

**SOUTH NEW CASTLE BOROUGH  
LAWRENCE COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 1 OF 2021**

AN ORDINANCE OF SOUTH NEW CASTLE BOROUGH, LAWRENCE COUNTY, PENNSYLVANIA, PROVIDING DEFINITIONS, PERMIT REQUIRED; EMERGENCIES EXCEPTED, ADDITIONAL WORK PROHIBITED; EXCEPTIONS, COMMENCEMENT OF WORK; TIME LIMITATION; EXTENSIONS; RENEWAL OF PERMITS, TRANSFERABILITY OF PERMITS; LOCATION OF WORK, PERMIT EXPIRATION; TEMPORARY RESTORATION OR RESURFACING; EXTENSIONS, STREET OPENINGS FOR MUNICIPAL UTILITIES, EXCEPTIONS FOR STATE HIGHWAYS, ISSUANCE OF PERMIT; RIGHTS OF BOROUGH AND OTHERS, REVOCATION OF PERMIT, APPLICATIONS FOR PERMITS; PLANS; LIABILITY, PERMIT FEES; BONDS; INSURANCE; DISPLAY OF PERMIT, CONDITIONS FOR MAKING OPENINGS AND EXCAVATIONS, BACKFILLING AND RESTORATION, BONDS, DEFAULT IN PERFORMANCE, DUTY OF BONDING COMPANY IN CASE OF DEFAULT IN PERFORMANCE, INSURANCE, IMPROVEMENTS TO STREETS; NOTICE, SUBSURFACE FACILITIES LIST OR MAP, ABANDONED FACILITIES, NOTICE OF PROPOSED CONSTRUCTION, PENALTY, SEVERABILITY, REPEALS, AND EFFECTIVE DATE.

AND NOW, THEREFORE, be it enacted and ordained by the Borough Council of South New Castle Borough, and it is hereby enacted and ordained by their authority of the same, as follows:

**SECTION 1. DEFINITIONS.**

Unless otherwise specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give the Ordinance its most reasonable application consistent with its intent:

- (a) "Applicant" means any person who makes application for a permit.
- (b) "Borough" means the Borough of South New Castle, Lawrence County, Commonwealth of Pennsylvania.
- (c) "Cartway" means that portion of the street between curb faces, or that portion between gutter centerlines if the street is not curbed, or, if no gutter exists, the travel portion, plus compacted or stabilized berms.
- (d) "Roadmaster" means the person in charge of street operations and maintenance or his or her authorized representative, or an inspector designated by the Borough Council.
- (e) "Emergency" means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or property.
- (f) "Engineer" means the Engineer employed by the Borough of South New Castle or his or her authorized representative.

- (g) "Owner's representative" means the Borough Council, an individual appointed by the Borough Council, Secretary, Treasurer, Borough Engineer, or the Roadmaster.
- (h) "Permittee" means any person who has been issued a permit and has agreed to fulfill all the terms of this chapter.
- (i) "Person" means and includes any natural person, partnership, firm, association, utility, municipality, municipal authority, corporation or authority created pursuant to an act of the Pennsylvania General Assembly. Whenever used in any section prescribing and imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officer thereof.
- (j) "Public utility company" means any company subject to the jurisdiction and control of the Pennsylvania Public Utility Commission.
- (k) "Street" means and includes a public street, public easement, public right-of-way, public highway, public alley, public way or public road accepted or maintained by the Borough.
- (l) "Temporarily restore or resurface" means maintaining traffic flow over disturbed areas by the use of temporary bridges or by backfilling with specified material to match the existing road grade.

Words used in the present tense include the future and past, words in the plural number include the singular, words in the singular number include the words in the plural, and words either in the feminine, masculine, or neuter, shall include words of the other genders.

## **SECTION 2. PERMIT REQUIRED; EMERGENCIES EXCEPTED.**

No person shall make any tunnel, opening, test hole or excavation of any kind, in or under the surface of any street, without first securing a permit from the Borough for each separate undertaking, meaning each separate street where work is to be performed, provided, however, that any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand that the work be done immediately, provided that the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the Borough Office is open for business, and said permit shall be retroactive to the date when the work was begun. In all cases where emergency openings are necessary, the Police Department and Owner's representative shall be notified prior to any such opening.

## **SECTION 3. ADDITIONAL WORK PROHIBITED; EXCEPTIONS.**

No person to whom a permit has been granted shall perform any of the work authorized by that permit in any amount greater than that specified in the permit, except that upon approval by the Owner's representative, additional work may be done under the

provisions of the permit in such an amount as the Owner's representative shall deem appropriate and necessary to complete the work. Any bond posted in connection with the permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limits mentioned herein.

#### **SECTION 4. COMMENCEMENT OF WORK; TIME LIMITATION; EXTENSIONS; RENEWAL OF PERMITS.**

Work for which a permit has been issued shall commence within six (6) months after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated, unless the Permittee applies to the Owner's representative for an extension of time within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension. Permits which terminate within six (6) months after issuance, or within an extension of time as granted by the Owner's representative, may be renewed only upon the payment of an additional permit fee as originally required.

#### **SECTION 5. TRANSFERABILITY OF PERMITS; LOCATION OF WORK.**

Permits are not transferable from one person to another and the work shall not be made in any place other than the location specifically designated in the permit.

#### **SECTION 6. PERMIT EXPIRATION; TEMPORARY RESTORATION OR RESURFACING; EXTENSIONS.**

Unless otherwise stated in the permit, every permit shall expire one (1) week after commencement of the work, unless a Permittee temporarily restores and/or resurfaces an opening in accordance with Section 14. A Permittee shall return within thirty (30) days to permanently restore and/or resurface such opening in accordance with Section 14 without further permit. If the Permittee does not complete the work within the specified time, he or she shall, prior to expiration of the permit, present in writing to the Owner's representative a request for an extension of time, setting forth herein the reasons for the requested extension. If, in the opinion of the Owner's representative, such an extension is necessary and not contrary to the public interest, the Permittee may be granted additional time for the completion of the work.

#### **SECTION 7. STREET OPENINGS FOR MUNICIPAL UTILITIES.**

All street openings required by utilities owned and/or operated by the Borough shall be made and restored under the direction and supervision of the Owner's representative.

#### **SECTION 8. EXCEPTIONS FOR STATE HIGHWAYS.**

The provisions of this Ordinance shall not be applicable in those instances where the highway is maintained by the Commonwealth, or on which the Commonwealth issues occupancy permits.

## **SECTION 9. ISSUANCE OF PERMIT; RIGHTS OF BOROUGH AND OTHERS.**

Every permit shall be granted subject to the right of the Borough or any other person to lawfully use the street for any purpose not inconsistent with the permit.

## **SECTION 10. REVOCATION OF PERMIT.**

- (a) Any permit may be revoked by the Owner's representative, after notice to the Permittee, for:
  - (1) A violation of any condition of the permit or any provision of this Ordinance;
  - (2) A violation of any provision of any other applicable ordinances or law relating to the work; or
  - (3) The existence of any condition, or the doing of any act, constituting or creating a nuisance or endangering life or property.
  
- (b) When notice of any such violation or condition is served upon the Permittee or his or her agent engaged in the work, the Permittee must immediately take the necessary corrective measures before proceeding further with any work for which the permit was originally granted. When, in the opinion of the Owner's representative, the Permittee has failed to take the necessary corrective measures and a condition or act constituting or creating a nuisance or endangering life or property exists, the Owner's representative may order the work to be performed by the appropriate Borough department and the cost thereof incurred by the Borough shall be recovered from the bond the Permittee has filed with the Borough. When the above action is deemed necessary by the Owner's representative, it shall constitute an automatic revocation of the permit and, upon an action filed in assumpsit by the Owner's representative, the Permittee shall be subject to fines and penalties as provided for in Section 23.

## **SECTION 11. APPLICATIONS FOR PERMITS; PLANS; LIABILITY.**

It shall be the duty and responsibility of any applicant to:

- (a) Make written application for the permit on a form prescribed by the Borough. No work shall commence until the Owner's representative has approved the application and plan and issued a permit, and until the Permittee has paid and provided all fees, certificates and bonds required by this chapter.
- (b) Furnish in triplicate a plan showing the work to be performed under the permit. One copy of the plan shall be returned to the applicant at the time the permit is granted.
- (c) Agree to save the Borough, its officers, employees and agents, harmless from any and all costs, damages or liability which may accrue or be claimed to accrue by reason of any work performed under said permit.

The acceptance of any permit under this chapter shall constitute such an agreement by the applicant, whether the same is expressed or not.

## **SECTION 12. PERMIT FEES; BONDS; INSURANCE; DISPLAY OF PERMIT.**

It shall be the duty and responsibility of any person receiving a permit to:

- (a) Pay a permit fee to cover the cost of inspecting the work authorized by the permit in accordance with the schedule of fees adopted by Borough Council from time to time.
- (b) Furnish a maintenance bond as required by Sections 15 through 17, unless excepted from such requirement by those Sections.
- (c) Furnish a certificate of insurance as is required by Section 18, unless excepted from such requirement by that Section.
- (d) Keep the original copy of the permit and an approved copy of the plan at all times while such work is in progress at the location for which the permit was granted, and show such permit and/or plan upon demand by the Borough.

## **SECTION 13. CONDITIONS FOR MAKING OPENINGS AND EXCAVATIONS.**

- (a) No opening or excavation in any street shall extend beyond the centerline of the street before being backfilled and the surface of the street temporarily restored.
- (b) No more than one hundred (100) feet, measured longitudinally, shall be opened in any street at any one time, except by special permission of the Owner's representative.
- (c) All utility facilities shall be located sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
- (d) Pipe drains, pipe culverts or other facilities encountered shall be protected by the Permittee.
- (e) Survey markers or monuments of concrete, iron or other lasting material, set for the purpose of locating or preserving the liens of any street or property subdivision, or a precise survey reference point or a permanent survey benchmark 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 Owner's representative. Permission shall be granted only upon permission that the Permittee shall pay all expenses incident to the proper replacement of the monument. Any existing survey markers which are removed or displaced by any construction operation shall be reset by a surveyor licensed to practice in the Commonwealth, with such work being completed at the Permittee's expense.
- (f) When work performed by the Permittee interferes with the established drainage system of any street, provisions shall be made by the Permittee

to provide proper drainage to the satisfaction of the Owner's representative.

- (g) When any earth, gravel or other excavated material is caused to roll, flow or wash upon any street, the Permittee shall cause the same to be removed from the street within four (4) hours after deposit of such materials, or upon notice from the Owner's representative to remove such materials. In the event the earth, gravel or other excavated material so deposited is not removed, the Owner's representative shall cause such removal and the cost thereof incurred by the Borough shall be recovered from the bond the Permittee filed with the Borough.
- (h) The following regulations shall govern the use of safety devices around excavations:
  - (1) Every Permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Owner's representative and/or the Police Department to be necessary for the protection of the public. Barricading shall be in compliance with the regulations set forth by the Commonwealth, Department of Transportation, Occupational Safety and Health Administration (OSHA) Regulations, Bureau of Traffic Engineering, for the maintenance and protection of traffic on construction projects, and the Work Area Traffic Control Handbook, as amended.
  - (2) All trenching and excavation shall conform to the standards of the Pennsylvania Department of Labor and Industry for such work, and the Occupational Safety and Health Administration (OSHA) Regulations. Additional safety requirements may be prescribed by the Owner's representative.
  - (3) Whenever any person fails to provide or maintain the safety devices required by the Owner's representative, such devices shall be installed and maintained by the Borough. The cost incurred therefor shall be paid by the Permittee.
  - (4) No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice which has been erected or placed in accordance with the provisions of this chapter.
- (i) Access to private driveways shall be provided except during working hours when construction operations prohibit such access. The Permittee must notify property owners in advance whenever a driveway is to be blocked. Free access must be provided at all times to fire hydrants.
- (j) Excavations shall be in two classes: (1) that portion in the area outside the cartway and (2) that portion within the cartway.
  - (1) For excavations in any area other than the cartway, excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a

dirt or dust nuisance, the Owner's representative may require the Permittee to provide toe boards or bins, and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the Permittee as directed by the Owner's representative. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the Permittee shall keep a passageway at least one-half the sidewalk width open along such sidewalk line.

- (2) For excavations within the cartway, all excavating material shall be wasted and removed from the site. This shall be done at the time of excavation or after excavation backfill has been completed. If excavation material is left at the site until after completion of the work, all conditions stated in paragraph (j)(1) hereof shall be complied with.
- (k) Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the Permittee obtains written consent from the Owner's representative to do the work at an earlier or later hour. Such permission shall be granted only in the case of an emergency or in the event that the work authorized by the permit is to be performed in traffic-congested areas.
- (l) In granting any permit, the Owner's representative may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property, or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to:
  - (1) Limitations on the period of time of the year in which the work may be performed;
  - (2) Restrictions as to the size and type of equipment;
  - (3) Designation of routes upon which materials may be transported;
  - (4) The place and manner of disposal of excavated materials;
  - (5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other conditions that are offensive or injurious to the neighborhood, the general public or any portion thereof; and
  - (6) Regulations as to the use of streets in the course of the work.
- (m) All materials used to restore openings shall consist of, but not limited to, the following:
  - (1) Crushed aggregate. Crushed aggregate for surface restoration at various locations, as directed, i.e. gravel meeting the requirements of Section 350, "Subbase," of the PennDOT Publication 408, most recent edition, for single course graduation band option with one inch top size or approved alternative.

- (2) Special trench backfill. Crushed stone meeting or exceeding the requirements of Section 703.2 of the PennDOT Publication 408, most recent edition, for 2A Aggregate, and Section 703.3 FOR 2RC Aggregate, Type A or better, material.
- (3) Asphalt pavement. Reference attached Exhibits "A", "B", "C", and "D" as per the existing conditions. All work shall meet or exceed the requirements of Section 413 PennDOT Publication 408, most recent edition.
- (4) Grass seed. Grass seed for surface restoration of all off-street, private right-of-way areas, which seed shall meet or exceed the requirements of Section 804 of PennDOT Publication 408, the most recent edition, for Formula B materials of the following mix by weight, or approved equal:

Perennial Ryegrass (Pennfine or Manhattan)	20%
Pennlawn Red Fescue	30%
Kentucky Bluegrass	50%

- (5) Concrete. Compressive Strength of 3,000 psi (7 days) and 3,500 psi (28 days), Class AA, as per Section 704 of PennDOT Publication 408, most recent edition.
- (n) During the progress of the work, the Permittee shall accommodate both vehicular and pedestrian traffic and shall provide unobstructed access to fire hydrants, and to water and gas valves. Gutters and waterways must be kept open or other provisions made for the removal of storm water. Street intersections may be blocked one-half at a time, and the Permittee shall lay and maintain temporary driveways, bridges and crossings as, in the opinion of the Engineer, are necessary to reasonably accommodate the traveling public.
- (o) The following regulations shall govern excavations in and around existing utilities:
  - (1) The Permittee will be required, at his or her own expense, to protect, support and sustain all sewer, water, gas or service pipes and electric light, power, telephone or telegraph poles, conduits and other fixtures laid across or along the line of the utility, whether such facilities are public or private. Damage to any private sewer shall be repaired by the Permittee.
  - (2) The Engineer, as well as the company or corporation owning any Municipal or utility pipes, poles or conduits, must be notified by the Permittee before any such facilities are removed or molested. In case any water or sewer lines, or any utility company, gas or electric facilities, including service connections and/or appurtenances, are damaged, they shall be repaired by the authorities having control of the same, and the expense of said



- repairs shall be paid by the Permittee directly. Existing private sewer service lines which are damaged, disrupted or taken up by a contractor's operations shall be reconnected and restored to full service by and at the expense of the Permittee. The Permittee shall also be responsible for the maintenance of damaged sections of private service laterals for the full term of the warranty period.
- (3) It shall be the responsibility of the Permittee to ascertain and verify the actual location and elevation of existing pipelines or buried conduits in the path of the work before commencing an excavation.
- (p) All excavations which are four (4) feet or more in depth, which exceed any State or Federal regulatory agency's stipulated maximum depth for unshored excavations, or which are made in unstable material, such that shoring is necessary to facilitate proper and safe working conditions, shall be shored. All shoring shall meet or exceed Occupational Safety and Health Administration (OSHA) Regulations. Shoring shall consist of timber or metal sheeting supported by a sound system of cross jacks acting against a sheeting whaler grid. As an alternative to shoring by sheeting, a Permittee may employ an approved type of trench box or reinforced steel construction and workmen shall conduct work from within such box.
- (q) An excavation involving the removal of bituminous or concrete paving in streets, private drives and parking area trenching situations shall be accomplished by sawing or cutting the improved surface at the edges of the proposed trench at points one (1) foot on either side of the trench opening at ground surface. Sawing or cutting shall extend to the full depth of the existing surface. Where existing surfaces are damaged, taken up, undercut or unraveled by construction excavations operations or water breakages which extend beyond the original saw or cut marks for removal, the Permittee, in restoring such bituminous or concrete surfaces to their original condition, shall re-saw or cut the surface to a straight and even lines six (6) feet beyond the furthest point of damage.
- (r) When temperatures fall to forty (40°) degrees Fahrenheit or below, follow PennDOT Publication 408, most recent edition, Section 413.3(b) for asphalt pavement operations and Sections 704.1(f) and 704.2(c) for concrete operations for cold weather provisions. When it is impractical to follow these regulations and heat/maintain work areas to at least forty (40) degrees Fahrenheit, work shall be suspended.
- (s) A trench shall be excavated along the lines proposed by the permit holder and approved by the Engineer. All trenches shall have vertical sides. No tapering of sides shall be permitted unless approved in writing. The width of the trench, unless otherwise approved, shall be six (6) inches minimum and eighteen (18) inches maximum on each side of the utility pipe. The

bottom of the trench shall be hollowed out so as to allow the body of the pipe to have a bearing throughout on the trench bottom. Ground adjacent to all excavations shall be graded to prevent water running in. Any accumulated water in the excavation shall be removed by pumping or other means approved by the Engineer prior to the placement of pipes or utilities and before backfill is begun.

#### **SECTION 14. BACKFILLING AND RESTORATION.**

- (a) Backfill for excavations shall be placed and completed as soon as possible. Loose earth or gravel shall be used for backfill and tamped thoroughly prior to the placement of the utility in the trench. Backfill materials, except where special embedment is required, shall be excavated native materials. From the bottom of the pipe or utility to six (6) inches above the crown of the pipe or utility shall be Class I embedment materials as specified. The next one (1) foot of fill shall be placed by hand or may be machine dumped if steps are taken to assure that the materials are dumped so as to fall against the side of the trench and immediately tamped into place. The native backfill materials from a point six (6) inches above the crown or top of the utility to a point eighteen (18) inches above the top of the pipe or utility shall be material which does not contain stones larger than two (2) inches in diameter. Backfill shall be leveled and compacted into place in lifts not exceeding one (1) foot in depth.
- (b) All excavations which are located in the improved cartway, driveway or shoulder areas, whether Municipal or private facilities, shall receive special crushed stone backfill of the type specified. Wherever special backfill is required, the Permittee shall waste all excavated native materials and shall be solely responsible for arrangements for wasting such materials. The Permittee shall then apply specified crushed aggregate in maximum lifts of twenty-four (24) inches and mechanically tamp the same into place using an approved type pad compactor and methods for the full depth of the excavation or to the level of the required base course. In all cases where an excavation has taken place in a paved roadway or an area proposed to be paved, each layer shall be compacted to densities equal to that of the adjacent original materials so that pavement can be placed or replaced immediately. The Permittee must notify the Borough no less than twenty-four (24) hours prior to beginning the backfilling of excavations.
- (c) The following regulations shall govern surface restoration:
  - (1) The Permittee is totally responsible for effecting surface restoration in kind. In improved pavement areas, whether such paving is public or private and after sawcutting, as specified, the damaged area of the existing pavement structure shall be removed and the repair area undercut to receive the new structure as specified in Exhibits "A", "B", "C", or "D" as existing conditions dictate.

- (2) The Permittee may temporarily restore the surface whenever it is impractical to immediately effect final, permanent surface restoration. A temporary restoration shall be identical to final permanent restoration, except that asphaltic, concrete or matching surface materials may be substituted with crushed aggregate, as specified, for a period not exceeding thirty (30) days.
  - (3) The Permittee shall be totally responsible for surface restoration, including vegetation, of all previously seeded areas disturbed by the project. Disturbed areas shall be restored as nearly as possible to original conditions. The Permittee shall be required to grade the area to match adjacent contours, apply topsoil and nutrients as required to develop permanent grasses, and seed and mulch all such disturbed areas. The Permittee shall be encouraged to strip and stockpile topsoil prior to trenching or excavation operations, with such stockpiled topsoil to be returned for disturbed area restoration. Grass seed for surface restoration of all off-street private right-of-way areas shall be of the mix design as specified.
- (d) All work, including pavement cuts, openings, test holes, excavations, backfilling, proper bridging of the excavation and final restoration of the surface, shall be done by the Permittee in accordance with Borough regulations and specifications and under the inspection of the Owner's representative. A Permittee may contract the work to be done by others, but the Permittee shall be responsible and liable for all such work done the same as if the work had been done by the Permittee.
- (e) Disturbed portions of the highway, including, but not limited to, slopes and appurtenances and structures such as guide rails, curbs, signs, markings, drain pipes, driveways and vegetation, shall be restored by the Permittee to a condition at least equal to that which existed before the start of work authorized by the permit, if the restoration is consistent with PennDOT Roadway Construction Standards, most recent edition. Additional restoration may also be required, upon written notification, to restore the structural integrity of the pavement or shoulder. If the Permittee opens pavement having a bituminous concrete surface and the Department's wearing course is less than five (5) years old and said opening is larger than two (2) feet by two (2) feet, the Permittee shall, in addition to the restoration conditions outlined in the permit and in this section, overlay the pavement in accordance with the following conditions:
- (1) When a longitudinal opening longer than one hundred (100) linear feet has been made in the pavement, the Permittee shall overlay the traffic lanes in which the opening was made, for the entire length of highway that was opened, in a manner authorized by the Department.
  - (2) When two (2) or more transverse openings or excavations have been made within one hundred (100) linear feet of pavement, the

Permittee shall overlay traffic lanes in which the openings were made, for the entire length of highway between the openings, in a manner authorized by the Department.

- (3) When four (4) or more openings or excavations have been made by the same Permittee at any time within one hundred (100) linear feet of pavement, the Permittee shall overlay traffic lanes in which the openings were made, for the entire length of highway between the openings, in a manner authorized by the Department.
- (f) After an excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence.
- (g) The Owner's representative shall make sure inspections are carried out as he or she may deem necessary of all work authorized by a permit. The Owner's representative is hereby empowered to provide a full-time inspector, if necessary, to ensure compliance with the provisions of this chapter.
- (h) Base inspection costs are included in the permit fees. All inspection costs above and beyond, that are resultant due to the Contractor sequencing, deficiencies, or other actions by the Permittee, shall be borne by the Permittee. Such costs shall be based on a schedule of fees adopted by the Borough.
- (i) The Permittee shall be responsible for all work performed by him or her and for a period of two (2) years from the date of final inspection and approval by the Owner's representative. The Owner's representative shall record the date and time of the final inspection and acceptance on the appropriate forms. One copy shall be retained by the Borough and one copy shall be sent to the Permittee.
- (j) If, during the two (2) year period provided for in subsection (i) above, the Owner's representative determines that settlement of the restored area occurs, the surface area deteriorates, cracks or fails, or any other condition occurs which indicates failure of the restored area, the Owner's representative shall inform the Permittee, in writing, and the Permittee shall make the necessary corrections and/or repairs as directed by the Owner's representative.
- (k) In no case shall any opening made by the Permittee be considered in the charge or care of the Borough or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it is necessary to protect life and property.

## **SECTION 15. BONDS.**

Applicants for permits as provided for by this chapter shall permit, together with the application, both a performance bond and a maintenance bond. The performance bond shall be in the amount of one thousand dollars (\$1,000) for each permit for any opening up to one hundred (100) square feet. For any opening in excess of one hundred (100) square feet, the bond shall be in an amount as shall be determined and approved by the Engineer. The performance bond is only required until the work and all associated paperwork shall be completed and accepted by the Owner's Representative.

In the case of those who maintain utilities under the streets and rights-of way of the Borough, the maintenance bond shall be so written as to cover each and every opening made. The maintenance bond shall be in the amount of ten (10) percent of the total project cost. The maintenance bond shall guarantee the work performed by the Permittee for a period of two (2) years as provided for in Section 14. Maintenance bonds shall be filed in the Office of the Secretary/Treasurer and a record of such bonds shall be maintained by the Owner's representative. The Owner's representative shall be responsible for checking the effective period of the bonds so as to assure coverage for a least the two (2) year period referred to in Section 14.

## **SECTION 16. DEFAULT IN PERFORMANCE.**

Whenever the Owner's representative finds that a default has occurred in the performance of any term or condition of a permit, written notices thereof shall be given to the Permittee and the bonding company. Such notice shall include the work to be done, the estimated cost thereof and the period of time necessary for the completion of the work.

## **SECTION 17. DUTY OF BONDING COMPANY IN CASE OF DEFAULT IN PERFORMANCE.**

Upon completion of a default notice, the bonding company shall, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough for the cost of doing the work as set forth in the notice.

## **SECTION 18. INSURANCE.**

Each applicant, prior to the receipt of a permit, shall provide the Borough with an acceptable certificate of insurance indicating that the applicant is insured against claims for damage which may arise from or out of the performance of the work, whether such performance is by the applicant, their subcontractor or anyone directly or indirectly employed by them. Such insurance shall cover collapse, explosive hazards and underground work by equipment on the street, and shall include protection against liability arising from completed operations. In order to protect the Borough and the Permittee, the Permittee shall provide a certificate of liability insurance in the amount of five hundred thousand dollars (\$500,000) for each occurrence and two hundred fifty

thousand dollars (\$250,000) aggregate for property damage. Public utilities, municipalities, and municipal authorities may submit annually such evidence of insurance coverage in lieu of individual submissions for each permit.

#### **SECTION 19. IMPROVEMENTS TO STREETS; NOTICE.**

When the Borough improves or paves any street, the Secretary/Treasurer shall give notice to all persons owning property abutting on the street about to be paved or improved, and to all public utilities and Municipal authorities shall make all connections, as well as any repairs thereto, which would necessitate excavation of the street, within forty-five (45) days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Borough Council after consultation with the Owner's representative and the Engineer.

#### **SECTION 20. SUBSURFACE FACILITIES LIST OR MAP.**

- (a) Every person owning, using, controlling or having an interest in pipes, conduits, ducts or other structures under the surface of any street, used for the purpose of supplying or conveying gas, electricity, communication impulses, water or steam to or from the Borough or to or from its inhabitants, or for any other purpose, shall have on file with the Owner's representative, within one hundred twenty (120) days after the completion of any work under this chapter, a written list or map containing the names of the Borough streets wherein the aforementioned facilities owned by such person are located and stating the size and type of materials involved.
- (b) Within ninety (90) days after January 1 of each year, such person shall notify the Owner's representative, in writing, of the changes necessary to maintain the street list or map required in subsection (a) hereof, or submit a revised map. If no changes are necessary to update said list or map, such person shall submit a written statement attesting to the current status of the list or map in lieu of such changes.
- (c) This Section shall apply only to work completed after the adoption of this ordinance, and shall not apply to pipes, conduits, ducts or other structures in existence prior to the adoption of this ordinance.

#### **SECTION 21. ABANDONED FACILITIES.**

- (a) Whenever any pipe, conduit, duct, tunnel or other structure located under the surface of any street, or the use thereof, is abandoned, the person owning, using, controlling or having any interest therein shall, within thirty (30) days after such abandonment, file with the Owner's representative a statement, in writing, giving in detail the location of the structure so abandoned.

- (b) Whenever there are manholes or tunnels associated with abandoned underground facilities, such manholes or tunnels shall be filled in at the time of abandonment and the Owner's representative notified thereof in writing.

## **SECTION 22. NOTICE OF PROPOSED CONSTRUCTION.**

- (a) If the work to be undertaken by a Permittee is such that it will affect the use of properties abutting or adjoining the project, the Permittee shall notify the affected property owners and/or tenants of the proposed work to be done.
- (b) If the work to be undertaken by a Permittee will affect other subsurface installations in the vicinity of the proposed opening, the Permittee shall notify the owners of such facilities of the proposed work.
- (c) The Owner's representative shall notify, in writing, the Police Department and the Fire Department of all street opening permits granted. Such notification shall state the nature of the work to be done, the proposed beginning and completion dates and the location of such projects. Notice shall be issued no later than fourteen (14) days prior to the commencement of the project. In the case of an emergency, this notification period may be waived by the Owner's Representative.

## **SECTION 23. PENALTY.**

Any person, firm, or corporation violating any provision of this Ordinance shall be guilty of a summary offense and shall, upon conviction, be fined no less than one hundred (\$100) dollars, and no more than one thousand (\$1,000) dollars for each offense; and a separate offense shall be deemed committed on each day during, or on, which a violation occurs or continues.

## **SECTION 24. SEVERABILITY.**

If one or more of the provisions in this Ordinance is deemed invalid, void or unenforceable by law, then the remaining provisions will continue in full force and effect. Moreover, if any one or more of the provisions contained in this Ordinance shall be held to be excessively broad or partially invalid, illegal or unenforceable, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it shall appear.

## **SECTION 25. REPEALS.**

All ordinances or parts of ordinances inconsistent with this Ordinance are hereby repealed insofar as they may be inconsistent herewith.

**SECTION 26. EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after enactment.

Ordained and Enacted this 4<sup>th</sup> day of FEBRUARY, 2021.

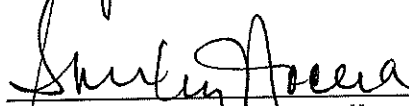
**ATTEST:**

  
Secretary

**BOROUGH COUNCIL OF  
SOUTH NEW CASTLE BOROUGH**

  
Adam Reiter, Mayor

  
John Wilmes, Council President

  
Shirley Nocera, Council

  
Greg Szklinski, Council