

**CITY OF JOHNSTOWN,
CAMBRIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. 5369

**Bill No. 1 of
2025**

**Introduced in Council
February 12, 2025**

AN ORDINANCE REPEALING AND REPLACING IN FULL, PART TEN, TITLE TWO, CHAPTER 1024 OF THE CODIFIED ORDINANCES OF THE CITY OF JOHNSTOWN REGULATING EXCAVATIONS IN THE PUBLIC RIGHTS OF WAY, INCLUDING ORDINANCE NO. 4227, PASSED FINALLY FEBRUARY 25, 1981; ORDINANCE NO. 4308, PASSED FINALLY OCTOBER 26, 1983; ORDINANCE NO. 4671, PASSED FINALLY JULY 13, 1994; ORDINANCE NO. 4699, PASSED FINALLY DECEMBER 21, 1994 AND ORDINANCE NO. 5131, PASSED FINALLY JULY 2, 2013 ORDINANCE NO. 5288 PASSED FINALLY JUNE 10, 2020.

WHEREAS, this Ordinance is intended as a comprehensive amendment and replacement of Chapter 1024 of the Code of the City of Johnstown and the aforesaid Ordinances, so as to clarify obligations imposed on those excavating the City of Johnstown's streets and roadways; and

WHEREAS, it is important to the City that those excavating its streets and roadways pay a reasonable permit fee, provide sufficient security, insurance and a traffic plan prior to the issuance of a permit so that the City is protected from improper, incorrect and inadequate street and roadway excavation, restoration and repaving methods and materials; and

WHEREAS, the City wants to minimize disruption to residents, businesses and the traveling public caused by street and roadway excavation; and

WHEREAS, the City wants to clarify obligations regarding the portion of a road surface that must be resurfaced after excavation of its streets and roadways; and

WHEREAS, penalties prescribed herein for failure to comply shall not be retroactive prior to the adoption of this Ordinance, nor shall said penalties be cumulative.

NOW, THEREFORE, the Council of the City of Johnstown hereby ordains and enacts the following requirements for excavations of the City rights of way;

requirements for issuance of a permit to authorize road and street excavation; requirements and specifications for repaving roadways and streets in the City; sets days and times for road work to occur; and establishes a penalty for non-compliance:

Section 1. Ordinance Nos. 4227, 4308, 4671, 4699 and 5131, codified at Part Ten, Streets, Utilities and Public Services Code, Title Two, Street and Sidewalk Area, Chapter 1024, Excavations are hereby repealed in full and replaced as follows:

**CHAPTER 1024
Excavations**

- 1024.01 Permit required; bonds; exceptions.
- 1024.02 Special conditions
- 1024.03 Issuance of permits; fees.
- 1024.04 Payment of fees.
- 1024.05 Surcharge for openings in new streets.
- 1024.06 Withholding of permit issuance.
- 1024.07 Permits not transferable; work to be performed at location designated in permit; refusal to issue.
- 1024.08 Expiration; extension of time limit; performance of work under expired permit.
- 1024.09 Backfilling, restoration, resurfacing and repaving.
- 1024.10 Interruption of commerce; around-the-clock operations.
- 1024.11 Barriers, warning lights, to be provided; installation by city on failure of permittee; removal, prohibited.
- 1024.12 Co-ordination of city paving and infrastructure repair and replacement
- 1024.13 Excavations in the city of Johnstown Central Business District
- 1024.99 Penalty.

1024.01 PERMIT REQUIRED; BONDS; EXCEPTIONS.

A. It shall be unlawful for any person to open, cut or make any excavation in any street of the City without first securing a permit as provided in this chapter. Any person, including a municipality or a municipal authority, which desires to make any opening, cut or excavation in or tunnel under any street or highway of the City shall make application for a permit to the Director of Public Works or his or her designee upon forms to be furnished by the City, setting forth the name and address of the applicant, the precise location of the proposed opening, cut, excavation or tunnel, the approximate size and depth thereof, and the purpose of such excavation. Such application shall further contain the covenant on the part of the applicant that the work shall be performed in strict compliance with the ordinances and regulations of the City and the laws of the Commonwealth related thereto and that the applicant shall well and truly save, defend and keep harmless the City from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening, cut, excavation or tunnel, and all damages to persons or property resulting in any

manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing related thereto.

- B. The requirement of indemnification and compensation set forth in this section shall be evidenced by the contractor establishing proof of full insurance coverage for workers' compensation of all employees employed at the site of the project as well as for all subcontractors who are engaged in work at the sites of the project.
- C. Additionally, there shall be proof of adequate liability and property damage insurance coverage that the contractor has in full force and effect and is maintained at the contractor's expense to cover any claims for damages for personal injury, including accidental death, as well as claims for property damage which may arise from the opening, cut or excavation of the street of the City, whether such operations be by the contractor or subcontractor. The City shall be named as an additional insured in all required insurances.
- D. Such person shall also provide financial security in a form acceptable to the City, conditioned for the payment of the cost and expense of putting the disturbed part of the street or highway, and adjacent property, in the proper condition, as hereinafter provided. The amount of such bond shall be determined by the Director of Public Works or his or her designee, and such bond shall remain in force for a period of three years after the completion of the work and shall be so conditioned for such period of time. However, nothing in this chapter shall operate to infringe the franchise rights of railroads and street railways to maintain their tracks and the paving of streets and highways along such tracks and crossings, all of which maintenance work shall be done as provided by franchise without securing permits as herein provided. However, in the case of a corporation, firm or company entering into a continuing bond covering the granting of permits, it may be permitted to file an agreement to pay to the City the minimum and additional fees upon the presentation of a bill for the same. Such bill shall be presented monthly.
- E. A traffic control plan shall also be submitted with the permit

application. **1024.02 SPECIAL CONDITIONS.**

A. In granting any permit required by section 1024.01, the Director of Public Works or his or her designee may attach such special conditions thereto as may be reasonably necessary to prevent damage to public or private property and to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. The conditions may include but shall not be limited to:

- (1) limitations on the period of the year in which the work may be performed;
- (2) restrictions as to the size and type of equipment;
- (3) designation of routes upon which materials may be transported;
- (4) requirements as to the laying of dust, the cleaning of streets, the preventing of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof; and

(5) regulations as to the use of streets in the course of the work.

1024.03 ISSUANCE OF PERMITS; FEES.

A. The Director of Public Works or his or her designee shall issue a permit for opening, cutting, excavation or tunneling upon the completion of all of the following:

1. presentation of financial security in a form acceptable to the City;
2. presentation of evidence of insurance, naming the City as an additional insured, as hereinbefore provided;
3. payment to the City of the minimum fees as prescribed on a Rate Schedule prepared and periodically updated by the Public Works Department and approved by Council;
4. an agreement to pay to the City, upon presentation of a bill for the same, the amount of the additional fee as hereinafter prescribed;
5. submission of a traffic control plan; and
6. payment of the cost of a nuclear inspection compacting test to be performed after completion of the project

B. A permit shall become void after the date designated in the permit.

C. The minimum fees as prescribed on a Rate Schedule prepared and periodically updated by the Public Works Department and approved by Council shall be construed to grant to the applicant the right and privilege to excavate a maximum surface yardage (including one foot outside of the trench excavation) of five square yards where the sidewalk or roadway is improved or paved, and/or a maximum yardage of five cubic yards of excavation where the sidewalk or roadway is not improved or paved, which are construed to be a minimal disturbance as noted in subsection (a). However, if the yardages excavated exceed the maximum amounts construed to be minimal disturbance, the provisions of subsections (b) and (c) hereof shall prevail.

D. For each separate excavation for the inspection, installation, removal, repair or replacement of substructures or their appurtenances, except curb boxes, the following fees shall apply:

(a) Minimal Disturbance Activities.

(1) For an excavation on a sidewalk, whether paved or unpaved, a minimum fee as prescribed on the Rate Schedule;

(2) For an excavation on a street or highway which is not permanently improved, a minimum fee as prescribed on the Rate Schedule;

(3) For an excavation on an improved street or highway, a minimum fee as prescribed on the Rate Schedule.

(b) For an excavation on a sidewalk, street or highway which is not permanently improved in excess of the maximum threshold for minimal disturbance activities, a minimum fee as prescribed on the Rate Schedule, and, in addition thereto, a fee per square yard of excavation removed as prescribed on the rate schedule.

(c) For an excavation on an improved sidewalk, street or highway, in excess of the maximum threshold for minimal disturbance activities, a minimum fee as prescribed on the Rate Schedule, and, in addition thereto, a fee per square yard of paving surface removed as prescribed on the Rate Schedule, including one foot outside of the limits of the trench excavation, plus a fee per cubic yard of excavation removed from the trench below the level of the bottom of the paving as prescribed on the Rate Schedule.

(d) For the excavation on a sidewalk for the inspection, installation, removal, repair or replacement of a curb box only, including the removal of the pavement, if any, provided the amount of excavation does not exceed one cubic yard, a minimum fee as prescribed on the Rate Schedule. Where the amount of such excavation exceeds one cubic yard, the permit shall be issued under the provisions of subsection (a) hereof. Excavations for the inspection, installation, removal, repair or replacement of a curb box located within the limits of the roadway portion of a street or highway shall be issued under the provisions of subsections (b) and (c) hereof.

(e) For the removal of a pole, tree or stump, including the removal of the paving, if any, where an immediate replacement of a pole or tree is not anticipated, a minimum fee as prescribed on the Rate Schedule.

(f) For each separate excavation for the setting of a pole or the planting of a tree, a fee as prescribed on the Rate Schedule.

(g) For the excavation by tunneling under an improved street or highway or sidewalk, the provisions of subsections (a) through (c) hereof shall prevail, the same as if the highway were excavated by open cut methods.

(h) For any excavation for the installation or relocation of substructures or their appurtenances made necessary by public improvements, carried out and/or contracted out by the City and/or carried out or contracted out by a municipal authority or public utility in coordination with a City project, involving excavation and/or an excavation project authorized by the City there is no fee. although the financial security and insurance requirements of Section 1024.01 and the backfilling and repaving requirements of Section 1024.09 shall apply.

(i) Where, by necessity, the excavation granted under any permit extends under the tracks of a street railway company or any railroad located on a public highway, all of the provisions of this chapter shall prevail the same as if the tracks did not exist.

0) In cases where the permit applicant coordinates excavation, tunneling under

or other activities that would otherwise disturb the street, highway or sidewalk with a public improvements project carried out and/or contracted out by the City, the City may waive permit fees for those activities carried out concurrent with the aforementioned public improvements project but still require permit applicant to complete the application and meet all specifications of this chapter.

1024.04 PAYMENT OF FEES.

An applicant for a permit shall pay to the City the additional fee or charge and the surcharge specified in Section 1024.03(4) and Section 1024.05, respectively, immediately upon completion of the work for which the permit was granted, irrespective of whether or not such work was actually performed by the applicant, or whether or not such work was sublet to a third party independent contractor. In no case shall the person granted a permit delay payment to the City by passing on permit fees or charges to a subcontractor actually performing the work.

1024.05 SURCHARGE FOR OPENINGS IN NEW STREETS.

A. No permit required by section 1024.01 shall be issued which would allow an excavation or opening in any paved or improved street or alley or sidewalk, the surface of which has been improved within a five (5) year period preceding the date of permit issuance, unless there has first been paid to the city a surcharge which shall be in addition to the usual permit fee. The surcharge shall be equal to 50 percent of the usual permit fee for an opening if the street or alley or sidewalk has been improved within the preceding five (5) years and 75 percent if the improvement was made within the preceding two (2) years, except that for any excavation or opening in excess of 50 feet in length in a paved street which has been surfaced within the preceding five (5) years, the surcharge shall be an amount sufficient to resurface the street full width for the entire length of the opening.

B. The resurfacing shall be of a type determined by the Director of Public Works or his or her designee, but in no case shall the basis for the additional surcharge exceed the cost of resurfacing to a thickness of one (1) inch. The additional surcharge shall be reduced by 20 percent for each year since the street has last been surfaced. Utility companies shall also pay the above surcharges based on city restoration costs.

C. The permit applicant may request waiver of the additional fee but not the minimum/base fees outlined in the Rate Schedule, if he or she can prove that the work requiring excavating, cutting, tunneling under or other activities that would otherwise disturb the street, highway or sidewalk are (1) of an emergency nature, or (2) permit applicant could not have been aware of the subsurface conditions that triggered the need to carry out excavation, cutting, tunneling under or other activities that otherwise triggered the need to carry out excavation, cutting, tunneling under or other activities that would otherwise disturb the street, highway or sidewalk when notified by the City prior to being notified by the City or the Owner of the Sanitary Sewer Collection System.

All quantities of paving surface shall be determined by measurements made by the inspector or other employee assigned to do such work by the Director of Public Works or his or her designee.

1024.06 WITHHOLDING OF PERMIT ISSUANCE.

The Director of Public Works or his or her designee may, at his or her discretion, withhold the issuance of any permit, except in cases of immediate necessary emergency repairs, where on account of weather conditions, the proximity of other excavations or for any other cause, the proposed excavation would create a condition prejudicial to the public safety.

1024.07 PERMITS NOT TRANSFERABLE; WORK TO BE PERFORMED AT LOCATION DESIGNATED IN PERMIT.

Permits provided for in section 1024.01 shall not be transferable from one person to another, and the work shall not be made in any place other than the location specifically designated in the permit.

1024.08 EXPIRATION; EXTENSION OF TIME LIMIT; PERFORMANCE OF WORK UNDER EXPIRED PERMIT.

Every permit required by section 1024.01 shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, provided the work was commenced prior to the expiration of time, he shall, prior to expiration of the permit, present in writing to the Director of Public Works or his or her designee a request for an extension of time, setting forth therein the reasons for the requested extension. The Director of Public Works or his or her designee may for good cause shown grant an extension of time in writing. If the permit expires before the actual work commences, it shall be necessary to make application for and be issued a new permit. It shall be unlawful for any person to excavate, cut, or tunnel under any street when a permit has expired.

1024.09 BACKFILLING, RESTORATION, RESURFACING AND REPAVING.

A. The backfilling, restoration, resurfacing and repaving of openings, cuts, excavations and tunnelings shall be, both in workmanship and material, in conformity with the current standard specifications of the City, and such work shall at all times, be subject to the inspection and approval of the Director of Public Works or his or her designee. Such restoration shall restore the surface and adjacent area to the same or better condition as existed prior to the opening, cut, excavation or tunneling.

B. Notice of time of commencement. The Director of Public Works or his or her designee must be notified by the permittee prior to the beginning of backfilling of the date and approximate time at which backfilling will begin.

C. Excavations shall be restored and resurfaced with comparable design and materials as existed prior to the excavation and shall be backfilled as follows:

Sand or fine material shall be mechanically tamped in six-inch layers upon each side and over the top of a substructure to a height of twelve inches. The remainder of the backfill shall be deposited in approximately nine-inch layers and thoroughly compacted by mechanically tamping. In no case shall the number of persons shoveling exceed the number of persons tamping while tamping is in progress. Material for backfilling shall be free from muck, rubbish or other unsuitable material. Material excavated which is not suitable for backfilling shall be removed and suitable material must be provided. Stones exceeding one cubic foot in volume shall not be used in the backfill and individual stones shall be separated from each other by fine material, thus ensuring complete filling of voids. In tunnels, the entire backfill shall be deposited and mechanically tamped in six-inch layers. The removal of sheathing and shoring shall be executed in such a manner as to prevent the sides of the trench from falling in and all voids caused by the removal of timber shall be filled with fine material which shall be thoroughly compacted. Backfill shall be thoroughly flushed with water if ordered by the City Engineer and the use of ten gallons of water per cubic yard of backfill may be required. If the street or highway is unpaved, the backfilling shall not exceed four inches in elevation above the undisturbed grounds at the sides bordering the excavation, and the surface of the street or highway over the excavation shall be maintained by the use of cinder or other approved material whenever settlement takes place.

D. Excavations shall be repaved as follows:

Where excavations are made where sidewalks or roadways are paved, the backfilling shall be completed up to the elevation of the original subgrade under such paving, then the paving shall be removed, down to the subgrade for a distance of one foot beyond the outer limits of the excavation in the roadway and six inches beyond the outer limits of the excavation in the sidewalk, and the pavement shall then be reconstructed in accordance with the correct standard specifications for the construction of new pavements of the type removed. However, where the original pavement of the roadway consists of brick, cobble or stone-block laid without a concrete base, the repaving shall be constructed with (1) a concrete base, six inches thick, composed of one part Portland cement, two parts approved fine aggregate and four parts approved coarse aggregate, each measured separately and accurately by volume and mixed in accordance with the specifications of the City, or (2) Superpave 25.0 mm HMA Base Course at a depth of six inches. Where the width of the excavation exceeds twelve inches, then the concrete base or concrete pavement shall be reinforced with approved steel wire-mesh weighing not less than sixty-five pounds per 100 square feet and the reinforcing shall extend to within three inches of all edges of the base or pavement and shall be placed two inches below and parallel with the top of the concrete. Where the width of the excavation exceeds twenty-four inches, the concrete base or concrete pavement shall be reinforced with three-fourths inch reinforcing bars

placed six inches center to center with a two-inch clear on each end and a three-inch clear on the bottom.

- E. All repaving of streets and highways shall be extended from curb to curb for the length of the excavation on any excavation with a work disturbance of twenty five (25) feet in length. The Director of Public Works reserves the right to waive this requirement for public improvements carried out and/or contracted out by the City and/or carried out or contracted out by a municipal authority or public utility in coordination with a City project involving excavation and/or an excavation project authorized by the City.
- F. Repaving/resurfacing of sidewalks for excavations other than for the inspection, installation, removal, repair or replacement of a curb box only shall require the replacement of the entire length and width of the sidewalk slabs/sections affected. The Director of Public Works reserves the right to waive this requirement for public improvements carried out and/or contracted out by the City and/or carried out or contracted out by a municipal authority or public utility in coordination with a City project involving excavation and/or an excavation project authorized by the City.
- G. The person which received the permit shall be responsible for any failure of replaced pavement surface during a period of three years following completion of permanent restoration work. Any expense incurred by the city in correcting the settlement of the restoration materials or roadway shall be paid by the permittee unless the permittee submits proof satisfactory to the Director of Public Works or his or her designee that the settlement was not due to defective backfilling or other causes controllable by the permittee.

All repaving work shall be done in a skillful and workmanlike manner, under the supervision of a competent superintendent or foreman, experienced in the particular type of construction involved, who shall receive and comply with all orders of the Director of Public Works or his or her designees.

However, upon the request of the person granted the permit, for permission to change the type of repaving surface from that of the original surface, the Director of Public Works or his or her designee may grant such permission if, in his or her opinion, the request is in the best interests of the City. If the Director of Public Works or his or her designee deems it advisable, economical and in the best interests of the City, he or she may, at his or her discretion, order, in writing, the replacement of the original paving surface with a type of paving surface that is more desirable and suitable for the highway.

- H. The person granted the permit shall be responsible for restoration or replacement of property damage occurring on adjacent property as a result of or related to the repaving or restoration. The financial security issued in accordance with Section 1024.01 shall be written to cover damage to adjacent property.

1024.10 INTERRUPTION OF COMMERCE; AROUND-THE-CLOCK OPERATIONS.

A. Work authorized by a permit required by section 1024.01 shall be performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday except in an emergency or when otherwise noted on the permit.

B At the discretion of the Director of Public Works or his or her designee, when it is deemed that an excavation of the nature set forth in this chapter will interrupt, for an unreasonable period of time, the natural flow of commerce in the area where the excavation is being conducted, the City shall (1) require the permittee or its contractor to work around the clock to complete the work and to accommodate other businesses in that locale; and (2) require the permittee or contractor to install at the work site at least two weeks in advance of the beginning of construction a digital sign notifying the traveling public of the location of the streets on which traffic flow will be disrupted by the construction and the estimated start and end dates of construction.

C. Access to private driveways shall be provided by the permittee or contractor at all times except during working hours when construction operations prohibit provision of access. Before any private driveway shall be closed, the users of the access shall be notified and given sufficient time for removal of equipment or automobiles, if desired. Emergency access to fire hydrants must be provided at all times.

1024.11 BARRIERS, WARNING LIGHTS, ETC., TO BE PROVIDED; INSTALLATION BY CITY ON FAILURE OF PERMITTEE; REMOVAL, ETC., PROHIBITED.

A. Every permittee shall place around the project as many barriers, barricades, lights, warning flags and signs as shall be determined by the Director of Public Works or his or her designee to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Director of Public Works or his or her designee.

B. Whenever any person fails to provide or maintain the safety devices required by the Director of Public Works, or his or her designee, such devices shall be installed and maintained by the City. The amount of the cost incurred shall be paid by the permittee.

C. No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with this section.

1024.12 COORDINATION OF CITY PAVING AND INFRASTRUCTURE REPAIR AND REPLACEMENT.

When the City plans to improve or pave any street, the Director of Public Works or his or her designee shall first give notice to all persons owning property abutting on the street about to be paved or improved and to all public utilities and municipal

authorities operating in the City. All persons, public utilities and municipal authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within 6 months from the giving of notice if they wish to avoid the surcharges imposed by Section 1024.05. The time may be extended if permission is requested in writing and approved by the Director of Public Works.

1024.13 EXCAVATIONS IN THE CITY OF JOHNSTOWN CENTRAL BUSINESS DISTRICT.

A. Because the City desires to minimize Central Business District (CBD) disruption related to excavations, cuts or tunneling, additional requirements are applicable to excavations, cuts and tunneling in its Central Business District.

B. The City of Johnstown Central Business District is defined in this Section 1024.13 as Wards 1, 2, 3 and 4 of the City.

C. The requirements in this Section 1024.13 shall be in addition to the requirements of this chapter. If there is a conflict between this Section 1024.13 and other provisions of this chapter, the more stringent requirement shall apply.

D. All excavations in the CBD shall occur between the hours of 7:00am and 5:00pm, unless the Director of Public Works or his or her designee determines otherwise

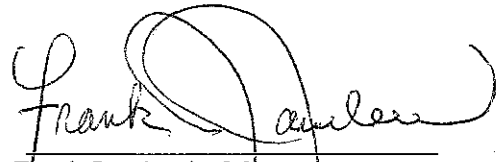
E. Prior to any opening, cutting, excavating or tunneling or activity related thereto which causes impact to a sidewalk in the CBD, the permit holder shall design and construct alternative walkways for pedestrian ingress to and egress from buildings in the CBD.

F. Prior to any opening, cutting, excavating or tunneling or activity related thereto which causes impact to a highway or roadway in the CBD, the permit holder shall provide hard copy letter, e-mail and telephonic notice to the building owners 2 weeks in advance of the disruption to the roadway. The public shall also be notified of the upcoming impediment to the roadway or highway not less than two weeks in advance of the disruption using a digital sign located in the area that will be disrupted.

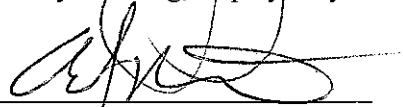
G. All repaving of streets and highways in the CBD shall be Curb-to-Midpoint for the length of an excavation, unless funding requirements dictate differing repaving requirements, in which case funding requirement repaving shall supercede, Curb-to-Midpoint repaving.

1024.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 for general Code penalty if no specific penalty is provided.)

A handwritten signature in cursive script, appearing to read "Frank Janakovic".

Frank Janakovic, Mayor
Rev. Sylvia King, Deputy Mayor

A handwritten signature in cursive script, appearing to read "Arturo Martynuska".

Arturo Martynuska, City Manager