



BOROUGH OF TATAMY

NORTHAMPTON COUNTY, PENNSYLVANIA

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ORDINANCE NO. 308-2024

(Duly Adopted xx day of xx 2024)

AN ORDINANCE OF THE BOROUGH OF TATAMY ESTABLISHING AND REPLACING AN ORDINANCE SETTING FORTH STANDARDS FOR OPENING OR OCCUPYING A PUBLIC STREET AND RIGHT OF WAY, ESTABLISHING PERMIT, RESTORATION, SECURITY REQUIREMENTS, AND PROVISIONS FOR VIOLATIONS AND PENALTIES.

WHEREAS, The Borough of Tatamy is a Municipal Corporation with Offices located at 423 Broad Street, Tatamy, Northampton County Pa. 18085; and

WHEREAS, The Borough desires to proactively monitor and regulate the opening and occupancy of its streets thereby protecting the health and safety of the Borough citizens, the public, the integrity of the utilities and the public Rights-of-Ways; and

WHEREAS, The Borough desires to enact the following standards and requirements for excavation, construction or any disturbance of the streets within the Borough of Tatamy.

WHEREAS, The Borough desires to update and replace Ordinance 296-2023 with this stated ordinance.

I. **DEFINITIONS**

- A. As used in this Ordinance, the following terms shall have the meanings indicated:
- Access:** Any means for passage of vehicles between property abutting a street and the street. It shall be deemed to include only that portion of the driveway or access road that lies within the established right-of-way limits of the street.

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Administrative Staff: An employee(s) of the Borough who reviews and files documents and, collects and processes Security.

Applicant: Any person who makes an application for a Permit under the provisions of this, and/or any other Ordinance(s).

Borough: The Borough of Tatamy, County of Northampton, Commonwealth of Pennsylvania. This term shall include the terms Administrative Staff and Inspector(s).

Construction: Build, install, work, or (re)place any material(s) or facility(s) within, under or above a street within the Borough, which could interfere with the public's use of said street.

Emergency: Any unforeseen circumstances or occurrence which constitutes a clear and immediate danger to persons or properties.

Excavation: Digging or trenching within, under, or above any street or, cutting into or opening and/or removing any pavement surfaces or subsurface of any street. This term includes any work on a street.

Facility or Facilities: any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under, or above the Street, which is used or designed to be used to deliver, transmit or otherwise provide utility or any other type of service.

Inspector(s): An agent, consultant, employee, or engineer designated by the Borough to review, deny, issue, inspect, and/or enforce applications and permits, excavation/construction activities associated with a Street Opening or Occupancy, and the restoration thereof, pursuant to the standards and requirements of this, and/or any other Ordinance(s).

Irrevocable Letter of Credit (“Letter of Credit”): Is a guarantee for payment issued by a bank, which cannot be cancelled during construction specified time of permit.

Municipal Authority: Any special purpose governmental unit incorporated and/or created pursuant to the laws of the Commonwealth of Pennsylvania, including but not limited to the Pennsylvania Municipal Authorities Act.

Permittee: Any person who has been issued a permit under this Ordinance.

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Person: Shall include, without limitation, any applicant, association, authority, corporation, estate, firm, governmental agency, joint venture, limited liability company, municipal authority, natural person, partnership, permittee, public utility commission, property owner, trust, or and/or any other entity.

Public Utility Company: Any entity subject to the jurisdiction and control of the Pennsylvania Public Utility Commission or the Federal Communications Commission.

Security: Any escrow(s), fee(s), or letter of credit (“letter of credit”) required by this, and/or any other Borough Ordinance and Resolution. Security is established by an applicant/permittee to guarantee that the applicant/permittee complies with the standards and requirements contained herein. Security also helps cover the Borough’s Administrative Staff and Inspector costs for processing and verifying compliance of an application and/or permits.

Street: Any avenue, boulevard, lane, parkway, road, viaduct, or other way for the movement of vehicular traffic which is an existing State, County, or Borough roadway, or way shown upon a plan and includes the land between street or right-of-way, whether unimproved or improved, with pavement, gutters, sidewalks, curbs, parking areas and/or other areas within.

Street Occupancy: Any construction or excavation to establish access from an abutting property to a street, which access will be used by vehicles as a means of ingress or egress to said street. It shall be deemed to include only that portion of the driveway or access road that lies within the established right-of-way limits of the street.

Street Opening: Any construction or excavation within, under, or above any street or, the cutting into or opening and removal of any of the pavement surfaces and/or subsurface, curbs or sidewalks within the right-of-way of any street within the Borough, which does not fall within the definition of "street occupancy".

II. RESTRICTIONS

A. **Opening a New Street:** No Permit shall be issued by the Borough which would allow a Street Opening or Occupancy on a paved and improved Street surface that is less than five (5) years old unless, the Applicant can clearly demonstrate that public health or safety require that the proposed work be permitted or, an emergency condition exists. This section applies to any Street that has received a surface treatment within the previous five (5) year period, including but not limited to topcoat paving or chipping and sealing. For new Streets dedicated to the Borough, the five (5) year period begins from the point of the Borough's formal acceptance of the Street. The Borough shall have the right, but in no event any obligation, to grant exceptions to this section for non-emergency situations following receipt of a written request from an Applicant outlining the justification for the requested exemption.

III. APPLICATION AND APPLICANT

A. **Application:** Street Opening/Occupancy Permit Applications ("Application") are available upon request, during normal business hours, at the Borough's administrative offices located at 423 Broad Street, Tatamy PA. 18085. Applications are also accessible, via PDF, on the Borough's website www.tatamypa.gov.

B. **Duties and Responsibilities of Applicant:** It shall be the duty and responsibility of an applicant to:

1. Submit a completed application, including all required supporting documentation to the Borough;
2. Pay the required non-refundable application fee upon submission of an application; Emergency situations will be handled case by case, and fee will be postponed.
3. Provide any additional application documentation requested by the Borough;
4. Make certain that no work commences until an application has been approved and a Permit has been issued.

- C. **Denial of Application:** The Borough, at its sole discretion, reserves the right to deny an application for, but not limited to, any of the following:
1. The applicant's application was incomplete or did not meet the requirements of this, and/or any other Ordinance(s);
 2. The Street Opening or Occupancy proposed by the applicant poses a health and safety risk to the public;
 3. The applicant had defaults with a previous Street Openings or Occupancy Permit;
 4. The applicant had prior violations of this, and/or any other Ordinance(s).

IV. PERMIT AND PERMITTEE

- A. **Permit:** Street Opening or Occupancy Permits ("Permits") shall only be issued by the Borough or Inspector(s). It shall be unlawful for any person to make a Street Opening or Occupancy of any kind within, under, or above a Street without first securing a Permit from the Borough. A separate Permit is required for each Street Opening or Occupancy. The Borough, at its sole discretion, may issue a Permit to an Applicant who meets the standards and requirements of this, and/or any other Ordinance(s).
- B. **Duties and Responsibilities of Permittee:** It shall be the duty and responsibility of any Permittee to:
1. Pay all Security required by the Borough prior to the acceptance of an application or issuance of a Permit;
 2. Only perform the work specified in the Permit;
 3. Only perform work during the dates and times specified in the Permit;
 4. Comply with all standards and requirements in this, and/or any other Ordinance(s);
 5. Post a copy of the Permit in full view of the public at all times while such work is in progress at the location for which said Permit was granted;

6. Agree that if it becomes necessary to construct, reconstruct, maintain, change the grade of or otherwise alter an existing Street or Facility in such a manner that relocation, removal, and/or replacement of a Street or Facility is required, such relocation, removal, and/or replacement shall be made by the Permittee at his/her own expense.
- C. Permit Limitations:** Except upon written approval from the Borough, a Permittee shall not perform any work greater than that specified in the Permit. Additional, work beyond that originally authorized by the Permit may only be performed under the provisions of the Permit in such an amount as the Inspector shall deem appropriate and necessary to complete the work. Security posted in connection with the original Permit will be utilized to cover any additional costs incurred by the Borough (i.e., administrative and/or inspection costs, default restoration costs, etc.), if applicable. Further, the Inspector may require the Permittee to provide the Borough with additional Security prior to the commencement of additional work.
- D. Revocation of Permits:** Each permit issued by the Borough constitutes a revocable permission to open or occupy a Street. A Permit may be revoked by the Borough upon notice to the permittee, whether written or verbal, for, but not limited to, any of the following:
1. The Permittee violated any condition of the permit or any provision of this Ordinance;
 2. The Permittee violated any other applicable Ordinance(s);
 3. The actions of the Permittee posed a health and safety risk to the public;
 4. The Permittee actions constituted or created a public nuisance;
 5. The Permittee failing to replenish the Security required by this Ordinance.
- E. Expiration of Permit:** Every Permit shall expire within 90 days from the date the Permittee was notified that the Permit was approved and ready for pick up.
- F. Extension of Permit:** If the Permittee does not complete the work within the 90-day period, the Permittee may request, in writing, an extension of time for Permit

from the Borough. The Permittee must state the reasons for the extension request. If in the opinion of the Borough such an extension is necessary and not contrary to the public's interest, the Permittee may be granted additional time for the completion of the work. In the event that the Borough does not agree to an extension of the time to complete the work, the Permit shall be deemed expired following the 90-day period.

- G. **Permits Nontransferable:** Permits are not transferable from one person or entity to another, and the street opening or occupancy shall not be made in any place other than the location(s) specifically designated in the Permit.

V. SECURITY

- A. **General:** Excluding the amount required for Letters of Credit, the breakdown of fees and costs for an Application and Permit shall be as listed in the Borough's fee schedule, which may be updated from time to time, via Resolution of the Borough Council. All Security shall be provided to the Borough prior to the issuance of a Permit.
- B. **Application Fee:** Is a non-refundable fee that is due upon the submission of an Application. Application fees help cover the Borough's administrative costs for its staff to process and verify compliance of an application and/or Permit.
- C. **Permit Fee:** Is a non-refundable fee that is due following the approval of an application and prior to the issuance of the Permit. Permit Fees cover the Inspector's costs to process and issue a Permit.
- D. **Restoration Escrow:** Is a fee(s) that is due following the approval of an application and prior to the issuance of the Permit. Restoration Escrow Fees also guarantee that the Street Opening or Occupancy is restored to the standard required by this, and/or any other Ordinance(s). The Restoration Escrow, or a portion thereof, will be utilized, if necessary, to cover defaults and/or deficient escrow accounts. Otherwise, the Restoration Escrow, or a portion thereof, may be refundable. Restoration Escrow is not required if a Letter of Credit is obtained from the Permittee.
- E. **Letter of Credit:** A Letter of Credit is required when the cost to restore a Street from an Opening or Occupancy would exceed the Restoration Escrow amount required for the Permit. Typically, a Letter of Credit is needed when a Permittee is required

by this Ordinance to repave the entire Street or Block. The Letter of Credit may be required by the Borough, to guarantee that any Street Opening or Occupancy is restored to the standard required by this, and/or any other Ordinance(s). The Inspector shall determine the amount of funds required for the Letter of Credit. The Borough's Solicitor shall approve all Letters of Credit prior to the issuance of the Permit. The Letter of Credit, or a portion thereof, will be utilized, if necessary, to cover defaults and/or deficient escrow accounts.

- F. **Inspection Escrow:** Is a fee(s) that is due following the approval of an application and prior to the issuance of the Permit. The Inspection Escrow covers the Inspector's costs to inspect work and restoration authorized by a Permit. Inspection Escrow Fees also guarantee that the Street Opening or Occupancy is restored to the standard required by this, and/or any other Ordinance(s). The Inspection Escrow, or a portion thereof, will be utilized, if necessary, to cover defaults and/or deficient escrow accounts. Otherwise, the Inspection Escrow, or a portion thereof, may be refundable.
- G. **Replenishment of Escrow:** Upon the Borough forwarding the Permittee an invoice for Borough's expenses incurred from the Opening or Occupancy, the Borough is authorized and shall have the unilateral right to withdraw monies from any Escrow to cover the Borough expenses set forth in the invoice(s). The Permittee shall replenish escrows by promptly paying the invoice. Said payment will be deposited into the appropriate escrow account.
- H. **Reimbursement:** Upon notification by the Inspector that all work authorized by the Permit has been completed and restored in compliance with the standards and requirements of this, and/or any other Ordinance(s), the Borough will reimburse the Permittee any unused Security. In no event shall the Application Fee, Permit Fee, or any portion of any escrow that was utilized by the Borough to perform services or pay for expenses be reimbursed.

VI. INSURANCE

- A. **General Requirements:** Applicants shall provide the Borough with proof that insurance coverage is in place, indicating that the Permittee, the Borough and the Borough's representatives are insured against claims for damages for personal injury as well as against claims for property damages, which may arise from or out

of the performance of the work, whether such performance be by the Permittee, or anyone else directly or indirectly employed by the Permittee. The Permittee shall provide copies of its insurance policy, endorsement(s), and the declaration page(s) for the coverage of the Borough, and its representatives shall be named as additional insureds. Insurance binders shall also be acceptable in lieu of providing the actual policies, endorsement(s), and declaration pages. This information shall be delivered to the Borough for review when the Application is delivered to the Borough. Evidence of the renewal of each such policy shall be provided to the Borough for a Permit to be valid. The insurance coverage requirements are as follows:

1. Such insurance shall cover all manner of liability, including but not limited to collapse, explosion hazards, and underground work by equipment of the street, and shall include protection against liability arising from completed operations;
2. Commercial general liability (includes bodily injury and property damage): limit \$1,000,000 per occurrence; \$2,000,000 in the aggregate, with the Borough of Tatamy, Northampton County, Pa. listed as additional insured on a primary noncontributory basis; explosion/collapse not excluded;
3. Commercial automobile liability: \$1,000,000 combined single limit, with the Borough listed as additional insured on a primary noncontributory basis;
4. Workers' compensation limit per statute; employer's liability: \$1,000,000, all three parts; waiver of subrogation in favor of the Borough from the policyholder;
5. Excess or umbrella liability: \$2,000,000; form follows overall coverage shown above and contains no additional exclusions.

B. Special Exemptions: A Public Utility Company, Municipality, or Municipal Authority may be relieved of the obligation of submitting such evidence of insurance coverage if it submits satisfactory evidence that said Public Utility Company or Authority and the Borough and its representatives are insured or have adequate provision for self-insurance of itself, the Borough and the Borough's representatives in accordance with the requirements of this Ordinance. Evidence of self-insurance must be acceptable to the Borough Solicitor. A Public Utility Company, Municipality, or Municipal Authority may submit annually such evidence of insurance coverage

or adequate provision for self-insurance of itself in lieu of individual submissions for each Permit.

VII. NOTIFICATION REQUIREMENTS

- A. **Inspector:** The Permittee shall notify the Inspector, in writing, 15 business days prior to the commencement of any work.
- B. **Abutting or Adjoining Properties:** If the work to be undertaken by the Permittee will affect the use of properties abutting or adjoining the area of the Opening or Occupancy, the Permittee shall provide written notification to the affected property owners and/or tenants of the proposed work to be done. This notice shall be given not less than 48 hours prior to the commencement of any work.
- C. **Owners of Facilities:** If the work to be undertaken by a Permittee will affect other subsurface facilities in the vicinity of the proposed Opening or Occupancy, the Permittee shall notify the owners of such facilities of the proposed work.
- D. **Municipal Notification:** The Permittee shall notify the Borough's Police Department and Public Works Department, in writing, 48 hours prior to the commencement of any work. Such notification shall state the nature of the work to be done, proposed beginning and completion dates, location of such projects, and the type and extent of street closures.
- E. **County Notification:** In the event of a street closure, whether partial or full, the Permittee shall notify the Northampton County 911 Center, by phone at (610)759-2200, 2 hours prior to any street closure. Such notification shall state the nature of the closure, date(s) and time(s) of closure, location of closure, and the detour route, if applicable. County Notification is of the utmost importance because, street closures can delay the response of emergency service providers if they are unaware of a street closure or detour. The Northampton County 911 center will ensure proper notification is made to all applicable emergency service providers.

VIII. STREET OPENING/OCCUPANCY STANDARDS AND REQUIREMENTS

- A. **Performance:** Any Street Opening or Occupancy Permit which shall be issued under this Ordinance shall be made conditional upon the Permittee performing the work in accordance with the plans approved by the Borough and the standards and requirements established herein, by the Borough's Subdivision and Land

Development Ordinance (“SALDO”), any and all additional regulations relating thereto adopted by the Borough where applicable, and the driveway regulations of the Pennsylvania Department of Transportation.

- B. Hours of Operation:** Except in the case of an Emergency or by written authorization from the Inspector, work shall only be performed as follows:
1. Monday through Friday: 7:00 a.m. to 4:00 p.m.
 2. No work may be performed on any Saturday, Sunday or legal holiday.
 3. No opening, paving or restoration is allowed between 15 November through 1 April.
- C. Worksite:** Worksite conditions are of the utmost importance to the Borough for the safety of workers, Borough residents, and the public. Thus, a Permittee is required to keep the worksite in the following conditions:
1. All street openings or associated occupancies shall be closed or covered with a steel plate(s) at the end of a workday or when an opening or occupancy is left unattended.
 2. All obstructions (i.e., equipment, construction vehicles, material(s), etc.) shall be removed from the worksite and/or street at the end of a workday. Exceptions to this section are granted only in an emergency or when written permission is obtained in advance from the Inspector.
 3. The worksite and surrounding area shall be cleaned at the end of each workday of all mud, debris, and other obstructions.
 4. At the conclusion of the project, the worksite and surrounding area(s) shall be cleaned and returned to the pre-construction condition.

If a worksite is left at any incomplete stage for over 24 hours, including weekends, the worksite must be left in a stable condition, not limited to section VIII.C.; in preparation for final site to be restored with final wearing course and/or crack sealing not longer than 30 days unless approved; it may be deemed contrary to the public’s best interest by the Borough and be subject to the Borough's rights and remedies outlined in this Ordinance, including but not limited to those concerning revocation of permits.

- D. Inspection:** All Street Opening and Occupancy activities shall only be performed under the supervision and direction of the Inspector. Whenever the Inspector shall

find that work was not done in a manner serving the best interest of the community or the Borough, or in compliance with the standards and requirements of this Ordinance, the Permittee shall, upon request of the Inspector, bring such work into compliance as deemed necessary by the Inspector.

E. Restoration: All restoration shall be performed under the supervision and direction of the Inspector. If restoration requires changing the grade of or otherwise altering an existing Street in such a manner that removal or replacement of a Street, or a portion thereof is required, such removal or replacement shall be made by the Permittee at the Permittee's expense.

1. Construction and Excavation Restoration: Construction and excavation restoration is the backfilling and grading of trenches and/or Street Openings. All openings and trenches shall be backfilled and tamped as per PennDot specifications. All materials utilized for backfilling an opening or trench shall be PennDot approved materials. (PennDot Form 408 Standards)

a. No restoration work, including backfilling and surface restoration, shall commence without the Permittee first notifying the Borough Representative. All backfilling and surface restoration shall be made subject to inspection and final approval by the Borough Representative or his designee.

b. Prior to final restoration, all surface edges of the excavated opening shall be cut with a concrete saw or similar device to provide straight edges/lines for proper restoration.

c. Trench Restoration and Backfilling. Trench restoration and backfilling of excavations shall be completed by the Permittee as follows:

1. After an initial base layer of screenings over any pipe or valve that may be present, trenches or excavations shall be backfilled in 8" lifts with compacted Type 2A aggregate to within three (3) inches of the street surface. No macadam, concrete or bituminous pieces shall be used for backfilling. At the street surface, trenches or excavations shall be filled with three (3) inches of temporary bituminous patch material (25mm Superpave or as otherwise approved by the Borough Representative).

2. After ninety (90) days, as determined by the Borough Representative, the Permittee shall remove the temporary bituminous patch and the necessary stone to six and one-half (6.5) inches below the existing street surface. The Permittee shall place five (5) inches of bituminous concrete base course and

one and one-half (1.5) inches of ID-2 bituminous concrete. All edges of the trenches shall be sealed with PG64-22 asphalt.

2. Paving Restoration: Paving restoration is the final paving or finish paving of a Street following any Construction or Excavation activities. Existing paving shall be milled one (1) foot around the opening, topped with a wearing course and sealed. All materials utilized for paving shall be PennDot approved materials.

All openings and trenches shall be paved as per PennDot specifications by the Permittee, as the following conditions occur:

a. When a longitudinal opening of fifty (50) feet or longer has been made in the pavement, the Permittee shall mill and overlay the full travel lane in which the opening was made from a point ten (10) feet prior to the opening and a point ten (10) feet beyond the opposite edge of the opening. A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required.

b. When two or more transverse openings within one hundred (100) feet of each other have been made in the pavement, the Permittee shall mill and overlay the full travel lane in which the openings were made the full distance between a point ten (10) feet prior to the first opening and a point ten (10) feet beyond the opposite edge of the final opening. A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required.

c. When a longitudinal opening of fifty (50) feet or longer or when two or more transverse openings within one hundred (100) feet of each other are made in a street that was resurfaced within the previous five (5) years, the Permittee shall mill and overlay the full travel lane of the street for the entire block (the distance between intersecting streets). A one and one-half (1.5) inch mill and overlay with 9.5 mm Superpave will be required.

d. In the event an overlay is required, Permittee's overlay work shall include, but not be limited to, full width milling or gutter milling along curbs (as approved by the Borough), milling for paving notches, the placement of tack coat, sealing all joints and replacing pavement markings. Lids on all utilities shall be raised to the finish grade.

e. Surface restoration shall be completed with "like materials" i.e. if the surface of the excavated street consists of cement and bituminous concrete, the surface restoration shall be completed with cement and bituminous concrete.

f. All work shall be performed in accordance with the most current version of Pennsylvania Department of Transportation Form 408 standards.

3. **Additional Restoration Required:** It shall be at the expense of the Permittee to mill and repave the entire street if:
- a. a Street Opening or Occupancy extends more than half the block or the entire block (i.e, the Street), no matter the block length;
 - b. a Permittee's Permit has more than five (5) Street Openings or Occupancies within one (1) block on any Street in the Borough;
 - c. a Permittee has two (2) prior Street Opening or Occupancy Permits within one (1) block on any Street in the Borough within the past 12 months.

Note: for the purpose of this section, one (1) Opening or Occupancy shall be considered any single area more than five (5) square feet.

- F. **Street Closure:** Permittee's shall make every effort to keep all Streets open to at least one lane of travel. In the event total Street closure is unavoidable, appropriate traffic control and detours shall be established and the Borough and/or Inspector shall approve all detour routes prior to the issuance of a Permit.
- G. **Traffic Control:** in the event a Street closure (whether partial or full) is unavoidable and in the opinion of the Borough or Inspector the closure may cause or create traffic safety issues, the Permittee shall provide trained traffic control personnel in appropriate attire to direct vehicular traffic. In the event that a Permittee fails to provide traffic control required by the Permit or, a Street Opening or Occupancy Permit that initially did not require traffic control is causing or creating traffic safety issues as a result of the Street Opening or Occupancy, the Borough has the right to provide immediate traffic control services to address the traffic safety concerns, at the expense of the Permittee. Any road closure requires a traffic plan.
- H. **Detours:** In the event that the road closure requires a detour route, the Permittee is required to provide all necessary detour signs required to effectively detour traffic. Any detour requires a detour plan.

IX. CURBS AND SIDEWALKS

- A. **General:** The provisions of this Ordinance shall not apply to the setting or resetting of curbstones, laying or relaying of sidewalks or footways, driveway aprons or gutters on or a street where such work is the obligation of a sub divider or

developer under the Land Subdivision Regulations, before the Borough's acceptance of the street, curbing, sidewalk, etc.

- B. Duty of Owner:** It shall be the duty of every owner of a parcel of real estate, and they are hereby required, prior to the setting or resetting of curbstones, laying or relaying of sidewalks or footways or gutters on or along any street in the Borough, to make application to the Borough for Opening or Occupying a Street. Once a Permit is obtained, the Inspector will survey and fix the line and grade for the setting or resetting of curbstones, the laying or relaying of sidewalks or footways or gutters. The Inspector will notate on the inspection report the date when such survey was made, and such endorsement by the Inspector shall be sufficient authority for such owner, contractor or laborer to commence and complete along such lot or ground as may be described in such inspection report and in accordance with the standards and requirements established by Ordinance or Resolution, to set or reset curbstones, lay or relay sidewalks or footways and gutters, for which such Permit has been granted.
- C.** If any curbing, sidewalks, footways or gutters were constructed after the date of adoption of these standards and requirements relating to line and grade set forth in this Ordinance, and these standards and requirements are not met, the Borough shall have the authority to require that the owner of the property or properties whose land the curbing, sidewalks, footway or gutters pass or upon whose land it abuts, remove the curb, sidewalk, footway or gutter and require that said owners shall install a curb, sidewalk, footway or gutter in compliance with this Ordinance. If the owner of the lots or real estate shall not within 90 days of the receipt of written notice from the Borough remove and reinstall curb, sidewalk, footway or gutters as requested by the Borough, the Borough shall have the right to remove and reinstall said curb, sidewalk, footway or gutter and assess the owners of the property or properties through which the said improvement passes or upon whose land it abuts for the cost thereof according to the front foot rule. If the owner or owners shall refuse to pay the assessment within 90 days of the receipt of notice, the Borough Solicitor shall collect the same, with interest from 30 days after the completion of the improvement, by action of assumpsit (promise or contract, either

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written, spoken or implied , or by lien to be filed and collected in the same manner as municipal claims.

D. Additional Restoration Required, Sidewalk, Curb, Gutter and Driveway Specifications:

1. Line and Grade. Line and grade for all sidewalks curbs, gutters and driveway entrances shall be provided by the Borough Engineer, and installation shall be made within thirty (30) days after same has been given. The Borough Engineer will inspect the work and provide a certificate of approval upon completion. Standard details for curbs and sidewalks may be obtained from the Borough.

2. Curbing. All curbing shall be eight (8) inches in thickness at the bottom and six (6) inches in thickness at the top, and have a seven (7) inch reveal, where possible, measured from the top of the finished curb to the top of the finished gutter or street pavement, and shall have a minimum overall height of twenty-four (24) inches. Forms shall be removed before the concrete has hardened, and the front and top of the curbing floated to a uniform surface with all voids filled. The top edge shall be rounded to a one-half (1/2) inch radius.

Minimum mix shall be one (1) part cement, two (2) parts sand and four (4) parts stone by volume.

3. Gutters. All gutters shall be two (2) feet wide measured from the face of curb, and have a pitch

of one and one-half (1-1/2) inches rising from the face of the curb, shall be four (4) inches thick and of the mix used for curbing.

4. Sidewalks. Sidewalks shall be laid on a previous foundation of not less than four (4) inches below the underside of the slab, and shall pitch one-fourth (1/4) inch per foot toward the curb. They shall be five (5) inches in thickness, except where private driveways cross; the thickness shall be six (6) inches. The surface of all sidewalks shall be roughened, and in no case shall the surface be smooth troweled. The mix shall be as required for curbing.

5. Driveways. Where private driveways cross curbing, a beveled notch ten (10) feet wide and four and one-half (4-1/2) inches deep shall be permitted, but where the sidewalk is

adjacent to the curb, a smooth and gradual slope shall be provided so that a hazard will not exist.

6. Sections and Joints. Curbing and gutters shall be built in sections not exceeding ten (10) feet, and sidewalks in sections not exceeding thirty (30) feet, except where approved reinforcing is used. Joints shall be filled with an elastic joint filler of the approved type. Scored joints, one-half (1/2) inch deep, shall be at five (5) feet intervals for sidewalks.

7. Width of Streets and Sidewalks. The following schedule shall determine widths:

Sidewalk

Right of Way	Cart way	(each side)	Pavement
80 feet	50 feet	15 feet	6 feet
60 feet	36 feet	12 feet	6 feet
50 feet	36 feet	7 feet	6 feet
40 feet	30 feet	5 feet	5 feet
30 feet	20 feet	5 feet	5 feet
20 feet	16 feet	2 feet	none

E. Permits for Driveways. Any property owner who seeks to install a private driveway giving access to a Borough Street through a curb line or sidewalk must first obtain a permit from the Zoning Officer. The Zoning Officer shall refer each application for a permit to the the Borough Engineer, to determine whether traffic safety or other conditions affecting the general welfare of the Borough should preclude the issuance of a permit. In the event that the Traffic Sergeant determines that a permit should not be issued, the Zoning Officer will so inform the applicant. The applicant may appeal an adverse decision to the Borough Council at the next regularly scheduled meeting. The fee for a driveway permit shall be in an amount as shall be established, in accordance with the fee schedule, altered from time to time, by Borough Council. Such permit shall be issued or denied within ten (10) working days of the Code Enforcement Officer's receipt of the application by the property owner.

X. EXCEPTIONS:

- A. **Municipal Utility Work:** All street excavation or construction work required by utilities owned and/or operated by the Borough shall be in accordance with the standards and requirements of this, and/or any other Ordinance(s) and, under the direction of the Inspector. Security requirements of this Ordinance shall not be applicable to any openings or occupancies made by the Borough.
- B. **State and County Highways, Private Roads:** The provisions of this Ordinance shall not be applicable in those instances where the Street is maintained by the Commonwealth of Pennsylvania or by the County of Northampton. For such Streets, work shall not commence until all applicable Permits are obtained from either the Commonwealth of Pennsylvania or the County of Northampton, as applicable.
- C. **Private Street:** When work is proposed within a private Street, no Permit is required under this Ordinance, but the work performed shall comply with all other Ordinances, if applicable.
- D. **Emergencies:** In case of an emergency arising at night, on weekends or holidays, or at such time the Borough's Administrative Offices are closed and, an immediate Street Opening or Occupancy is necessary for the protection of life and property, a person maintaining facilities within, under, or above the surface of any Street may proceed with a street opening or occupancy without first obtaining a permit. However, a street opening or occupancy may only be made upon the express condition that a Permit Application required by this, and/or any other Ordinance(s) be made on the first regular business day on which the Borough office is open for business and, said Permit shall be retroactive to the date when the work began. Emergencies do not exempt a person from any other standard or requirement of this, and/or any other Ordinance(s).

XI. OWNERS OF FACILITIES

- A. **Location of Facilities:** Every person owning, using, controlling or having an interest in Facilities within, under, or above any Street used for the purpose of supplying or conveying gas, electricity, communication signals (including television cable,

Internet, fiber optic and telephone), sanitary sewerage, water or steam to or from the Borough or to or from its inhabitants, or for any other purposes, shall file with the Borough within 120 days after the adoption of this Ordinance, plans or "as built prints" containing the names of the Borough's streets wherein the aforementioned facilities owned by such a person are located. The presented prints shall show the location and depth of existing facilities.

- B. Abandoned Facilities:** Whenever any facility or other structure within, under, or above any Street is abandoned, the person owning, using, controlling or having an interest therein shall, within 30 days after such abandonment, file a written statement with the Borough giving in detail the location of the facility(s) so abandoned.

Whenever there are manholes or tunnels associated with abandoned underground facilities, such manholes or tunnels shall be filled in at the time of abandonment and the Borough notified thereof in writing.

When the Borough plans to pave or improve streets in which there are abandoned facilities, the owners of such facilities shall be required to remove them if in the opinion of the Borough their removal is in the best interest of the Borough. If the owner refuses to remove such facilities, the Borough shall remove the abandoned facilities, and the owner shall reimburse the Borough for such removal.

XII. RIGHTS OF THE BOROUGH

- A. General:** Permits shall be granted subject to the rights of the Borough or any other person to lawfully use the street for any purpose not inconsistent with the Permit. The Borough shall also have the right to require that Permittees allow reasonable additional uses of said permittee's facilities and trenching in order to avoid duplication of facilities, work and congestion of said streets.
- B. Defaults:** Whenever the Inspector shall find a default with any term or condition of the Permit or this Ordinance, including failure to complete the work within the time granted by the Permit, written notice thereof shall be given to the Permittee. Such notice shall state the work to be done and the amount of time deemed by the

Inspector to be reasonably necessary for the completion of the work. After receipt of such notice, the Permittee must, within the time therein specified, complete the work required in the notice. Failure to complete this work by the specified date will subject the Permittee to the Penalties and Violations provisions of this Ordinance. In the event that the default has created a condition that the Inspector deems to be a threat to the public health, safety or welfare, including a condition of an emergency nature, no notice must be provided of the default, and the Borough shall have the right to exercise all available remedies without first having provided written notice. The Borough shall have the absolute right to draw on the Permittee's Security for all expenses incurred in curing a default caused or created by the Permittee, including but not limited to restoring the street (including restoration during a post-completion maintenance period) and all costs and expenses of attorneys and experts retained by the Borough.

- C. **Indemnification:** All permittees shall be deemed to have agreed to exonerate, indemnify, protect, defend (through legal counsel of the Borough's choice) and save harmless the Borough and the Borough's representatives from any and all claims pertaining to, relating to, resulting from, caused by or arising out of:
1. the design, construction (including but not limited to materials and workmanship) or operation of the improvements within the street, including but not limited to any alleged negligence of the Borough or Borough representatives, for damages or injuries, including death, to person or properties pertaining to, relating to, resulting from, caused by, arising out of or sustained in connection with the design, construction or operation of the improvements within the street;
 2. the failure of the applicant or applicant's agents, contractors, employees, heirs, executors, representatives, successors and assigns to comply with the terms of the permit for construction of the improvements;
 3. defects in materials and/or workmanship or for or on account of any accident or other act, negligent or otherwise, or omission of the applicant or his/her/its agents, servants, consultants, independent contractors or employees.

XIII. ENFORCEMENT

- A. The provisions of this Ordinance shall be enforced by any public officer authorized to enforce ordinances.
- B. Any violation of this Ordinance may cause a notice of violation and/or a citation to be issued to the violator.
- C. A notice of violation or citation shall be served upon a violator by handing it to the violator, by handing it at the residence of the person to be served to an adult member of the household or other person in charge of the residence, by leaving or affixing the notice or citation to the property where the violation exists, by handing it at any office or usual place of business of the violator, to his/her agent or to the person for the time being in charge thereof, or by mailing the notice or citation to the violator's address of record.

XIV. VIOLATIONS AND PENALTIES

- A. Any person violating any of the provisions of this Ordinance shall, upon conviction, pay a fine not to exceed \$1,000 for each offense, plus the costs of prosecution, and attorneys' fees. Each day that a violation of this Ordinance continues shall be deemed a separate offense. The Borough, by means of other appropriate legal proceeding, including a complaint in equity, may compel any person to comply with this, or seek any such other relief as any court of competent jurisdiction is empowered to afford.
- B. Any person who has made a Street Opening or Occupancy within the Borough without first obtaining a Permit shall, upon conviction, pay a fine not to exceed \$1,000 for each offense, plus the costs of prosecution, and attorneys' fees. The person shall then be required, on or before 12:00 pm of the next business day, to obtain an Application and Permit required by this, and/or any other Ordinance(s). The Permit shall cover retroactively such work as has been performed. This previously performed work shall be brought into compliance with all Borough standards and requirements contained herein.

- C. When a Permit has been revoked or the Borough does not agree to an extension of the Permit to complete the work, and the work authorized by the Permit has not been completed, the Borough may do such work as is necessary to restore the street or part thereof to as good a condition as before the Street Opening or Occupancy was made. All expenses thereby incurred by the Borough shall be recovered from the Permittee, including but not limited to the Borough's attorneys' and experts' fees. The Borough shall have a unilateral right to draw on the permittee's security for all expenses incurred in restoring the street, or portion thereof, under this Ordinance.

XV. CITATION APPEALS PROCESS

- A. A person in receipt of a citation may appeal to the Magisterial District Court as set forth on the citation.

XVI. SEVERABILITY

- A. If any section, subsection, provision, paragraph, or word of this Ordinance is invalidated by any court of competent jurisdiction, the remaining sections, subsections, provisions, paragraphs, or words shall not be affected and shall remain in full force and effect.

XVII. REPEALER

- A. All other Ordinances or parts thereof inconsistent with this Ordinance be and the same are hereby repealed to the extent of such inconsistency. Ordinance No.296-2023 will be repealed in its entirety and replace with this stated ordinance.

XVIII. EFFECTIVE DATE

A. This Ordinance is effective immediately.

DULY ENACTED AND ORDAINED this the XX day of XX, 2024, by the Council of Tatamy Borough.

ATTEST: The Borough of Tatamy

Mark A. Saginario, Secretary

By _____
Robert Hayes, Council President

Approved this the XX day of XX, 2024.

ATTEST: The Borough of Tatamy

Mark A. Saginario, Secretary

By _____
James Pallante, Mayor

Municipal Seal

