

**ORDINANCE NO. 669**

**AN ORDINANCE OF THE BOROUGH OF PAXTANG, DAUPHIN  
COUNTY, PENNSYLVANIA, AMENDING CHAPTER 366,  
STREETS AND SIDEWALKS, PART  
2-OPENINGS AND EXCAVATIONS, ARTICLE IV-OPENINGS AND  
EXCAVATIONS IN STREETS AND SIDEWALKS.**

**§ 366-39. Permit Required to Make Opening or Excavation in Street,  
Alleyway, or Sidewalk.**

It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets or the streets' rights-of-way in the Borough without first securing a permit therefor from the Borough and satisfying the other applicable requirements consistent with the regulations as hereinafter provided.

**§ 366-40. Application for Permit.**

1. Any person who shall desire to make any opening or excavation in any street or street right-of-way of the Borough shall make application to the Borough in writing for that purpose. Such application shall be made upon forms to be furnished by the Borough and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, the dimensions and depth of said cut or opening, the purpose for which it is made, the name of the owner of the premises for whom said cut or opening is to be made, and the length of time required to do the work, and any other information that may be requested by the Borough.
2. The application shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough and the laws of the Commonwealth in relation thereto and that the applicant shall well and truly save, defend, keep and hold harmless the Borough from and indemnify it against any and all actions, suits, demands, payments, damages, costs, fees 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.

3. The applicant and/or the applicant's contractor is required to have liability insurance which shall be maintained in the minimum coverage amount of \$1,000,000. A satisfactory certificate of insurance confirming such liability insurance coverage must be filed with the Borough before any work shall be commenced pursuant to the issued permit.

#### **§ 366-41. Required Fees and Charges.**

Before any permit shall be issued to open or excavate any street in the Borough, the applicant shall pay to the Borough any required fees and charges relative to permit issuance, street closings, inspections, and street degradation. Such fees and charges shall be set, adopted, and may be subsequently modified from time to time by resolution of the Borough Council.

#### **§ 366-42. Issuance of Permits Restricted.**

Permits shall be issued by the Borough only to persons furnishing public utility services or to the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

#### **§ 366-43. Permit Approval/Disapproval.**

A permit may be issued to the applicant after all the requirements therefor have been satisfied. If the application is disapproved, written notice of disapproval, together with reasons therefor, shall be given by the Borough to the applicant.

#### **§ 366-44. Term of Permit; Extensions**

A permit is valid for a six-month period or longer as specified on the permit. If the permittee has not completed all authorized work by the completion date on the permit, an application shall be submitted requesting a time extension on the permit. If approved, a supplemental permit will be issued by the Borough.

#### **§ 366-45. Responsibility to Contact Utilities.**

The work authorized by any permit issued hereunder is subject to all the provisions of the Underground Utility Line Protection Law, Act of December 10, 1974, P.L. 852, No. 287, § 1 et seq., as amended or supplemented from time to time. It shall be the applicant's responsibility to contact the utilities that have recorded their facilities in compliance with said act. A partial list of utilities providing services in the Borough and their office addresses may be obtained from the Recorder of Deeds of Dauphin County, Pennsylvania. The applicant shall also be responsible for providing the serial number from the Pennsylvania One Call System to the Borough.

**§ 366-46. Pre-Excavation Street Condition.**

Any person who receives a permit is required to provide visual proof of the condition of the street or streets subject to excavation prior to the commencement of the excavation. Proof of condition of the area subject to excavation shall be in the form of photographs or video of the entire area.

**§ 366-47. Requirements for Overlaying Traffic Lanes and Entire Disturbed Area; Limiting the Number of Patches and Pavement Joints.**

1. When a longitudinal opening longer than 10 feet and wider than three feet is made in the street pavement, the applicant shall overlay the traffic lanes in which the opening was made for the entire length of street that was opened.
2. When two or more transverse trench openings are made in the street pavement less than 100 feet apart, the applicant will overlay the traffic lanes in which the openings were made for the entire length of the street between such openings.
3. When four or more openings are made by the same applicant in the street pavement less than 100 feet apart, the Borough Engineers or such other agent or representative of the Borough will require the applicant to overlay the entire disturbed area.
4. When the opening is to be closer than three feet from the edge of the existing pavement, the opening shall be extended to the edge of pavement.
5. When the permitted opening is to be closer than five feet from the edge of an existing patch or patches in the pavement, the restoration shall be extended to include said patch.
6. When the permitted opening is located in a street or alley 14 feet wide or less, then the applicant shall overlay the entire street or alley width for the entire length of the opening.

**§ 366-48. Requirements and Specifications for Work.**

1. Any person who shall open or excavate any street in the Borough shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter and shall restore the surface to the same or better condition than it was before the opening or excavation.

2. Unless otherwise set forth in this Part, all construction processes and material specifications shall be in accordance with the current Publication 408 Specifications, as promulgated, adopted and amended from time to time by the Department of Transportation of the Commonwealth, which shall be the specifications of the Borough for restoration of surfaces of streets in the Borough.
3. The surface shall conform to the proper grade and be of the same surface covering as the part of the street immediately adjoining the opening.
4. Any applicant test boring or drilling into any Borough street for location of leaks or venting of leaks shall be required to backfill holes with 2A stone to four inches below street surface and fill and compact holes with ID-2 or 9.5 mm Superpave and seal with AC-20.
5. The applicant shall be responsible to replace all pavement markings that are removed or damaged. All material shall be in conformance with PennDOT Publication 408 Specifications, as promulgated, adopted and amended from time to time by the Department of Transportation of the Commonwealth.
6. Temporary paving shall be permitted for a period not to exceed 90 days. Such temporary paving material shall consist of cold patch premix, a minimum of two inches thick, thoroughly bound and compacted. Such temporary paving shall be installed flush with the surface of the adjoining paving. Trenches shall remain unpaved for no longer than five business days after backfilling and shall not remain unpaved during any weekend or any holiday officially observed by the Borough.
7. Permanent paving courses shall consist of a compacted 25 mm Superpave base course, five inches thick, and a compacted 9.5 mm Superpave wearing surface, 1 1/2 inches thick, and shall be in conformance with all PennDOT requirements and specifications. Such permanent paving courses shall be installed flush with the adjoining pavement within 10 business days after receiving authorization from the Borough. Ambient temperatures at the time of final pavement placement must be at least 40° F and rising. If existing pavement is at least 6 1/2 inches thick, new pavement shall be installed to match the existing thicknesses. All joints shall be sealed with AC-20 and saw cutting of existing pavement shall be in accordance with Publication 408 Specifications. All temporary paving material shall be removed from trenches prior to placement of the permanent paving base course.

8. No opening or excavation in any street shall extend from the curblin into the street a distance greater than one foot beyond the center line of the street before being refilled and the surface of the street being restored to a condition safe and convenient for travel.
9. No more than 500 feet longitudinally shall be opened in any street at any one time.
10. The excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with any buildings, or any other subsurface lines or constructions unless written permission from the proper authorities relative to such subsurface lines or constructions shall have been obtained.
11. No tunneling shall be allowed without the express written approval of the Borough with such approval endorsed and set forth upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough, its engineers or inspector designated by it and shall be done only in a method approved by the Borough, by its engineers or by the inspector designated by the Borough.
12. The use of steel plates to cover open excavations shall be prohibited at all times between the dates of October 15 and April 15.
13. The applicant shall notify the Borough when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street is ready for permanent paving so that inspections may be made.
14. 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 or a permanent survey bench mark within the Borough 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 Borough. Permission shall be granted only upon condition that the applicant shall pay all expenses incident to the proper replacement of the monument.

15. When the work performed by the applicant interferes with the established drainage system of any street, adequate provision shall be made by the applicant to provide proper drainage to the satisfaction of the Borough.
16. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.
17. In the excavation of any street, the applicant shall take all necessary and reasonable precautions to ensure that the street remains in a safe and passable condition for the traveling public at all times. Such precautions may include, but are not limited to, the use of signs, barriers, lanterns and all other warning devices sufficient to alert the traveling public of possible dangers relative to the excavation.

**§ 366-49. Responsibility for Correction of Unsatisfactory or Incomplete Work; Responsibility for Defects Occurring Within 18 Months.**

1. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough or its engineers, be unsatisfactory and where that work is not corrected in accordance with the Borough's instructions within the time fixed by it, or in the event that the work for which the permit was granted is not completed within the time fixed by the Borough, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost of the work to the applicant.
2. When any earth, gravel, or other excavated material is caused to roll, flow, or wash upon any street, the applicant shall cause the same to be removed from the street within 24 hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Borough shall cause the removal, and the cost incurred shall be paid by the applicant.
3. Permanent restoration shall be made and guaranteed for a period of eighteen (18) months. The base material shall consist of five inches (5") of Superpave base course meeting the requirements of Commonwealth of Pennsylvania Department of Transportation Section 305, Form 408. The wearing course shall consist of 1-1/2 inches (1-1/2") of ID-2A SRL-M meeting the requirements of Section 420, Form 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 one.
4. 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.

### **§ 366-50. Emergency Openings.**

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this Part are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Borough, after such notice as it shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge all of its costs and expenses of all work to such responsible person.

### **§ 366-51. Waiver of Degradation Fees.**

1. The Borough shall give timely notice to all persons owning property abutting on any street, or any utilities with facilities located within the Borough about to be paved or improved as part of the Borough's pavement maintenance program, and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within 30 days from the giving of such notice, unless such time is extended in writing for cause shown by the Borough.
2. If such work or repairs are completed before the street is paved or improved, the Borough shall waive the degradation charges for the applicant, if any are required, for all work requiring excavation of the said street.

### **§ 366-52. Conditions for Laying and Extending Utility Lines.**

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Borough until the plan therefor shall have been first filed with the Borough and such plan, and the exact location of such main or line, is approved by the Borough. The Borough shall not approve the location of any such main or line at a depth of less than 30 inches from the surface of the street unless it is clearly and convincingly

proven to the Borough that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

### **§ 366-53. Restoration and Maintenance Financial Security.**

No company, corporation or association shall excavate any street or alley without first giving to the Borough a performance guarantee in an amount as determined by the Borough and acceptable to the Borough Engineer. Without limitation as to other types of financial security which the Borough may approve, which approval shall not be unreasonably withheld, irrevocable letters of credit issued by a federal or state chartered bank or lending institution or restrictive escrow accounts held by such banks or lending institutions shall be deemed acceptable financial security for the purposes of this Part.

### **§ 366-54. Applicability.**

The provisions of this Part shall not apply to the laying of sidewalks or curbs or to the installation of utility poles.

### **§ 366-55. Prohibited Acts.**

It shall be unlawful for any person to injure, damage, mar or deface any street in the Borough, or to render the same unsafe or dangerous to the traveling public in any way, which shall include, but shall not be limited to, the following: (a) the dragging or drawing of logs, trees or timber or other heavy objects, whether composed of wood, metal or other substance, on or over the surface; (b) the building of fires or the burning of rubbish or other material upon or over the surface; (c) the placing of or allowing to run, leak or be placed upon the surface of any oil, gasoline, kerosene or other substance that might be harmful to the surface; or (d) the operation of any vehicle upon any street with the wheels covered with mud or other material to the extent that such mud or other material drops therefrom onto such street causing a discoloration and/or slippery condition.

### **§ 366-56. Penalty for Violation/Other Remedies.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600. Every day that a violation of this Part continues shall constitute a separate offense. In addition to the aforesaid penalty for a violation of this Part, the Borough may seek such other relief and remedies, at law or in equity, to include but not limited to injunctive relief, as may be otherwise available.



ADOPTED this 19th day of December 2019

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Faye Clark  
Secretary Paxtang Borough

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Kathleen Bloss  
President Paxtang Borough Council

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Sheilah Borne Fuller  
Mayor Paxtang Borough