

ORDINANCE NO. 2026- I

AN ORDINANCE OF THE TOWNSHIP OF UNION, UNION COUNTY, PENNSYLVANIA, REGULATING EXCAVATIONS WITHIN PUBLIC RIGHTS-OF-WAY WITHIN THE TOWNSHIP; ESTABLISHING A PERMIT PROCEDURE; PROVIDING FOR CONDITIONS, REQUIREMENTS AND FEES FOR THE ISSUANCE OF PERMITS; REGULATING PAVEMENT RESTORATION; AND PRESCRIBING PENALTIES FOR VIOLATION THEREOF.

Be it enacted and ordained by the Board of Supervisors of the Township of Union, Union County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, as follows:

Section 1. Title. This Ordinance shall be known as the "Right-of-Way Excavation Ordinance of the Township of Union."

Section 2. Purpose. Excavations in paved streets owned and maintained by the Township degrade and shorten the life of the surface of the streets, and this degradation increases the frequency and cost to the public of necessary resurfacing, maintenance and repair. Thus, it is appropriate that persons and entities responsible for excavating into the Township's rights-of-way bear this burden, rather than the taxpayers of the Township.

The purpose of this Ordinance is to regulate excavations by utilities and any person within the areas designated as public rights-of-way within the Township. This Ordinance is adopted to maintain the safe condition of the public rights-of-way in order to protect the public health, safety and welfare.

Section 3. Definitions. The following words used in this Ordinance shall have, unless the context clearly indicates otherwise, the meanings given to them in this Section.

APPLICANT – any person making application to the Township for a Permit as directed by this Ordinance.

EXCAVATION – the digging of any trench or excavating through or under the roadway or sidewalk or the cutting into or opening and removal of any of the pavement surfaces of any street within the Township.

EXCAVATION WORK – the excavation and other work permitted under a permit and required to be performed under this Ordinance.

PERMIT – a highway occupancy permit issued by the Township or its designated representative.

PERMITTEE - any person who has been granted and has in full force and effect a permit issued hereunder.

PERSON – any individual, corporation, company, partnership, firm, association, trust or other entity with legal responsibilities. Whenever used in any provision hereof prescribing or imposing a fine or imprisonment, or both, person shall mean the partners, members or officers of partnerships, associations and corporations.

PUBLIC UTILITY – entity providing electricity, natural gas, telecommunications, water or other service as defined and regulated by the Pennsylvania Public Utility Commission. Additionally, a Municipal Authority providing a similar service shall be considered a public utility under this Ordinance.

STREET – any public street, highway, sidewalk, alley, avenue, or other public right-of-way, ground or easement in the Township.

UTILITY FACILITY OR FACILITIES – privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil, crude products, coal, water, steam, waste stormwater, and including fire and police signal systems and street lighting systems, which directly or indirectly serve the public or any part thereof.

TOWNSHIP – the Township of Union, Union County, Pennsylvania.

Section 4. Permit. It shall be unlawful for any person to dig up, break, excavate, tunnel, bore, undermine, or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street, or to place, deposit, or leave upon any street any earth or other material obstructing or tending to interfere with the free use of the street or do any excavation work within a street unless such person shall first have obtained a permit therefor from the Township as provided in this Ordinance.

Section 5. Application for and Issuance of Permit. No permit shall be issued unless an application for the issuance thereof on forms provided for that purpose is submitted to the Township or its designated representative. The application shall state the applicant's name, address, telephone number and email address and also the contact representative of the applicant; the nature, location and purpose of the excavation work; the anticipated date of commencement and estimated date of completion of the excavation work; a description of the utility facility installation; the name, address, telephone number and email address of the

contractor performing the excavation work if other than the applicant and also the contact representative of the contractor; and such other data or information as may be reasonably required by the Township. If, in the sole and exclusive opinion of the Township, extensive excavation and construction is planned, the application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of the elevated surfaces, the location of the excavation work, and such other information as may be prescribed by the Township. It shall be permissible for public utilities to telephone the Township in order to submit permit information to perform emergency maintenance excavation work on their facilities.

The application for a permit shall be reviewed by the Township or its designated representative and acted upon within thirty (30) calendar days of submission. The action by the Township or its designated representative shall be (i) approval and issuance of the permit or (ii) denial of the permit. Written notice of said action shall be mailed to the applicant by First Class Mail within the said thirty (30) day period. In the event of a denial of the application, the said notice shall set forth the reasons for the denial. Failure to comply with the notice requirements herein shall be deemed to be an approval of the application.

When the permitted work has been completed, the permittee shall notify, in writing, the Township or its designated representative for a final closeout inspection.

The permittee may request in writing a supplement to the permit or amend a permit condition, such as the traffic control plan, or to extend the permit expiration date. A permit shall be valid for a period of six (6) months, as specified in the permit, subject to the following conditions:

A. No excavation work may be performed on an expired permit. If the permittee has not completed the authorized excavation work by the completion date specified on the permit, an application shall be submitted requesting a time extension of the permit.

B. If approved, a supplement to the permit authorizing a new completion date will be issued by the Township or its designated representative.

C. No extension of the permit will be authorized unless the permittee obtains an extension of the duration of the bond, insurance or other security required under this Ordinance, which extension shall correspond with the permit time extension. The

permittee shall provide evidence of the extension to the Township or its designated representative.

D. No time extension supplement will be issued for a request received more than thirty (30) days after the expiration of the permit. In that case, an application for a new permit must be submitted to the Township or its designated representative and additional fees may apply.

Section 6. Permit Fee. Except when the applicant is a governmental agency or a public utility performing emergency repairs, the applicant shall pay a permit fee to the Township with the submission of the application. Applicant shall also be responsible for and pay all costs incurred by the Township in inspecting the work authorized by the permit and for the review of the application if such review is made by a person other than a Township employee. The determination as to the necessity of a review by a non-Township employee rests solely and exclusively with the Township. The Township shall invoice the applicant for the costs to be charged for the inspection of the work and review of the application, which shall be paid in full prior to the start of the execution work. All fees and costs shall be established from time to time by resolution adopted by the Board of Supervisors of the Township.

Section 7. Excavation Placard. The Township shall provide the permittee, at the time the permit is issued, a suitable placard, which shall state the permittee's name, the permit number and the date of expiration, which shall be exhibited at the site of the excavation work at all times. It shall be unlawful for any person to exhibit such permit at or about any excavation not covered by such permit or to misrepresent the permit number or the date of expiration.

Section 8. Performance Bond. Before a permit is issued, the applicant shall deposit with the Township a performance bond, in favor of the Township, in the amount of Five Thousand (\$5,000.00) Dollars or such greater amount as may be determined by the Township, with good and sufficient surety satisfactory to the Township, provided that said bond is satisfactory to the Township Solicitor in form and substance, is conditioned upon the applicant faithfully complying with all the terms and conditions of this Ordinance and all rules, regulations and requirements established hereunder, and remains in force for two (2) years after the excavation work has been completed to provide security for any defects in said work.

An annual bond may be given under this Section, which shall remain in force for two (2) years conditioned as above, in the amount specified herein and in other respects as specified herein but applicable as to all excavation work done pursuant to any permit issued to the person submitting the said bond during the term of two (2) years from said date of issuance of said bond. Said bond shall be extended if necessary to comply with the aforesaid provision requiring it to remain in force for two (2) years after completion of the excavation work.

Section 9. Exemption from Bond. The performance bond provisions of Section 8 of this Ordinance shall not apply to any Public Utility permitted to operate within the Township or any permittee to whom a permit is issued for excavation work under a contract with the Township.

Section 10. Requirements and Conditions of Permit.

A. All excavation work done pursuant to a permit issued under the provisions of this Ordinance shall be performed under the direction and to the satisfaction of the Township or its designated representative.

B. The permittee shall comply with all applicable rules, regulations and requirements as may be established from time to time by resolution adopted by the Board of Supervisors of the Township.

C. The permit shall be binding upon the permittee, its agents, contractors, heirs, personal representatives, successors and assigns, and shall be in compliance with the following:

1. The permittee shall be responsible for causing compliance with the terms and conditions of the permit by its employees, agents and contractors. Responsibility for compliance with the terms of the permit may not be assigned or transferred by the permittee without first obtaining approval from the Township or its designated representative after submitting a written request to do so. If a permit is assigned or transferred without first obtaining approval from the Township or its designated representative, the assignment or transfer shall be null and void.

2. The permittee shall be liable to the Township for failure to comply with the permit and this Ordinance. The liability of the permittee to the Township does not preclude the permittee, the Township, or a property owner adjacent to permitted excavation work from bringing an action against the permittee's contractor, subcontractor, engineer, architect, assignee, agent, excavation workers, employees or other persons.

D. The permittee shall be responsible for maintaining traffic control devices during the duration of the excavation work.

E. All permitted work shall occur between the hours of 7:00 A.M. and 5:00 P.M., unless the permit specifically allows a variance thereof or such work was completed as an emergency repair.

F. At the end of a workday, an opening in the street shall be covered, backfilled or protected. If excavation work is stopped on a project, the permittee shall promptly backfill the opening and restore the surface, and work may not be resumed until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the opening or proceed until completion of the excavation work, the Township reserves the right to do said work upon notice to the permittee, where practicable, and shall be reimbursed for the costs thereof by the permittee within thirty (30) days after receipt of the Township's invoice therefor and upon failure of the permittee to do so, the Township shall be paid from the performance bond required hereunder or the same shall be collectible by the Township in the manner provided by law for the collection of municipal claims.

G. Upon completion of the permitted excavation work, the permittee shall promptly backfill the opening and restore the surface as provided in Section 11 of this Ordinance.

H. If the permittee, after making an opening in the surface of a street to place or repair an underground utility facility or for another purpose, fails to restore a portion of the street to conform with this Ordinance, the Township reserves the right to do the work upon notice to the permittee, where practicable, and shall be reimbursed for the costs thereof by the permittee within thirty (30) days after receipt of the Township's invoice therefor and upon failure of the permittee to do so, the Township shall be paid from the performance bond required hereunder or the same shall be collectible by the Township in the manner provided by law for the collection of municipal claims.

I. Any person or firm to whom a permit has been issued shall notify all utility companies of the intent to excavate in accordance with Pennsylvania Act 187 of 1996, as amended. This notification shall be given not less than seventy-two (72) hours in advance of the commencement of the excavation work and shall indicate the time, place and purpose of the said work.

J. The permittee or any person to whom a permit or work contract has been issued shall have the duty of determining the location and depth of all existing underground utility facilities. If a utility line is broken or damaged in any way, the permittee or contractor shall immediately notify the utility owner.

K. Altering drainage is prohibited unless specifically authorized by the permit. The permittee shall not:

1. alter the existing drainage pattern or the existing flow of drainage water;
or
2. direct additional drainage of surface water toward, onto, or into or in any way affect the street right-of-way or street facilities. Additionally, the permit does not authorize the permittee to direct, divert or otherwise drain surface waters over the property of another property owner.

The permit does not relieve the permittee from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.

L. If any of the permittee's equipment damages the pavement, shoulder, curb and/or sidewalk, the permittee shall restore the damaged pavement, shoulder, curb and/or sidewalk to its former condition in a manner authorized by the Township or its designated representative.

M. If backfill or restoration work will be performed for the permittee by a contractor, the permittee shall provide the Township with the name, address, telephone number and email address of both its contractor and its inspector-in-charge who shall be assigned to monitor backfill and restoration work performed within the improved area. The permittee's inspector-in-charge, as well as the permittee, shall be responsible for ensuring that the excavation work is performed in compliance with the permit.

Section 11. Pavement Restoration - Backfill and Compaction.

A. All excavations and trenches shall be backfilled to the original ground surface or to grades specified. The backfill shall begin as soon as practical after the pipe or other construction has been placed and shall thereafter be carried on as rapidly as the protection of the balance of the work will permit. Depositing of the backfill shall be done in such a manner that the shock of falling material will not injure the pipe or adjacent structures. Under no circumstance may the original backfill be utilized at any point or in any portion of the project.

B. Compaction of the backfill shall be done in lifts of uniform layers of no more than six (6) inches.

C. Service trenches must be compacted in the same manner as the main trench. In areas where curb and sidewalk exists, sufficient curbing shall be removed to allow the prescribed compaction over the entire distributed area. The curb and sidewalk shall be replaced in accordance with Township requirements.

D. the promptly see with final pavement restoration.

Section 12. Recently constructed streets, shared-use paths, and rights-of-way restoration.

The work to be done under the permit, and the restoration of the rights-of-way as required herein, must be completed within the dates specified in the permit. In addition to its own work, the permittee is responsible for the restoration of the general area of the work, including all disturbed sidewalk, concrete curb, landscaping, planting and improvement materials and the permitted areas, including the paving and its foundation, per the construction standards described in this Ordinance.

A. If the permittee opens pavement having a bituminous concrete surface and the wearing course is less than five (5) years old, 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 twenty-five (25) lineal feet has been made in the pavement, the permittee shall overlay the traffic lane(s) in roadways, and full widths of shared-use path which the opening was made, for the entire length of street or path that was opened, in accordance with the Township's construction specifications.

2. When two or more transverse openings have been made within one hundred (100) lineal feet of pavement, the permittee shall overlay traffic lanes in which the openings were made, for the entire length of street or width of the shared-use path between the openings, in accordance with the Township's construction specifications.

3. When four or more emergency openings have been made by the same permittee within one hundred (100) lineal feet of pavement, the permittee shall overlay traffic lanes in which the openings were made, for the entire length of street between openings, in accordance with the Township's construction specifications.

4. If disturbed lanes adjacent to undisturbed lanes are overlaid, the edge of the disturbed lane shall be saw cut or milled to a depth of one and one-half (1 ½) inches or the depth of the existing wear course, whichever is less, for the length of the opening to ensure a smooth joint, with proper elevation and cross-section. A full-width overlay may be authorized on various streets instead of saw cutting or milling the disturbed lane.

B. Regardless of the age of the wearing course:

1. If more than one hundred (100) lineal feet of longitudinal or transverse openings, or both, are made in the pavement, the Township may require the permittee to overlay traffic lanes or full width of the roadway or shared-use path for which the openings were made, for the entire length of street or shared-use path that was opened, if the Township determines that the ride-ability or structural integrity of the pavement has been impaired by the openings.

2. If four or more openings are made by the same permittee within one hundred (100) lineal feet of pavement, the Township may require the permittee to restore the entire disturbed pavement between openings by milling and overlaying the entire disturbed pavement in accordance with the Township's construction specifications.

3. Permittee shall submit the proposed skid resistance level (SRL) of the overlay material.

4. If an opening is made in a bituminous concrete pavement within three (3) feet from the edge of pavement or other longitudinal joint or opening, the surface restoration shall be extended to the edge of pavement or other longitudinal joint or opening.

5. At each end of an overlay, the permittee shall install a paving notch, by milling to provide a minimum ten-foot transition.

6. The transition areas at each end of an overlay shall follow the contour of the surrounding surface, unless otherwise directed by the Township Engineer or their designee.

7. When pavement markings on more than one hundred (100) lineal feet of street are covered or destroyed by the permitted work, including overlays, they shall be replaced in their former locations.

Section 13. Emergency Action. In the event of any emergency in which a main, conduit, or other utility facility in or under any street breaks, bursts, or otherwise is in such condition as to immediately endanger the property, life, health, or safety of any person owning or controlling such main, conduit, or utility facility, without first applying for and obtaining a permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous condition; provided, however, that such person shall apply for a permit not later than the end of the next succeeding business day.

Section 14. Non-Completion or Abandonment. Excavation work shall progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to the general public. In the event that such work is not performed in accordance with this Ordinance or applicable rules, regulations and requirements established hereunder, or shall cease or be abandoned without due cause, the Township may, after six (6) hours notice in writing to the permittee of its intent to do so, correct said work or fill the excavation and repair the street, and in any such event the entire cost to the Township of such work shall be a liability of the permittee, who shall reimburse the Township for the said cost within thirty (30) days after receipt of the Township's invoice therefor and upon failure of the permittee to do so, the Township shall be paid from the performance bond required hereunder or the same shall be collectible by the Township in the manner provided by law for the collection of municipal claims.

Section 15. Insurance. Prior to the commencement of excavation work hereunder, the permittee, except for any Public Utility operating utility facilities within the Township, to which this Section shall not apply, shall provide the Township with satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the work authorized by the permit, permanent public liability insurance of not less than \$300,000.00 for

any one person and \$500,000.00 for any one accident and property damage insurance of not less than \$300,000.00, duly issued by a reputable insurance company authorized to do business in the Commonwealth of Pennsylvania, which policy shall name the Township as an additional insured or a co-insured and shall include a duty to defend the Township.

Section 16. Indemnification. The permittee shall indemnify, keep and hold the Township, its officers, agents, employees and designated representatives, free and harmless from any and all liability on account of injury or damage to persons or property arising or growing out of the permittee's work pursuant to the permit. In the event that a suit is brought against the Township either independently or jointly with the permittee or others on account thereof, the permittee, upon notice from the Township, shall defend the Township in any suit at the cost of the permittee or pay the Township's or its designated representative's costs in defending the said suit. In the event of a final judgment against the Township and/or its designated representative either independently or jointly with the permittee or others, the permittee shall pay such judgment, together with all costs, and hold and save the Township harmless therefrom.

Section 17. Refusal of Permits. If any person shall fail, refuse or neglect to comply with the provisions of this Ordinance or any applicable rules, regulations or requirements established hereunder or any reasonable orders or directions of the Township's designated representative in reference thereto, the Township may refuse to issue further permits to such person until such person complies therewith and may enforce the provisions of this Ordinance with actions in either law or equity.

Section 18. Penalties. Any person who shall violate any provision of this Ordinance shall be guilty of a summary offense and, upon conviction thereof in a summary proceeding before a District Judge, be sentenced to pay a fine of not more than Six Hundred (\$600.00) Dollars, plus costs of prosecution, and/or be imprisoned for a period not to exceed ninety (90) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

Section 19. Repeal. All ordinances or parts of ordinances inconsistent herewith be and the same are hereby repealed.

Section 20. Effective Date. This Ordinance shall become effective five (5) days after enactment.

ENACTED AND ORDAINED as an Ordinance of the Township of Union, Union County,
Pennsylvania, this 6TH day of October, 2026.

ATTEST:

Wendy J. Yoder
Wendy J. Yoder, Township Secretary

(SEAL)

TOWNSHIP OF UNION

By: [Signature]
William R. Allred, Jr., Chairman

Thomas S. Reitz
Thomas S. Reitz, Supervisor

Todd M. Wright
Todd M. Wright, Supervisor