

Town of Camden

P.O. DRAWER 1002
CAMDEN, DELAWARE 19934

Mayor Robert A. Mooney
Town Manager Donald H. Mulrine, Jr.

ORDINANCE # 79

EXCAVATION

The Town Council of the Town of Camden does ordain as follows:

Section 1. It shall be unlawful for any person, firm or corporation to cut into, open or excavate in or under the bed of any street, road, highway, lane, alley, avenue, sidewalk, curb or other public way within the corporate limits of the Town of Camden for the purpose of installing therein or thereunder any poles, pipes, mains, wire or conduits or for any other purpose without first obtaining from the Town Manager of the Town of Camden or his designee a permit to cut into, open or excavate such street, road, highway, lane, alley, avenue, curb, sidewalk or other way, except as hereinafter provided.

Section 2. Permit application procedure

- A. Any person, firm or corporation desiring to cut into, open or excavate in or under the bed of any street, road, highway, lane, alley, avenue, curb, sidewalk or other public way for any purpose as aforesaid shall first make written application to the Town Manager or his designee for a permit to conduct such work, stating in such application the name of the street, the name and present or past known address of the person, firm or corporation on whose behalf the cutting into, opening or excavating is to be done, the direct and indirect cost or estimated cost of such work, including but not limited to the cost of labor, materials and equipment rental, the location on such street where such opening or excavation is to be made, the purpose of the opening or excavation, the length, the width and depth of the opening or excavation and the date when such work will be completed.
- B. Each such application shall be accompanied by a permit fee of 10% of the direct and indirect cost or estimated cost as set forth in the application, payable to Town of Camden, which said permit fee shall not be returned; provided, however, that such permit fee shall only be required in cases where the opening or excavation is made in an improved surface, including but not limited to paved streets and concrete sidewalks. Permit fees shall be placed in a municipal street improvement fund for use in street improvements within the corporate limits of the Town of Camden.
- C. Any person, firm or corporation applying for a permit must sign an agreement with the Town of Camden that will include, among other things:

- (1) A promise to fully comply with the terms of this article.
 - (2) A promise to indemnify, hold harmless and defend the town, its officers and employees from any and all claims for personal injury, including death or damage to property resulting from, relating to or arising out of the issuance of a permit to the applicant pursuant to this article or any actions or activities in relation thereto, by the applicant or others, excepting only such claims due solely to the negligence of the town, its officers and employees. Such indemnification shall not be affected or diminished by insurance provided by the applicant.
- D. Any person, firm or corporation applying for a permit shall file with the Town Manager a general liability policy or certificate of insurance issued by an insurance company authorized to issue such policy in Delaware, naming the Town of Camden as an additional insured, which policy or certificate evidences that the applicant has procured comprehensive general liability insurance providing coverage for legal liability and customarily covered expenses for bodily injury and property damage, including but not limited to liability for bodily injury and property damage caused by, related to or arising out of operations performed by the applicant or by the applicant's independent contractors or arising out of acts or omissions of the applicant in connection with his general supervision of such operations (contractors'/owners' protective liability insurance), occurring after operations have been completed or abandoned (completed operations insurance) and assumed under contract with the town (contractual liability insurance), which policy shall be endorsed to delete from the contractual liability coverage any exclusion for actions on a contract for third-party beneficiary arising out of a project for a public authority and which policy shall include coverage for all possible liability. Said policy shall be in a form and content satisfactory to the Town Solicitor and shall provide that the policy shall not be changed or canceled until the expiration of 60 days after written notice to the town and that it shall be automatically renewed upon expiration and continued in force unless the town is given 60 days' written notice to the contrary. Said policy shall insure the Town of Camden and the applicant and shall cover all operations relative to the excavation, reconstruction and restoration therefore. Said policy shall have limits of liability of not less than \$1,000,000 for bodily injury and in the aggregate for each accident and property damage liability of not less than \$100,000 for each accident.

Section 3. Issuance of permit by Town Manager

Upon compliance with the terms of this article, the Town Manager shall then issue a permit for such cutting into, opening or excavating, subject to the terms and conditions of this article, and upon being satisfied that such opening or excavation is in a proper location and for a lawful purpose

Section 4. Precautions; work standards and specifications

- A. Every person, firm or corporation receiving a permit pursuant to the terms of this article shall complete the work pursuant to the terms of such permit as promptly as possible and shall take all precaution to protect all persons and property from damage and shall properly protect the public from injury by reason of any such cutting into, opening or excavation.
- B. Any hole, opening, excavation, obstruction or dangerous area created incident to such work shall be roped off or otherwise guarded and caution lights maintained and kept thereat for a period of one hour before sunset to one hour after sunrise.
- C. All work performed and materials used in the making and filling of such cutting into, opening or excavation shall comply with the applicable standard specifications of the Delaware Department of Transportation, July 1985 to 2006 standards, as amended, herewith adopted as the standard specifications of the Town of Camden and incorporated herein by reference as though fully set out.

Section 5. Restoration of excavation; closing of streets

- A. Upon completion of the work, every such person, firm or corporation shall fully fill any such opening or excavation so made pursuant to the standard specifications of the Town of Camden and any additional requirements of this article and shall immediately repair and restore the street or way disturbed thereby pursuant to such standard specifications and shall so maintain the same for six months after final inspection and written acceptance by the Town Manager or his designee on behalf of the Town of Camden, pursuant to the standard specifications of the Town of Camden, as aforesaid.
- B. In the event that any such person, firm or corporation fails to comply with the provisions of this article or with the standard specifications of the Town of Camden, as aforesaid, for 48 hours after written notice to do so shall have been given by the Town Manager, said Town Manager may proceed to repair, restore and maintain such street, road, highway, lane, alley, avenue, sidewalk, curb or other public way at the cost and expense of such person, firm or corporation.
- C. When a town street must be closed to a vehicular traffic for a specific period of time, it must be noted on the application with an estimated closing and opening date, not to exceed 15 working days. Upon good cause shown, the fifteen-day period may be extended by the Town Manager for an additional period not to exceed 15 working days. If the street is closed for a period longer than 15 working days, a fine of \$25 per day for each successive work day may be levied by the Town Manager.

1st Reading: 2/5/07
2nd Reading: 3/5/07
Public Hearing: 3/5/07
Adopted: 3/5/07

Section 6. Exceptions

The provisions of this article shall not be applicable to work undertaken by the employees of any governmental body or agency, which, by law, has jurisdiction of such street, road, highway, lane, alley, avenue, sidewalk, curb or such other public way.

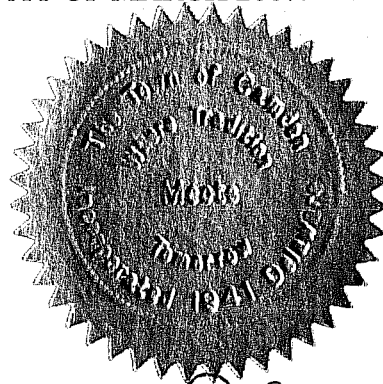
Section 7. Violations and penalties

Every person, firm, or corporation who violates any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined the sum of \$1000 and shall pay the costs of prosecution in addition to any other remedies permitted by law. For the purpose of this article, each calendar day or part thereof that a violation occurs shall be deemed to be separate offense.

Section 8. Emergency Repairs

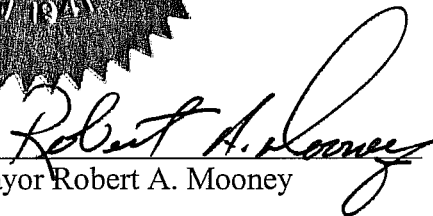
If required during the closed office hours of the Town of Camden, Emergency work may be performed for the Safety of the Public. Within open hours or the next working day. The person, firm or corporation must apply for a permit as continued in previous sections. If a person, firm or corporation fails to apply for a permit. The fine is doubled as in Section 7 Violations & penalties.

ENACTED AND ORDAINED THIS 5th DAY OF MARCH 2007.




APPROVED AS TO FORM:

Town Solicitor

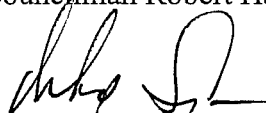


Mayor Robert A. Mooney

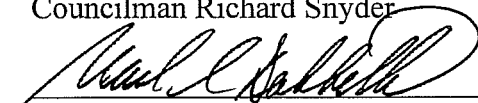
Vice-Mayor James O. Plumley, III



Councilman Robert Hawkins

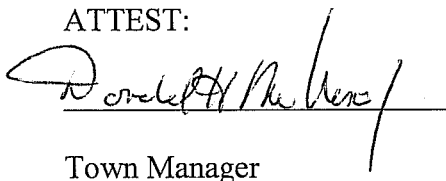


Councilman Richard Snyder



Councilman Mark Babbit

ATTEST:



Town Manager