

ORDINANCE NO 188

AN ORDINANCE REGULATING THE DIGGING INTO, TUNNELING UNDER OR TEARING UP OF HIGHWAYS, STREETS AND ALLEYS IN THE TOWNSHIP OF UPPER YODER, CAMBRIA COUNTY, PENNSYLVANIA, BY INDIVIDUALS, FIRMS OR CORPORATIONS; PROVIDING FOR THE ISSUING OF PERMITS FOR SUCH EXCAVATIONS; ESTABLISHING THE FEES AND CHARGES FOR SAME; PROVIDING FOR THE MANNER IN WHICH SUCH EXCAVATIONS SHALL BE BACKFILLED AND REPAVED; PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE AND REPEALING LEGISLATION IN CONFLICT THEREWITH.

BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Supervisors of the Township of Upper Yoder as follows:

SECTION 1. That from and after the date of May 2, 1983, any person, persons, firms or corporations desiring to dig into, tunnel under, or tear up any highway, street or alley in the Township of Upper Yoder, located in Cambria County, Pennsylvania, shall obtain a permit from the Board of Supervisors of Upper Yoder Township and/or their authorized Representative for so doing, but before such permit is issued, such person, firm or corporation shall enter into a bond with sufficient surety to the Township of Upper Yoder conditioned for the payment of the cost and expense of putting the disturbed part of the highway, street or alley in the proper condition, as hereinafter provided. The amount of such bond to be determined by the Board of Supervisors of Upper Yoder Township and/or their authorized representative, and such bond to remain in force for a period of two (2) years after the completion of the work and conditioned for the said length of time; provided that nothing in this Ordinance shall operate to infringe on the franchise rights of railroads to maintain their tracks and the paving of the highways along such tracks and crossings, all of which maintenance work shall be done as provided by franchise without securing permits as herein provided. Providing, however, that a corporation, firm or company entering into a continuing bond covering the granting of permits, may be permitted to file an agreement to pay to the Township of Upper Yoder the minimum and additional fees upon the presentation of a bill for the same, said bill to be presented monthly. The Township of Upper Yoder has the right to waive the bond requirement when they feel it is in the best interest of the community.

SECTION 2. Upon the presentation of a bond, properly executed as hereinbefore provided, the Supervisors of Upper Yoder Township and/or their authorized representative shall issue the permits of excavation upon the payment to the Township of Upper Yoder of the fees as hereinafter prescribed, and

upon the execution of an agreement to pay to the Township, upon presentation of a bill for the same, the payment of any additional fee as hereinafter prescribed. The permit shall become void after sixty (60) days.

The minimum fees as herein prescribed shall be construed to grant to the applicant the right and privilege to excavate a maximum surface yardage (including one (1) foot outside of the trench excavation on each side), of ten (10) square yards where the sidewalk or roadway is improved or paved; and/or a maximum square yardage of ten (10) square yards of excavation where the sidewalk or roadway is not improved or paved. Provided, however, that in the event the square yardage excavated shall exceed the maximum amounts as above prescribed, the provisions of Paragraphs (b) and (c) of Section 2 of this Ordinance shall prevail.

Fees for each separate excavation for the inspection, installation, removal, repair or replacement of substructures or their appurtenances, except curb boxes, shall be fixed as follows:

(a) For an excavation on a sidewalk, whether paved or unpaved, a minimum fee of FIVE (\$5.00) DOLLARS.

(b) For an excavation on a highway, street or alley which is not permanently improved, a minimum fee of TEN (\$10.00) DOLLARS, and in addition thereto, a fee of ONE (\$1.00) DOLLAR for each square yard of excavated area.

(c) For an excavation on an improved highway, a minimum fee of TWENTY (\$20.00) DOLLARS, and in addition thereto, a fee of TWO (\$2.00) DOLLARS per square yard of excavated area, which includes one (1) foot outside the limits of the trench on each side.

(d) For the excavation on a sidewalk for the inspection, installation, removal, repair or replacement of a curb box only, including the removal of the pavement, if any, provided the amount of excavation shall not exceed one (1) cubic yard, the minimum fee shall be FIVE (\$5.00) DOLLARS. Where the amount of such excavation shall exceed one (1) cubic yard, then the permit shall be issued under the provisions of clause (a) as above. Excavations for the inspection, installation, removal, repair or replacement of a curb box located within the limits of the roadway of a highway shall be issued under the provisions of clauses (b) and (c) above.

(e) For the removal of a pole, tree or stump, including the removal of the paving, if any, where an immediate replacement of a pole or tree is not anticipated, a minimum fee of FOUR (\$4.00) DOLLARS.

(f) For each separate excavation for the setting of a pole or the planting of a tree, no fee shall be charged.

(g) For the excavation by tunneling under an improved highway, street, alley or sidewalk, the provisions of clauses (a) and (c) as above stated shall prevail, the same as if the highway were excavated by open cut methods.

(h) For any excavation for the installation or relocation of substructures or their appurtenances, made necessary by public improvements, notice of such proposed improvements having been issued in writing by the Township, no fee shall be charged for the necessary permit required under the provisions of this Ordinance upon the presentation of application for permits.

(i) Where, by necessity, the excavation granted under any permit shall extend under the tracks of any railroad located on a public highway, all of the provisions of this Ordinance shall prevail the same as if the said tracks did not exist.

All quantities of paving surface shall be determined by measurements made by the Township of Upper Yoder, or its authorized representative.

The Board of Supervisors of Upper Yoder Township have the right to waive the permit fees and costs indicated above when they feel it is in the best interests of the community.

SECTION 3. Effective with the date of passage of this Ordinance, all applicants for work permits shall pay to the Township of Upper Yoder the additional fees or charges hereinabove specified immediately upon completion of the work for which said permit was granted, irrespective of whether said work was actually performed by the applicant or whether such work was sublet to a third-party, independent contractor. In no case shall the person or firm granted a permit delay payment to the Township of Upper Yoder by passing on permit fees or charges to a subcontractor actually performing the work.

SECTION 4. The Board of Supervisors of the Township of Upper Yoder and/or their authorized representative may at their discretion withhold the issuing of any permit except in cases of immediate necessary emergency repairs, on account of weather conditions, the proximity of other excavations or for any other cause where the proposed excavation would create a condition prejudicial to the public safety.

SECTION 5. That the backfilling and repaving over excavations shall be, both in workmanship and material, in conformity with the current standard specifications as issued in Form 408 of the Commonwealth of Pennsylvania, Department of Transportation, and all supplements to date, and such work shall be at all times subject to the inspection and approval of the Board of Supervisors of Upper Yoder Township and/or their authorized representative.

The backfilling of and repaving over shall conform to the following:

The sand or fine material shall be mechanically tamped in six (6) inch layers upon each side and over the top of substructure to a height of twelve (12) inches. The remainder of the backfill shall be deposited in approximately nine (9) inch layers and thoroughly compacted by mechanical tamping. Material for backfilling shall be free from muck, rubbish or other unsuitable material. Material excavated which is not suitable for backfilling shall be removed and suitable material must be provided. Stones exceeding one (1) cubic foot in volume shall not be used in the backfill and individual stones shall be separated from each other by fine material, thus insuring complete filling of voids. In tunnels, the entire backfill shall be deposited and mechanically tamped in six (6) inch layers. The removal of sheathing and shoring shall be executed in such manner as to prevent the sides of the trench from falling in, and all voids caused by the removal of timber shall be filled with fine material which shall be thoroughly compacted. Backfill shall be thoroughly flushed with water if ordered by the Board of Supervisors of Upper Yoder Township and/or their authorized representative. If the highway is unpaved, the backfilling shall not exceed two (2) inches in elevation above the undisturbed grounds at the sides bordering the excavation and surface of the highway over the excavation shall be maintained by the use of cinder or other approved material.

Nuclear tests may be required to assure all parties that the compaction meets the requirements as outlined in Form 408 of the Commonwealth of Pennsylvania, Department of Transportation specifications. Said tests will be at the discretion of the Board of Supervisors of Upper Yoder Township and/or their authorized representative.

The paving over excavation shall conform to the following:

That where excavations are made where the sidewalk or the roadways are paved, the backfilling shall be completed up to the elevation of the original subgrade under such paving, then the paving shall be removed down to the subgrade for a distance of one (1) foot beyond the outer limits of the excavation in the roadway and six (6) inches beyond the outer limits of the excavation in the sidewalk and the pavement shall then be reconstructed in accordance with the correct standard specifications for the construction of new pavements of the type removed; provided, however, that where the original pavement of the roadway consists of brick, cobble or stone-block laid without concrete base, the repaving shall be constructed with a concrete base, six (6) inches thick, composed of mixture as outlined in Form 408 of the Commonwealth of Pennsylvania, Department of Transportation, for the desired strength. Where the width of the excavation exceeds twelve (12) inches, then the concrete base or concrete pavement shall be reinforced with approved steel wire-mesh weighing not less than sixty-five (65) pounds per one hundred (100) square feet and the reinforcing shall extend to within three (3) inches of all edges of the base or pavement and shall be placed two (2) inches below and parallel with the top of the concrete. Where the width of the excavation exceeds twenty-four (24) inches, the concrete base or concrete pavement shall be reinforced with three-fourths (3/4) inch reinforcing bars placed six (6) inch center-to-center with a two (2) inch clear on each end and a three (3) inch clear on the bottom. All repaving of streets will be extended five (5) feet beyond the excavation on both sides of pavement on any excavation exceeding ten (10) feet in length.

The individual or company which received the permit shall be responsible for any failure of replaced pavement surface during a period of two (2) years following completion of permanent restoration work. All repaving work shall be done in a skillful and workmanlike manner, under the supervision of a competent superintendent or foreman, experienced in the particular type of construction involved, who shall receive and comply with all orders of the Township or their authorized representative.

Provided, however, that upon request of the person, firm or corporation granted the permit, for permission to change the type of repaving surface from that of the original surface, the Township may grant such permission if in their opinion the request is in the best interests of the community; and be it further provided that if the Township deems it advisable, economical and to the best interests of the community, they may at their discretion, order in writing the replacement of the original paving surface with

a type of paving surface that is more desirable and suitable for the highway, street or alley.

SECTION 6. The permit holder shall save, defend and keep harmless the Township of Upper Yoder from, and indemnify it against all actions, suits, demands, payments, costs and charges for or by reason of the opening or cutting of any Township street or alley, and all damages to persons or property resulting in any manner from or occurring in the prosecution of the work connected with the work authorized by the permit.

SECTION 7. During the work authorized and required by the permit, the permit holder shall erect, install and maintain warning signs, barriers, and warning lights at the location of the opening.

SECTION 8. Upon completion of the work, the applicant shall give written notice thereof to the Township.

SECTION 9. Upon completion of the work authorized by the permit, the Township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or other defect within sixty (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 twenty (20%) per cent of such cost.

SECTION 10. Any person, firm or corporation violating any of the provision of this Ordinance, upon conviction, shall be fined not less than FIFTY (\$50.00) DOLLARS, nor more than THREE HUNDRED (\$300.00) DOLLARS, with costs of suit to be recovered as fines, forfeitures and penalties as recoverable by law for violation of Township Ordinances.

SECTION 11. In the discretion of the Township, when it is deemed that excavation of the nature set forth in this Ordinance will interrupt for an unreasonable length of time the natural flow of commerce in the area where the excavation is being conducted, the Township shall require the contractor to work around the clock to complete their work and to accommodate other businesses and residents in that locale.

SECTION 12. This Ordinance shall become effective on May 2, 1983

SECTION 13. This Ordinance shall not prevent any firm, corporation or individual from performing any emergency repairs and/or required services of said nature; however, the nature, reason and extent of work shall be reported to the Township as soon as possible during the normal business hours.

SECTION 14. The provisions of this Ordinance are severable, and, if any of its provisions shall be held illegal, invalid or unconstitutional, such holding shall not affect or impair any of the remaining provisions of this Ordinance. It is hereby declared to be the intention of the Supervisors of Upper Yoder Township that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included therein.

ORDAINED AND ENACTED this 5th day of April, 1983.

TOWNSHIP OF UPPER YODER

BY

Eugene J. H...
Richard A. G...
Donald W. Co...

Supervisors

ATTEST:

Audrey J. Arkinson
Secretary