

**AN ORDINANCE OF THE BOROUGH OF EAST CONEMAUGH, CAMBRIA COUNTY,
PENNSYLVANIA REGULATING THE MAKING OF OPENINGS AND EXCAVATIONS IN THE
STREETS AND/OR PROPERTY OWNED BY BY THE BOROUGH OF EAST CONEMAUGH, CAMBRIA
COUNTY, PENNSYLVANIA, AND THE PROTECTION, REFILLING, RESURFACING AND PAVING OF
THE SAME AND PROVIDING PENALTIES FOR VIOLATION THEREOF.**

ORDINANCE NO. 23-05

**SECTION 1
Definitions**

1. The following words and phrases when used in this ordinance shall have the meaning or meanings ascribed to them in this section unless the context clearly indicates otherwise:
 - a. The word "Street" shall mean any public street, avenue, road, square, alley, highway, right-of-way or other public place located in the Borough of East Conemaugh and established for the use of vehicles.
 - b. The phrase "Property of the Borough" shall mean any piece, parcel, or lot of real property that is located in East Conemaugh Borough and owned by East Conemaugh Borough.
 - c. "Borough" shall mean East Conemaugh Borough.
 - d. The word "person" shall mean and include and natural persons, partnership, firm, association or corporation.
 - e. In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2.

1. It shall be unlawful for any person to open or to make any excavation of any kind in any street or right-of-way in the Borough or on any Property of the Borough without a permit issued by the Borough.

SECTION 3.

1. Any person who shall desire to make any opening or excavation in any of the streets, rights-of-way, or Property of the Borough shall first make application to the Borough or its designated agent in writing, for the purpose intended.
 - a. Such application shall be made upon blank form to be furnished by the Borough and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough and the laws of the Commonwealth of Pennsylvania relating thereto.
 - i. Said application shall have a drawing of the excavation area attached to it for review by the Borough, its Engineer, and Solicitor
2. The applicant shall pay to the Borough a permit fee in the minimum amount of Fifty Dollars and 00/100 cents (\$50.00), plus \$2.00 per square foot of excavation or opening, measured one (1) foot beyond the excavation or opening in each direction, plus reasonable engineering and legal fees to cover the cost of inspection and other incidental services in connection therewith.

3. All excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.
4. The applicant will save, defend and keep harmless the Borough from and indemnify the Borough 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 persons or property resulting in any manner there from, or occurring to the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.
5. The Borough may, at its discretion, require a Bond to be calculated according to the department of Transportation of the Commonwealth of Pennsylvania standards.
 - a. Said Bond will remain in effect for a period of two (2) years.

SECTION 6.

1. Any person who shall open or excavate any improved street in the Borough shall thoroughly and completely refill the opening or excavation, compacting and ramming so as to prevent any settling thereafter; and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Borough for restoration of surfaces of streets in the Borough.
 - a. The surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening.
 - i. A 6" concrete base or concrete pavement shall be installed and extend twelve (12") inches beyond the excavation in all directions.
 - (1) The concrete base or pavement shall be reinforced according to the width of the excavation.
 - b. Any person who shall open or excavate any Property of the Borough shall thoroughly and completely refill the opening or excavation, compacting and ramming so as to prevent any settling thereafter; and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Borough Engineer.
 - c. The surface or any excavated area shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening.
 - d. If within two (2) years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Borough for the cost of all necessary repairs to the permanent paving.

SECTION 7.

1. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by the applicant at his expense, and all such work shall be subject to the provisions of this Ordinance and to the supervision and approval of the designated agent of the Borough.

SECTION 8.

1. No opening or excavation in any street shall extend from the curb line into the highway a distance greater than one (1) foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
2. No more than two hundred fifty (250) feet longitudinally shall be opened in any street at any one time.
3. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other sub-surface lines or constructions until permission of the proper authorities in connection with sub-surface lines or constructions shall have been obtained.
4. No tunneling shall be allowed without the express approval of the Borough engineer and said approval shall be expressed and endorsed upon the permit.
 - a. The backfilling of a tunnel excavation shall be made only in the presence of the Borough and shall be done only in a method approved by the Borough.
5. No opening or excavation on any Property of the Borough shall be greater than 96 square feet.
6. All openings or excavations shall be backfilled promptly with suitable materials and thoroughly compacted in layers, each of which shall not exceed six (6) inches in depth.
 - a. On improved streets, the backfilling shall be placed to within ten (10) inches of the surface.
7. During the making of any excavation in any street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.
8. The applicant shall notify the Borough when the opening or excavation is ready for back-filling before any backfilling is done.
9. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough, be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the Borough, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20%, to the applicant.

SECTION 9.

1. In the case of any leak, explosion or other accident in any sub-surface pipe, line, wiring, construction or apparatus it shall be lawful for the person owning or responsible for such pipe, line, wiring, construction or apparatus, to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the net business day thereafter, and that all other provisions of this Ordinance are fully complied with.
 - a. If any such emergency conditions shall not be immediately attended to by the owner or person responsible for such pipe, line, wiring, construction or apparatus, the Borough, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus 20% to such owner or person.

SECTION 10.

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

SECTION 13.

1. Any person, whether as principal, agent or employee, violating or assisting in the violation of any of the provisions of this ordinance, shall, upon conviction thereof, pay a fine of not less than One Hundred Dollars and 00/100 cents (\$100.00) nor more than Six-hundred Dollars and 00/100 cents (\$600.00), and in default of the payment of such fine and costs of prosecution, shall be imprisoned for not more than thirty (30) days.

SECTION 14.

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

SECTION 15.

1. The provisions of this ordinance shall be severable, and if any provision thereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is here by declared as a legislative intent of the Borough Council that this ordinance would have been enacted had such unconstitutional, illegal or invalid provision not been included herein.

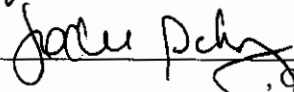
IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of East Conemaugh, County of Cambria, Commonwealth of Pennsylvania, this 18 day of October, 2023, as follows:

ATTEST:

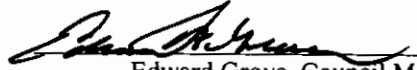

Virginia Stephens, Secretary

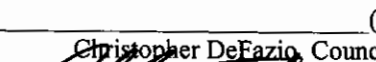
EAST CONEMAUGH BOROUGH

by:  (SEAL)
John A. Andrews, President


 (SEAL)
Council Member

 (SEAL)
Charles Andrews, Council Member

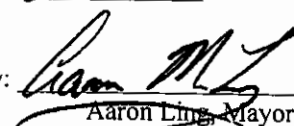
 (SEAL)
Edward Grove, Council Member

 (SEAL)
Christopher DeFazio, Council Member

 (SEAL)
Roland Toth, Council Member

 (SEAL)
Ronald Ling, Council Member

Approved by Aaron Ling, Mayor, this 18th day of October, 2023.

by:  (SEAL)
Aaron Ling, Mayor

