

ORDINANCE NO. 1 of 2000

February 9, 2000

AN ORDINANCE OF THE BOROUGH OF NEW BEAVER, LAWRENCE COUNTY, PENNSYLVANIA FOR STREET AND ROAD EXCAVATIONS, BORING, CUTTING

BE IT ORDAINED BY THE BOROUGH COUNCIL OF NEW BEAVER BOROUGH, LAWRENCE COUNTY, PENNSYLVANIA, AS FOLLOWS:

STREET/ROAD, ALLEY EXCAVATIONS

Section 101. Permit Required No person or persons, firm, association or corporation shall make any excavations or soundings, by drilling or boring or otherwise in or under or upon any of the highways, streets or roads or alleys of the Borough of New Beaver, Pennsylvania, without first obtaining a permit from the Borough Secretary or Borough Officer of New Beaver, Pennsylvania. Failure to secure a permit or post deposit and secure approval, prior to commencement of work will result in \$100.00 fine for each violation plus unpaid fees due Borough of New Beaver Permits are not transferable.

Permission to make such excavations or soundings, by drilling or tunneling or boring or otherwise, may be obtained upon compliance with the following conditions, viz: Written applications must be made to the Borough Secretary, or Borough Code Officer for permits. Such application must set forth the name of the road/ street, or alley, and a description of the property in front of which the proposed excavations or sounding, by drilling or otherwise, as well as the character, extent and purpose of such proposed excavations or soundings, drilling or boring or otherwise, are to be made, said statement of character, extent and purpose to include a statement of approximate width, length and depth of street surface to be excavated, drilled bored or damaged.

102. Application Fee. An application fee of Seventy-five (\$75.00) shall be paid to the Secretary, this will include the reviewing of plans by the Engineer, and the permittee is responsible for maintaining the excavation area for two (2) years from date completed. Upon said application being approved by the Borough Secretary/ Borough Code Enforcement Officer or designated person, the permit shall be granted. Also payable at this time is the Inspector fee of One Hundred (\$100.00) per application.

102.1 Performance/ Maintenance Bonds

\$1,000.00 bond or \$200.00 cash bond, with no interest to be accrued for opening from 0- 2 feet (24 inches) per 20 foot section. Larger openings to be bonded as determined by Borough Engineer.

103. Permit Canceled and No Refund When Work Not Done. In all cases where a permit has been issued, and the work set forth in such permit has not been commenced within ten (10) days the same shall be canceled, and no fee shall be refunded.

104. Effect of Failure to Complete Work Prior to Date of Expiration of Permit. Work to be started within 10 days after permitted and completed within 6 months. In case the work has not been completed before the date of expiration as shown on the permit, which date shall be fixed when the permit is granted and shall not be more than six months from date

of issuance, the Borough Secretary or Code Enforcement Officer, or designated person, may, if she/he deems it advisable, take the proper steps to backfill the trench, or cut, or boring and replace the street/ road surfaced over the opening for which the permit has been issued, and bill permittee. If an extension of time on the said date is necessary for the completion of the work, a written application for an extension of time must be filed with the Borough Secretary for which applicant shall pay the fee of Ten Dollars (\$10.00), per permit if such extension of time is granted for additional 6 months.

Permittee shall return no later than 30 days to permatly restore surface of roadway opening.

Survey markers must not be removed or moved without consent of code enforcement officer or Secretary, or designated person and the permittee shall pay all expenses to have the markers replaced in their proper place by a surveyor licensed to practice in the Commonwealth.

All permits for the breaking of road, street or alley surfaces are subject to revocation at any time by the Borough Secretary, Borough Code Enforcement Officer or Council, or in the event of failure of the permittee to comply with any of the conditions upon which the permit has been granted, said conditions, however, to be in accordance with the provisions of this ordinance.

105. Restrictions on Work Between November 15 and March 15/ Restrictions on Tunneling.

The Borough Secretary or Code Enforcement Officer shall have the right to refuse to permit the breaking of the surface of any street, alley or road during the period from November 15 to March 15, unless directed by Council to grant such permit. No part of a trench or excavation shall be tunneled or undermined so as to leave the surface undisturbed, but all materials shall be removed to the full length, width and depth by the excavation except in such cases where it shall be approved by the Borough Secretary or Code Enforcement Office or Road Committee. The charges, however, will be the same as if the surface had been removed.

106. Responsibility of Permit Holder/ Employment of Extra Inspectors/ Additional rules and Regulations Authorized.

The party or parties to whom the permit shall be issued shall assume all responsibility for such excavation or drilling or boring for refilling the same, and for all damages whosoever that may arise by reason of the digging, tunneling, drilling or boring of such trenches or excavations.

When ever, because of the length or extent of any excavation, or because of the number of roads, streets or alleys in which the same may be made, the Borough Secretary or Borough Code Officer, or Borough Engineer shall deem it necessary to employ an extra inspector or inspectors to supervise the placing of materials and refilling the excavation, such inspector or inspectors shall be paid by the party or parties obtaining the permit at a rate per hour or day to be fixed by the Borough Council. The Borough Engineer is hereby authorized to make such other rules or regulations for the excavations or street, roads, or

alleys or tree, lawn areas (grass plots) which he may deem necessary for the proper maintenance of the street, alley, road, grass area surfaces due to the excavation, which rules and regulations shall be written or printed upon the permit granted. Filing of the PA. One Call ID# with permit when application is required.

107. Maximum Depth of Excavation or Sounding Hole or Boring Interference with Water Pipes, Sewers or Drains Prohibited.

No excavation and no sounding holes, or boring shall be made in or upon a greater surface of the highway than specified in such permit, and no excavation or sounding holes, or boring shall interfere with any of the water pipes, sewers or drains or ditches of the Borough.

107.1 Fire Hydrants

Free access must be provided at all time to fire hydrants.

107.2 Borough Opening the Road

All street openings required to be opened by the Borough in connection with drains, ditches or other necessary things shall be made and restored under the direction and supervision of the Road Committee. The permit fee, insurance, and bond requirements of this article shall not be applicable to any openings made by such municipally. But hazzard markings shall be consistant with the ordinance. This ordinance is not applicable where highway is maintained by Commonwealth.

108. Permittee Responsibilities:

(1) The permittee shall pay all costs and expenses incident to or arising from the project, including the prescribed fees for same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration.

(2) Notify Borough of date completed.

(3) Permanent restoration method:

(a) Permanent restoration shall be made and guaranteed for a period of two (2) years. The base material shall consist of four inches of bituminous concrete base course meeting the requirements of Commonwealth of Pennsylvania Department of Transportation Section 305, Publication 408. The wearing course shall consist of one and one half inches

(1/2 inches), of ID-Z, SRL-M meeting the requirements of Section 420, Publication 408. If the existing roadway contains a cement concrete course this course shall be replaced in kind and to the same depth as the existing.

(b) If any subsidence occurs in the roadway opening after restoration has been made the permittee shall remove the base course and wearing course, recompact the backfill; replace the base course and replace the wearing course in accordance with the above specifications. The Borough shall determine where and when subsidence has occurred.

(c) **ALL JOINTS MUST BE SEALED AS PER THE REQUIREMENTS**

OF SECTION 420 OF PUBLICATION 408.

4. **Disposition of materials;**
 - (a) The permittee shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the highway or road or alley during the performance of work authorized by the permit.
 - (b) The permittee shall be responsible for controlling dust conditions created by its own operation.
 - (c) All excess material shall be removed and disposed of outside the right-of-way as the work progresses.
5. **Backfilling-** All openings made in the improved area shall be back-filled by the permittee in accordance with the following minimum standards.
 - (a) The opening shall first be backfilled with 2A stone for installation to a height not to exceed one foot, (12 inches) over the top of the facility.
 - (b) The opening shall then be backfilled with 2-A, and compacted throughout its full width with approved vibratory compaction equipment in layers not to exceed eight inches (8 inches)
 - (c) Compaction shall be completed to the bottom elevation of the existing pavement.
 - (d) The Borough may require the permittee to have material proposed for use as backfill tested for conformance to Publication 408.
6. **Appurtenances to Underground Installations:**
 - (a) The top of every manhole, valve box or other access to the facility shall be at the same elevation as the surface in which it is located.
 - (b) The surface surrounding manhole or valve covers located in shoulders shall be paved in such a manner as to prevent washouts.
7. **Additional Restoration**
 - (a) All disturbed portions of the highway, street, road or alley or thoroughfare, including all appurtenances and structures such as guiderails or drain pipes, or ditches shall be restored to a condition equal to that which existed before the start of any work authorized by the permit.
 - (b) If the permittee opens the pavement, whether to install a new facility or to modify an existing facility or for any other reason other than to perform emergency work, and the wearing course is less than five years old, the permittee shall, in addition to the minimum restoration conditions outlined herein (relating to special conditions subsurface-operations), overlay the pavement in accordance with the following conditions:
 - (i) When longitudinal opening longer than ten feet (10 feet), and wider than three feet (3 feet), in pavement, the permittee shall overlay the traffic lane(s) in which the opening was made for the entire length of highway that was opened.

- (ii) When two or more transverse trench openings made in the highway pavement less than one hundred feet (100 feet), apart, the permittee shall overlay all traffic lanes in which the openings were made, for the entire length of highway between such openings.
8. Each and every street, road or alley cut shall be made only after application has been made and permit granted by the Borough Secretary or Code Enforcement Office, except in an emergency cut or cuts by utility corporations.

Utility corporations shall make permit applications for all emergency cuts within five days (5 days) after the emergency cut has been made.

9. The said person, partnership, firm or corporation causing such cut or opening to be made in the streets, roads or alley shall provide suitable barricades and guards to protect persons using the highway from injury, and at night the cut or opening or boring shall be marked with sufficient hazard lights to warn persons using the highway of such cut, opening or boring.

109 Obstruction of Gutters, Drains, Sidewalks Prohibited During Work/ Placement of Warning Light/ Restrictions and Extent of Excavations.

All gutters, drains must be left open so as not to obstruct the free passage of water, and the pavements and footways must be kept in a safe and passable condition. All excavation or materials from the same shall have placed upon them after dark flashing lighted markers in such a manner that there shall be on light at each end, and where such excavations or materials are more than fifty (50 feet) or fraction thereof, and not more than one-half (1/2) of the highway or street or road or alley shall be open at one time.

The Borough shall have authority to regulate the opening, boring, cuts so that the proper use of the highways, roads shall not be unnecessarily interfered with, and shall have authority to see that the said openings or cuts or borings are filled and closed as required by this ordinance.

The permittee shall be responsible to notify the Borough office through its contractor or otherwise 5 days in advance, the precise day when the cut, opening or boring or excavation work shall commence, and the precise day when closing of the cut, boring or excavation shall commence. The cut or boring or excavation shall not be closed without inspection by Borough Code Enforcement Officer or Engineer for each application. The permittee shall notify the Borough Secretary when work is completed to ask for the Inspector. Inspector fee shall be (\$100.00 One Hundred.) Payable at the time of application. In event cuts are to be done for Borough benefit and at Borough request, the Borough has the right to waive any and all fees.

110. Conditions for Issuance of Permits.

Permits shall be granted only to contractors, sub-contractors, owners of the property for whom the work is done where applicable or to public utilities whose service lines or poles occupy the highways or, roads or alleys of the Borough, under a legal right or

franchise. No permits shall be issued where the proposed work might interfere with any work being done by or for the Borough of New Beaver.

The person, contractor, sub-contractor, partnership, firm or corporation, agree fully to indemnify and save harmless the Borough of New Beaver of and from all liability for damages or injury occurring to any person or persons or property at such openings in streets, roads, alleys through or in consequence of any act or omission of any contractor, agent, servant, employee or person engaged or employed in, about or upon said work, by, at the instance, or with the approval or consent of the person, partnership, firm or corporation, or from the failure of the same and/ or its contractor to comply with the provisions for maintenance as set forth therein.

111. Severability.

If any sentence, clause, section, or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council of New Beaver that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not have been included herein.

112. Penalties and Enforcement.

Any violation of these regulations shall constitute grounds for imposition of any or all of the following penalties:

- (1) Upon receipt of verbal or written notice of any violations(s) from the Borough's authorized representative or a police officer whose jurisdiction includes the permitted work area, the permittee shall cease to perform any further work in the permitted area except to restore the area to safe condition. No further work shall commence in the permitted area until the violation(s) have been remedied. Where the permittee has received verbal notice of the violation(s), written notice shall be sent to the permittee within ten (10) days of the receipt of the verbal notice.
- (2) Confiscation of the applicant's permit or emergency permit card by any police officer or authorized representative of the Borough.
- (3) Removal of facilities installed without a permit or in violation of these regulations.
- (4) Revocation of the applicant's permit or emergency permit card by the Borough.
- (5) Any person or persons, firm, association or corporation violating any of the provisions of this ordinance, upon conviction thereof, be sentenced to pay a fine not exceeding Three Hundred Dollars (\$300.00 dollars) and costs or to undergo imprisonment for a term not to exceed thirty days (30 days).
- (6) Such other action as may be deemed necessary or proper after consultation with the Borough Solicitor.
- (7) **Insufficient Deposit.** If the deposit made is less than sufficient to pay all fees and costs, permittee shall upon demand pay to the Borough of New Beaver an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency upon demand the Borough of New Beaver may recover the same by action in any court of

competent jurisdiction. Until such deficiency is paid in full, additional permits shall not be issued to such permittees.

Section 2. All ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

ENACTED AND ORDAINED THIS 9th DAY OF FEBRUARY, 2000

The Borough of New Beaver

By Helen E. Jackson
President, Borough Council

ATTEST

Lorraine Leslie
Borough Secretary

APPROVED THIS 9th DAY OF FEBRUARY 2000

John J. Tiller
Mayor

BOROUGH OF NEW BEAVER

New Beaver Borough
778 Wampum-New Galilee Rd
New Galilee, PA 16141

PERMIT FOR ROAD/ STREET/ ALLEY EXCAVATION

CUTTING, BORING AND SOUNDINGS

I the undersigned agree to provide to the Borough of New Beaver, proof of Workman's Compensation and Liability Insurance. I also agree that all work shall be done in full compliance with this ordinance and all ordinances of the Borough of New Beaver and the laws of the Commonwealth in relation thereto, and to well and truly save, defend and keep harmless the Borough from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, 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, cause or thing relating thereto.

By this agreement I also agree that upon completion of the street/ road/ alley excavation project for which this permit is issued, to provide the Borough of New Beaver with an as built drawing showing the location and depth of all utility, pipe, drainage pipe lines which have been installed.

Performance and Labor & Materialman's bonds are required as specified in the New Beaver Borough Ordinance. Bonds to be provided for a period of 2 years. A certified Check or Bank Draft will be acceptable.

Contractor shall provide Certificate of Insurance with coverage naming New Beaver Borough as additional insured.

All insurance certificates shall contain a written thirty (30) day cancellation notice clause to the other parties of the contract.

If any settlement in a restored area occurs within a period of two years from date of completion of the permanent restoration, it shall in general be considered evidence of defective backfilling. Any expenses which may be incurred by the Borough in correcting such settlement shall be paid by the permittee or recovered from his bond plus fifteen percent, (15%.)

Builders Risk, Fire and Extended Coverage shall be purchased and maintained by the general contractor and subcontractor, upon the entire work at the site to the full insurable value thereof, and shall insure against the perils of fire, extended coverage, vandalism and malicious mischief.

Signature of Applicant

Date

Approval:

Signature of Issuing Borough Official

Date

BOROUGH OF NEW BEAVER

STREET EXCAVATION - INSPECTION REPORT

1. **Before backfilling** _____ **Date** _____

Comments:

2. **After Backfilling is Completed** _____ **Date:** _____
Comments

3. **After Temporary Paving** _____ **Date:** _____
Comments:

4. **Final Inspection = After Permanent Restoration** _____ **Date:** _____
Comments

I hereby verify that all work has been found in accordance with the plans, specifications and regulations of the Borough of New Beaver, Lawrence County, Pennsylvania, and all regulations of the Borough of New Beaver have been met.

Signature of Inspector

Date

**APPLICATION FOR PERMIT FOR MAKING EXCAVATIONS, SOUNDINGS AND
BORINGS AND CUTTING**

in and upon the Road/ Street , Alley Rights-of-way:
Streets, Alleys and Roads of the Borough of New Beaver Borough, PA.

PA one call ID Code # _____ New Beaver Borough, PA _____ 19__

I _____, do hereby apply to the Borough
Secretary of the Borough of New Beaver, PA for a Permit for the following pupose Viz:

(1) To make an Excavation _____ feet in length, and _____ feet in width, feet in
depth on _____, between _____
Name of Road, street or alley Name of Road, Street or Alley
In front of Premises Name and number _____, for the purpose of
investigating, laying, renewing, repairing _____
pipe, lines or others.

(2) To Drill/Bore _____ holes or to tunnel _____
Name of Road/Street/ Alley
between _____ for the purpose _____
Road, Street/ Alley

(3) To excavate tree, lawn area; tunnel driveways _____ feet in length _____
feet in width in feet in depth _____ from property to
property _____
for the purpose of _____

Herewith is payment of _____ Dollars according to the Provisions of
Ordinance # _____. Providing for the Granting of Permits for the Making of
Excavations or Soundings, by Drilling, Excavating, Cutting, Boring on the roads / streets/
alleys of New Beaver Borough. Permits granted for the same upon Compliance with the
Terms specified in this Ordinance: and Prescribing Penalties for the Violation of the
Provisions of this Ordinance approved _____, and agree to abide by the
provisions of said ordinance. I agree to indemnify and save harmless the said Borough of
New Beaver from any and all damage to persons or property by reason of digging,
maintain, guarding or boring or cutting or excavation, or closing said opening. Inspection
Fee payment required a the time of application for permit of (\$100.00) One Hundred
Dollars

is due at the time of application The above work is to be done by: Date to
start _____ Date to be completed _____

Contractor _____

Signed Owner. or agent _____
Permit expires 6 months _____

Approved: _____

Approved by Borough Code Enforcement Officer or Road Committee

Permittee responsibility expires

Signed by _____

_____ 2 years _____