

BOROUGH OF NEW BRIGHTON

ORDINANCE NO. 1273

AN ORDINANCE OF THE BOROUGH OF NEW BRIGHTON, BEAVER COUNTY, PENNSYLVANIA, AMENDING THE PREVIOUS OPENING, EXCAVATIONS AND PAVEMENT CUTS ORDINANCE 1034 OF THE BOROUGH OF NEW BRIGHTON CODE OF ORDINANCES TO AMEND THE PREVIOUS ORDINANCE.

WHEREAS, the Municipal Code of Ordinances, Ordinance 1034 - Openings, Excavations and Pavement Cuts (December 13, 1979), authorizes the Borough of New Brighton to regulate street openings and excavations, and

WHEREAS, the Council of the Borough of New Brighton desires to amend Ordinance 1034 of the Borough of New Brighton Code of Ordinances, Openings, Excavations and Pavement Cuts, to further clarify and define same, in order to protect the public health, safety, and welfare of the Borough of New Brighton.

NOW, THEREFORE BE IT ORDAINED AND ENACTED by the Borough of New Brighton, and it is thereby ordained and enacted by and with the authority of the same that:

SECTION I - The Borough of New Brighton Code of Ordinances, Openings, Excavations and Pavement Cuts, is amended as follows:

101. Definitions

The following words, when used in this article, shall have the meaning ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

APPLICANT – means any person who makes an application for a permit.

BOROUGH – means any Borough of New Brighton, Beaver County, Pennsylvania.

BOROUGH MANAGER – means the Borough Manager of the Borough of New Brighton, or his authorized deputy, representative or inspector.

EMERGENCY – means any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

PERMITTEE - Any person who has been issued a permit and has agreed to fulfill all the terms of this article.

PUBLIC UTILITY COMPANY - Any company subject to the jurisdiction of and control by the Pennsylvania Public Utility Commission.

STREET - A public street, public easement, right-of-way, public highway, public alley, public sidewalk, public way, or public road accepted or maintained by the municipality or open for travel and use by the public including the entire area within the right-of-way including curbs and sidewalks.

102. Permit required, including emergency circumstances.

- A. It shall be unlawful for any person to make any tunnel, opening or excavation of any kind in or under the surface of any street without first securing an Openings, Excavations and Pavement Cuts permit from the Borough of New Brighton for each separate undertaking.
- B. 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 the work to be done immediately, provided that the permit could not have reasonably and practically been obtained beforehand. In such cases where emergency openings are necessary the Borough of New Brighton shall be notified prior to such openings by either email (manager@newbrightonpa.org) or telephone 724-846-1870. **The person shall then apply for a permit on the first regular business day on which the Borough of New Brighton office is open for business and said permit shall be retroactive to the date when the work began.**

103. Adherence to terms of permit.

No permittee shall perform any of the work authorized by such permit in any amount greater than that specified in such permit, except that where the permittee desires to perform additional work not in excess of an amount greater than 10% of the amount specified in such permit, the permittee may apply to the Borough of New Brighton for an amended permit to permit the additional work. If additional work desired to be performed by the permittee exceeds 10% of the amount specified in the original permit, an application for a new permit shall be deemed to cover any such additional work as may be added pursuant to the issuance of an amended permit within the limit specified herein.

104. Time frame for commencement of work.

Work for which a permit has been issued shall commence within 60 days after the issuance of the permit thereof. If not so commenced, the permit shall be terminated automatically unless the permittee applies 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 by reason of failure to commence work within 60 days after issuance thereof or within any extension of time granted hereunder may be renewed only upon the payment of an additional permit fee as originally required.

105. Permits nontransferable.

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

106. Expiration of permits.

Every permit shall expire 60 days from the issuance date. If the permittee shall be unable to complete the work within the specified time, he or she shall, prior to expiration of the permit, present, in

writing, to the Borough of New Brighton a request for an extension of time setting forth therein the reasons for the requested extension. If the Borough of New Brighton finds that the failure to complete the work under the permit within the time specified therein was due to circumstances reasonably beyond the control of the permittee and that an extension of time to complete the work under the permit is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

107. Right to use streets.

Every permit shall be granted subject to the right of the Borough of New Brighton, or of any other person entitled thereto, to use the street for any purpose for which such street may lawfully be used inconsistent with the permit.

108. Cuts made by municipal owned and/or operated utilities.

All street openings required by utilities owned and/or operated by the Borough of New Brighton shall be made and restored in accordance with the approved permit. The permit, fee, inspection retainage, restoration guarantee (bond, certified check, or cashier's check) and proof of insurance shall not be applicable to any openings made by municipally owned and/or operated facilities.

109. State and county highways.

The provisions of this article shall not be applicable in those instances where the street or highway is maintained by the Commonwealth of Pennsylvania or by the County of Beaver; provided, however, that any person applying for a permit to do work within the right-of-way of a street or highway maintained by the Commonwealth of Pennsylvania or by the County of Beaver which would otherwise require a permit under the terms of this article shall notify the Borough of New Brighton at the time that said application is made and at the time that the work under any permit issued pursuant to said application is begun, so that proper safety precautions may be taken by the Borough of New Brighton during the continuation of said work.

110. Revocation of permit.

- A. Any permit may be revoked by the Borough of New Brighton, after written notice to the permittee, for:
 - 1. Violation of any condition of the permit or of any provision of this article.
 - 2. Violation of any other applicable provision of the (Municipal) Code or any other applicable ordinance, regulation, or statute.
 - 3. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
- B. A permittee shall be granted a period of three (3) days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
- C. Written notice of any such violation or condition shall be served upon the permittee or his or her agent engaged in the work. The notice shall contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery thereof to the

person to be notified or by certified or registered United States mail addressed to the person to be notified.

- D. When any permit has been revoked and the work authorized by the permit has not been completed, the Borough of New Brighton shall do or cause to be done such works as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the Borough of New Brighton shall be recovered from the deposit or bond of the permittee made or filed with the Borough of New Brighton.

111. Duties and responsibilities of applicant.

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

- A. Submit a completed Openings, Excavation and Pavement Cuts application to the Borough of New Brighton. Private property owners may qualify for exemption for lateral repair.
- B. No work shall commence until the application has been submitted with all required fees, deposits/bonds and the Borough of New Brighton has approved said submission and issued a permit.
- C. When needed, provide a plan showing the work to be performed under said permit.
- D. The applicant must understand all the applicable codes, ordinances and regulations.
- E. All material removed from the demolition site must be disposed of at an approved landfill.
- F. A copy of the permit must be kept on site at all times.
- G. The applicant assumes the responsibility of locating all property lines, setback lines, easements, rights-of way, flood areas, etc. Issuance of a permit shall not be construed as authority to violate, cancel, or set aside any provisions of the codes or ordinances of the Municipality or any other governing body.
- H. Agree to save the Borough of New Brighton, its officers, employees, and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit. The acceptance of a permit shall constitute such an agreement by the applicant whether the same is expressed or not.

112. Duties and responsibilities of permittee; fees.

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

- A. Pay a permit fee in accordance with the Openings, Excavation and Pavement Cuts Fee Calculation form, attached.

- B. Make a deposit in the form of a Bond, Certified Check or Cashier's Check to cover the Borough's cost if the permittee does not perform restoration in compliance with this ordinance and the technical specifications provided.

The amount of this deposit shall be computed by the Borough of New Brighton per the Permit Application. In the case of public utility companies, the Borough of New Brighton may waive the requirement of a deposit if said utility companies file with the Borough of New Brighton their corporate bond in a form satisfactory to the Municipal Solicitor, conditioned upon the payment to the Borough of New Brighton of all costs which would otherwise be covered by and paid out of such a deposit. If such utility companies elect to file such a bond, the Borough of New Brighton shall bill such utility companies monthly for such costs as they accrue.

113. Regulations for openings and excavations.

- A. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
- B. No more than 250 feet measured longitudinally shall be opened in any street at any one time or within any project area, except by special permission of the Borough of New Brighton. Temporary pavement restoration shall be performed per attached detail.
- C. All utility facilities shall be exposed sufficiently, or their definite location shall be determined 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. Trenches for any underground line on paved, unpaved or concrete roadways (gas, cable, sewer, water etc.) will require repair of the entire travel lane width. If the trench is in the middle of the roadway, both lanes shall be repaired. The repair will follow the details included as part of this ordinance.
- F. Trenches for any underground line on brick roadways (gas, cable, sewers water, etc.) will require the entire roadway width to be repaired. The repair will follow the details included as part of this ordinance.
- G. Trench crossing both lanes and/or less than 10 feet from each other will require the entire area to be repaved. The repair will follow the details included as part of this ordinance. The minimum length of the milled and resurfaced area shall be 20 feet.
- H. Any person whose facilities are damaged or caused to be relocated by the permittee shall notify the permittee and the Borough of New Brighton of such damage and thereafter may make the necessary repairs or relocation and file a claim against the permittee with the Borough of New Brighton for the costs of such repairs or relocation. Public utility companies involved shall be notified by the Borough of New Brighton in sufficient time to determine the validity of the damage or relocation claims. The cost of such repair

work or relocation work may be withheld by the Borough from the deposit pending determination of liability for the damage.

- I. 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 of a permanent survey benchmark within the Borough of New Brighton 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 of New Brighton. Permission shall be granted only upon the condition that the permittee shall pay all expenses incident to the proper replacement of the monument.
- J. Directional Bore Requirements -
 - a. All directional bore utilities shall have a minimum of four feet (4') of cover between the utility and the road surface.
 - b. The applicant shall be responsible for the correction of any distortion caused by his operation of any road or street. The method of correction shall be approved by Public Works Foreman or his designee.
 - c. Pipe materials for directions drilling shall be either:
 - (1) Class 350 ductile iron pipe.
 - (2) High density polyethylene pipe (HDPE).
 - (3) Restrained joint PVC pipe.
 - d. A plan reflecting the proposed bore with details and limits of work must be submitted for approval by the borough as part of the permitting process prior to start of work.

Please allow a 4-6 month lead time for approval of a directional bore.

- K. When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage.
- L. When any earth, gravel or other excavated material is caused to flow, roll or wash upon any street, the permittee shall cause removal of the same from the street within eight hours after deposit to permit safe flow of traffic. If the earth, gravel, or other excavated material so deposited is not removed as specified, the Borough of New Brighton shall initiate the removal, and the cost incurred shall be paid by the permittee or deducted from his or her deposit.
- M. Every permittee shall place around the project, as needed, barriers, barricades, lights, warning flags and danger signs as necessary for the protection of the public. Additional safety requirements may be prescribed by the Borough of New Brighton and, where applicable, shall be in conformance with the requirements set forth per PennDOT Publication 408, Section 900 – Traffic Accommodation and Control, latest edition which can be found at https://www.dot.state.pa.us/public/PubsForms/Publications/Pub_408
 - 1. Whenever any person fails to provide or maintain the required safety devices, such devices shall be installed and maintained by the Borough of New Brighton. The amount of the cost incurred shall be paid by the permittee or deducted from his or her deposit.

2. No person shall willfully move, injure, destroy, or extinguish any barrier, warning light, sign or notice erected, placed, or posted in accordance with the provisions of this section.
 3. Steel plates – If a temporary steel plate is used during an emergency, or if a road restoration cannot be completed during work hours as per the attached detail.
- N. Resident access to private driveways and sidewalks shall be provided except during the hours between 9:00 am and 4:00 pm when construction operations prohibit provisions of such access. Advanced notice needs to be provided to each resident/business within the project site at least 7 days in advance of work. Handicap accessibility must be provided to residents as well as personal access to homes at all times. Free access must always be provided to fire hydrants.
- O. Excavated materials shall be laid compactly along the side of the trench and kept trimmed up to cause little inconvenience as possible to public travel. To expedite the flow of traffic or to abate dirt or dust nuisance, the Borough of New Brighton 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 Borough of New Brighton. Erosion control measures shall be installed to prevent sediment deposits into storm sewer system. Sediment needs to be cleaned up and removed prior to leaving the site each day.
- P. Work authorized by a permittee within the street 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 Borough of New Brighton to do the work at an earlier or later hour. Such permission shall be granted only in the case of an emergency or if the work authorized by the permit is to be performed in traffic-congested areas.
- Q. In granting any permit, the Borough of New Brighton 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 the year in which the work may be performed.
 2. Restrictions as to the size, weight, and type of equipment.
 3. Designation of routes upon which materials may be transported.
 4. Designation of 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 results offensive or injurious to the neighborhood, the public or any portion thereof.
 6. Regulations as to the use of streets in the course of the work.

114. Backfilling and Restoration.

- A. All pavement cuts, openings, and excavations shall be made properly and backfilled properly by the permittee according to Borough of New Brighton specifications, including but not limited to the details attached hereto and incorporated herein. The permittee also shall place a temporary surface on the pavement cut, opening or

excavation in accordance with municipal specification. If weather conditions are such as to prevent the completion of permanent restorations of the street surface at the time backfilling is completed, the permittee shall install a temporary surface in accordance with municipal specifications until such time as weather conditions will permit permanent restoration of the street surface.

- B. The Borough of New Brighton shall be notified by the permittee 48 hours in advance of backfilling and restoration. Such notice shall provide the approximate time each will begin.
- C. No backfilling or restoration shall be accomplished until the New Brighton Public Works Foreman, or his designee is present, or permission has been granted for backfilling or restoration.
- D. The work of final restoration, including both paving surface and paving base, shall be performed directly by the permittee according to municipal specifications and shall be subject to inspection by the Public Works Foreman or his designee.
- E. If the Public Works Foreman or his designee finds that paving surfaces adjacent to the street openings may be damaged where trenches are made parallel to the street or where a number of cross trenches are laid in proximity to one another or where the equipment used may cause such damage, he or she may require negotiated contribution from the permittee for the resurfacing in place of patching of such street if the total area of the proposed patch or damaged area exceeds 25% of the total pavement surfacing between curb faces or between concrete gutter edges. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
- F. After excavation is commenced, the permittee is required to complete permanent restoration of the street surface in accordance with municipal specifications within thirty (30) days, weather pending, after repairs and/or installation are completed. Furthermore, the permittee shall be required to install and maintain a temporary surface in accordance with municipal specification during:
 - 1. The period between the completion of repairs and/or installation and the commencement of final restoration; and
 - 2. The periods during the actual work when workers do not require access to the excavation.

Once excavation or opening has started, each project area shall be restored within 45 days with due diligence and so as not to obstruct the street more than is actually necessary.

- G. Restoration of the Directional Bore – Restoration of pit and launch sites must be approved by the Public Works Foremen or his designee.
- H. Inspections of all work authorized by a permit shall be made by the New Brighton Public Works Foreman or his designee.
- I. All costs of inspection shall be borne by the permittee. Such costs shall be based upon a schedule of charges on file in the office of the Borough of New Brighton.

- J. Upon completion of all work accomplished under the provisions of a permit, the permittee shall notify the Borough of New Brighton, in writing. A certificate of final inspection shall be issued by the Borough to each permittee no later than two (2) years after the permanent restoration of the excavation has been made, provided that the work authorized by the permit has been performed according to municipal specifications. Prior to the issuance of a certificate, the Borough shall make a final inspection of the restoration to determine whether municipal specifications have been adhered to and/or whether the restoration work was otherwise adequately and properly performed.
- K. If any settlement in a restored area occurs within the period of two (2) years from the date of completion of the permanent restoration and the permittee fails to make such correction after notification, any expense incurred by the Borough in correcting such settlement shall be paid by the permittee or recovered from his or her bond, unless the permittee submits proof, satisfactory to the Borough of New Brighton, that the settlement was not due to defective backfilling.
- L. In no case shall any opening made by a permittee be considered in the charge or care of the Borough of New Brighton or any of its officers or employees, and no officer or employee of the Borough of New Brighton, or its agents, 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; provided, however, that the Borough of New Brighton assumes charge when making final surface restoration, unless the permittee has been granted permission to perform the work or restoration.
- M. If any sidewalk, driveway or curbs are to be replaced or have been damaged, it shall be the responsibility of the permittee to properly repair or replace as needed following the attached details. Prior to pouring concrete, an inspection of the forms and grade is required. Inspection appointments can be made by calling the Public Works department.
- N. If any ADA ramp are to be replaced or have been damaged, it shall be the responsibility of the permittee to properly repair or replace as needed following the latest edition of Publication 72M – Roadway Construction Standards (<https://www.dot.state.pa.us/public/PubsForms/Publications>).
- O. All grass or associated lawn areas which have been disturbed by the permittee shall be properly backfilled and reseeded to the satisfaction of the Borough following the attached details.
- P. If any tree or shrub has been damaged or uprooted, it shall be the responsibility of the permittee to properly repair or replace the species.
- Q. Permits will be restricted during unfavorable weather or road conditions (winter season) unless the project is classified as an emergency. All restorations must be completed prior to the winter season.

115. **Inspection Services.**

- A. The Borough of New Brighton, upon receipt of a properly completed application, shall determine the level of inspection services needed (full-time, part-time, or intermittent) for the project. A retainage for inspection services shall be paid at the time the permit is issued. In the case of a public utility company, the requirement of such inspection services may be waived if such public utility company files with the Borough of New Brighton its corporate bond.
- B. Form of Payment for Inspection Services. The payment may be either in the form of a bond, certified check, or cashier's check.
- C. An authorized representative shall have the authority to enter areas covered by such permit at any reasonable hour to enforce the provisions of the code(s) applicable to such permit.
- D. Prior to pouring concrete, an inspection of the forms and grade is required. Inspection appointments can be made by calling the Municipality's Public Works Department.
- E. Insufficient deposit. If any guarantee is less than sufficient to pay all costs, the permittee shall, upon demand, pay to the Borough of New Brighton an amount equal to the deficiency. If the permittee fails or refuses to pay for such deficiency, the Borough of New Brighton may institute an action to recover the same in any court or competent jurisdiction. Until such a deficiency is paid for in full, no additional permits shall be issued to such permittee.
- F. Yearly Inspection. Whenever any public utility company shall anticipate applying for permits for more than one street opening or excavation per calendar year and does not elect to file a corporate bond as hereinbefore provided, such public utility company may post one guarantee in an amount and form as hereinbefore provided for the calendar year or part of thereof to cover the cost of guarantees which would otherwise be required for the anticipated permits.
- G. Inspection and Fee schedules. The Borough of New Brighton shall establish a schedule of charges for inspections as may be incurred by the Borough in carrying out the provisions of this article. This schedule shall be established by the Borough of New Brighton in accordance with the reasonably anticipated costs to be incurred by the Borough of New Brighton. The Borough of New Brighton shall revise the said schedule from time to time to reflect any increase or decrease in the costs used to establish said charges. The schedule shall be open to public inspection in the Borough of New Brighton Administrative office.
- H. Decision on costs. The decision of the Borough of New Brighton as to the cost of any work done or repairs made by the Borough of New Brighton, pursuant to the provisions of this article, shall be final and conclusive as to such cost, subject to such rights of appeal as may exist by statute.

- I. Refund of the balance of inspection services retainage. Upon notification by the permittee that all work authorized by the permit has been completed, and after restoration of the opening, the Borough of New Brighton shall refund to the permittee any retainage held for inspection services, less all cost incurred by the Borough of New Brighton in connection with said permit. In no event shall the permit fee be refunded.

116. Street Improvements

When the Borough of New Brighton shall improve or pave any street, the Borough of New Brighton shall give notice to all persons owning property abutting on the street about to be paved or improved and to all public utility companies and authorities operating in the Borough of New Brighton, and all such persons, public utility companies and authorities operating in the Borough of New Brighton, and all such persons, public utility companies and authorities shall make all connections, as well as any repairs thereto, which would necessitate excavation of the street, within 30 days from the giving of such notice. The time shall be extended if permission is requested, in writing, and approved by the Borough of New Brighton.

Restriction will be placed upon opening newly improved streets. No permit shall be issued by the Borough of New Brighton which would allow excavation or opening in a paved and improved street surface less than three years old unless the applicant can demonstrate clearly that public health or safety requires that the proposed work be permitted. Or unless an emergency condition exists, or unless approved by Borough of New Brighton governing body subject to the applicant's compliance hereof.

Requirements for opening the newly improved street will be by special action of the Borough of New Brighton governing body. If a permit is issued to open any paved and improved street surface less than three years old, then the applicant for such permit shall improve the opening and/or excavation for the entire distance from curb to curb of the subject street and otherwise comply with the Borough of New Brighton Construction and Design Specifications, attached hereto and incorporated herein at the appendix to this chapter, in a manner acceptable to the New Brighton Public Works Foreman or his designee. These requirements may be waived by action of the Borough Manager.

117. Abandoned facilities.

- A. Whenever any pipe, conduit, duct, tunnel, or other structure located under the surface of any street is abandoned or the use thereof is abandoned, the person owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file with the Borough of New Brighton a statement, in writing, giving detail the location of the structure so abandoned. Whenever there are manholes or tunnels associated with any abandoned underground facilities, such manholes or tunnels shall be filled in at the time of abandonment and the Borough of New Brighton notified thereof in writing.
- B. When the Borough of New Brighton plans to pave or improve streets in which there are abandoned facilities, the owner of such facilities shall be notified to remove them if, in the opinion of the Borough of New Brighton and Municipal Engineer, their removal is in the best interest of the Borough of New Brighton. If the owner refuses to remove such abandoned facilities, the Borough of New Brighton shall remove the abandoned facilities and the owner shall reimburse the Borough of New Brighton for removal.

118. Notice to abutting owners and tenants.

- A. If the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project, the Borough requires the permittee to notify the affected property owners and/or tenants of the proposed work to be done and provide proof to the Borough.
- B. If the work to be undertaken by a permittee will affect other subsurface installation(s) in the vicinity of the proposed opening, the Borough of New Brighton requires the permittee to notify the owner(s) of such facilities of the proposed work and provide proof to the Borough.

119. Notice to police and fire authorities.

The permittee shall notify, in writing, municipal police and fire authorities of all street opening permits he or she grants of a nature that would require a street being closed. Such notification shall state the nature of the work to be done, the proposed beginning and completion dates and the location of such project. Proof of notification should be given to the Borough.

120. Violations and penalties.

- A. Any person, firm or corporation who violates a provision of this article, or who fails to comply therewith, or with any of the requirements thereof shall be upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$1,000 for each violation, plus costs, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
- B. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this article found to have been violated. All fines and penalties for the violation of this article shall be paid to the Borough.
- C. The Borough of New Brighton may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this article.

121. Bond requirements.

- A. Restoration of the street surface, by the permittee, upon receipt of a permit, shall provide the Borough of New Brighton with a Bond, certified check, or cashier's check to guarantee faithful performance of work authorized by a permit. The amount of the financial security shall be 100% of the estimated cost of restoring the street opening. A certificate of final inspection shall be issued by the Borough to each permittee no sooner not later than 2 years after the permanent restoration of the excavation has been made, provided that the work authorized by the permit has been performed according to municipal specifications. Prior to the issuance of a certificate, the Borough shall make a final inspection of the restoration to determine whether municipal specifications have been adhered to and/or whether the restoration work was otherwise adequately and properly performed.

If the permittee anticipates requesting more than one permit per year, as required by this article, permittee may furnish a single financial security to guarantee faithful performance in such amount as the Borough of New Brighton deems necessary. The amount of such a bond shall be in relation to the cost of restoring pavement cuts to be made by the permittee throughout the year. In the case of a public utility company, its corporate bond, in a form satisfactory to the Municipal Solicitor, may be accepted in lieu of the corporate surety bond required by this section.

- B. Default in performance. Whenever the Borough of New Brighton shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof and the period of time deemed by the Borough of New Brighton to be reasonably necessary for the completion of such work.
- C. Completion of work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Borough of New Brighton for the cost of doing the work as set forth in the notice.

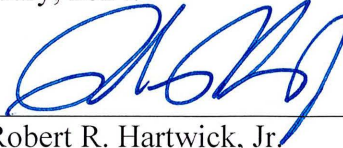
122. Liability insurance.

Each applicant, upon the receipt of a permit and prior to performing work under the permit, shall procure and maintain adequate insurance to protect it from claims for damages because of bodily injury, including death, and from claims for damages to property which may arise out of or be related to the performance of work under the permit, whether such performance is by the applicant or the applicant's subcontractor or anyone directly or indirectly employed by the applicant. Such insurance shall cover collapse, explosive hazards, underground work, and work by equipment on the street and shall not include protection against liability arising from completed operations. The specific amount of the insurance shall be prescribed by the Borough of New Brighton in accordance with the nature of the risk involved for all accidents. A certificate of insurance, in the amount required by this action and in a form acceptable to the Municipal Solicitor, shall be filed with the Borough of New Brighton prior to commencement of work under the permit. This certificate of insurance shall also state that the Borough of New Brighton shall be given written notice at least 60 days prior to cancellation of such insurance. The Borough of New Brighton shall be listed as an additional insured and/or loss payee on all policies of insurance described in this section. Public utility companies and authorities may be relieved of the obligation of submitting such a certificate if they submit satisfactory evidence, in a form acceptable to the Municipal Solicitor, that they are insured in accordance with the requirements of this article or have adequate provision for self insurance. Public utility companies may file an annual certificate of insurance in lieu of individual certificates for each permit.

SECTION II: All prior ordinances are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION III: This Ordinance shall take effect upon adoption.

ENACTED AND ORDAINED this 15th day of February, 2024.



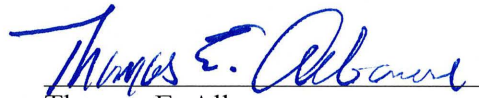
Robert R. Hartwick, Jr.
President of Council

ATTEST:



Thomas J. Albanese
Borough Manager/Secretary

EXAMINED AND APPROVED this 15th day of February, 2024.



Thomas E. Albanese
Mayor