

**Borough of Susquehanna Depot**  
**Susquehanna County, Commonwealth of Pennsylvania**

**Ordinance No. 471**

**STREET AND SIDEWALK OPENING  
AND EXCAVATION ORDINANCE**

**AN ORDINANCE REGULATING STREET AND SIDEWALK OPENINGS AND  
EXCAVATIONS, REQUIRING PERMITS FOR SUCH ACTIVITY AND MAKING  
REMEDIES AVAILABLE TO THE BOROUGH FOR RECOVERY OF COSTS FOR  
VIOLATIONS AND REPEALING ORDINANCE 319 AND OTHER INCONSISTENT  
PRIOR ORDINANCES**

**WHEREAS**, after investigation Susquehanna Depot Borough Council has determined that the unregulated opening and excavation of any street, alley or other public way or right of way owned, controlled or maintained by the Borough of Susquehanna Depot is dangerous to the welfare of the public and causes financial hardship upon the Borough; and

**WHEREAS**, after investigation Susquehanna Depot Borough Council has determined that the unregulated opening and excavation of any sidewalk within the Borough of Susquehanna Depot is dangerous to the welfare of the public and causes financial hardship upon the Borough; and

**WHEREAS**, Susquehanna Depot Borough Council has determined that it is necessary to enact an Ordinance to regulate the opening and excavation of any sidewalk and any street, alley or other public way or right of way owned, controlled or maintained by the Borough of Susquehanna Depot,

NOW THEREFORE BE IT, AND IT IS HEREBY ORDAINED AND ENACTED by the Borough Council of the Borough of Susquehanna Depot, Susquehanna County, Pennsylvania as follows:

*Section 1      Short Title*

This document is a street opening and excavation ordinance and shall be known and cited as the "Borough of Susquehanna Depot Street and Sidewalk Opening and Excavation Ordinance".

security, as set forth herein, or in accordance with the terms or conditions of any contract between the contractor and the Borough.

- D. The Administrator of the Borough's Department of Public Works ("DPW") must be notified within twenty-four (24) hours of any street or sidewalk opening or excavation necessitated by an emergency. A party performing such emergency street or sidewalk opening must apply for the street or sidewalk opening or excavation permit, in accordance with this Ordinance, on the first business day following such emergency. Any party who commences any emergency street or sidewalk opening or excavation will be deemed to have impliedly consented to all of the provisions of this Ordinance, including but not limited to, those provision dealing with fees, security and backfilling. In addition to the penalties set forth in §15A herein, as well as any and all remedies for penalties provided by law, the DPW Administrator is authorized to order the immediate cessation of any opening or excavation activity and the immediate repair and replacement of the surface to its original condition if the notice and application provisions set forth above are not complied with.

#### *Section 4      Provisions for Granting of Permit*

Street or sidewalk opening permits shall only be granted upon compliance with the following express provisions:

- A. A written application, on a form approved by the Borough, shall be filed with the office of the DPW Administrator. Such application shall set forth the purpose for which such excavation is to be made, the site and location of the work, the full scope of work to be included in the project and the anticipated commencement and completion dates of the project, including refilling and resurfacing. The applicant shall furnish a drawing or plan of the proposed opening or excavation upon request by the Borough. In addition to the above, the applicant must set forth the estimated cost of the entire project. The Borough shall have the right to require production of written verifications of such cost as may be appropriate.
- B. Prior to the issuance of such permit, every applicant shall pay to the Borough the amount required for the purposes specified, pursuant to the fee schedule adopted by the Borough Council.
- C. No permit shall be granted to any applicant unless all moneys due the Borough for prior excavations made or for loss, damages or expenses in any manner occasioned by or arising from prior work done by the applicant are paid in full.
- D. The written application shall contain a provision in which the applicant agrees to indemnify and hold harmless the Borough, its officers, employees and agent from any

street opening permit in a calendar year will only be issued if the bond has been posted and the applicant has provided the Borough with an accurate and up-to-date map of its underground facilities. The approval of a calendar-year bond does not absolve the applicant of its obligation to obtain a separate street opening permit for each street opening to be performed by the applicant.

### ***Section 6      Fees***

Street and sidewalk opening fees will be established by a separate resolution of the Borough Council. The Borough Council reserves the right to review the fee schedule from time to time and amend the same.

### ***Section 7      Revocation of Permit; Notice of Violation***

- A. All street and sidewalk opening permits are subject to revocation at any time by the Borough, upon recommendation of the DPW Administrator, for:
  - 1. Violation of any condition of the permit.
  - 2. Violation of any provision of this Ordinance or any other applicable ordinance or law related to the work.
  - 3. The existence of any condition or act constituting or creating a nuisance or endangering the welfare, safety, lives or property of others.
- B. Written notice of such violation shall be served upon the applicant/permittee and if applicable, party engaged in the work. Such notice shall contain a brief statement of the reasons for revoking such permit and contain a time period and method by which the permittee may cure any violation. Notice may be given either by personal delivery or by United States mail sent to the address listed on the original application.
- C. Upon revocation of any permit, a portion of any prepaid application fees not necessary to compensate the Borough for the depreciation of its street shall be returned to the permittee. The determination of the portion of the application fees to be returned shall be entirely within the discretion of the Borough, and its decision shall be final.

### ***Section 8      Request for Extension***

If any permittee is unable to complete the street or sidewalk opening or excavation on or before the date specified in the permit, the permittee must file a written application for an extension of time with the Borough. Said application shall set forth the reasons for the request for the extension of time and shall contain an estimate of the additional time required to complete

(42) inches from the surface of the street unless they shall be convinced that locating the same at depth of more than forty-two (42) inches from the surface is impossible or impractical.

### ***Section 15      Violations and Penalties***

- A. Any person who violates or permits a violation of this Ordinance shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and be punishable by a fine of not less than \$200.00 or more than \$1,000.00 per violation, plus costs of prosecution by the Borough, including court costs and attorneys' fees. In default of payment thereof, the defendant may be sentenced to imprisonment not exceeding ninety (90) days, each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this Ordinance that is violated shall also constitute a separate offense.
- B. In addition to the criminal proceeding provisions of paragraph A of this Section, the Borough may enforce this Ordinance through an action in equity brought in the Susquehanna County Court of Common Pleas.
- C. In addition to the penalties set forth in the preceding subsection, the Borough reserves the right to deny the issuance of any future street or sidewalk opening permit to any person or party who violates the provision of this Ordinance.

### ***Section 16      Enforcement***

The above provisions may be enforced by the Borough through its Code Enforcement Officer or Officers, or through such other official designated by Council, for that purpose, in the usual and customary manner.

### ***Section 17      Repealer***

All Ordinances, or parts thereof, including specifically Ordinance 319, are hereby repealed in so far as they are in conflict with the terms of this Ordinance.

### ***Section 18      Miscellaneous Provisions***

Nothing contained in this Ordinance or any provision thereof shall be interpreted as prohibiting or limiting any other right or cause of action the Borough may have, in law or in equity, against any party for any violation of the terms of this Ordinance or matters related thereto.

All other sections and provisions of previous ordinances which are not amended or changed by this Ordinance, and are not inconsistent with the terms and provision set forth herein, are hereby ratified and reaffirmed and shall remain in full force and effect.

ENACTED AND ADOPTED by the Council this 11<sup>th</sup> day of May, 2016.

Attest:

Margaret Biegert  
Margaret Biegert, Secretary

Susquehanna Borough Council:

By: Deborah Zayas  
Deborah Zayas, Council Vice President

Approved this 11 day of May, 2016.

Nancy Hurley  
Nancy Hurley, Mayor

I hereby certify that the foregoing ordinance was advertised in the  
on ~~12th~~ April 25<sup>th</sup>, 2016, a newspaper of general circulation in the municipality, and was  
duly enacted and approved as set forth at a regular meeting of the Susquehanna Borough Council  
held on May, 11<sup>th</sup>, 2016.

Margaret Biegert  
Margaret Biegert, Secretary