

ORDINANCE NO. O-1-2024

AN ORDINANCE OF THE TOWNSHIP OF UNITY, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA AMENDING CHAPTER 100, ARTICLE I OF THE CODE OF UNITY TOWNSHIP RELATING TO CLARIFY WORK TO BE PERFORMED BY TOWNSHIP PERSONNEL ASSOCIATED WITH THE INSPECTION OF EXCAVATIONS, OPENINGS AND BACKFILLING OF TOWNSHIP ROADS

WHEREAS, the Board of Supervisors of Unity Township is vested with authority to make rules and regulations associated with the upkeep, care and/or maintenance of roads within the Township's public road system; and

WHEREAS, the Board of Supervisors have codified requirements for the excavation, opening, backfilling and restoration of Township roads in Chapter 100, Article I of the Code of Unity Township; and

WHEREAS, the Board of Supervisors desire to amend the provisions of Article I of Chapter 100 of the Code of Unity Township to clarify work to be performed by Township personnel associated with the inspection, excavation, opening, backfilling and restoration of Township roads; and

WHEREAS, the Board of Supervisors desire to make those amendments to Chapter 100, Article I of the Code as set forth in the attached Exhibit "A", with deletions to the terms of Article I being struck through and new language to be added underlined.


NOW, THEREFORE, WITH THE FOREGOING RECITALS BEING INCORPORATED HEREIN BY REFERENCE THERETO, THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF UNITY, COUNTY OF WESTMORELAND AND COMMONWEALTH OF PENNSYLVANIA HEREBY ORDAIN AND ENACT AS FOLLOWS:


1. THAT, those amendments to Chapter 100, Article I, of the Code of Unity Township identified in the attached Exhibit "A", be and are hereby approved.
2. THAT, following its enactment, the Township Secretary shall send a copy of this Ordinance and the attached Exhibit "A" to the publisher of the Township Code so such amendments may be made to the Township Code and published accordingly.
3. THAT, notwithstanding the date of its' ultimate publication, those amendments set forth in Exhibit "A" shall be effective as set forth below.

THIS ORDINANCE IS DULY ORDAINED AND ENACTED BY THE BOARD OF SUPERVISORS OF UNITY TOWNSHIP AT A PUBLIC MEETING HELD THE 14th DAY OF MARCH, 2024 AND SHALL TAKE EFFECT FIVE (5) DAYS FROM THE DATE OF ITS ENACTMENT.

ATTEST:

THE BOARD OF SUPERVISORS OF
THE TOWNSHIP OF UNITY


Sharon C. Sweeney, Secretary


Michael J. O'Barto, Chairman

ARTICLE I
Excavations and Opening of Roads
[Adopted 8-24-2004 by Ord. No. O-11-04¹]
[Amended 10-12-23 by Ord. No. 0-7-23]
[Amended 3-14-24 by Ord, No. _____]

§ 100-1. Definitions.

The following words, when used in this article, shall have the meanings ascribed to them as follows:

PERSON — Includes both singular and plural and shall apply to any natural person, partnership, firm, association or corporation, including public utility companies.

STREET — Any public street, avenue, road, alley, highway or other public place located in the Township of Unity and established for the use of vehicles, or any length, part or portion thereof, including those portions, paved and unpaved, of rights- of-way forming a part of the Unity Township Public Road System.

TOWNSHIP — The Township of Unity, Westmoreland County, Pennsylvania acting through either its Township Engineer, Township Roadmaster or other individuals authorized by the Board of Supervisors to act on its behalf.

UTILITY SERVICE LINES — Pipelines, cables and the like installed primarily to provide utility services to properties abutting on the street where said lines are installed.

UTILITY TRANSMISSION LINES — All -pipelines, cables and the like installed primarily to transmit energy or other products from one place to another without its primary goal being to provide utility services to properties along which said lines pass.

§ 100-2. Permit required.

It shall be unlawful and a violation of this Ordinance for any person to open or make any excavation in any street in the Township of Unity without first securing a permit therefor as hereinafter provided.

§ 100-3. Permit application; bond required.

- A. **Permit Application.** Any person who desires to make any cut, opening or excavation of any kind in any street in the Township of Unity shall make application to the Township, in writing. Such application shall be made (1) prior to the Applicant beginning work in or on the street, (2) upon applications furnished by the Township setting forth the name of the applicant, the exact location of the proposed opening or excavation and the approximate size or depth thereof. The Application shall contain a certification and agreement acknowledging that the applicant's work shall be done in full compliance with all of the ordinances of the Township of Unity and the laws of the Commonwealth of Pennsylvania applicable to same, and that the applicant will hold harmless, indemnify and defend the Township from and against any and all actions, suits, demands, payments, costs and charges arising from or relating to the proposed opening, excavation, backfilling and/or work related to same, and all damages to persons or property resulting in any manner therefrom or occurring in the prosecution of the work connected therewith, or from any other matter, clause or thing related thereto. Said application shall be made with the Ordinance Enforcement Officer of the Township.
- B. **Financial Security.** The applicant shall post financial security in a form acceptable to the Township, issued by a licensed surety company authorized to do business in the Commonwealth of Pennsylvania, in an amount as specified by the Township to secure the Applicant's obligations under this Article. Such financial security shall remain in effect until all work contemplated in the application is

completed by the applicant and approved by the Township. All public utility companies requesting a permit to open or excavate the surface of a street shall furnish a corporate surety bond in a form approved by the Township. Public utility companies may post a single bond or other form of financial security (e.g. a "blanket bond") acceptable to the Township as security for all work performed within the Township's Public Road System on an annual basis.

§ 100-4. Permit fee; determination of amount of bond.

Before any permit is issued to open or excavate any street in the Township, the applicant shall pay a permit fee in an amount as maybe fixed and determined by resolution of the Board of Supervisors to cover the costs of inspection and other administrative in connection therewith. Before any permit is issued, the application, as hereinabove set forth, shall be reviewed by the Township to determine the amount of financial security to be posted to cover the proper restoration of the area to be disturbed by the applicant. The amount of financial security determined by the Township shall be conditioned upon the faithful performance of all requirements and the prompt payment of all costs set forth in this article. Such financial security shall be furnished prior to, and as a condition of, the granting of the permit hereunder.

§ 100-5. Minimum standards and specifications for restoration and backfilling.

- A. **Restoration.** Any person who opens or excavates in any street in the Township shall thoroughly and completely refill the opening or excavation to prevent any settling thereof and restore the surface to the same condition as it was before the opening or excavation.
- B. **Specifications.** Unless directed otherwise by the Township, such restoration shall be carried out and conform to the following standards and specifications:
- (1) All backfilling shall conform to the original contour of the surface unless the Board of Supervisors directs otherwise.
 - (2) All backfilling shall be done with mechanical compaction.
 - (3) Backfilling under pavement shall consist of No. 2 modified stone, in layers, each layer being six to eight inches in depth, maximum. Such backfilling shall stop eight inches below the road surface where the cartway has no stone base and 12 inches below the road surface where the cartway has a stone base.
 - (4) Road pavement having no stone base shall be restored with six inches of ID No. 2 compacted binder course and two inches of ID No. 2 compacted finish course material over No. 2 modified stone as required by Subsection B(3) above.
 - (5) Road pavement having a stone base shall be restored by replacing the stone base excavated with 10 inches of No. 4 stone compacted in two layers to eight inches and choked with No. 1 crushed stone. Over said restored stone base shall be added three inches of ID No. 2 binder bituminous concrete and completed with one inch of ID No. 2 wearing course.
 - (6) Cutting and replacement of pavement shall be 12 inches on each side of the trench and is to include replacement of stone base in these areas. All joints are to be square and properly sealed.
 - (7) All paving materials shall conform to Pennsylvania Department of Transportation specifications as set forth in the most recent edition of PennDOT Form 408.
 - (8) Damaged pavement shall be replaced in accordance with the requirements of Subsection B(3), (4), (5) and (6) above, as applicable.

- (9) All berm areas shall be backfilled completely to the surface with No. 2 modified stone. Where a portion of the right-of-way is maintained as a lawn, backfilling shall consist of No. 2 modified stone stopping 12 inches below the surface, the remaining 12 inches to the surface to be backfilled with suitable soil for planting. The Board of Supervisors retains the discretion to require backfilling with No. 2 modified stone to the surface where it is determined that the cartway or right-of-way shall be benefited by widening of the berm area. Should there be a question as to whether a portion of the right-of-way is maintained as a lawn or fenced-in area, the decision of the Supervisors will be final.
- (10) Whenever possible, pipe should be located three to four feet from the edge of the paved cartway and at the center of the trench. Trenches shall be wide enough to allow compaction of material on each side of the pipe.
- (11) Existing gutters composed of stone or other material removed in the course of opening and excavating a street shall be replaced with six inches of ID No. 2 compacted binder course and two inches of ID No. 2 finish course material over No. 2 modified stone.
- (12) Cleat marks on the edge of the pavement shall be avoided. Contractors shall take necessary steps to avoid this type of damage.
- (13) If, within three (3) years after the restoration of the surface as herein provided, defects appear in the backfilling or surfacing by the applicant as set forth hereafter, the applicant shall, within 10 days' notice by the Township, refill and/or resurface the opening or excavation as herein provided. If the applicant fails to refill and/or resurface the opening or excavation within 10 days, the Township may make the repair, and invoice the applicant for the cost of same plus 20%. In the event payment is not made within thirty (30) days of the date of the invoice, the Township may collect same as set forth hereafter.

C. **Overlays and Resurfacing.** In the event excavation in, or the replacement of, any street as herein defined results in three (3) or more replacement areas (hereinafter referred to as a "patch" or "patches") within any 250 linear foot area, the applicant or permittee making the third "opening" shall be responsible to mill and pave or overlay the entire road surface within the 250 linear foot area in which such patches are located. Such restoration shall be from edge to edge of the paved cartway. Such reconstruction and overlaying shall be conducted using the practices and procedures established for repairing street openings or other provisions of this Ordinance associated with construction requirements for new roads. Such resurfacing may also be carried out by another method proposed by the Applicant/Permittee if, in the sole and exclusive judgment of the Township, same will obtain an equal or better result. The selection of methods shall be within the sole discretion of the Township and determined by the nature and extent of the conditions existing within the road, the nature of the excavation and the repairs necessary to achieve a smooth and lasting transition between the area of the overlay and the existing road. In addition to any overlay, the applicant or permittee shall also be required to install handicap accessible ramps at intersections consistent with the terms of the Americans with Disabilities Act.

D. **Additional Restoration.** In addition to the foregoing, the Township may require restoration measures over and above the minimum requirements set forth herein should the Supervisors determine, in their sole discretion, that such additional measures are required under the circumstances for proper restoration.

§ 100-6. Payment of costs; release of bond.

All work in connection with the openings in any street, including the excavation, protection, refilling, temporary paving or permanent paving, shall be done by the applicant at their own expense, subject to the supervision and approval of the Township. The Township may require that the cutting of the surface of an approved street and backfilling of all excavations therein shall be done by the Township or its designee, and that the charge therefor shall be paid by the applicant on the basis of the actual costs of the work plus 20%. Applicants shall reimburse the Township for any and all costs and expenses, including engineering fees, it incurs relating to the work performed by applicants. The financial security posted by the Applicant shall remain in place for a period of three (3) years following the completion of the backfilling and surface restoration, and may be released thereafter provided the Township issued a certificate approving the work of the applicant and the Township has received all costs or payments required to be paid by the applicant.

§ 100-6.1. Utility work to be done by licensed individuals; reasons for denial.

Nothing contained herein shall be interpreted to mean that any use of the streets and the roads of Unity Township may be made by anyone other than a licensed utility company registered with the Pennsylvania Public Utility Commission or some equivalent licensing agency for the purpose of installing utility service lines in the streets of Unity Township. No opening or excavation in any street of Unity Township shall be made by any licensed utility company or its equivalent for the installation of utility transmission lines without the prior written approval of the Township. Said permission to install utility transmission lines may be denied by the Board of Supervisors of Unity Township for good cause, including the desire to obtain money damages for the Township's loss of use of any rights-of-way occasioned by the installation of the utility transmission lines. Furthermore, Unity Township may deny to any person the right to make any excavation into or on any street in the Township when the same is deemed to be adverse, or presents a danger to, the public health, safety and welfare. Furthermore, nothing contained herein shall be deemed to prohibit property owners from connecting on to public utility lines already existing in any streets of Unity Township abutting on the properties thereto; provided, however, that a permit is obtained in conformity with this article.

§ 100-6.2. Additional regulations.

- A. No opening or excavation in any street shall extend from the curblin into a street a distance greater than one foot beyond the center line of the street without first being refilled and the surface of the street restored to a condition safe and convenient for travel.
- B. All excavation work contemplated herein shall be conducted as not to interfere with water mains, gas lines, sewers or their connections with houses, until permission from the proper authorities in connection with such subservice lines or construction has been obtained.
- C. The Applicant shall be responsible for the control of traffic during the excavation and backfilling process. During same, the applicant, their employees, workmen, agents or assigns, shall take all necessary and reasonable precautions to keep the street in a safe and passable condition and ensure that all permits have been issued and in place. Any person, corporation, entity or firm performing any excavation in a Township Road shall indemnify, save and keep harmless the Township from any loss or claims for damages which may be occasioned by their excavation within the roadway, or by any leak, explosion or other injury from any pipe, conduit or any other facility damaged as a result

of the excavation.

- D. In the event any work performed by, for or on behalf of a permit holder shall, in the opinion of the Township, be unsatisfactory and is not be correct to the satisfaction of the Township within the time affixed by the Township, the Township may proceed to correct such unsatisfactory work and charge the applicant/permittee for the costs thereof, plus 20%..
- E. In order to facilitate snow removal activity by the Township and the ability of Township residents to travel during the winter months, no permit shall be issued and no opening or excavation of public roadways shall be permitted during the winter months, beginning November 1 and continuing until March 31 of the following year. Specifically excluded from the provisions of this subsection is any emergency work required by utility companies and the excavation of public roadways for new utility service connection where said opening does not exceed an area more than three feet wide and having a length equal to the width of the public roadway as measured from berm to berm.

§ 100-6.3. Emergency conditions and repairs.

- A. If an emergency shall arise, it may be lawful for the person owning or responsible for the pipe, line, facility or apparatus to commence excavation on an emergency basis to remedy such emergency condition before securing a permit. An application for a permit shall, however, be made no later than the next business day after the excavation begins.
- B. If an emergency condition is not immediately attended to by the owner or person responsible for the correction of same, the Township, after such notice as shall be deemed necessary, may proceed to perform the work required to remedy the circumstances giving rise to such emergency and assess the actual costs incurred by the Township against the person responsible for same plus 20%..
- C. In any event, following the undertaking of emergency repairs, the roadway shall be repaired in accordance with the standards and specifications for restoration and backfilling as set forth in this Article within a time period established by the Township Engineer.

§ 100-6.4. Time limit for payment.

In the event the Township is required to perform work under this Ordinance, payment for same shall be made by the person whose failure occasioned the Township's performance within 30 days after a bill is presented to such person by the Township. Upon failure to pay such charge within such time, the same may be collected by the Township in any manner provided by law.

§ 100-6.5. Violations and penalties.

Any person who violates the provisions of this Article shall be subject to a penalty of not less than \$300.00 nor more than \$600.00 together with all costs, expenses and attorneys' fees incurred in the prosecution of same. Each day that a violation continues to exist shall be a separate violation of this Article and subject the violator to a separate penalty as set forth herein. In addition to the payment of any fine hereunder, the Township may enforce the terms of this Article, and any rights conferred upon the Township under same, through any action, at law or in equity, available for the enforcement of same. In addition to the recovery of any costs, damages, penalty, or the receipt of equitable relief, the Township shall be entitled to recover all costs, expenses and attorneys' fees incurred in any proceedings to enforce any right, duty or obligation under this Article.