

CHARTIERS TOWNSHIP

Washington County,
Pennsylvania

Ordinance No. 408

AN ORDINANCE OF THE TOWNSHIP OF CHARTIERS, WASHINGTON COUNTY, PENNSYLVANIA AMENDING CHAPTER 300 OF THE CHARTIERS TOWNSHIP CODE OF ORDINANCES, STREETS AND SIDEWALKS, BY REPEALING AND REPLACING ARTICLES I AND II PROVIDING MINIMUM STANDARDS TO SAFEGUARD PERSONS, TO PROTECT PROPERTY, AND TO ENSURE PROMPT AND PROPER EXCAVATION AND REPAIR OF ROAD OPENING AND STREETS AND ROADS AND RIGHTS OF WAY AND TO CONTROL THE OPENING OR EXCAVATION OF TOWNSHIP STREETS AND RIGHTS OF WAY.

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

WHEREAS, Township Board of Supervisors recognizes the need for minimum standards to safeguard persons, to protect property and to ensure the prompt and proper excavation and repair of road openings in the Township roads and rights of way; and

WHEREAS, the Chartiers Township has previously adopted Ordinance No. 80 on May 29, 1974 and Ordinance No. 94 on October 10, 1979 and each became effective on the respective dates; and

WHEREAS, the need to amend the previously established procedures and regulations for the opening and excavations of streets and sidewalks has become necessary; and

WHEREAS, the Board of Supervisors of the Township desires to amend a procedure for applying for and obtaining permits to engage in road opening and excavating activities on Township roads and rights of way and to provide for fines and penalties for violators.

NOW, THEREFORE, be it ordained and it is hereby ordained that Articles I and II, Openings and Excavations and Permits for Openings and Excavations of Chapter 300, of the Chartiers Township Code of Ordinances, Streets and Sidewalks, is hereby amended in its entirety to read:

Article I Permits for Openings and Excavations

Permit required.

It shall be unlawful for any person to make any tunnel, opening, drill holes, or excavation of any kind in or under any street without first securing a permit from the Township for each separate undertaking; provided, however any person maintaining pipes, lines or other underground facilities in or under the surface of any street.

Application for permit.

The application for a permit shall be on a form prescribed by the Township and submitted to the Township. The application shall be accompanied by a fee in accordance with the Schedule of Fees

set forth by the Board of Supervisors Fee Schedule adopted from time to time and Restoration Charges. In addition, the applicant shall submit two copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersection street. Applications submitted without the required information and fee will be considered incomplete until the information has been submitted.

Issuance of permit.

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

Notice upon completion of work.

Upon completion of the work, the applicant shall give written notice thereof to the Township.

Inspections; correction of defects.

Upon completion of the work authorized by the permit, the Township or their designee shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. In addition to that inspection, the Board of Supervisors or its agents may reinspect the work not more than two years after its completion, and if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the Township, the Board of Supervisors may enforce compliance therewith. If the applicant fails to rectify a defect which presents an immediate or imminent safety or health problem within 48 hours or any other defect within 60 days after written notice from the Township to do so, the Township may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost.

Violations and penalties.

Any person, firm, corporation or utility which shall violate any of the provisions of this article shall be subject, upon conviction before a Magisterial District Judge, to pay a fine of not more than \$300, and cost of prosecution, or to imprisonment in the county jail for not more than five days, or both.

Article II. Street Excavations and Openings

Definitions.

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

APPLICANT

Any person who makes application for a permit.

EMERGENCY

Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

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 of asphalt, less than seven years old, or based on condition as determined by the Township.

PERMITTEE

Any person who has been issued a permit and has agreed to fulfill all the terms of this article.

PUBLIC UTILITY COMPANY

The Washington East Washington Joint Authority (WEWJA), Canonsburg Houston Joint Authority (CHJA), 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 Township 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.

Permit required; emergency circumstances.

- A. It shall be unlawful for any person to make any tunnel, opening, drill holes or excavation of any kind in or under the surface of any street without first securing a permit from the Township for each separate undertaking.
- B. Any person maintaining pipes, lines, or other underground facilities in or under the surface of any street may proceed with opening without a permit when emergency circumstances demand the work be done immediately, provided that the permit could not have reasonably and practically been obtained beforehand. In such cases where emergency openings are necessary, the Township shall be notified prior to such openings by either fax or telephone. The person shall thereafter apply for a permit on the first regular business day on which the Township office is open for business, and said permit shall be retroactive to the date when the work was begun.
- C. It shall be unlawful for any person, firm or corporation to drill any hole for any purpose in any street, avenue or other public place in the Township unless a permit has been obtained from the Township.

Adherence to terms of permit.

No permittee shall perform any of the work authorized by such permit in any amount greater than that specified in such permit. If the permittee desires to perform additional work, then an additional application must be submitted.

Time frame for commencement of work.

Work for which a permit has been issued shall commence within 30 days after the issuance of the permit thereof. If not so commenced, the permit shall be terminated automatically.

Expiration of permits.

Every permit shall expire after 90 days from issuance date. If the permittee shall be unable to complete the work within the specified time, he or she shall, prior to expiration of the permit, present in writing to the Township a request for an extension of time setting forth therein the reasons for the requested extension. If the Township 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.

Permits nontransferable.

Permits are not transferrable from one person to another, and the work shall not be performed in any place other than the location specifically designated in the permit.

Cuts made by municipal utilities.

All street openings required by utilities owned and/or operated by the Township shall be made and restored under the direction and supervision of the Township. The permit, fee, deposit, insurance, and bond requirements of this article shall not be applicable to any openings made by Township owned and/or operated facilities.

State and county highways.

The provisions of this article shall not be applicable in those instances where the street or highway is maintained by the Commonwealth of Pennsylvania or by the Washington County; 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 Washington County which would otherwise require a permit under the terms of this article shall notify the Township at the time that said application is made and at the time that the work under the permit issued pursuant to said application is begun, so that proper safety precautions may be taken by the Township during the continuation of said work.

Right to use streets.

Every permit shall be granted subject to the right of the Township, 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.

Revocation of permit.

- A. Any permit may be revoked by the Township, after written notice to the permittee, for:
 - (1) Violation of any condition of the permit or of any provision of this article.
 - (2) Violation of any other applicable provision of the Township Code or any other applicable ordinance, regulation, or statute.
 - (3) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
- B. When any permit has been revoked and the work authorized by the permit has not been completed, the Township shall do or cause to be done such works as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Township shall be recovered from the deposit or bond the permittee has made or filed with the Township.

Duties and responsibilities of applicant.

It shall be the duty and responsibility of any applicant to:

- A. Make written application for such permit with the Township on such forms as he or she shall prescribe. No work shall commence until the Township 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. Agree to save the Township, 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.

Duties and responsibilities of permittee; fees.

It shall be the duty and responsibility of any person receiving a permit to pay a permit fee in an amount established by resolution of the Township Board of Supervisors.

Regulations for openings and excavations.

- 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 Township.

- C. Roads must be open to traffic at all times, unless the permittee obtains written consent from the Township to close the road during construction activities.
- D. All utility facilities shall be exposed sufficiently, or their definite location shall be determined ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- E. Pipe drains, pipe culverts, or other facilities encountered shall be protected by the permittee.
- F. Any person whose facilities are damaged or caused to be relocated by the permittee shall notify the permittee and the Township of such damage and thereafter make the necessary repairs or relocation and file a claim against the permittee with the Township for the costs of such repairs or relocation. Public utility companies concerned shall be notified by the Township 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 Township from the deposit pending determination of liability for the damage.
- G. 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 of a permanent survey benchmark within the Township 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 Township. Permission shall be granted only upon the condition that the permittee shall pay all expenses incident to the proper replacement of the monument.
- H. 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.
- I. When any earth, gravel, or other excavated material is caused to flow, roll, or wash upon any street, the permittee shall cause removal of the same from the street within eight hours after deposit to permit safe flow of traffic. In the event that the earth, gravel, or other excavated material so deposited is not removed as specified, the Township shall cause such removal, and the cost incurred shall be paid by the permittee.
- J. Every permittee shall place around the project such barriers, barricades, lights, warning flags, and danger signs as shall be determined by the Township to be necessary for the protection of the public. Pennsylvania Department of Transportation Publication 213, Temporary Traffic Control Guidelines, latest edition.
- K. Access to private driveways shall be provided except during working hours when construction operations prohibit provisions of such access. Free access must be provided at all times to fire hydrants.
- L. Work authorized to be performed by a permittee 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 Township to do work at an earlier or later hour. Such permission shall be granted only in the case of an emergency or in the event that the work authorized by the permit is to be performed in traffic congested areas.
- M. In granting any permit, the Township 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. 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 Township.

Backfilling and restoration.

- A. All pavement cuts, openings, and excavations shall be made properly and backfilled and restored properly by the permittee according to Township specifications adopted by resolution and on file at the Township Office. The permittee must also restore all curbs, sidewalks, and handicap ramps disturbed in the excavation in accordance with same adopted specifications.
- B. The Township shall be notified by the permittee 48 hours in advance of backfilling and restoration. Such notice shall provide approximate time each will begin.
- C. No backfilling or restoration shall be accomplished until permission has been granted by the Township.
- D. The work of final restoration, including both paving surface and paving base, and materials used shall be subject to inspection by the Township.
- E. All streets less than 18 feet in curb-to-curb width shall be repaved the full width of the street. Streets greater than 18 feet in curb-to-curb width may be repaved from the curb to the centerline upon approval of the Township, unless the excavation intersects the centerline, in whole or in part. If the excavation intersects the centerline on streets greater than 18 feet in curb-to-curb width, then the street shall be repaved the full width of the street.
- F. If the Township Engineer finds that paving surfaces adjacent to the street openings may be damaged where trenches are made parallel to the street where a number of cross trenches are laid in proximity to one another or where the equipment used may cause such damage, he or she 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 damage 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.
- G. After excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence. The permittee is required to complete permanent restoration of the street surface in accordance with municipal 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 municipal specification during:
 - (1) The period between the completion of repairs and/or installation and the commencement of final restoration; and
 - (2) The periods during the actual work when workers do not require access to the excavation.
- H. Inspections of all work authorized by a permit shall be made by the Township or their designee at such times and in such manner as required to assure compliance with provisions of the article. 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 Township Engineer shall provide the services of such inspector.

- I. All costs of inspection shall be borne by the permittee. Such costs shall be based upon a schedule of charges on file in the Township Office.
- J. Upon completion of all work accomplished under the provisions of a permit, the permittee shall notify the Township, in writing. A certificate of final inspection shall be issued by the Township or their designee to each permittee no sooner than one year and not later than 18 months after the permanent restoration of the excavation has been made, provided that the work authorized by the permit has been performed according to municipal specifications. Prior to the issuance of a certificate, the Township shall make a final inspection of the restoration to determine whether municipal specifications have been adhered to and/or whether the restoration work was otherwise adequately and properly performed.
- K. If any settlement in a restored area occurs within a period of two years from the date of completion of the permanent restoration and the permittee fails to make such correction after notification, any expense incurred by the Township in correcting such settlement shall be paid by the permittee or recovered from his or her bond, unless the permittee submits proof, satisfactory to the Township that the settlement was not due to defective backfilling.
- L. In no case shall any opening made by the permittee be considered in the charge or care of the Township or any of its officers or employees, and no officer or employee of the Township, or its agents, is authorized in any way to take or assume jurisdiction over any such project opening, except in the exercise of police power when necessary to protect the life and property.

Restoration guarantee.

The Township, upon receipt of a properly completed application, shall determine the amount of guarantee to be made by the permittee in accordance with the schedule of charges adopted by resolution. The guarantee shall be used to reimburse the Township for the cost of work, materials, or any other expenses incurred by the Township in carrying out the provisions of this article. In the case of a public utility company, the requirement of such guarantee may be waived if such public utility company files with the Township its corporate bond as provided in this article. If any guarantee is less than sufficient to pay all costs, the permittee, shall, upon demand, pay to the Township an amount equal to pay the deficiency. If the permittee fails or refuses to pay such deficiency, the Township may institute an action to recover the same in any court competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.

Bond requirements.

- A. The permittee shall provide to the Township with, prior to the issuance of the permit, financial security in a form acceptable to the Township Solicitor, to guarantee faithful performance of work authorized by a permit granted pursuant to this article. The amount of the financial security shall be 100% of the estimated cost of restoring the street opening. The term of the financial security 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 Township. If the permittee anticipates requesting more than one permit per year, as required by this article, he or she may furnish a single financial security to guarantee faithful performance in such amount as the Township 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 Township Solicitor, may be accepted in lieu of the corporate surety bond required by this section.

- B. Maintenance bond. Each applicant, upon the receipt of a permit, shall provide the Township with financial security, in a form acceptable to the Township Solicitor, to guarantee the maintenance of the work authorized by a permit granted pursuant to this article, as well as compliance with the street opening specifications of the Township and the provisions of this article. The Township shall determine the amount of the bond, and it shall be in relation to the cost of restoring the pavement cuts to be made by the permittee; provided, however, that the minimum amount of the bond shall not be less than \$2,000. The term of each bond shall begin from the completion date of permanent restoration of the opening by the Township and shall terminate upon the receipt by the permittee of a certificate of final inspection from the Township or their designee. If the permittee anticipates requesting more than one permit a year, he or she may file a single financial security to guarantee maintenance of the work authorized by a permit granted under this article, as well as compliance with the specifications of the Township and the provisions of this article, in such amount as the Township 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.
- C. Default in performance. Whenever the Township 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 Township to be reasonably necessary for the completion of such work.
- D. 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 Township for the cost of doing the work as set forth in the notice.

Liability insurance.

Prior to the issuance of the permit, each applicant shall provide a certificate of insurance to the Township that reflects that the contractor, subcontractor or any other entity who shall actually perform the work under the permit is insured against all claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or be related to the performance of work under the permit in an amount of at least \$2,000,000. Such insurance shall cover collapse, explosive hazards, underground work and work by equipment on the street and shall include protection against liability arising from completed operations. The specific amount of the insurance shall be prescribed by the Township in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury shall be in an amount not less than \$250,000 for each person and \$500,000 for each accident, and for property damage in an amount not less than \$100,000 with an aggregate of \$300,000 for all accidents. The certificate of insurance shall also state that the Township shall be given written notice at least 60 days prior to cancellation of such insurance. The Township shall be listed as an additional insured and/or loss payee on all policies of insurance described in this section. Public utility companies and authorities may be relieved of the obligation of submitting such a certificate if they submit satisfactory evidence, in a form acceptable to the Township Solicitor, that they are insured in accordance with the requirements of this article 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.

Openings in new streets.

- A. Notice of proposed improvement. When the Township shall improve or pave any street, the Township first shall give notice to all persons owning property abutting on the street about to be paved or improved and to all persons, public utility companies, and authorities operating in the Township, 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 Township after consultation with the Township and/or Township Engineer.
- B. Restriction upon opening newly improved streets. No permit shall be issued by the Township which would allow an excavation or opening in a paved and improved street surface less than seven (7) years old unless the applicant can demonstrate clearly that public health or safety requires that the proposed work be permitted, or unless an emergency condition exists, or unless approved by Township Board of Supervisors.
- C. Requirements for opening newly improved streets. If by special action of the Township Board of Supervisors a permit is issued to open any paved an improved street surface less than seven (7) years old, then the applicant for such permit shall improve the opening and/or excavation for the entire width of the street and a length to be determined by the authorized Township Representative, with 60 lineal feet generally being the minimum and restored in accordance with Township Specifications, as amended from time to time, filed at the Township Office. These requirements may be waived by the action of Township Board of Supervisors.

List of facilities beneath streets to be furnished.

- 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 Township or to or from premises of its inhabitants or for any other purposes shall file with the Township, within 120 days after the adoption of this article, a written statement containing the names of the Township's streets wherein the aforementioned facilities owned by such persons are located.
- B. Within 90 days after the first day of January of each and every year, such person shall notify, in writing, the Township of the changes necessary to maintain the street list required in Subsection A above.

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 is abandoned, the person owning, using, controlling, or having an interest therein shall, within 30 days after such abandonment, file with the Township a statement, in writing, giving 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 Township notified thereof in writing.
- B. When the Township 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 Township and Township Engineer, their removal is in the best interest of the Township. If the owner shall refuse to remove such abandoned facilities, the Township shall remove the abandoned facilities and the owner shall reimburse the Township for full removal.

Notice to abutting owners and tenants.

- 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 Township 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 Township 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 Township shall notify the owner(s) of such facilities of the proposed work.

Notice to police and fire authorities.

The Township shall notify, in writing, municipal police, Washington County Control, and fire authorities of all street opening permits he or she grants of a nature that would require a street to be closed. Such notification shall state the nature of the work to be done, the proposed beginning and completion dates, and the location of such project.

Violations and penalties.

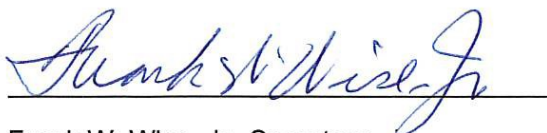
- A. Any person, firm, or corporation who violates a provision of this article, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- B. 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 article found to have been violated. All fines and penalties for the violation of this article shall be paid to the Township Treasurer.
- C. The Township may also commence appropriate actions in equity, at law, or other to prevent, restrain, correct, enjoin, or abate violations of this article.

ADOPTED and ENACTED this 27th day of February, 2024

ATTEST:

CHARTIERS TOWNSHIP

BOARD OF SUPERVISORS



Frank W. Wise, Jr., Secretary

By: 

Bronwyn Kolovich, Chairman

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