

MILESBERG BOROUGH  
CENTRE COUNTY, PENNSYLVANIA

ORDINANCE NO. 229

AN ORDINANCE OF THE BOROUGH OF MILESBERG, CENTRE COUNTY, PENNSYLVANIA, AMENDING SUBCHAPTER B, STREET OPENINGS, CHAPTER 7.31 ET SEQ. OF THE CODIFIED ORDINANCES OF THE BOROUGH OF MILESBERG.

BE IT ENACTED AND ORDAINED, by the Council of the Borough of Milesburg and it is hereby enacted and ordained by authority of the same:

SECTION 1

Chapter 7.31 of the Codified Book of Ordinances of the Borough of Milesburg is amended as follows:

PERMIT REQUIRED FOR STREET EXCAVATIONS. It shall be unlawful for any person, firm or cooperation to make any opening or excavation in, on, or under any street, alley or thoroughfare within the limits of the Borough of Milesburg unless and until a permit therefore has been secured from the Borough Office for each separate undertaking. Such permit and the application therefore to be in a form prepared by the Borough Secretary and shall contain an agreement on the part of the applicant/permittee that all work pursuant to such permit shall be done in full compliance with the Ordinances of the Borough and the laws and regulations of the Commonwealth of Pennsylvania in relation thereto; and that the applicant/permittee shall 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 any person 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; and that the applicant/permittee will be responsible for the maintenance of the street or portion thereof disturbed by such opening or excavation, and the restored surface thereof, for a period of three (3) years following the restoration after the completion of the work for which such opening or excavation was made.

SECTION II

Chapter 7.32 Charge for permits is amended to read as follows:

7.32 CHARGE FOR PERMITS. The charge for said permits shall for each separate undertaking be \$100.00...

SECTION III.

Chapter 7.34 OPENING TO BE REFILLED. Surface restoration is amended to read as follows:

7.34 OPENING TO BE REFILLED; SURFACE RESTORATION; CONTINUING MAINTENANCE. As soon as possible following the completion of any work for which a permit was issued under this chapter and in every case on or before the date of expiration of such permit as stated upon such permit, the holder of such permit shall thoroughly and completely refill the opening or excavation, ramming and tamping so as to prevent any settling thereof, and shall restore the surface of the street to the same condition as it was prior to the opening or excavation thereof to the satisfaction of the Borough Inspector or Borough Engineer and/or Borough Secretary. On unimproved streets or alleys the person receiving the permit or owner shall replace the surface of the thoroughfare as it was before the opening at the proper grade and with the same surface covering as the part of the thoroughfare adjoining the opening unless modified with the approval of Borough Council. Streets or alleys improved with bituminous macadam, concrete or brick, shall have the opening filled to the proper grade, ramming and tamping the fill and water binding the surface. Such street or alley shall be improved to the same condition as it was prior to the opening. Paving cuts shall be replaced with temporary paving as soon as possible to provide for the safe passage of pedestrians and vehicles. Permanent paving of the same type as in existence at the time of the excavation shall be placed as soon as practical utilizing a one foot cutback on either side and shall be guaranteed by the applicant/permittee for a period of three (3) years. The Borough Council in its discretion may require additional paving to be added to streets in the Borough which have been paved or improved by the Borough within four (4) years prior to the request for excavation permit. Such additional paving being required to prevent uneven settling of the street or to harmonize the existing paving with that to be replaced by the applicant/permittee or for other sound reason.

SECTION IV

Chapter 7.37 RESPONSIBILITY is amended to read as follows:

7.37 RESPONSIBILITY. In no case shall any opening or excavation made by any owner, person, firm or corporation be considered in the charge or care of the Borough or any officer or person employed by the Borough and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening or excavation. It shall be the duty of any person, owner, firm or corporation making an opening or excavation in the streets, thoroughfares or alleys in the Borough of Milesburg, to notify the Borough Engineer or Borough Inspector and/or Borough Secretary promptly in writing that the work of refilling and/or restoration is ready for inspection. The results of the inspection shall be provided to the applicant/permittee in writing specifically noting any deficiencies in the work or materials. The applicant/permittee may appeal any adverse findings in any such inspection to the Council of the Borough of Milesburg in writing no later than ten (10) days after the issuance of such report and the decision of the Council of the Borough of Milesburg shall be final subject to appeal as presently permitted by the Local Agency Law of the Commonwealth of Pennsylvania.

A. Final inspection at the end of the three (3) year maintenance period may be requested in writing by the applicant/permittee. The Borough Engineer or Borough Inspector and/or Borough Secretary shall issue a written final inspection report to the applicant/permittee within ten (10) days of such inspection appeals from an adverse inspection report may be taken as indicated above. In the event the inspection report is favorable the Borough shall provide a written release of applicant/permittee's obligation of maintenance.

SECTION V.

This section is hereby added to Chapter B, Chapter 7.31 et seq. as follows:

7.41 APPLICANT DEFINED. Wherever the work applicant is used herein it shall mean one who has properly completed the Borough Street Excavation Application/Permit form and has received a permit. Applicant shall also include the word permittee.

7.42 COUNCIL DEFINED. Means the Borough Council of Milesburg, Pennsylvania.

7.43 STREET DEFINED. As used in this chapter "street" means any public street, thoroughfare or alley located in the Borough of Milesburg and established for the use of vehicles, but the word does not apply to any highway maintained by the Commonwealth of Pennsylvania.

7.44 CONFORMITY REQUIRED. No person shall make any opening or excavation in any street in the Borough except in strict conformity for the provisions of this chapter.

7.45 BOND REQUIRED. In cases where the excavation will substantially affect more than fifty (50%) percent of the surface of any street for a distance of more than one hundred (100') feet, the Council may require a Performance Bond with surety to be approved by Borough Council to assure the completion of the resurfacing of the street within the time period contained in the application and permit.

The Council may likewise require a Maintenance Bond for the restoration of the street and adjacent areas in accordance with the terms of this Ordinance.

The amounts of said Bonds and the Sureties shall be approved by Council.

SECTION VI.

All Ordinances or parts of Ordinances inconsistent herewith are hereby expressly repealed.

SECTION VII. Subchapter B Street Openings, Chapter 7.31 of the Codified Ordinances of the Borough of Milesburg are hereby reenacted, republished and reordained.

DULY ENACTED AND ORDAINED this 13<sup>th</sup> day of July, 1992 by the Council of the Borough of Milesburg in lawful session assembled.

ATTEST:  
Paula J. Hall  
SECRETARY

BOROUGH OF MILESBURG:  
By: [Signature]

AND NOW, to wit this 13<sup>th</sup> day of July, 1992, the within and above Ordinance is approved.

Walter E. Jordan  
MAYOR