaces in full Article II Openings and Excavations of Chapter 260 Streets and Sidewalks.

**Section 1. Definitions.** As used in this Article, the following terms shall have the meanings indicated:

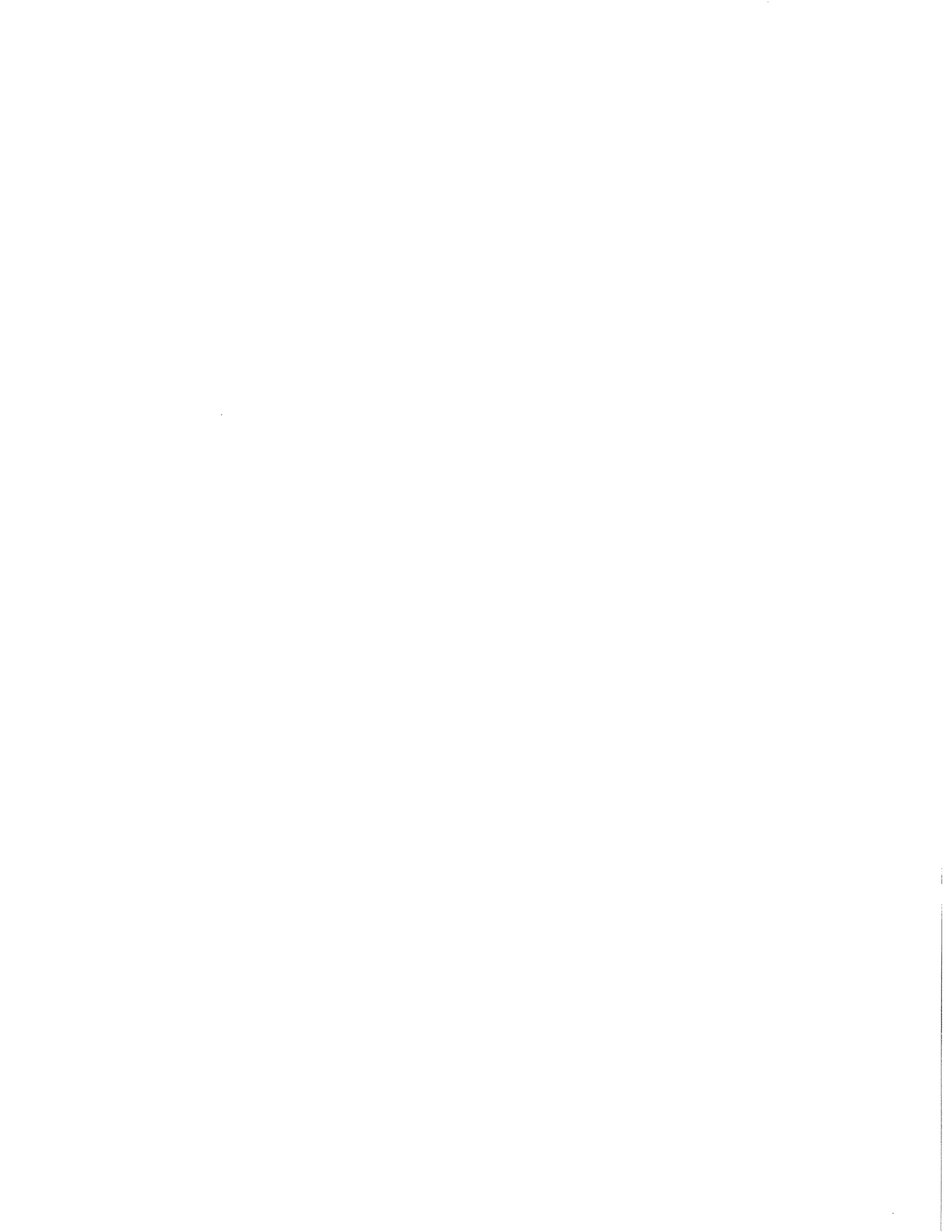
Adjacent Area - The area surrounding the immediate area of the permitted work which can reasonably be assumed to have been affected by the permitted work.

Backfill - Material used to replace or the act of replacing material removed during construction.

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

Borough - Milford Borough, Pike County, Pennsylvania a municipal corporation acting by and through its Borough Council.

Emergency Repair - Repair to the utility undertaken to repair damage resulting from a vehicle accident or collision with the facility, a failed component or storm damage. The term does not include surface



connections or disconnections unrelated to vehicle accidents, a failed component or storm damage.

Equipment - Machinery and equipment, together with the necessary supplies for upkeep and maintenance and tools and apparatus necessary for the proper construction and completion of the work.

Flexible Base Pavement - A pavement structure which maintains intimate contact with and distributes loads to the subgrade and depends on aggregate interlock, particle friction and cohesion for stability.

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

Inspector - The Borough authorized representative assigned to inspect permit operations.

Pavement - The combination of subbase, base course and surface course placed on subgrade to support the traffic load or distribute it to the roadbed, or both. The term normally includes the traveled portion of the street and extends to the face of the curb in curbed sections. The term does not include shoulders.

Permit- A Street or highway occupancy permit issued by the Borough of Milford under these regulations.

Person - A natural person, firm, co-partnership, association, corporation, authority or political subdivision.

Plans - Drawings which show the location, character and dimensions of the proposed occupancy and related roadway features, including layouts, profiles, cross sections and other details.

Right-of-Way -The area which has been acquired by the Borough for roadway purposes.

Seal Coat - A thin treatment consisting of bituminous or other approved material, usually covered with aggregate, applied to the surface course.

Shoulder - The existing improved or graded portion of the roadway, contiguous to the traffic lanes, for accommodation of stopped vehicles, for emergency use or for lateral support to the surface course of pavements.

Street - A roadway or bridge on the system of Borough roadways and bridges, including the entire width between right-of-way lines, over which the Borough has assumed or has been legislatively given jurisdiction.

Subbase - The layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

Subgrade - The top surface of a roadbed upon which the pavement structure and shoulders, including curbs, are constructed.

Suitable Material - Soil, granular material or shale meeting the specifications in the Pennsylvania Department of Transportation Specifications, Publication 408 (Latest Edition), in Section 206.2 when placed and compacted under Section 459.S(g) of said publication.

Supplement - An amendment to a permit issued, in writing, by the Borough.

Surface Course - One or more layers of pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion and the disintegrating effects of climate. The top layer is sometimes called the "Wearing Course."

Utility - A person owning a utility facility, including any wholly owned or controlled subsidiary.

Utility Facility or Facility - Privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, refined petroleum products, liquified petroleum gas (LPG), crude products, coal, water, steam, waste, storm water and other similar commodities, including fire and police signaling systems and street lighting systems, which directly or indirectly serve the public or any part thereof.

Vehicle - Every device which is or may be moved or drawn upon a street or roadway.

## **Section 2. Permit Required.**

No work may be performed within the rights-of-way of the Borough of Milford involving the placing of utility facilities or other structures or opening of the surface without first obtaining a permit from the Borough of Milford.

A. Emergency repairs of utility facilities may be performed by the owner of the utility without first obtaining a permit, provided that an

application for a permit, as provided for herein, shall be made no later than three (3) business days following the emergency opening.

- B. A permit is not required for modifying parts of existing permitted facilities, such as cable within conduit, cross arms or transformer poles, or manhole riser rings prior to resurfacing if no opening in the surface is required.
- C. A permit is not required for stringing overhead utility lines.
- D. A permit is not required for accessing an existing utility facility through a manhole.
- E. From November 15<sup>th</sup> through March 15<sup>th</sup> there will be no street openings or excavations whatsoever, except in emergency conditions, and then only under the strict supervision of the Milford Borough Roadmaster.

### **Section 3. Application for Permit.**

- A. Who May Execute Applications.
  - 1) If a corporation, authority, political subdivision or other person in the business of providing utility service owns, operates or intends to operate the facility, the application shall be submitted in the name of and executed by the party. An application may not be submitted in the name of the contractor of the owner or operator, nor in the name of persons only being served by the facility.
  - 2) In the case of the facility owner who is not in the business of providing utility service, such as a developer whose land is



located outside of a utility's service jurisdiction, the application may be made in the name of the developer with the express written acknowledgement of the owner of the utility. The applicant shall indemnify and hold harmless the Borough from claims by anyone claiming residual property interest in the permitted area.

B. Required Application Information. A permit application shall be submitted to the office of the Borough of Milford at least fifteen (15) days prior to the anticipated start of work, except as provided for under emergency work. The application shall be submitted in person or by mail on a properly completed application form provided by the Borough.

1) The application shall:

(a) Be signed by the applicant.

(b) Include at least three (3) sets of plans of a sufficient quality, detailing the location and pertinent horizontal and vertical dimensions of the opening, the proposed utility installation and related roadway features, including center line, edges of pavements, outside edge of shoulders, curbing, guide rail, drainage structures and right-of-way lines. Freehand drawings of features or utility facilities are unacceptable.

(c) Be accompanied by a check or money order, payable to the Borough of Milford in the appropriate amount as authorized by the Borough of Milford Fee Resolution relating to Permit Fees.

(d) Be accompanied by a detailed traffic control plan for the permitted work.

2) The Borough may also require satisfactory evidence of the applicant's ability to completely discharge construction, maintenance and financial duties imposed by this Article. The Borough may require security, including but not limited to:

(a) Execution of an indemnity agreement in a form satisfactory to the Borough.

(b) Insurance in a form and amount acceptable to the Borough.

(c) Surety bonds in a form and amount acceptable to the Borough for a period of at least two (2) years after the acknowledged completion of the permitted work.

(d) Surety bonds in a form and amount acceptable to the Borough to guarantee maintenance costs for the facility and the right-of-way in which it is located for a period of at least two (2) years after the acknowledged completion of the permitted work.

(e) Depositing sufficient currency in an escrow account acceptable to the Borough to fully secure the obligations in Subsections B(2)(c) and (d) above.

(f) The use of bonded contractors.

C. Accuracy of Application. The information provided in the application shall be accurate. The applicant is responsible for the accuracy of

information submitted to the Borough, including the application, plans, drawings, reports and correspondence.

- D. Authority to Reject Application. The Borough shall examine and determine the genuineness, regularity and legality of every application and may reject an application if not satisfied as to its genuineness, regularity or legality or truth of a statement contained in the application. The Borough may also make investigations and require additional information as it deems necessary.

#### **Section 4. Issuance of Permits.**

Upon approval of an application submitted hereunder, a permit will be issued by the appropriate Borough official, subject to the regulations hereunder and any conditions contained in the permit and its attachments and supplements. The permit shall be the applicant's authority to proceed with the work specified in the permit application. A copy of the permit and relevant plans shall be available at the work site for review.

#### **Section 5. Permit Supplements.**

The permittee may request a supplement to a permit to amend a permit condition, such as revising the traffic control plan or extending the permit expiration date. A permit is valid for a period of six (6) months, or multiples thereof as specified on the permit, subject to the following:

- A. If the permittee has not completed the authorized work by the expiration date of the permit, an application shall be submitted requesting a time extension on the permit.

- B. If approved, a supplement to the permit authorizing a new completion date will be issued by the Borough.
- C. No extension of the permit will be authorized unless the permittee obtains an extension on the duration of the bond, insurance or other security required as a condition of the permit. Said extension shall correspond with the permit time extension.
- D. No work may be performed on an expired permit until a time extension supplement or new permit is obtained.

**Section 6. Work Completion Notification.**

The permittee shall notify the Borough at least one (1) business day in advance in the backfilling of an excavation permitted hereunder.

**Section 7. Permit Fees.**

- A. The Milford Borough Supervisors shall establish a schedule of fees and collection procedures for permits required hereunder. Said schedule of fees shall be adopted or amended by resolution and will be posted in the office of the Borough of Milford.
- B. It shall be the responsibility of the applicant to pay for all additional or unusual costs, including inspection costs, incurred by the Borough for the review and processing of the applications filed for approval hereunder.

**Section 8. Emergency Work.**

Emergency repairs involving the placing of utilities or open of the

surface within the right-of-way may be performed prior obtaining a permit if the following procedures are adhered to:

- (a) The utility facility owner or operator shall promptly notify the Borough Roadmaster and office by telephone when the necessity for emergency repairs occurs during the hours of 8:00am to 4:00pm, Monday through Friday. Emergency work occurring at other times shall be reported to the Borough on the following workday. A One Call is not considered notification to Milford Borough.
- (b) A permit shall be applied for within three (3) business days to confirm and set forth, in detail, any work performed.
- (c) Any emergency work performed shall comply with the technical standards contained herein.
- (d) The Borough reserves the right to inspect all construction activities within Borough streets and rights-of-way at the expense of the permittee.

**Section 9. General Permit Conditions.**

A. Work performed shall conform to the Borough's standards, including but not limited to the following:

- 1) Borough reserves the right to inspect all construction activities within Borough streets and rights-of-way at the expense of the permittee.

- 2) The work shall be done at a time and in a manner consistent with the safety of the traveling public and conform to the requirements of the Borough.
  - 3) If it is found by the Borough that the work is not being done or has not been properly performed, the permittee shall promptly take the necessary steps, at his/her own expense, to place the work in the condition to conform to the requirements or standards.
  - 4) If a dispute arises, the Borough Roadmaster has the authority to suspend work until the question at issue may be referred to and decided by the Borough.
- B. In the event of failure or neglect by the permittee to comply with the permit or this Ordinance, the Borough may immediately revoke and annul the permit and order and direct the permittee to remove structures, equipment or property belonging to the permittee or his/her contractor from the legal limits of the Borough right-of-way and to restore the right-of-way to its former condition.
- C. At the end of a workday, any opening in the right-of-way shall be covered, backfilled or otherwise adequately protected so as not to cause a threat to the public and/or create an attractive nuisance. If work is stopped on a project for reasons other than at the end of a normal workday or for a period of time longer than two (2) days, the permittee shall promptly backfill the opening and restore the surface, and work may not resume until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the opening or proceed until completion of the work, the Borough reserves the right to do the work upon notice to the permittee, where

practical, and shall be reimbursed for the costs by the permittee within thirty (30) days after receipt of the Borough's invoice.

D. If the permittee, after making an opening in the surface to place or repair a facility or for another purpose, fails to restore the surface as required herein within thirty (30) days, the Borough reserves the right to do the work upon notice to the permittee, where practical, and shall be reimbursed for the costs by the permittee within thirty (30) days after receipt of the Borough's invoice.

E. Unless specifically authorized by the permit, the permittee shall not:

- 1) Alter the existing drainage patterns or the existing flow of drainage water.
- 2) Direct additional drainage or surface water toward, onto or into or in any way affect drainage facilities of the Borough. The permit does not authorize the permittee to direct, divert, or otherwise drain surface waters over the property of another property owner.

F. The permittee is responsible for damage caused to property as a result of the work done under the permit.

G. The streets of the Borough shall be protected in accordance with the following:

- 1) To protect the pavement and shoulders, equipment shall have rubber wheels or runners and have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

2) If other than rubber-equipped machinery is used, the pavement and shoulders shall be protected from equipment damage by the use of matting or other suitable protective material, unless the permittee requests, in writing, a waiver from the use of protective material, thereby acknowledging his/her obligation to repair or reconstruct the pavement or shoulder, if damaged, to its former condition.

H. Maintenance and protection of traffic shall be carried out by the permit tee.

I. Prohibition of Road Closure.

1) No Borough Street or road shall be entirely closed to traffic. At least one travel lane shall remain open during any road activity contemplated under this Article.

2) Notwithstanding the road closure prohibition of this Ordinance, if work on any Borough Street or road shall require a street closure due to the nature of work or due to any width limitations of the street, a Borough Street or road may be closed entirely upon written authorization from the Milford Borough Roadmaster or authorized designee, who shall have the further discretion to establish limitations and/or parameters relative to the street closing.

#### **Section 10. Indemnification of Borough.**

Indemnification of the Borough for property and personal injury will be governed by the following: The permittee shall fully indemnify and save harmless and, if requested, defend the Borough, its officers, agents and



employees of and from liability for damages or injury to persons or property in a claim or suit seeking to impose liability on the Borough, its officers, agents and employees, arising out of an act or omission of a contractor, agent, servant, employee or any person engaged or employed in, about or upon the work, by, at the insistence of, or with the approval or Consent of the permittee or his/her agent to comply with the permit or this Article.

### **Section 11. Restoration of Roadway.**

The responsibility of the permittee for restoration of, or damage to, the roadway includes the following:

- A. If there is a failure of the roadway, including a slope or other appurtenance thereto, in the area of the permitted work within one (1) year after the acknowledged completion of the permitted work and there is no similar failure of the roadway beyond the area of the permitted work, the permittee has absolute responsibility to make temporary and permanent restoration or repairs of the area unless the permittee delivers clear and convincing evidence to the Borough demonstrating that the failure was caused by another person or for reasons unrelated to the permitted work performed.
- B. In situations where the permittee has the responsibility to restore the roadway, including slope or other appurtenances thereto, under Subsection A above, the permittee has the duty to restore the area in accordance with the permit or to the state in which it existed prior to the permitted work. If the permittee fails to restore the area properly, the Borough reserves the right to do the work and shall be reimbursed for the costs by the permittee within thirty (30) days after receipt of the Borough's invoice.

- C. The obtaining of a bond, other security or an agreement to secure restoration costs does not relieve the permittee of the restoration obligations imposed by Subsections A and B above. The obtaining of a bond, other security or an agreement to secure restoration costs will not act as a release of the permittee from the liability under principles of tort law with respect to a failure of the roadway, in the permitted area, occurring after the expiration of the bond, other security or agreement.

**Section 12. Inspector's Acknowledgment of Completion of Work.**

Acknowledgment by an Inspector of the Utility Company that all or part of the permitted work has been completed does not constitute approval or acceptance of the work or agreement that the work was performed in accordance with the permit. Acknowledgment of completion by the Inspector will not act as a release of the permittee or a waiver by the Borough of its rights to seek performance or restitution from the permittee.

**Section 13. Special Conditions for Subsurface Operations.**

A. Pavement Removal.

- 1) All excavations of streets by the open cut method shall include removal of the pavement to a minimum width of at least one foot (1') beyond the limits of the trench and one foot (1') beyond the limits of any damaged pavement.
- 2) The pavement shall be saw cut prior to excavation unless otherwise indicated on approved plans. Cuts in driveways or street

approaches may require an overlay of the entire approach as determined by the Borough Roadmaster.

- 3) All saw cuts shall be made in a straight line and shall be parallel to existing transverse and longitudinal joints unless otherwise approved.
- 4) If contractor operations remove or damage more than twenty percent (20%) or more of the street surface, or the surface is less than five (5) years or less old, or if it is determined that any open cut will result in substantial surface deterioration, the entire street shall be overlaid or reconstructed as required by the Borough.

B. Trenching Across a Street or Roadway. Trenching across an improved area may be performed only when specifically authorized by the permit and in accordance with the following:

- 1) The top of every utility facility shall be installed at least three feet (3') beneath the surface unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
- 2) Where 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 roadway.

[1] Traffic shall be routed over one-half( $\frac{1}{2}$ ) of 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 unbridged one-half( $\frac{1}{2}$ ) 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.
- [7] The 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.

(b) Utility facility placed in more than one piece across the roadway.

- [1] Traffic shall be routed over one-half( $\frac{1}{2}$ ) 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 this section.

[3] Traffic shall be shifted to the restored half of the pavement.

[4] The remaining one-half(½) of the pavement shall be opened to the required depth, the facility placed, and the trench backfilled and restored in accordance with this section.

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

C. Trenching Parallel to a Roadway. Trenching parallel to a roadway shall conform to the following requirements:

1) The 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.

2) The top of every utility facility shall be installed at least three (3') feet beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted a lesser depth, the utility will be placed at the maximum depth reasonably managed.

3) No opening may be made for more than 200 linear feet (200 LF) at one time, unless authorized by the permit.

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

5) Daily Stoppages of Work. Daily stoppages of work requirements include the following:

(a) At the end of each workday, any opening in the right-of-way shall be protected by one of the following:

[1] Covered with steel plates or bridging over openings which are less than six feet (6') in either width or length. The plates or bridging shall be extended a minimum of 18 inches (18") from each edge of the opening and shall be secured in a safe manner.

[2] Backfilled under this section to the original surface elevation.

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

#### D. Multiple Open Cuts.

1) Multiple open cut excavations such as might occur during installation of sanitary sewers, water main, natural gas mains, etc., in an existing street justifies permanent repair of the disturbed area followed by an asphalt cap over the entire width and length of the affected street and shall be performed as defined in Subsection F, 2), Final Pavement Replacement.

- 2) The top of every utility facility shall be installed at least three feet (3') beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
- 3) No opening may be made for more than 200 linear feet (200 LF) at one time, unless authorized by the permit.
- 4) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
- 5) Daily Stoppages of Work. Daily stoppages of work requirements include the following:
  - (a) At the end of each workday, any opening in the right-of-way shall be protected by one of the following:
    - [1] Covered with steel plates or bridging over openings which are less than six feet (6') in either width or length. The plates or bridging shall be extended a minimum of 18 inches (18") from each edge of the opening and shall be secured in a safe manner.
    - [2] Backfilled under this section to the original surface for the elevation.

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

E. Backfilling. An opening shall be backfilled by the permittee in accordance with the following:

- 1) The opening may first be balled with fine aggregate material meeting the requirements of Section 703.1 of the Pennsylvania Department of Transportation Specifications, Form 408, or granular material to protect the facility, placed to a height not to exceed one foot (1') over the top of the facility. The material shall be compacted in not more than six-inch (6") loose layers or as authorized under Pennsylvania Department of Transportation Specifications, Form 408.
- 2) The opening shall then be backfilled with select granular material, unless retained suitable material is authorized or other coarse aggregate material meeting the requirements of Section 703.2 of Pennsylvania Department of Transportation Specifications, Form 408, is specified in the permit. Retained suitable material shall normally be authorized for backfill outside of the pavement and shoulder. Backfill material shall be placed in a loose layer not to exceed eight inches (8"), and vibratory compaction equipment shall be used. Each layer shall be thoroughly compacted to preclude subsidence under Section 601.3 of the Pennsylvania Department of Transportation Specifications, Form 408. Compaction shall be completed to the bottom elevation of the existing pavement.
- 3) Backfill material shall be free of broken concrete, asphalt, woody material, sod, debris, clumps, frozen materials, or clods.



4) The permit holder shall supply sufficient density test conducted by an approved independent testing laboratory at the permit holder's expense to assure the Borough that compaction requirements are being accomplished. The permit holder shall notify the Borough Roadmaster of the name, address, and phone number of the testing laboratory seventy-two (72) hours prior to backfilling operations.

5) Field compaction tests shall be used that give immediate results.

F. Restoring Flexible Pavements.

1) Temporary Replacement (Patching).

(a) All pavement removed in a crossing and/or paralleled paved street, or as a result damage caused by the permit holder, shall be temporarily replaced by the permit holder in accordance with the following.

(b) Base and surface restoration of flexible pavements shall be performed under this section and as required in the permit. Prior to replacement of the base course, one foot (1') outside the edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate subbase or stone base course and detached material shall be removed.

(c) Exposed vertical surfaces shall be prepared as required under Section 401.3(1) of Pennsylvania Department of Transportation Specifications, Form 408. The base course material shall consist of bituminous concrete meeting the requirements of

Section 305 of the Pennsylvania Department of Transportation Specifications, Form 408, and have a minimum depth of five inches (5") or a depth equal to the existing base course, whichever is greater.

- [1] From May 1 through November 14, a minimum of five inches (5") compacted thickness of hot mixed base course material shall consist of bituminous asphalt meeting the requirements of Section 305 of the Pennsylvania Department of Transportation Specifications, Form 408.
- [2] From November 15 through April 30 when hot mixed bituminous asphalt is not available, a minimum of three inches (3") compacted cold patch asphalt over 12 inches (12") compacted #2A (Note: The dates shown here are approximate only. If hot mixed bituminous material is reasonably available between November 15 and April 30, it shall be used if suitable weather allows.) Cold patch temporary repair shall be replaced with hot mixed bituminous repair prior to final paving restoration.
- [3] Temporary pavements must be placed immediately after utility installation in the crossing and/or paralleling of streets. Failure to do so shall be just cause of either the temporary or permanent suspension of the permit holder's permit. Temporary pavements may be placed in accordance with the requirements of Section F (1)13] as permanented as pavement, subject to the acceptance by the Borough.

[4] All temporary pavements must be maintained and kept in good condition by the permit holder until the final pavement replacement is made. Costs for emergency repairs by the Borough will be billed to the permit holder.

2) Final Pavement Replacement.

- (a) All excavations by the open cut method shall include removal of the pavement wearing coarse to a minimum width of at least six feet (6') and at least two feet (2') beyond the limits of the trench or excavation.
- (b) If more than twenty percent (20%) of the width of a lane of an asphalt-surfaced street (or section thereof) is removed or damaged by the permit holder's operations, a full cap of the street width (or section thereof) will be required. The full cap shall consist of a bituminous overlay. The wearing course shall consist of ID-2 material meeting the requirements of Section 421 of Pennsylvania Department of Transportation Specifications, Form 408, and shall have a depth of two inches (2") or a depth equal to the existing wearing course, whichever is greater. Other types of pavements and shoulder surfaces shall be replaced in kind or as specified in the permit. Restored openings shall be sealed in accordance with Pennsylvania Department of Transportation Specifications, Form 408. Milling/ saw-cut at tie-in to existing pavement shall be made on a 6:1 angle the entire width of the area to be paved.
- (c) The final area of pavement to be replaced and/or capped shall be determined by the Roadmaster. The final paving shall be

done by an approved paving contractor in accordance with the current Borough's specifications for paving. The name of the proposed paving contractor shall be submitted in writing to the Borough and approved in writing by the Borough. The Borough reserves the right to inspect all work and materials to be used at the permit holder's cost. All pavements and rights-of-way damaged by the permit holder's operations shall be restored to the satisfaction of Borough at the permit holder's expense.

#### **Section 14. Violations and Penalties.**

A. General Rule. Violation of the provisions of this Article or the permit requirements constitutes grounds for the imposition of the following penalties:

- 1) Upon receipt of oral or written notice of violations from an authorized representative of the Borough or a police officer having jurisdiction in the work area, the permittee shall cease to perform any further work in the area except to restore the area to a safe condition. No further work may commence in the area until all violations have been remedied. When the permittee has received oral notice of violation, written notice shall be sent to the permittee within ten (10) days of receipt of the oral notice.
- 2) Confiscation of the permit by any authorized representative of the Borough the Borough Roadmaster having jurisdiction in the work area.
- 3) Revocation of applicant's permit.

- 4) Removal of facilities installed without a permit is in violation of this Article.
- 5) Fines, imprisonment or other penalties as are provided for by law. Any person, firm, partnership or corporation who or which shall violate any provision of this Article shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than Six Hundred (\$600.00) Dollars plus costs of prosecution, and upon failure to pay the fine may be committed to jail for a period not to exceed thirty (30) days, provided that each violation of any one of the provisions in this Article shall constitute a separate offense.
- 6) Other action as may be necessary or proper.
- 7) Other violations and penalties as stated in the schedule of fees.

B. Other Grounds for Revocation. Additional grounds for revocation of a permit are as follows:

- 1) The Borough may revoke a permit whenever it determines that the permitted facility is not being properly maintained, is in violation of a condition of the permit or this Article, constitutes a hazard to traffic or interferes with the proper use of the roadway by the Borough or the public.
- 2) The Borough may revoke a permit for nonpayment of a fee as authorized herein, including default of a check submitted for payment.

**Section 15. Modification of Conditions.**

A. General Rule. When a term or condition of this Article cannot be met, an applicant may request, in writing, that the Borough modify the term or condition as it pertains to the specific application under the following:

- 1) The applicant has done all that can be reasonably expected to be done to comply with term or condition.
- 2) The proposed modification satisfies the intent of the term or condition to be modified.
- 3) The reason for the requested modification is infeasibility of meeting the exact terms or conditions of this Article rather than mere economic benefit to the applicant.

B. Modification Granted. If requested modification is granted, the permit will specify the required modification. A permit issued under authority of this section shall be signed by the Roadmaster.

This Ordinance was adopted by the Milford Borough Council at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_ 2021 and shall take effect immediately.

Frank Tarquinio, President

ATTEST:

Laurie DiGeso, Secretary