

ORDINANCE # 2024-5

**VOTING RESULTS
BOROUGH OF TOWANDA COUNCIL
ORDINANCE**

Date: September 3, 2024

Subject: Ordinance 2024-5 – STREET OPENING PERMIT updated ordinance

Motion made by: Mr. Parks

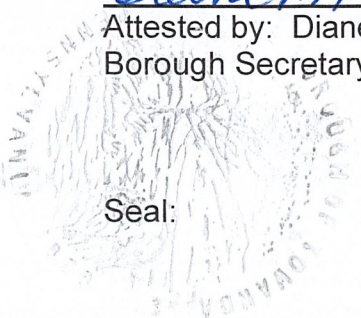
Motion 2nd by: Mr. Saring

NAME	AYE / YEA	NAY / NO	ABSTAIN	ABSENT
MR. EBERLIN	X			
MRS. MILLER	X			
MR. ROOF	X			
MR. SARING	X			
MR. KOVALCIN	X			
MR. SCHULZE	X			
MR. CHRISTINI	X			
MRS. HATCH	X			
MR. PARKS	X			

ORDINANCE # 2024-5

Status: CARRIED

Diane M. Kulick
Attested by: Diane M. Kulick
Borough Secretary/Treasurer



Seal:

ORDINANCE NO. 2024 - 5

BOROUGH OF TOWANDA

AN ORDINANCE OF THE BOROUGH OF TOWANDA, COUNTY OF BRADFORD, COMMONWEALTH OF PENNSYLVANIA REPEALING ARTICLE IX OF CHAPTER 264 OF THE CODE OF THE BOROUGH OF TOWANDA PERTAINING TO EXCAVATIONS OF STREETS AND ALLEYS AND REPLACING SAME WITH THE FOLLOWING PROVISIONS PROHIBITING THE OPENING OF A BOROUGH STREET OR STABILIZED AREA WITHOUT A PERMIT; PRESCRIBING THE TERMS AND CONDITIONS OF SUCH PERMITS AND FEES FOR ISSUANCE THEREOF; PRESCRIBING THE METHODS, MATERIALS, AND OPERATIONS REQUIRED FOR THE CUTTING INTO, OPENING AND EXCAVATION OF A BOROUGH STREET AND RESTORATION OF THE STREET THEREAFTER;

Section 1. – **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

BOROUGH – The Borough of Towanda, County of Bradford, Commonwealth of Pennsylvania.

DEFAULT – Failure of a permittee to complete the authorized or required work under a permit or permit extension by the end of the six-month expiration date of the permit or permit extension.

INSPECTOR – The Borough Engineer or other qualified person designated by the Borough to authorize, inspect, or supervise a street opening, street restoration, street maintenance, or other action by a permittee under a permit, permit extension, or street maintenance permit.

OPEN / OPENING – The penetration of the surface of a street or stabilized area causing disturbance of the substrata.

PERMIT – A license granted by the Borough to open a street or stabilized area subject to and in accordance with the provisions of this chapter.

PERMIT EXTENSION – A rider to a permit by which the expiration date of a permit is extended for an additional six months.

PERMIT FEE – A monetary payment to the Borough in an amount established from time to time by resolution of Borough Council, due at the time an application for a permit or permit extension is submitted, and imposed to cover the cost of administering a permit.

PERMITTEE – The holder of a permit and the agents and subcontractors of the permit holder.

PERSON – An adult individual, corporation, company, firm, partnership, or other legal entity formed under or recognized by law as the subject of rights and duties, excluding the Borough and the Towanda Municipal Authority, their administrators, and employees.

PRIVATE – Not publicly owned, operated, or controlled.

PORTION – A part or section of either the width or length of a street.

PUBLIC UTILITY – A public utility regulated by the Pennsylvania Public Utility Commission.

STABILIZED AREA – Any area previously or now covered with an applied manufactured or natural surfacing material such as stone or gravel, including any such previously surfaced area.

STREET – Any street, road, lane, cul-de-sac, alley, public way, public parking area, public square, or paved area of Borough property, either for or intended for public use, including the cartway, sidewalk, gutter, and right-of-way area, whether or not the street or part of the street is owned in fee by persons other than the Borough.

STREET MAINTENANCE PERMIT – A rider to a previously issued permit authorizing the permittee to perform required street maintenance work subject to the requirements and performance standards of the original permit, with an expiration date established by the Borough upon issuance.

STREET USE RESTRICTION – A total or partial closing of a street, material alteration of a street traffic pattern, or restriction of street parking necessary to complete street opening work under a permit, as approved by the Borough for good cause shown by a permittee.

Section 2. – Permit Required.

- A. No person shall open any Borough Street without first obtaining a permit.
- B. No permit or permit extension shall be issued until the permit or permit extension application has been reviewed and approved by the Borough Engineer and the permit fee has been paid to the Borough by certified check or money order.
- C. All work authorized or required by a permit or permit extension shall be completed and accepted by the Borough by the end of the six-month expiration date of the permit or permit extension.
- D. Upon application, a permit extension shall be issued to a permittee as follows:
 - 1. Private permittee - A permit extension shall be issued to a private permittee only upon good cause shown by the permittee. If a private permittee is in default and the initial permit has expired, the Borough shall notify the private permittee's bonding agent of the default and no permit extension shall issue until all requirements of the initial permit have been completed and accepted by the Borough.
 - 2. Public utility – A permit extension shall be issued to a public utility as a matter of course.
- E. Except for an emergency verified by Pennsylvania One-Call and the Borough Public Works Superintendent, no permit shall issue to open any street until at least five years have elapsed since completion of the last paving or repaving of the street.

Section 3. – Permit Application.

- A. Application for a permit or permit extension shall be made in writing on forms prescribed by the Borough. The application shall indicate the name and address of the applicant, the name of the street to be opened, the precise location, composition, and dimensions of the street area to be opened, the purpose of the street opening, the anticipated time required to complete the street opening work and the dates when the work will begin and end, the projected cost of completing the street opening work and all requirements of the permit to issue, the appropriate Pennsylvania One-Call Serial Number for Design-Level projects, a copy of the work zone traffic control plan in accordance with the Manual of Uniform Traffic

Control Devices (MUTCD) and PennDOT Publication 213, latest revision, as amended, and, in the case of an application for a permit extension, the initial permit number, its expiration date, and the reason a permit extension is necessary.

- B. To avoid street opening work delays, a permit application shall be submitted at least ten working days prior to the anticipated beginning date of the work stated in the application, and a permit extension application shall be submitted at least ten working days prior to the expiration date of the initial permit.

Section 4. – Bond Amount and Conditions.

- A. Prior to issuance of a permit, the permittee shall provide to the Borough a performance/surety bond naming the Borough as the bond obligee. The bond shall:
 - (1) be equivalent in amount to one hundred ten percent of the projected cost of completing all requirements of the permit as stated in the permit application;
 - (2) convert in the same amount to a three-year maintenance/warranty bond when all the requirements of the permit have been completed and accepted by the Borough;
 - (3) indemnify the Borough under the performance/surety bond against any damage, loss, or expense incurred by the Borough in completing or correcting any street opening work and other permit requirements upon default by the permittee in performance under a permit or permit extension;
 - (4) indemnify the Borough under the maintenance/warranty bond against any damage, loss, or expense incurred by the Borough in correcting any defect or deficiency in the workmanship of the permittee performed under the permit or permit extension;
 - (5) be issued by a surety company listed in the most recent version of Circular 570 issued by the U.S. Department of the Treasury and authorized to do business in the Commonwealth of Pennsylvania;
 - (6) be approved as to form and substance by the Borough.
- B. All or a portion of the performance/surety bond shall be forfeited to the Borough upon default by the permittee. The Borough shall provide written notice of default to the permittee and the permittee's surety which shall include the date of default and the basis for declaring default.

Section 5. Insurance and Indemnification.

- A. Prior to issuance of a permit, any person who will perform street opening work under a permit, including a permittee, all subcontractors of a permittee, and all independent contractors performing work on behalf of a permittee, shall provide to the Borough:
 - (1) a certificate of general liability insurance providing coverage of not less than one million dollars against any personal injury or property damage caused by or resulting from a street opening under a permit. The Borough, the Borough's Engineer, and the permittee, if the permittee is not the primary insured, shall be covered under any such certificate of insurance as additional insureds; and
 - (2) proof of worker's compensation insurance if such person is required by law to have worker's compensation insurance in force.
- B. Any person who will perform street opening work under a permit, including a permittee, all subcontractors of a permittee, and all independent contractors performing work on behalf

of a permittee, shall fully indemnify, save harmless, and defend the Borough and its assigns against any and all liability for personal injury or property damage caused by or resulting from any act or omission of such person in the course of performing street opening work. This provision shall be incorporated in and constitute a condition of a permit.

Section 6. Street Closure; Alteration of Traffic Patterns or Parking.

- A. Whenever in the course of performing street opening work under a permit it becomes necessary to close all or part of a street, materially alter the traffic pattern of a street, or restrict parking on a street in order for the permittee to complete such work, the permittee shall first obtain approval of a street use restriction from the Borough. A request for approval of a street use restriction shall include a description of the precise location of the street opening work and the area that will be affected, a statement of the reason for, the anticipated date(s) and time(s) of, and the work methods to be used during a street use restriction, and an explanation of what less intrusive means were considered by the permittee and rejected as not practicable.
- B. When granting approval for a street use restriction, the Borough may:
 - (1) require all street opening work to be done between the hours of 9:00 a.m. and 3:00 p.m., or 6:00 p.m. and 6:00 a.m., or where the street is a major thoroughfare, continuously from beginning to end; and
 - (2) require the placement of steel plates pinned in place to allow the flow of traffic during off-work hours.

Section 7. Traffic Accommodation and Control; Public Notification.

- A. At least forty-eight hours prior to beginning or continuing street opening work under an approved street use restriction, a permittee shall:
 - (1) notify, in such form as may be prescribed by the Borough, all persons owning or occupying a property abutting the street that will be affected by the street use restriction. Such notice shall be given by oral 'door-to-door' notice and written notice by door hangers placed on all such properties;
 - (2) notify, in such form as may be prescribed by the Borough, all emergency service providers and school districts that will be affected by the street use restriction. Such notice shall be given in writing by hand delivery to any responsible person in the administrative office of such entity, or by properly addressed electronic mail.
- B. When the permittee has served the notices required under subsection A. above, the permittee shall provide to the Borough in writing a roster of all persons served with such notice and the date service was made.
- C. A permittee shall furnish and keep in place until complete performance of all permit requirements all traffic control devices and materials necessary to maintain the orderly and safe flow of motoring and pedestrian traffic in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and the Pennsylvania Department of Transportation (PennDOT) Publication 213, latest revision, as amended.
- D. A permittee shall not cause any detour from the normal traffic pattern of a street without first obtaining approval from the Borough Engineer.

- E. At least five days prior to beginning street opening work under a permit, the permittee shall notify the Borough of the exact date when the permitted work will begin. Such notice shall be delivered in writing to the Borough's administrative office and by telephone call to the Borough Manager or Borough Secretary.

Section 8. Permit Street Opening Requirements and Performance Standards.

The following requirements and performance standards are incorporated in every permit:

- A. A permittee shall comply with all applicable requirements of the Pennsylvania One Call law (Act 50 of 2017, as amended) for both the Design and Excavation- Level One phases of the street opening work.
- B. All cuts into existing pavement shall be by saw or other method that produces a square edge. Irregular or serrated cuts are not permitted. Cuts shall be made to the full depth of any concrete or other solid base course. All base course materials shall be removed in such manner that a smooth, uniform and stable vertical face remains after removal of such material.
- C. All visible areas of alligatored or cracked pavement shall be cut back to at least one foot from the edge of such area.
- D. All excavated materials shall be removed from the street opening worksite at the end of every workday. Storage of excavated material on the street surface after the end of a workday is prohibited.
- E. All excavation, trenching, shoring, and related construction work shall comply with all requirements of the Occupational Safety & Health Administration (OSHA), Department of Labor, Safety and Health regulations for construction, specifically including the regulations covering trenching and shoring set forth in OSHA Technical Manual, Section V., Chapter 2, as amended.
- F. Prior to installation of concrete or other final restoration materials a permittee shall schedule a worksite inspection by a Borough inspector. Final restoration work shall not begin until such inspection is made and the Borough inspector has authorized the work to begin.

Section 9. Permit Street Restoration and Maintenance Requirements and Performance Standards.

The following requirements and performance standards are incorporated in every permit:

- A. A street opened under a permit shall be restored by the permittee prior to the expiration of the permit or permit extension. Street restoration shall be performed as follows:
 - (1) Wherever a street opening pavement cut longer than ten feet or wider than three feet has been made, the entire width of the street traffic lane containing the cut area plus the area encompassed by the perimeter of the cut area expanded by one foot on all sides shall be milled, overlaid, and repaved.
 - (2) Wherever two or more transverse street opening pavement cuts have been made in the same traffic lane that is less than one hundred feet apart measured from centerline to centerline of the respective cut areas, the entire width of the street

traffic lane containing the cut areas shall be milled, overlaid, and repaved, including any previously paved street shoulder area.

- (3) Wherever three or more street opening pavement cuts that are less than one hundred feet apart have been made, whether or not in the same street traffic lane, and whether under one or more permits, the entire disturbed area shall be milled, overlaid, and repaved curb to curb, or shoulder to shoulder where there is no curb.
 - (4) Wherever a street opening pavement cut area is less than five feet from any existing pavement repair patch, such patched area and the street cut area shall be milled, overlaid, and repaved.
 - (5) Wherever a test boring or other drilled hole three or more inches in diameter has been made into a street to locate leaks, vent leaks, or otherwise explore subsurface conditions such hole shall be restored with flowable fill only. Any such test boring or drilled hole less than three inches in diameter shall be restored by filling with No. 8 stone and AC 20 asphalt sealer.
 - (6) Wherever a street opening has been made in the center of a street, repaving shall conform to the existing grade of the street and repaving shall extend from curb to curb or shoulder to shoulder where there is no curb. All asphalt surface restoration shall be made in accordance with asphaltic concrete restoration requirements contained in Section 11.
 - (7) All pavement markings damaged or removed by a street opening shall be restored using materials approved by a Borough inspector.
 - (8) A public utility permittee shall install or replace a detectable warning surface on every existing handicap ramp within the street block where the permittee has made a street opening. In the absence of a block defined by intersecting streets, such warning surfaces shall be installed or replaced on every existing handicap ramp located within two hundred feet in either direction of the street opening area. The public utility permittee shall maintain all such detectable warning surfaces in good and serviceable condition for a period of three years from the date of such installation or replacement, and shall during such time repair or replace any such warning surface that becomes unserviceable due to damage or deterioration.
- B. A permittee shall maintain all street restoration areas in good and serviceable condition for a period of three years from the date such restoration was completed by the permittee (the "maintenance period"). Street restoration maintenance shall be performed as follows:
- (1) From time to time during the maintenance period the Borough shall inspect the integrity of any street restoration performed by the permittee under a permit. If after such inspection the Borough inspector reasonably determines that such restoration is in need of repair or replacement, the Borough shall give to the permittee a written request to make such repair or replacement within sixty days of the date of the request, or within such later time specified by the Borough. The permittee shall obtain a street maintenance permit from the Borough prior to beginning such maintenance work.
 - (2) If a permittee fails to timely perform the maintenance work requested by the Borough pursuant to sub-section (1) above, the Borough shall instruct the

permittee's maintenance bonding agent to cause the requested maintenance work to be done.

- C. Upon recommendation of a Borough inspector, the Borough may alter the restoration requirements of a permit, permit extension, or street maintenance permit to accommodate the Borough's Street maintenance schedule, the Towanda Municipal Authority's sewer or waterline maintenance or replacement schedule, and the condition of the affected street.

Section 10. – Backfill and Compaction Requirements and Performance Standards.

The following requirements and performance standards are incorporated in every permit:

- A. A permittee shall not begin or carry on restoration backfilling of a street opening until a Borough inspector has inspected the street opening site, authorized backfilling to begin, and is present throughout the backfilling process. When the permittee is prepared to begin such backfilling work, the permittee shall contact the Borough Secretary and request the presence of an inspector, and the Borough shall dispatch a Borough inspector to the worksite as expeditiously as possible. Should the permittee begin or carry on such backfilling without the authorization and in the presence of a Borough inspector, and upon subsequent inspection the inspector is unable to verify that such backfilling or backfilling compaction was done in accordance with the requirements and performance standards of this section, the permittee, at the direction of the inspector, shall remove all such backfill and replace it.
- B. Street restoration backfilling shall be performed as follows:
 - (1) Prior to beginning restoration backfilling, a permittee shall select a qualified compaction testing agency and, after approval of the agency by the Borough, retain, and pay for the services of such agency to verify that backfilling compaction is performed in accordance with the requirements and performance standards of this section.
 - (2) Compaction of backfilling shall be done with vibrating compactors or mechanical tampers, and manual tamping shall be done around utilities, where appropriate. Compaction shall be done to maximum (100%) density with flowable fill, and to ninety-five percent (95%) density with granular materials in accordance with ASTM D1557. Soil that exceeds liquid limits shall not be used for backfilling.
 - (3) On a street that has not been paved within the last seven years or that is heavily traveled as determined by a Borough inspector, only flowable fill or virgin materials (No. 2RC aggregate material or No. 57 clean coarse aggregate) shall be used for backfilling. The Borough shall indicate on a permit when issued whether the requirements of this subsection apply to the street to be opened under the permit.
 - (4) On a street that has been paved within the last seven years or that is heavily travelled as determined by a Borough inspector, only Penn-DOT approved Type A flowable fill shall be used for backfilling.
 - (5) Unless otherwise required by this section, only Penn-DOT certified 2A or 2RC aggregate as specified by Penn-DOT Form 408, latest revision, Sections 703.2

and 703.3 shall be used for backfilling. These materials shall be placed in six-inch lifts and raised to one foot below the elevation of the street substratum.

- (6) After granular backfilling material has been compacted to the degree required by subsection (2) above, a bituminous concrete base course shall be installed.
- C. Depending on the condition of a street subsurface, the Borough's inspector may adjust the requirements and performance standards for backfilling a street opening, including materials to be used, application methods, and compaction standards and methods.

Section 10. – Asphaltic Concrete Restoration

The following requirements and performance standards are incorporated in every permit:

- A. All asphaltic materials used for street opening restoration shall consist of Penn-DOT certified materials as described in Penn-DOT Publication 408, latest edition, Section 300 pertaining to base and binder courses, and Section 400 pertaining to wearing courses. All asphalt applications shall be made with Penn-DOT Superpave Hot Mix Asphalt.
- B. Asphaltic restoration shall be performed as follows:
 - (1) A base of twenty-five-millimeter bituminous concrete base course material shall be applied to a thickness of not less than four and one-half inches after compaction over which a topping of nine and one-half millimeter wearing course material shall be applied to a thickness of not less than one and one-half inches thick after compaction. The top level of the wearing course shall coincide with the level of the existing street pavement.
 - (2) All edges of the repaved area shall be sealed with PG-22 asphalt sealer applied to a width of six inches along the interior and the exterior of the edge lines to form a continuous twelve-inch-wide seal around the street-cut seam.
 - (3) All surfaces in contact with pavement except the stone subbase shall be tack coated with asphaltic material described in Penn-DOT Publication 408, latest edition, Section 460.

Section 11. – Weather Limitations.

The following requirements and performance standards are incorporated in every permit:

- A. When performing street opening restoration, asphalt or bituminous coatings shall not be applied whenever the base surface temperature is less than forty degrees Fahrenheit or when the surface is wet or frozen. When street restoration is performed during the time of year when all local asphalt pug mills are closed, or if weather conditions do not permit application of restoration materials as required by Section 10. above, a temporary bituminous cold patch shall be applied to a thickness of not less than three inches after compaction. Within sixty days of the date when local asphalt pug mills reopen, or when weather conditions permit, all temporary cold patch restorations shall be removed and replaced with hot mix applications as required by Section 10. above.
- B. Where necessary, steel plates may be used over a street opening between October 31 and April 1 of each year.

Section 12. – Protection of Borough Sewer System and Storm Water Inlets.

- A. When performing a street opening or restoration, a permittee shall not allow silt, dirt or debris to enter the Borough sewer system. All stormwater inlets within the drainage area of a street opening shall be protected by a filter system that will prevent water from carrying silt, dirt, or other debris into the sewer.
- B. Should a Borough inspector determine that a permittee has caused silt, dirt or other debris to enter the sewer system due to inadequate preventative measures, the permittee shall be required to clean and flush each contaminated sewer inlet.

Section 13. – Restoration of Adjacent Damaged Street Surface.

The following requirement is incorporated in every permit.

A permittee shall, at the permittee's expense and to the satisfaction of a Borough inspector, repair and restore to its previous condition any street surface area damaged or otherwise disturbed by the permittee in the course of a street opening or restoration.

Section 14. – Violations and Penalties.

- A. Any person violating any of the provisions of this article shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) nor more than six hundred dollars (\$600.00) for each offense, or shall be imprisoned for a term not exceeding thirty days, or both.
- B. No permit shall be issued to any person convicted of violating any provisions of this chapter until all fines and costs imposed have been paid in full and any sentence of incarceration has been served.

Section 15. – Responsibility of Permittee; Limitation of Borough Jurisdiction.

- A. By acceptance of a permit, the permittee shall be solely and fully responsible for performing all requirements of a permit as an independent contractor and not as an agent of the Borough. The Borough shall have no duty or obligation to perform any permit requirements. No Borough official, administrator, or employee shall at any time assume jurisdiction over or responsibility for the performance of any requirement of a permit.
- B. The approval of a Borough inspector shall not relieve or release a permittee from sole and full responsibility for the performance of all requirements of a permit.

Section 16. – Repealer.

- A. Article IX of Chapter 264 of the Code of the Borough is hereby repealed in its entirety.

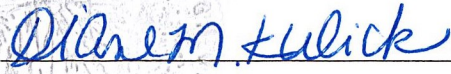
Section 17. Effective Date:

This Ordinance shall be effective immediately and shall remain in force until modified, amended, or rescinded by the Borough of Towanda.

ENACTED AND ADOPTED BY THE Towanda Borough Council this 3rd day of September 2024.

ATTEST:

BY:

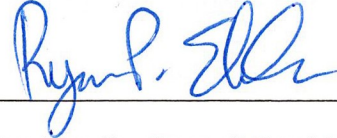


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Diane Kulick, Borough Secretary

COUNCIL OF THE BOROUGH OF TOWANDA

BY:

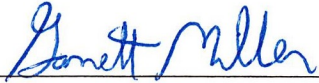


A handwritten signature in blue ink, appearing to read "Ryan Eberlin", written over a horizontal line.

Ryan Eberlin, Council President

APPROVED this 3rd day of September 2024.

BY:



A handwritten signature in blue ink, appearing to read "Garrett Miller", written over a horizontal line.

Garrett Miller, Mayor of Towanda Borough