ORDINANCE 2025-02

AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY, AMENDING CHAPTER 545 STREETS AND SIDEWALKS, ARTICLE VII STREET EXCAVATIONS, OF THE CODE OF THE TOWN OF PHILLIPSBURG IN ORDER TO REVISE REQUIREMENTS AND FEES

WHEREAS, Chapter 545 Article VII of the Code of the Town of Phillipsburg regulations excavations and permits within the Town Right of Way; and

WHEREAS, there is a need to amend the code to reflect the current needs and interest of Town.

NOW THEREFORE BE IT ORDAINED by the Town Council, Town of Phillipsburg, County of Warren, State of New Jersey as follows:

Section 1 Chapter 545 Article VII shall be replaced in its entirety:

Article VII – Public Right of Way and Street Excavations

§ 545-23. Permits required.

No person, firm or corporation shall hereafter open, dig up, excavate, or disturb the surface of any part of the Right of Way or public streets or highways of the Town of Phillipsburg without having obtained a street opening permit as hereinafter provided.

§ 545-24. Application forms; drawings.

A. Application for permit must be made on standard forms provided by the Department of Public Works, must be filled out completely, and filed with the Department of Public Works, along with the required permit fee and other exhibits that may be required.

B. Drawings. The applicant shall file, along with the permit form, appropriate drawings which show the following details:

(1) Key map, showing schematically the location of the proposed opening relative to surrounding streets or other key landmarks at a scale from 1:1 up to 1" = 40' on sheets no greater than 24" x 36"

(2) Existing facilities such as pavement, curbing, sidewalk, driveways, drainage culverts, right of way and structures and utilities in the working area. Information should include inverts, pipe sizes and related information to determine conflicts.

(3) Details of the proposed opening and work to be done, including excavations, plan, profile and appropriate sections of the opening and construction details.

(4) Total square footage of trench/excavated and trenchless disturbances. Trenchless disturbance width shall be measured at not less than 1' foot width. Total square footage shall be summarized per road.

§ 545-25. Conditions of permit.

A. If all required exhibits and fees have been received to the satisfaction of the Department of Public Works, the Department of Public Works will issue the opening permit.

(1) Prior to issuance of road opening permits, Public Works should notify and obtain input from the Town Engineer.

B. Opening permits are not transferable.

C. A permit may be renewed or extended for a period of time not to exceed the total time of the original permit upon request of the permittee and upon payment of a new fee.

D. Work under the permit must be completed within 90 days from the date issued.

E. Work will be done between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

F. Permittee must notify impacted residents and property owners prior to work starting for public utility will need to include door tags, mailers and providing public outreach materials for the Town.

§ 545-26. Application procedure; bonds; fees.

Street opening permits shall be obtained in the following manner:

A. Town of Phillipsburg will assess a 10% administrative fee for invoicing/billing of escrows for review and inspection related to all road opening permits payable from the permit escrow.

B. When the opening or excavation is less than or equal to 150 square feet of surface for all persons, firms or corporations, except public utility corporations operating under franchise in said Town:

(1) Application, in writing, shall be made and signed by the person, firm or corporation making the proposed street opening or excavation to the Department of Public Works, setting out the location of the proposed opening or excavation; the size thereof and the purpose therefor; such application shall be approved by the Department of Public Works and/or Designee and the proper fee collected by him and endorsed on the application.

(2) The permittee shall further file an agreement, in writing, to hold the Town harmless for any such loss and reimburse the Town for any attorneys' and/or professional fees required in conjunction with any claims made as a result of such opening or excavation.

(3) The person, firm or corporation making and signing the application shall comply with all the provisions of this article as hereinafter set forth.

(4) Fees for permits less than or equal to 150 square feet per road are as follows:

Date of Opening	Not within 5 year moratorium	Within 5 year moratorium
Year Round	$250.00	$750.00

(a) The above fees shall automatically increase per year on January 1 based on below annual increase schedule

Date of Opening	Not within 5 year moratorium	Within 5 year moratorium
Year Round	$8.00	$25.00

(5) The Applicant will be responsible to establish an inspection escrow account for each permit. The initial escrow deposit will be based on the number of working days estimated by the Applicant at the rate of $1,300 per working day. The initial escrow deposit amount required shall increase by $40 each year.

(a) Unused funds will be returned to the Applicant upon completion of work and formal request by the Applicant.

(b) The Department upon review of the applicant may authorize a lesser escrow based on estimated time to complete the work.

(c) Should the Applicant not be able to afford the inspection cost of the project, a formal relief request to the Town would be required.

(d) The Applicant would be required to deposit additional inspection funds, as required by project duration or circumstances that result in additional charges.

(e) The Department of Public Works is permitted at their discretion to employ the appointed a designated representative of another Town Department/ official to perform inspections. Utility companies can establish and maintain a single continuous renewable escrow account and upon formal request the escrow will be closed.

(6) All persons, firms or corporations, including public utility corporations, granted a permit under the above schedule of fees shall, in addition to refilling the opening or excavation as provided in § **545-31** of this article, replace and repair the street surface with the same materials and in the same manner as the street originally was before the opening or excavation was made, unless, upon report and recommendation of the Department of Public Works and/or designee, a different material is recommended and such recommendation is approved by a majority of the Town Council.

C. When the opening is greater than 150 square feet:

(1) Application, in writing, shall be made and signed by the person, firm or corporation making the proposed street opening or excavation, to the Superintendent of Public Works, setting out the location of the proposed opening or excavation, the size thereof, the purpose therefor and the person, firm or corporation doing the actual excavating work. Said application shall be approved by the Department of Public Works and/or designee, the proper fee collected by him and endorsed on the application.

(2) Before the permit shall be issued by the Department of Public Works and/or designee, the person, firm or corporation making the application shall file a surety bond, issued by a surety company authorized to do business in the state, in the amount of $3,000, covering the opening or excavation set out in the application and any and all future openings and excavations to be made in a calendar year. Said bond shall be conditioned upon the permittee's compliance with this article and to indemnify the Town for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of constructing or guarding any such opening or excavation during the term of the bond.

(3) Fees for permits greater than 150 square feet per road are as follows:

Permit Area	Date of Opening	Not within 5 year moratorium	Within 5 year moratorium
Greater than 150 Square Feet to less than 1,000 Square feet	From March 1st or after up to but not including March 1st	$500.00	$1,500.00

Greater than 150 Square Feet to less than 1,000 Square feet	From December 1 or after up to but not including March 1st	$1,500.00	$2,500.00
1,000 Square Feet or greater	Year Round	$2,500.00	$10,000.00

(a) These fees shall automatically increase per year on January 1 based on below annual increase schedule

Permit Area	Date of Opening	Not within 5 year moratorium	Within 5 year moratorium
Greater than 150 Square Feet to less than 1,000 Square feet	From March 1st or after up to but not including March 1st	$17.00	$52.00
Greater than 150 Square Feet to less than 1,000 Square feet	From December 1 or after up to but not including March 1st	$52.00	$86.00
1,000 Square Feet or greater	Year Round	$86.00	$340.00

(b) The Applicant will be responsible to establish an inspection escrow account for each permit. The initial escrow deposit will be based on the number of working days

estimated by the Applicant at the rate of $1,300.00 per working day. The initial escrow deposit amount required shall increase by $40 each year.

i. Unused funds will be returned to the Applicant upon completion of work and formal request by the Applicant.

ii. The Department upon review of the applicant may authorize a lesser escrow based on estimated time to complete the work.

iii. Should the Applicant not be able to afford the inspection cost of the project, a formal relief request to the Town would be required.

iv. The Applicant would be required to deposit additional inspection funds as required by project duration or circumstances that result in additional charges.

v. The Department of Public Works is permitted at their discretion to employ the appointed a designated representative of another Town Department/ official to perform inspections.

vi. Utility companies can establish and maintain a single continuous renewable escrow account and upon formal request the escrow will be closed.

(4) All persons, firms or corporations, including public utility corporations, granted a permit under the above schedule of fees shall, in addition to refilling the opening or excavation as provided in § 545-31 of this article, replace and repair the street surface with the same materials and in the same manner as the street originally was before the opening or excavation was made, unless, upon report and recommendation of the Department of Public works or their designee, a different material is recommended and such recommendation is approved by a majority of the Town Council.

(5) The fee for street openings pursuant to this section shall be waived in the instance whereby the Town shall require that one must connect to the sewage disposal system, upon approval by the Town governing body.

D. All utility companies shall post a continuous renewable surety bond of $10,000 issued by a surety company authorized to do business in the state. Said bond shall be conditioned upon the utility company's compliance with this article and indemnify the Town for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of construction or guarding any such opening or excavation.

§ 545-27. Maintenance.

A. The permittee assumes the responsibility of refilling the excavation, as it may sink, consolidate or break out from time to time, whether the repair be temporary or permanent, and of keeping the surface level and smoothly blended with the surrounding undisturbed pavement. After final paving and approval by the Department of Public Works, the permittee shall be responsible for maintaining the opening site for a period of five years or, in the case of newly paved roadways, repaving, repairing damage, restoring turf or shrubbery, all as directed by the Department of Public Works when necessary, and, in the case of undue trench settlement, the permittee may be required to reopen the trench or excavation to ascertain the cause of undue settlement and to remedy the fault, all as required by the Department of Public Works. The Department of Public Works may assign oversight to the to another designee as needed or when requested by the Mayor &/or Governing Body.

B. In order to assure performance of any and all maintenance required in connection with the excavation, the permittee shall post a maintenance bond for a period of two years or in the case of a newly paved street for the life of the five-year moratorium or the maintenance period of two years, whichever shall be longer, in an amount to be determined by the Department of Public Works and/or

designee. The bond may be reduced or released upon recommendation by the Department of Public Works and/or designee.

C. The permittee shall warranty all repairs to damaged pipes and underground utilities owned by the Town of Phillipsburg and property owner that is damaged by the permittee.

§ 545-28. Display of placard.

The Department of Public Works shall provide each permittee, at the time a permit is issued hereunder, a suitable placard which shall be posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such placard at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit. The Department of Public Works is permitted to issue an electronic copy of the permit for which the contractor will need to print and post at the work area, the permit must remain posted until all work has been completed.

§ 545-29. Compliance with permit required; bracing; excavation not to extend beyond opening.

A. It shall be unlawful to make any opening or excavation in any way contrary to or at variance with the terms of the permit therefor.

B. Proper bracing shall be maintained to prevent the collapse of adjoining ground; and the excavation shall not have anywhere below the surface any portion which extends beyond the opening at the surface. Further all excavations and trenching must conform to OSHA requirements and failure to do so can result in the permit being revoked.

§ 545-30. Interference with pipes, cables and conduits.

No injury shall be done to any pipes, cables or conduits in the making of such excavations or openings, and notice shall be given to the persons maintaining any such pipes, cables or conduits, which are or may be endangered or affected by the making of any such excavation or opening, before such pipes, cables or conduits shall be disturbed.

A. Any such damage to other public utilities require notification to that utility for that utility to direct repairs.

§ 545-31. Backfilling.

A. Backfilling any excavation pursuant to a permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. The permittee will be required to backfill all excavations in layers not to exceed six inches in depth, and each successive layer shall be thoroughly compacted to maximum density. The entire trench shall be backfilled with dense graded aggregate base course (quarry-processed stone). Compacting shall be done by mechanical tampers or vibrators or such other recognized method in the construction industry, as determined by the Department of Public Works. The permittee shall be required to maintain the area of work backfilled in safe traveling condition until such time as permanent restoration of the surface is made.

B. Frozen material shall not be used for backfill at any time. All excavations shall be backfilled within a reasonable time allowed for the work to be performed. The Department of Public Works shall notify the permittee when efficient time has elapsed. No permit shall be issued for the opening or digging up of any street in the Town between December I and March 1 of any year, for any purpose other than repairing leaking or damaged water, gas, electric, sewer, telephone or drain damage and then only with the consent of the Department of Public Works.

§ 545-32. Tunneling and undermining.

No part of a trench or excavation shall be tunneled or undermined excepting in such cases as may be approved by the Department of Public Works. The charges, however, shall be the same as if the surface had been removed.

§ 545-33. Failure to complete work.

If the permittee fails to complete the excavation work covered by the permit, including backfilling as set forth in this article, within the time set by said permit, the Department of Public Works, if they deem it advisable, shall have the right to do all work and things necessary to complete the excavation work. The permittee shall be liable for the actual cost thereof and 25% of such cost in addition for general overhead and administrative expenses. The Department of Public Works is permitted to assign repairs to a 3rd Party contractor to complete work as needed and cost shall be the responsibility of the permittee.

§ 545-34. Emergencies.

In the event of any emergency in which a sewer, main, conduit or utility 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 individual, the person, firm or corporation owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately notify the Police Department and then take proper emergency measures to cure or remedy the dangerous condition for the protection of property, life, health and safety of individuals. However, such person, firm or corporation owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Department of Public Works is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

§ 545-35. Saw-cutting of surface construction.

The existing pavement, blacktop or concrete shall be cut in a straight line or lines, prior to any subsurface excavation, which shall be confined to the area between the cuts. If pavement, curbing, sidewalk or other surface construction becomes damaged, ragged or zigzagged when it comes time to repave or replace the facility, then the edges shall be cut or recut in a straight line or lines, to the satisfaction of the Department of Public Works, in general, parallel to the lines of the excavated trenches and in a width sufficient to accommodate the entire excavation and to create a smooth finished appearance when the construction is completed. When cutting through the reinforced concrete pavement, the saw-cutting will be done in such a way as to permit the exposing of existing reinforcement, which is not to be cut, but is to be exposed, retained and allowed to project into the excavation at least 18 inches. These exposed bars will later be reformed to tie into the patched concrete. The contractor with permission of Department of Public Works may use pavement milling to remove pavement in lieu of saw-cutting.

§ 545-36. Responsibilities of Permittee.

A. After the width of excavation has been determined, the outlines shall be marked on the pavement. A concrete saw shall then be used to cut through the pavement before the excavation digging machinery shall operate.

B. The pavement on all sides of the opening shall then be cut to a sharp line 12 inches beyond the edge of the trench or as otherwise specified and all material removed to a depth specified in the permit. Unless otherwise specified, a temporary pavement patch of compacted bituminous materials shall be neither higher nor lower than the existing pavement. Upon any further settlement, the trench shall be brought to grade by adding more compacted temporary bituminous material.

C. Final restoration.

(1) Final restoration, unless otherwise specified, shall be made by removing the temporary materials to its full depth and replacing it with bituminous stabilized base course, Mix I-2, four-inch thickness, and bituminous stabilized base course, Mix I-5, two-inch thickness. Prior to placing the bituminous concrete, the existing pavement edges shall be painted using tack coat material. The finished surface also shall be neither higher nor lower than the existing pavement. If, in the opinion of the Department, the condition of the base course is unsatisfactory, or undue settlement has occurred, the base course shall be removed and replaced with new material in a like manner to that required for the temporary pavement patch. The specific method of restoration regarding individual utility opening permits shall be delineated on said permits and accompanied by a related detailed sketch.

(2) After the bituminous pavement is installed, a bituminous sealer, approved by the Department of Public Works, shall be placed along the perimeter of the trench where the new pavement meets the existing pavement to prevent raveling. When the pavement abuts a curb, inlet or manhole, the joint shall also be covered with a bituminous sealer. The bituminous sealer shall be brushed on and have a minimum six-inch width around the entire perimeter of the street opening. The sealed area shall be immediately covered with a light application of acceptable dry sand.

(3) Resurfacing is required when the permittee disturbs the roadway via excavation, trenching, construction activity damage, tunneling, drilling, jack & bore, trenchless or other construction method that results in disturbance of the roadway of its underlying supporting material. The resurfacing will consist of milling of 2" of roadway surface and installation of 2" HMA 9.5M64 Asphalt, tack coat and joint sealer per NJDOT Standards and methods and replacement of traffic stripes. In Liew of the permittee completing the work, the Town may request the permittee deposit and initial escrow for the Town to utilizer and 3rd party contractor to resurface the roadway that would cover the cost to mill, pave, restripe, provide traffic control, ADA upgrades, drainage grate upgrades and inspections/ oversight of such work.

Service renewals, replacements and/or new service installs will count as disturbance if part of a plan improvement project and/or cumulatively the permittee disturbs the roadway between intersections.

Curbline to Curbline (full width) Resurfacing is required when the permittee cumulatively disturbs a span of a distance greater that 1,000' of road length measured along centerline for the project limits and work does not cross the centerline.

Curbline to Curbline Resurfacing is required when the permittee cumulatively disturbs a span of 60% or distance of 200' of road length measured along centerline between intersections and does cross the centerline along the same roadway segment.

Centerline to Curbline (1/2 width) Resurfacing is required when the permittee cumulatively disturbs a span of 60% of distance of 200' of the road length measured along centerline between intersections and work does not cross the centerline.

The Applicant shall post an initial resurfacing escrow based on current state or local paving co-ops. Final cost share will be based at the time paving is completed by Town.

(4) All restoration work as hereinabove specified shall be completed within 30 days following commencement of excavation work, unless otherwise specified, in writing, by the Department of Public Works and/or designee.

D. The individual or firm to whom a permit is issued shall assume all responsibility for the excavation made, for refilling the same and for all damages that may arise by reason of the digging of such excavations. The permittee shall have a qualified supervisor at the site of the opening work during

all working hours.

E. Each permittee shall notify the Department of Public Works and/or designee and all public utility companies which might have underground service in the proposed location of the intent to perform excavation; notice is to be given at least 24 hours prior to commencing any such excavation. Any form of drilling and/or probing is considered excavation under this section.

F. Every permittee shall notify the Department of Public Works and/or designee at least 24 hours prior to commencement of any excavations, backfill or resurfacing operation and shall not commence work until inspection and approval of that phase of the operation is given by the Department of Public Works and/or designee.

G. Any individual or firm that anticipates the possibility of emergency excavation at times other than during regular office hours shall advise the Department of Public Works and/or designee of such possibility and shall make such arrangements as may be necessary to provide for such emergencies.

H. In the areas where blasting is permitted, such blasting shall be performed only by a person or persons showing proper credentials to be fully qualified to handle blasting materials and perform blasting. The contractor shall assume the risk of and be responsible for all blasting by him or under his supervision.

I. Permittee is responsible to repair all damage caused by the permittee to underground pipe and conduits at the direction of Department of Public Works and/or Public Utility and/or owner to the line.

(1) Damage to Town owned facilities and utilities, shall be repaired to the satisfaction of the Town.

- Damage to Public Utilities shall require notification to that utilities owner and repairs shall be directed by that owner, backfill must conform to Town standards.

- The repair of the pipe shall be with similar size pipe material to be selected by the Town, include full metal sleeved mission fernco' s, include installation of wedges and blocks to support the pipe repair connections, cementing the pipe repair connections after covering the repair coupling with plastic sheeting, the shall install backfill using DGA or ¾" clean stone as approved by Town for backfill in lifts not to exceed 6". Lines that are under pressure will require repairs that shall be as directed by the Town to the satisfaction of the town. All repairs will require excavating 5' in either direction permittee's excavation trench wall if perpendicular to excavation, should the damaged pipe run parallel to excavation permittee shall expose the damaged pipe to nearest pipe joint beyond damage. The Town reserves the right to required additional actions to be taken by the contractor during the repair to ensure the Town's interests are protected and addressed by the permittee.

- Private lines not owned by a public utility or Town, the permittee must notify the owner of the line verbally at the time of impact and provide written notice for the impact and when the line is unknown the permitted will be required to identify and locate the owner within 3 days. Repairs shall following the repair requirements of the Town unless the owner has stricter requirements or applicable state, federal or local codes require. The permittee will be responsible to maintain that repair for duration the repair section remains in place and is not subject to a time limit.

J. Permittee is responsible to repair all roadways, curbs, sidewalk, stairs, walks and lawn areas within the Town of Phillipsburg that are damaged by construction activities including but not limited to the transporting of equipment, movement of equipment, construction activities or storage activities to the current Town Standard. All disturbances shall be counts as additional excavation for purposes of pavement restoration requirements. The limits of the repair shall be 1' wider than extent of damage and shall be full depth of damaged material.

K. Permittee is responsible to re-establish lawn areas including any needed watering or reseeding and topsoiling to return to the condition it was prior or better.

L. Permittee is responsible to ensure that all restoration is 100% complete and provide photo documentation that demonstrates work has been completed, photo should include identifying features of the property.

M. Infrared repair when required by the Town shall be completed within 2 weeks and follow NJDOT best practices and/or standards provided by the Town.

§ 545-37. Extension of permit.

Whenever more of the public street shall be dug up than specified in any permit, the person to whom such permit shall have been issued shall secure from the Department of Public Works and/or designee an extension of the original permit and shall pay for the extra square feet of surface removed, over and above the amount specified in the original permit at the prices mentioned in § **545-26**. In all cases where an extension of permit to cover such extra excavation shall not have been obtained within 48 hours of the time of making an extra excavation, such person violating the provisions of this section shall, in addition to paying the fees provided for in the extension of the permit, be subject to the penalties provided in § 545-48.

§ 545-38. Extra inspectors.

Whenever, because of the length or extent of any excavation or because of the number of streets in which the same may be made, the Department of Public Works and/or designee shall deem it necessary to employ an extra inspector to supervise the placing of material and refilling the excavation, such inspector shall be paid by the person obtaining the permit at a rate per day to be fixed by the Department of Public Works and/or designee. In cases where it is necessary for the Department of Public Works and/or designee to inspect the site, the Town of Phillipsburg shall be reimbursed by the permittee for the costs incurred by said professional.

§ 545-39. Reconstructed and resurfaced streets.

Whenever the Town Council enacts any ordinance or resolution providing for the reconstruction or resurfacing of any street, the Department of Public Works & the Municipal Clerk shall promptly mail a written notice thereof to each person, firm or corporation owning any sewer, main or conduit or other utility in or under said street. Such notice shall notify such persons, firms or corporations that no excavation permit shall be issued for openings, cuts or excavations in said street for a period of five years after the date of enactment of said ordinance or resolution, except as set forth below. Such notice shall also notify such person, firm or corporation that application for excavating permits for work to be done prior to such paving or repaving shall be submitted promptly (in order that the work to be done prior to such paving or repaving shall be submitted promptly) in order that the work covered by the excavation permit shall be completed as soon as possible and in no event later than the date specified in the permit for the excavation work therefor.

Emergency. During the five-year period, an excavation permit shall be issued to open, cut or excavate in said street if, in the judgment of the Department of Public Works, an emergency, as described in this article, exists which makes it absolutely essential that the excavation permit be issued.

A. Emergency. During the five-year period, an excavation permit shall be issued to open, cut or excavate in said street if, in the judgment of the Department of Public Works and/or designee, an emergency, as described in this article, exists which makes it absolutely essential that the excavation permit be issued. Final restoration of the disturbed roadway shall be made per infrared repair under the supervision of the Department of Public Works and/or designee Waiver. During the five-year period, an excavation permit may be issued to open, cut or excavate in said street for the purposes of providing utility or other service to a preexisting residence or structure, but only upon application to the Town Council and for good cause shown.

B. New construction or restoration. During the five-year period, an excavation permit shall be issued to open, cut or excavate in said street for the purpose of providing utility or other service to a newly constructed residence or other newly constructed structure adjacent to a newly paved street or for the purpose of providing utility or their service to a preexisting residence or structure which is being reconstructed and for which the reconstruction encompasses 60% or more of the structure.

C. Waiver. During the five-year period, an excavation permit may be issued to open, cut or excavate in said street for the purposes of providing utility or other service to a preexisting residence or structure, but only upon application to the Town Council and for good cause shown. Final restoration of the disturbed roadway shall be made per infrared repair under the supervision of the Department of Public Works and/or designee.

D. Town Council may authorize upon request the issuance to blanket annual waivers as described under 545-39.C for work to be completed under permits obtained/issued by the Public Utility Companies. Final restoration of the disturbed roadway shall be made per infrared repair under the supervision of the Department of Public Works and/or designee.

§ 545-40. Inconvenience to public to be avoided.

Each permittee shall conduct and carry out the excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce, to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris, and shall promptly remove from the street all excess of excavated materials.

§ 545-41. Safety precautions; street obstructions.

All persons, firms or corporations granted a permit to make an opening or excavation in the public streets and highways of the Town shall, at all times, maintain suitable barricades and guards, display proper warning signals and flags and provide all necessary watchmen to prevent injury to any person or damage to any vehicle by reason of the work per NJDOT Standards and Details. Such barricades shall be protected by adequate flashing warning lights from one hour before sunset until one hour after sunrise. Streets and highways must be kept open for traffic at all times except when otherwise ordered or approved by the Department of Public Works and Town of Phillipsburg Police and Fire. The permittee will not be permitted to store material or park equipment within the right-of-way except as necessary during actual working operations and then only by permission by the Department of Public Works and Town of Phillipsburg Police and Fire.
Permittee when covering excavations must use steel plates per NJDOT standards, plywood will not permitted.

§ 545-42. Responsibilities to private property owners.

Prior to starting work on the opening, it shall be the responsibility of the permittee to advise each nearby or adjacent property owner, whose property will be temporarily inconvenienced or disturbed by the project, when the work will be commenced and what effect the work will have on the owner's use of his property. The permittee will be solely responsible for any damage, inconvenience or disruption to nearby or adjacent properties, and will save the Town harmless from any claims arising from the conduct of work. It will be the permittee's obligation and responsibility to arrange for any rights of entry or easements needed. The permittee shall not store tools, machinery, materials, dirt or debris on private property, nor use water, electricity, telephone or other private facilities, without first obtaining permission from the property owner.

§ 545-43. Maps of underground structures and installations.

Users of subsurface street space shall file accurate drawings, plans and profiles showing the location and character of all existing underground structures and installations with the Department of Public Works within two years after enactment of this article. Corrected maps shall be filed with the Department of Public Works within 60 days after installations, changes or replacements are made.

§ 545-44. Liability insurance.

A permittee, prior to commencement of excavation work hereunder, shall furnish the Department of Public Works satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than $50,000 for any one person and $100,000 for any one accident and property damage insurance of not less than $5,000 duly issued by an insurance company authorized to do business in this state. The insurance shall include the Town of Phillipsburg and its consultants for the Project as additional insured.

§ 545-45. Powers and duties of Department of Public Works.

The Department of Public works shall verify the extent of the excavation or opening and shall inspect and generally supervise the work to ensure compliance with Town Standards. The Department may assign other Town departments or Town professionals work to complete the requirements under this code as needed.

§ 545-46. Final release.

All openings made and restored under terms of this article and any permits issued shall be subject to final release and acceptance in writing by the Department of Public Works. No deposit money shall be returned or bond released until after said written release has been effected. This release will not normally be effected until the expiration of the twenty-four-month period specified in § 545-27.

§ 545-47. Waiver of liability.

This article shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

§ 545-48. Violations and penalties.

Every person, firm or corporation found guilty of violating any of the provisions of this article shall be liable to a fine of not more than $1,000, or imprisonment in the county jail of not more than 90 days, or both. Each succeeding day of violation shall be construed to be a new violation. The Town of Phillipsburg may also prohibit the permittee from securing permits of any type from the Town until the requirements under permit are completed in an acceptable manner.

§ 545-49. Inspection fees.

The applicant who is issued the permit shall be required, in addition to any other fees required in connection with this article, to pay for professional review and consultation fees and services associated with the review, processing and inspection of the excavation and street restoration as performed by the Department of Public works or their designee. Said fees shall be billed by the Town directly to the permittee.
Section 2

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

Section 3

If any article, section, subsection, paragraph, phrase or sentence of this ordinance is, for any reason, declared to be unconstitutional or invalid, such article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

Section 4

This ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

SUSAN TURNER
Acting Municipal Clerk
DATED:

TOWN OF PHILLIPSBURG

RANDY S. PIAZZA, JR.
Mayor

CERTIFICATION

I, Susan Turner, Acting Municipal Clerk for the Town of Phillipsburg, do hereby certify that the foregoing is a true copy of an Ordinance duly adopted by the Town Council at their March 26, 2025 meeting.

Susan Turner,
Acting Municipal Clerk