

Ordinance 56-6

Excavations of Public  
Streets

5/7/1950

ORDINANCE NO. 56-6

AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL,  
BEAVER COUNTY, PENNSYLVANIA, REGULATING THE  
MAKING OF OPENINGS AND EXCAVATIONS IN THE  
STREETS IN THE TOWNSHIP OF HOPEWELL, AND  
THE PROTECTION, REFILLING, RESURFACING AND  
REPAVING OF THE SAME AND PROVIDING PENALTIES  
FOR THE VIOLATION OF THIS ORDINANCE.

Be it enacted and ordained by the Board of Commissioners of  
Hopewell Township, Beaver County, Pennsylvania, and it is hereby  
enacted and ordained by authority of the same.

SECTION 1. The following words, when used in this ordinance  
shall have the meanings ascribed to them in this section, except  
in those instances where the context clearly indicates otherwise:

(a) The word "street" shall mean any public street,  
avenue, road, square, alley, highway or other public place located  
in the Township of Hopewell and established for the use of vehicles.

(b) The work "person" shall mean and include any  
natural person, partnership, firm, association or corporation,  
except Hopewell Township authorities.

In this ordinance, the singular shall include the  
plural and the masculine shall include the feminine and neuter.

SECTION 2. It shall be unlawful for any person to open or to  
make any excavation of any kind in any street in the Township of  
Hopewell except in and upon those portions thereof established for  
the use of vehicles.

SECTION 3. It shall be unlawful for any person to open or  
to make any excavation of any kind in any of the streets in the  
Township of Hopewell without first securing a permit therefor, as  
hereinafter provided.

SECTION 4. Any person who shall desire to make any opening  
or excavation in any of the streets in the Township of Hopewell  
shall make application to the Township Secretary in writing for the  
purpose. Such application shall be made upon blanks to be furnished  
by the Township and shall set forth the name of the applicant, the  
exact location of the proposed opening or excavation, and the  
approximate size or depth thereof, and shall contain an agreement  
on the part of the applicant that the work shall be done in full  
compliance with the ordinances of the Township and the laws of the  
Commonwealth in relation thereto, and that the applicant shall well  
and truly save, defend and keep harmless the Township from and  
indemnify it against any and all actions, suits, demands, payments,  
costs and charges for or by reason of the proposed opening or ex-  
cavation, 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 re-  
lating thereto.



SECTION 5. Before any permit shall be issued to open or excavate any street in the Township, the applicant shall pay to the Township Secretary a permit fee in the minimum amount of Five Dollars (\$5.00) to cover the cost of inspection and other incidental services in connection therewith; in addition thereto, such applicant shall deposit with the Township Secretary at the time of making application, a cash deposit of One Hundred Dollars (\$100.00). Said sum so deposited shall be retained by the Township Secretary until all the conditions of said permit shall have been fully complied with.

(a) When application shall be made to open or excavate any longitudinal opening or excavation in excess of ten (10) feet before any permit shall be issued so to open or excavate, the applicant shall pay, in addition to such minimum fee, an additional fee at the rate of Twenty Dollars (\$20.00) for each one hundred (100) feet or fraction thereof to be opened or excavated upon such street.

(b) In lieu of the cash deposit hereinabove provided for, an applicant may deposit with the Township Secretary, a bond in the amount hereinafter fixed, with good surety, which surety shall be either an approved Surety or Trust Company. The amount of said bond shall be as follows:

At least One Thousand Dollars (\$1,000.00) for each opening, and at least Three Thousand Dollars (\$3,000.00) for an indefinite number of openings; provided, however, that in either case the principal of any such bond shall, if insufficient, be increased to at least equal the total estimated amount of the deposit, if deposit had been required in accordance with paragraph (a) hereinabove provided.

Said bond shall be given upon the condition that the principal will indemnify and save the Township of Hopewell from any expense for repairing and resurfacing such opening due to the failure of the principal to refill and resurface such opening in accordance with the terms hereof, and for the faithful compliance upon the part of the principal with all of the conditions of the permit granted, and this ordinance, and the liability on said bond shall extend for a period of six (6) months after the resurfacing of such opening.

(c) The Township Secretary shall provide a suitable book for the purpose of keeping a record of all permits issued by him, and shall pay to the Township Treasurer all moneys received by him within the month for which the same are received, and shall make monthly reports to the Township Board of Commissioners of all permits issued, the amounts received therefor, together with his receipt from the Township Treasurer for the same.

SECTION 6. Any person who shall open or excavate any improved street in the Township shall thoroughly and completely refill the opening or excavation, puddling and ramming so as to prevent any settling thereafter; and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Highways of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Township for restor-

ation of surfaces of streets in the Township; as restored, the surface shall conform to the proper grade and be of the same surface conveying as the part of the thoroughfare immediately adjoining the opening. If within two (2) years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Township for the cost of all necessary repairs to the permanent paving.

SECTION 7. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by the applicant at his expense, and all such work shall be subject to the provisions of this ordinance and to the approval of the Township Board of Commissioners, provided that the Township Board of Commissioners may require that cutting of the surface of improved streets and the back-filling of all excavations therein shall be done by the Township, and the charge therefor shall be paid by the applicant on the basis of actual cost of the work plus twenty per centum (20%).

#### SECTION 8.

(a) No opening or excavation in any street shall extend from the curb line into the highway a distance greater than one (1) foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.

(b) No more than five hundred (500) feet longitudinally shall be opened in any street at any one time.

(c) The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other sub-surface lines or constructions, until permission of the proper authorities in connection with such sub-surface lines or constructions shall have been obtained.

(d) No tunneling shall be allowed without the express approval of the Township Board of Commissioners and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of an inspector designated by the Township Board of Commissioners, and shall be done only in a method approved by him.

(e) All openings or excavations shall be backfilled, on or before the time fixed in the permit, and in any case within fifteen (15) days from the date of the permit, unless an extension of time be granted by the Township Secretary, with suitable materials and thoroughly compacted in layers, each of which shall not exceed six (6) inches in depth. On improved streets, the backfilling shall be placed to within ten (10) inches of the surface.

(f) On improved streets, a temporary paving of suitable stony materials, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving.

(g) During the making of any excavation in any street every necessary and reasonable precaution shall be taken by the



applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Township from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.

(h) The applicant shall notify the Township Secretary when the opening or excavation is ready for backfilling before any backfilling is done, and when the work is completed by proper backfilling in the case of unimproved streets and by temporary paving in the case of improved streets. When such openings or excavations shall have been replaced to the satisfaction of an inspector appointed by the Township Board of Commissioners, upon certification of that fact by said inspector to the Township Secretary, the cash deposit hereinabove provided for shall be returned to the holder of such permit.

(i) In the event that any work performed by or for a permit holder shall, in the opinion of the inspector be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the Township Secretary, the Township Board of Commissioners may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20% to the applicant.

SECTION 9. In the case of any leak, explosion or other accident in any sub-surface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, to commence an 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 ordinance 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 Township Board of Commissioners, after such notice as they shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus 20% to such owner or person.

SECTION 10. The Township Secretary shall give timely notice to all persons owning property abutting on any street within the Township about to be paved or improved, and to all public utility companies operating in the Township, 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 thirty (30) days from the giving of such notice, unless such time is extended in writing for cause shown by the Township Secretary. New paving shall not be opened for a period of five (5) years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening of such paving to be determined by the Township



Board of Commissioners. If it is sought to excavate upon or open a street within five (5) years after the completion of the paving thereof for any other reason than an emergency as above stated the applicant shall make written application to the Township Board of Commissioners, and a permit for such opening shall only be issued after express approval of the Township Board of Commissioners.

SECTION 11. No new water or gas main shall hereafter be laid or constructed and no existing water or gas main shall be extended in any of the streets of the Township until the exact location thereto and the plan therefor shall have been first approved by the Township Board of Commissioners.

SECTION 12. Payment for all work done by the Township under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within thirty (30) days after a bill therefor is sent to such person by the Township Secretary. Upon failure to pay such charges within such time, the same shall be collectible by the Township in the manner provided by law for the collection of municipal claims.

SECTION 13. Any person, whether as principal, agent or employee, violating or assisting in the violation of any of the provisions of this ordinance, shall, upon conviction thereof before any Justice of the Peace of the Township, pay a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00) and in default of the payment of such fine and costs of prosecution, shall be imprisoned in the Beaver County Jail for not more than thirty (30) days.

SECTION 14. The provisions of this ordinance shall not apply to laying sidewalks or curbs or to the planting of poles.

SECTION 15. The provisions of this ordinance shall be seferable, and if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as a legislative intent of the Township Board of Commissioners that this ordinance would have been enacted had such unconstitutional, illegal or invalid provision not been included herein.

ENACTED AND ORDAINED into an Ordinance this 17th day of

May, 1956.

BOARD OF COMMISSIONERS HOPEWELL TOWNSHIP

By Paul Doughty President.

ATTEST:

Charlotte M. Buffington  
Secretary.

# Proof of Publication

The Beaver Valley Times, a daily newspaper of general circulation, published by BEAVER NEWSPAPERS, Inc., a Pennsylvania corporation, 570 Third Street, Beaver, Beaver County, Pennsylvania, was established in 1946, and has been issued regularly, except legal holidays, since said date.

The attached advertisement, which is exactly as printed and published, was published in the regular issue of said newspaper, on May 11, 1956.

advertising and proof, \$ 126.10, has been paid.

BEAVER NEWSPAPERS, Inc.

BEAVER VALLEY TIMES

By

PAID  
7-21-56

STATE OF PENNSYLVANIA, }  
COUNTY OF BEAVER, } SS:

By J. B. Miller

Before me, a Notary Public in and for said county and state, personally appeared Ray J. Taylor, who being duly sworn

according to law says that he is General Manager of BEAVER NEWSPAPERS, Inc.; that neither affiant nor said corporation is interested in the subject matter of the attached advertisement; and that all of the allegations of the foregoing statement including those as to the time, place and character of publication are true.

Ray J. Taylor  
General Manager

Sworn to and subscribed before me

this 11th day of May, 1956

Maudie J. McBrier

NOTARY PUBLIC  
MY COMMISSION EXPIRES  
MARCH 5, 1957