

**ORDINANCE No. 1-2024 BOROUGH OF JERMYN
LACKAWANNA COUNTY, PENNSYLVANIA**

**AN ORDINANCE REGULATING PAVE CUTS, EXCAVATION,
BACKFILL AND RESTORATION OF BOROUGH STREETS, ROADS,
AVENUES, ALLEYS AND RIGHTS-OF WAY**

PAVE CUT ORDINANCE

I. Title

This article shall be known and be cited as the "Pave Cut Ordinance."

II. Word usage: definitions.

A. Word usage. The following words, terms and phrases when used in this Article; shall have the same meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall" is always mandatory and not merely directory. Whenever in this Article the words "directed," "required," "permitted", "ordered", "designated", or words of like importance are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Municipal Street Commissioner, Municipal Engineer or their representatives or agents is intended; and similarly the words "approved", "acceptable", "satisfactory" or words of like import shall mean "approved by," "acceptable to" the Municipal Street Commissioner or Municipal Engineer or their representatives or agents.

B. Definitions. As used in this Article, the following terms shall have the meanings indicated:

1. APPLICATION FOR A PAVE CUT PERMIT

A form provided to the utility by the municipality, noting pertinent data for the purposes of inspection and control by the municipality, noting pertinent data for the purpose of inspection and control by the Borough and constituting a receipt for services performed by the municipality.

2. **CAPITAL IMPROVEMENT** Preplanned to improve or upgrade and existing system or to install a completely new system providing new or additional service.

3. **EMERGENCY REPAIR** Work necessitated by the rupture or sudden malfunction of existing underground facilities.

4. **FACILITIES** All the plant and equipment of a public utility, including all tangible and intangible, real and personal property without limitations, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, controlled, furnished or supplied for, by or in connection with the business of any public utility; provided, however, that no property owned by the Commonwealth of Pennsylvania or *any* municipal corporation thereof at the date when this Article becomes effective shall be subject to any of the terms of this Article, except as elsewhere expressly provided herein.

5. **INSPECTION** A careful or critical investigation not necessarily confined to optical observation but is understood to embrace tests and examination for the purpose of ascertaining quality and compliance as prescribed in this Article and discovering and correcting errors.

6. **MUNICIPAL CORPORATION** All cities, boroughs, towns, townships or counties of this commonwealth and also any public corporation, authority or body whatsoever created or organized under any law of this commonwealth for the purpose of rendering any service similar to that of a public utility. For the purpose of this Article, "municipal corporation" shall mean the Borough of Jermyrn.

7. **PAVE CUT LOG** A chronological record of pave cuts as reported to the Borough containing pertinent data as required by the Borough for the purpose of inspection and control.

8. **PAVEMENTS-** Roadway surfaces of machine-laid asphalt over a base of concrete, brick, Belgian block, crushed stone, bituminous concrete or oil and stone.

9. **PERSON** An individual, partnership or association, other than a corporation, and includes their lessees, assignees, trustees, receivers, executors, administrators or other successors in interest.

10. **PUBLIC UTILITY:**

(1) Persons or corporations now or hereafter owning or operating in this commonwealth equipment or facilities for; (2) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity or steam for the production of light, heat or power to or for the public for compensation. (3) Diverting, developing, pumping impounding, distributing or furnishing water to or for the public for compensation. (4) Conveying or transmitting television or radio signals by cable to the public for compensation. (5) Sewage collection, treatment or disposal for the public for compensation.

The term "public utility" shall not include: (1) Any person or corporation, not otherwise a "Public utility," who or which furnishes services only to himself or itself.; (2) Any bona fide cooperative association which furnishes services only to its stockholders or members on a nonprofit basis. (3) Any producer of natural gas not engaged in distributing such gas directly to the public or compensation.

11. **SERVICE** Used in this Article in its broadest and most inclusive sense, and includes any and all acts done, rendered or performed, and any and all things furnished or supplied and any and all facilities used, furnished or supplied and any and all facilities used, furnished or supplied by public utilities in the performance of their duties under this Article to their patrons, employees, other public utilities and the public, as well as the interchange of facilities between two (2) or more of them.

12. **SPECIAL PAVEMENT** Roadway surfaces of concrete, brick, Belgian block or cobblestone.

13. **STREET** Includes any street, highway, road, land, court, alley or place of whatever nature, whether dedicated or not, open to the use of the public as a matter or right for purposes of vehicular travel.

14. **UTILITY CORRIDOR** An area within any public right-of-way, usually underground but not limited to the same, reserved for and assigned to a specified utility for placing and operating its facilities for transmitting and distributing its particular commodity or service.

15. **UTILITY RELOCATION** Includes the adjustment, replacement or relocation of utility facilities as required by a street construction or repaving project, such as removing or reinstalling the facility, acquiring the necessary right-of-way, moving or rearranging existing facilities, changing the type of facility and any necessary safety and protective measures. It shall also mean the construction of a replacement facility functionally equal to the existing facility, where necessary for the continuous operation of the utility service, the project economy or sequence of street construction.

16. **WORK** The furnishing of all materials, labor, equipment and other incidentals necessary or convenient to the successful completion of the project and the fulfillment of all duties and obligations imposed by this chapter.

III. **PERMIT REQUIRED**

A permit must first be obtained before any opening can be made in any paved thoroughfare, cart way, sidewalk, road, avenue, alley, right of way, or tree lawn in the municipality. Any excavations and cutting in these areas are classified as pave cut.

IV. PERMIT PROCEDURE

- A. Applications for a pave cut permit shall be available from the Borough of Jermyn at the Municipal Building, 440 Jefferson Avenue, Jermyn, PA 18433. An authorized agent of a utility or contractor may complete said application at the Municipal Building. This shall be done a minimum of Forty-Eight (48) hours in advance of a planned excavation. A copy of the completed application, signed by the borough, or Borough Engineer or their agents, shall be in the hands of a competent person at the work site described in said application and shall constitute a permit.
- B. The application for the permit shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and the expected date of completion of the excavation as well as the length and width of the cut and such other data as may reasonably be required by the municipality. When in the sole opinion of the municipality, the excavation and /or construction planned is extensive, the Borough may require the application to be accompanied by plans showing the extent of the proposed excavation work and elevations of both the existing ground prior to said excavation and the purposed elevated surfaces, the location of the excavation work and such other information as may be prescribed by the municipality.
- C. The Borough shall keep a record of all permits so granted and, before granting the same, shall collect from the applicant a permit application fee in the amount set forth in the fee schedule set in this Article. Public utilities may be billed for permit fees monthly.
- D. The contractor or utility performing the work must notify the Borough before any backfill or permanent pavement is placed so that an inspector may be dispatched public site to inspect the work. All backfill and permanent pavement work must be performed under the continuous observation of a Borough designated Inspector/testing agency.
- E. It shall be unlawful for any person, firm or corporation to make any opening, cut or excavation in or under any street, alley or other thoroughfare within the limits of the Borough of Jermyn unless and until a permit there for is secured for each separate undertaking. The police shall promptly prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit.
- F. It shall be unlawful for any person, firm or corporation to make any opening, cut or excavation in or under any street, alley or other thoroughfare within the limits of the Borough of Jermyn unless and until a permit there for is secured for each separate undertaking. The police or Jermyn Borough DPW shall promptly prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit. In the event the police or Borough DPW are not able to be reached for a period of

thirty (30) minutes, the Borough's designated inspector shall have the ability to halt any and all work being performed without the required permit.

V. EMERGENCY PERMIT PROCEDURES

In the event of any emergency in which a main, conduit or utility facility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, Life, health or safety of any individual, the person owning or controlling such main, conduit or utility facility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for a pave cut permit no later than the end of the next succeeding day during which the borough office is open for business. In addition, the utility shall immediately notify the Borough and inform them that an emergency exists as soon as they become aware of said emergency. An emergency contact number will be provided by the Borough so that an inspector can be dispatched to the site of the emergency repair. An inspector must be present to inspect the backfill and permanent pavement work for all emergency repair.

VI. PENALTY FOR WORK DONE WITHOUT PERMIT

All work done without a permit shall be subject to the penalty provided, plus regular fees (See Fee Schedule)

VII. WORK DONE WITHOUT AN INSPECTOR

Any backfill or permanent pavement work performed without the presence of a Borough designated inspector present shall be removed and replaced under the observation of a Borough authorized inspector at the cost of the contractor performing the work. The removal and replacement of any uninspected work will be at no cost to the Borough and shall be subject to a penalty of \$1,200.00, plus regular fees.

VIII. INDEMNIFICATION OF MUNICIPALITY; INSURANCE REQUIRED.

- A. The applicant shall be insured as set forth below and shall protect, defend, indemnify and save harmless the municipality, its officers and/or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the municipality, its officers or agents thereof for or on account of any injuries or damages to persons or public or private property because of any materials or appliances used in the work or by or on account of improper materials or workmanship or for or on account of any accident or any other act, negligence or omissions of said applicant or his agents, servants or employees, and the Borough shall not, in any way, be liable there for during the period of the work progress and for the period following the completion of the work until the street is resurfaced or reconstructed by the municipality. Minimum insurance shall be:
- B. Liability of one million dollars (\$1,000,000) for personal injury or death per individual with a limit of three million dollars (\$3,000,000) for each occurrence for bodily injury.

C. Liability of five hundred thousand dollars (\$500,000) for property damage.

D. Evidence of insurance in the form of a certificate or letter executed by a duly authorized representative of the applicant's insurance carrier shall be submitted to the Borough no later than each January 15. Said evidence of insurance must include the provision that the Borough shall be given proper advance notice of at least thirty (30) days of cancellation or any material alterations in the applicant's policy.

IX. SAFETY PRECAUTIONS

During the progress of work, the applicant shall provide and maintain such barricades, warning signs and flag persons as may be deemed necessary by the Borough to prevent accidents to the public and/or adjoining tenants. Minimum precautions must include, but should not be limited to, advance warning signs on all approaches to the work, safe crossing for pedestrians a minimum of each three hundred (300) feet and barricades with flashers on each exposed side at fifty-foot intervals. All precautions shall be in accordance with 67 Pa. Code Chapter 211:67 Pa. Code Chapter 2013; and materials and construction requirements outlined in Section 901 of PennDOT Current Specifications, as amended. Referrals therein to the Department shall mean "Borough of Jermyn". Compliance is also required with all applicable safety standards of the Occupational and Safety Health Act (OSHA), as amended. When required, the applicant shall comply with requirements of Section 902 of PennDOT Current Specification for Maintenance and Protection During Temporary Suspension of Work and PennDOT 213 Temporary Traffic Control Guidelines.

X. CLOSING OF STREETS

No street in the Borough of Jermyn may be completely closed to traffic at any time. One (1) lane of traffic must be able to pass unobstructed at all times. Flag persons must be posted at the limits of work at all times to direct traffic through the work area, and all established traffic patterns must be maintained at all times. If all other means of traffic control have been exhausted, the Borough may permit a road to be completely closed temporarily only with the consent of the Chief of Police and the Fire Chief. When an emergency exists, the Police and Fire Departments shall be notified. An application form for a permit to close a street will be available from the municipality. The completed application, bearing the signatures of the aforementioned officers, shall be returned to the applicant and shall constitute a permit. A penalty of \$1,000.00 shall be imposed for failure to notify the Police Chief and Fire Chief. For all maintenance and protection of traffic within the Borough the applicants must follow all applicable PennDOT Publications and Standards.

XI. TIME PERIODS FOR COMPLETION OF PAVE CUTS

For all pave cuts, the utility or contractor shall be required to complete the back-filling within twenty-four (24) consecutive hours of the initial cut during the normal working week,

excluding holidays and weekends. Extension time may be allowed upon appeal to the Municipal Street Commissioners or Municipal Engineer provided that the contractor substantiates sufficient reasons for the extension required. Work on long cuts (those over twenty-five (25) feet in length) shall proceed in a continuous manner in accordance with safety precautions. Permits for long cuts or capital improvements will not be granted during the months of November through March except by written permission from the Municipal Street Commissioner or Municipal Engineer. The utility or contractor shall coordinate planned cuts in the municipal streets with the paving program of the Borough as they become available. The Borough will provide a paving program for a one- year period to the utilities prior to February 15 of each year. Changes in the utilities' schedule of planned cuts shall require a confirmation from the Municipal Street Commissioner or Municipal Engineer. Changes in the municipal paving program shall be submitted to all utilities at the earliest possible date to permit the utilities to adjust their respective schedules.

XII. MISCELLANEOUS WORK PROVISIONS

All excavations shall be commenced and completed by the use of a reasonable workforce. In congested areas and the central business district, the Borough may limit work to other than normal daytime working hours. At the cessation of work, adequate steel plates shall be placed over the excavation while it is not being worked to ensure full traffic flow. The maximum length of any opening in the roadway shall be one hundred (100) feet unless otherwise permitted, in writing, by the Municipal Engineer or Municipal Street Commissioner. The minimum excavation size in the roadway Borough ROW is 3' wide by 3' long. This pertains to the cartway, sidewalk, tree lawn, berm, or embankment. Prior to any additional digging, the previous trench shall be backfilled and completed as specified herein.

XIII. EXCAVATED MATERIAL

In peak traffic areas as determined by the Municipal Street Commissioner or Municipal Engineer, all excavated material shall be removed daily at the cessation of work. All gutters and drainage devices shall be kept clean of all debris and excavated material. Hydrants adjacent to the work shall be, at all times, readily accessible to fire apparatus and no material or obstructions shall be placed within fifteen (15) feet of any hydrant. Excavations include any areas within the road right-of-way. No excavated material or backfill material can be placed on the Borough streets. All surplus material must be stored in a location with the written consent of the property and in a manner not to damage any Borough ROW.

XIV. SUITABILITY OF MATERIALS

The suitability of material to be used as backfill shall be determined by the Municipal Street Commissioner or Borough's designated Testing/Inspection agency. All materials not conforming to the requirements of this Article, whether in place or not, shall be rejected. Such materials shall be removed promptly from the worksite.

XV. DISPOSAL OF WASTE MATERIAL

Material which is unsuitable and any surplus of excavated material shall be considered waste and shall be disposed of by the utility or contractor beyond the project limits. In no case shall waste material be left at the worksite.

XVI. FILL MATERIAL

- A.** The Street Commissioner or designated testing/inspection agency shall be the judges of the stability and suitability of the fill material. In no case will excessively wet or dry material be allowed as fill material. Fill must be compacted to a dry density **at** least equal to ninety-five percent (95%) of the maximum dry density attained by the Modified Proctor Test, ASTM D1557, latest revision, Method C or Method D, as designated by the Street Commissioner or designated testing/inspection agency.
- B.** Granular or other suitable materials, as determined by the Street Commissioner or designated testing/inspection agency, free from rocks and boulders shall be deposited in the trench simultaneously on both sides of the pipe for the full width of the trench to a height of at least six (6) inches above the top of the pipe, placed and hand-tamped to fill completely all spaces under and adjacent to the pipe. In the event that suitable natural granular material is not encountered during the normal excavation of the trench or when the material encountered is determined unsuitable by the Engineer or Street Commissioner or designated testing/inspection agency for back-filling around the pipe as required above, the contractor shall furnish and place other approved material. This approved material should be furnished from surplus material obtainable from the excavation of adjacent trenches or from approved borrow areas. If suitable material is not available as stated above, the contractor should procure suitable pit-run material for backfilling around the pipe according to specific direction from the Street Commissioner or designated testing/inspection agency at no cost to the municipality.
- C.** Succeeding layers of backfill may contain coarse materials (-2"), but shall be free from large pieces of rock, frozen material, concrete, roots, stumps, tin cans, rubbish and other similar articles whose presence in the backfill would cause future settlement of the trench or damage to the pipe.
- D.** Whenever suitable material existing within the upper four (4) feet of the finished grade of the paved or traveled portions of the street or roadway is removed by the excavation, the contractor shall replace said material (or material of equal quality) as backfill in the upper four (4) feet of the finished grade.
- E.** As an alternate, 250 psi flowable fill may be used. Flowable fill shall be in accordance with PennDOT Publication 408, Section 220 (Latest Edition) with a compressive strength not less than 150 psi.

XVII. BACKFILLING REQUIREMENTS

- A. The Street Commissioner or designated testing/inspection agency must be notified at least 2 hours in advance of placing any backfill for inspection purposes. No backfill shall be placed without a Borough designated inspector present. In backfilling, six-inch layers shall be placed in the deepest portion of the backfill, and as placement progresses, each six-inch layer shall be horizontally constructed. Compaction operations shall be continued using mechanical tampers until each layer of fill is compacted to a dry density at least equal to ninety-five percent (95%) of the maximum dry density attained by the Modified Proctor Test, ASTM D 1557, latest revision, Method C or D method, as designated by Street Commissioner or designated testing/inspection agency.
- B. Back filling will be done in such manner as to obtain compaction through the entire length of backfill not less than that which exists adjacent to the excavation. The method of backfill shall be consistent with good engineering practice. Backfill shall begin as soon as practical after the pipe or other construction has been placed and shall thereafter be carried on as rapidly as protection of the balance of the work will permit.
- C. Depositing of backfill shall be done so the shock of falling material will not injure the pipe or adjacent structures.
- D. All deficiencies in the quality of material for backfilling the trenches or for filling depressions caused by settlement shall be supplied by the contractor.
- E. In all cases, the contractor shall blade and compact the roadway after the trench has been backfilled so that it shall be passable to traffic at all times. The contractor shall maintain the roadway in a condition acceptable to the Engineer or Street Commissioner at all times until final approval of the entire work by the municipality.
- F. The contractor shall remedy at his own expense any defects that appear in the backfill for a period of five (5) years following permanent restoration.

XVIII. PERMANENT PAVEMENT REQUIREMENTS

- A. The Street Commissioner or designated testing/Inspection agency must be notified in advance of placing any permanent pavement for inspection purposes. No pavement shall be placed without a Borough designated inspector present.
- B. Where the excavation is in a paved surface, the pavement shall be restored with not less than 6½ inches of 25 mm Superpave Base Course or the full depth of the adjacent permanent bases, whichever is greater, and 1 ½ inches of 9.5 mm Superpave Wearing Coarse. All materials and work shall meet the requirements of Penn DOT Publication 408 Specifications (Latest Edition), Sections 350 and 409 respectively. Prior to replacement of the pavement, one-foot (1') outside of each edge of the opening shall be sawed the full depth of pavement and stone base in a neat straight line (1-foot cutback). The detached material shall be removed without damaging the adjacent pavement. The final pavement joint between new and existing pavement shall be sealed with PG 6422 or other sealant approved by the Street Commissioner or designated testing/inspection agency to a width of 4 Inches either side of the joint. In cases where pave cuts are made between November 1 and April 15, the pavement restoration shall consist of cold patch or

similar temporary material. Final pavement restoration shall be completed as specified herein above during the next paving season, but in no event later than July 1. Maintenance of the temporary patch shall be the responsibility of the contractor.

- C. When a longitudinal opening longer than 100 linear feet is made in the pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the area of the opening. When four (4) or more transverse openings are made within 250 feet linear feet of pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the total opening length including those areas unexcavated. Overlay shall consist of 1 ½ inches of 9.5 mm Superpave Wearing Coarse. A milled paving notch, with a minimum 10 feet transition, shall be provided at each end of the overlay.

XIX. SIDEWALK CURB RESTORATION REQUIREMENTS

- A. The Street Commissioner or designated testing/inspection agency must be notified in advance of placing any permanent pavement or concrete for sidewalks or curbing for inspection purposes. No pavement or concrete for sidewalks or curbing shall be placed without a Borough designated inspector present.
- B. Where the removal of a portion of a curb, sidewalk, or curb and gutter is required to perform work the curb, sidewalk, or gutter shall be restored as follows:
 - 1. Asphalt sidewalks shall be a minimum of 2" of inches of 9.5 mm Superpave Wearing Coarse or the thickness of the adjacent materials, whichever is greater.
 - 2. Asphalt curbs shall meet the requirements of PennDOT Publication 408 Specifications (latest Edition), Section 636. The minimum allowable length of a replaced curb shall be 10 feet and to the nearest construction joint.
 - 3. Concrete sidewalks shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 676. The minimum allowable length of a replaced concrete sidewalk shall be 10 feet.
 - 4. Concrete curbs shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 630. The minimum allowable length of a replaced curb shall be 10 feet.
 - 5. Stone curbs shall be replaced in kind. A minimum length of replaced curbs shall be 10 feet.
 - 6. Where curbing and/or sidewalks are composed of other materials (brick,

pavers, granite, flagstone, etc.) every attempt should be made to save the original materials and replace them during restoration.

XX. MACHINERY TO BE USED

Power-driven concrete saws or air hammers shall be used on all cuts in Portland-cement-based pavements. The cuts must be of sufficient depth to provide a smooth edge. No pavement busters, such as drop hammers, hoe rams and the like, shall be used without the written permission of the Street Commissioner or designated testing/inspection agency.

XXI. RESPONSIBILITY FOR DAMAGE TO UNDERGROUND FACILITIES

In the event a cut is made and, upon inspection, damage to another utility's underground facilities is discovered, it shall be the responsibility of the party making the cut to contact the Municipal Street Commissioner or Municipal Engineer and all concerned pertinent utilities to instruct the (it) to have representatives inspect the condition before any backfilling is begun.

XXII. COMPLIANCE WITH STATUTES, RULES AND REGULATIONS

All contractors shall ensure compliance with the provisions of all applicable and relevant, state, local and federal statutes, rules and regulations.

XXIII. INSPECTION AND TESTING

- A. The Municipal Designated Testing Company shall inspect all cuts, backfilling, pavement restoration and curb/sidewalk restoration work that occurs within the Municipality's right of way. An inspection fee shall be charged for this inspection. Such inspection fees shall constitute acceptance of work performed by the contractor, but it is understood that such acceptance does not relieve the utility of any responsibility under this Article throughout the guaranty period.
- B. In order to ensure proper testing, the Borough shall retain an independent testing agency meeting the following requirements:
 - Maintains a facility that is AMRL and CCRL certified and meets the minimum requirements of ASTM E-329
 - Has the ability to provide field testing technicians that have the appropriate ACI, NICET, and NECEPT certifications for inspecting the work being performed as follows:

INSPECTION TYPE

REQUIRED CERTIFICATIONS

Permanent Backfill

NICET Level I Soils and
Regulatory Certified

Permanent Asphalt Paving

NICET Level I Asphalt and
NECEPT Bituminous Field Test
Technician

Permanent Concrete (Sidewalks or
Curbs)

NICET Level I Concrete and
NECEPT Concrete Field Test
Technician

- C. Has the ability to mobilize for contractor requests on the next business day for routinely scheduled work. Routine work is defined in accordance with the Underground Utility Line Protection Law, Act 287, also known as the “One Call Law”.
- D. Has the ability to submit Inspection Reports to the Borough engineer upon completion of work.

XXIV. MAJOR IMPROVEMENTS OF SERVICES AND/OR LINE REPLACEMENT BY UTILITIES; PROCEDURES FOR NEW PAVEMENT CUTS

Upon notification from the Borough of a planned street repaving, resurfacing or reconstruction, all utilities will be required to test their lines and service and to schedule necessary capital improvements or new main lines and service connections prior to resurfacing or reconstruction. Thereafter any cuts which will be permitted in new pavement and any permits issued for the same shall be subject to the following:

- A. Pavement shall be considered new for a period of five (5) years from the date of final and complete placement of new pavement.
- B. Any utilities or contractors who make cuts in new pavements shall be required to make permanent restoration and repaving and resurfacing of said openings in pavements. Permanent restoration must be completed within sixty (60) days of the initial cut. Any delay or failure of restoration will be reported to the pertinent utility, and repairs by the utility will begin within twenty-four (24) hours after notification. Upon failure of the utility to repair the cut in a satisfactory manner, the Borough shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied against the utility or contractor. All backfilling of new pavement cuts shall be in accordance with the

backfilling requirements and provisions set forth in this Article. Prior to the placement of the base course, the existing base and surface must be exposed twelve (12) inches on each side of any depressions that may have developed. Restoration of base pavements shall consist of 25mm Super Pave Base Course for the full depth of the adjacent permanent base or for a depth of six (6) inches, whichever is greater. The wearing course of top coat shall be placed at a minimum depth of one and one-half (1½) inches and shall be 9.5 mm Super Pave Wearing Course and shall be rolled to conform with the existing road and the edges sealed. Surface treatments such as sand or chip seals are prohibited. On long cuts (those greater than twenty-five (25) feet in length), surface finishing must be rolled with not less than a six-ton roller. Small cuts may be finished with a mechanical tamper or vibrator. All openings in new pavement, regardless of size, must be permanently restored.

- C. The permanent restoration of special-type pavements such as concrete, brick, Belgian block, cobblestone, gutters or tiles, shall consist of relaying the original wearing course in accordance with the original installation specifications in such a manner as to prevent settlement or other determination.
- D. Whenever any utility or contractor shall make cuts in new pavement for purposes of replacing a main line on a street or part thereof or for purposes of making any capital Improvements or improving or upgrading an existing system, or when any utility or contractor shall for any purposes, except emergency purposes. Make a cut or cuts in new pavement totaling ninety (90) square feet or more within any block in the Borough, then the utility shall be required to backfill and permanently restore, refinish, mill and repave the entire width of said street from curb to curb for the entire length of the block or blocks of said street or streets where there is located any pave cut or cuts or parts thereof with said backfilling and restoring, refinishing, milling, and repaving to be done in accordance with the provisions of this Article. (The purpose of this provision is to encourage utilities to replace their main lines and make capital improvements or improve or upgrade their systems prior to new repaving so as to prevent subsequent cutting of new pavement.)
- E. The utility shall be required to notify the Street Commissioner or designated testing/inspection agency prior to commencement of permanent restoration. Such permanent restoration must be commenced and completed promptly. Any delay or failure of restoration will be reported to the pertinent utility, and such work shall commence by the utility within twenty-four (24) hours after notification. Upon failure of the utility to restore the street in a satisfactory manner, the Borough shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied

against the utility or contractor.

- F. The applicant must submit a preconstruction video of the entire Borough ROW adjacent to the work area prior to the start of the work. In the event the applicant does not submit the required documentation they will be held responsible to repair any damage outside of the work area within the Borough ROW. The applicant must identify areas of concern outside of the work area that may be susceptible damage related to construction of the utility improvements. The applicant must take all necessary precautions to minimize damage to all areas within the Borough ROW including adjoining streets that are being used for construction purposes. The applicant is responsible to repair all damage to all areas that is being utilized during construction in accordance with the all sections of this ordinance.

XXV. REPLACEMENT OF PAVEMENT MARKINGS

The utility and/or its contractor must replace, in kind, all pavement markings damaged or removed by pave cuts and work incident thereto. All markings must be replaced within five (5) days after permanent restoration. Should the contractor fail to replace the same, the Borough shall contract to have the necessary repairs made and bill the utility for the costs of the work, plus a twenty percent (20%) penalty.

XXVI. REPLACEMENT OF TRAFFIC CONTROL DEVICES

Electronic traffic control devices and ancillary equipment damaged or removed because of pavement excavation or work incident thereto must be replaced by the utility or its contractor, in kind, in whole or in part as required by the Street Commissioner or designated testing/inspection agency. The Borough shall contact to have the necessary repairs made and bill the utility.

XXVII. REPLACEMENT OF PROPERTY PINS OR MONUMENTS

All property pins or survey control monuments damaged or altered as a result of the contractors' work shall be replaced at the contractor's expense by a Registered Pennsylvania Professional Land Surveyor.

XXVIII. UTILITY CONNECTIONS

The Borough of Jermyn provides by this Article for the laying, renewing and repairing of all gas, water or other pipes or conduits in any street before the paving, repaving or repairing of the same and for making the necessary house connections with said pipes and also for the necessary house connections and branches with and leading into main or lateral sewers, provided that in no case, except as a sanitary measure, of which the Borough shall be the judge, shall Jermyn require such house connections to be extended further from such sewers or from such gas, water or other pipes or conduits

than to the inner line of the curbstone of such corporations, persons and owners affected and, in default of compliance therewith, cause said pipes to be laid, renewed or repaired and said connections made and collect the costs of paving and repairing all pipes or conduits with interest; and the cost of the sewer connections shall be a first lien against the land for whose benefit such connections are made A separate lien may be filed therefore, or such sewer connection costs may be included in any lien filed for the costs of such street improvement, and the lien and the proceedings thereon shall be as in the case of other municipal liens.

XXIX. DETERMINATION OF LINES AND GRANDS FOR STREET CONSTRUCTION OR RECONSTRUCTION

The Municipal Engineer shall have the final decision for determination of lines and grades for street reconstruction. This decision shall be based on good engineering practice and municipal standards. The determination by the Street Commissioner or designated testing/Inspection agency shall be final.

XXX. REQUIRED UTILITY LINE DEPTHS

The following depths for pipes and conduits are assigned to the utilities operating under this Article:

- A. Gas lines shall be a minimum of thirty (30) inches below grade or as approved by the Borough in conjunction with the utility owner.
- B. Water service lines shall be a minimum of thirty-six (36) inches below grade; a water main shall be a minimum of five (5) feet below grade or as approved by the Borough in conjunction with the utility owner.
- C. Electric lines and conduits shall be a minimum of twenty-four (24) inches below grade or as approved by the Borough in conjunction with the utility owner.
- D. Telecommunication lines and conduits shall be a minimum of thirty-six (36) inches below grade or as approved by the Borough in conjunction with the utility owner.

XXXI. ADDITIONAL UTILITY PLACEMENT PROVISIONS

Aerial installations of electric power transmissions and telecommunications lines suspended from supporting poles having their base and/or support wires within the public right-of-way and interfering with a roadway construction, reconstruction or repair project shall be located upon written order from the County Zoning Officer or Street Department to a point specified therein. The Borough Engineer may require the utility to place its aerial facilities underground where it is deemed necessary or desirable.

Hereafter, aerial installations shall be placed subject to approval by the Borough Engineer. The Borough Engineer shall assign horizontal corridors on a case-by-case basis for all new construction. All gate boxes, shutoff valves and other regulating devices underground for individual customers for gas, water, steam, electric and

telecommunications lines shall be located inside the inner line of the curbstone or, in the case where no curbing exists, to a point specified by the Engineer or his agent.

XXXII. BOROUGH RESPONSIBILITY IN UTILITY RELOCATION

- A. An existing utility right-of-way is owned by the utility and interferes with a municipal construction project.
- B. Utility relocation may be necessary for the installation, maintenance or repair of municipally owned or operated utility systems, such as the municipal sewer systems, or where the installation or modification of a municipally owned or operated utility is a part of a roadway construction project.

XXXIII. UTILITY RELOCATION PROCEDURES

- A. Upon receipt of a letter from the Street Commissioner or Municipal Engineer authorizing the start of physical work, the utility shall commence work within thirty (30) days unless otherwise stated by Street Commissioner or designated testing/inspection agency with reasonable cause shown in order to clear the construction area. The utility shall perform the relocation work in accordance with the approved plan of the Engineer. The utility shall ensure compliance with the provisions of all relevant local, state and federal acts, rules and regulations.
- B. Utility relocation shall be accomplished by the utility to assure its completion prior to the commencement of roadway construction. Areas of utility shall relocation of work, which cannot be accomplished prior to the state of construction but can be accomplished simultaneously without restriction the roadway project contractor, may be done concurrently with the contractor's operations when approved by The Engineer and the municipality's contractor.
- C. It is acknowledged that field conditions occasionally necessitate revision of the utility relocation plan. It shall be the responsibility of the utility to report and justify such revisions and to correct and data on file with the Engineer. The utilities are required to obtain the contractor's concurrence prior to such revisions within the right-of-way of the project under construction. Minor modifications of the relocation plan may be made without prior approval of the Engineer. All such changes shall be brought to the attention of the project engineer and shall be noted in the daily inspection report.

XXXIV. AUTHORIZATION OF MUNICIPAL ENGINEER AND MUNICIPAL STREET DEPARTMENT

The Council provides by this Article that the responsibility and authority for the administration and enforcement of this Article shall rest in the office of the Municipal Engineer and/or Municipal Street Department.

XXXV. DESIGNATION OF REPRESENTATIVES

The Engineer may appoint as his representative persons to enforce this Article. These

agents shall have the authority and responsibility for the enforcement of this Article as vested in the Engineer.

XXXVI. ACTIONS UPON NONCOMPLIANCE

When work performed by a utility or contractor under this Article is found in violation of the same, the contractor or utility may be given the opportunity to make corrections as required by the municipality. If the corrections are not completed in the specified time or not completed as specified, the Borough may suspend all work, whether completed or in progress, in noncompliance with this Article and take appropriate safety precautions. All work performed or contracted by the Borough to attain compliance in this regard shall be billed to the utility or contractor, plus a twenty-percent (20%) penalty. In addition, a penalty for noncompliance shall be imposed.

XXXVII. RESUMPTION OF SUSPENDED WORK

The utility shall actively resume work upon order from the Borough after suspension. Debarred contractors shall not perform any work in the Borough.

XXXVIII. PROVISION FOR PENALTY

If the utility or contractor fails to make adequate corrections to work found in noncompliance with this Article in the time specified, a penalty shall be imposed until said corrections are completed to specifications.

XXXIX. NONCOMPLIANT CONTRACTORS' REFUSAL TO ISSUE PERMITS

- A. The Borough reserves the right to bar any contractor or his employee from working within the municipal limits whose work is found in noncompliance with this Article. The Borough reserves the right to refuse issuance of a permit to any applicant who fails to maintain pave cuts in accordance with this Article or who failed to pay sums due to the Borough within thirty (30) days from the date of billing.
- B. The Borough reserves the right to refuse issuance of a permit to cut new pavement (less than five (5) years in age).

XL. DESIGNATION OF RESPONSIBLE AGENT

Every public utility shall file with the Borough a designation, in writing, of the name and the post office address of a person within the Commonwealth of Pennsylvania upon whom service of any notice, order or process may be made under this Article. Such designation may, from time to time, be changed by like writing, similarly filed.

XLI. GENERAL CONTRACTORS

At the discretion of the municipality, licensed contractors, other than those under

contract to a utility, may be permitted to make and opening, cut or excavation in the municipality's public streets. Sections pertaining to public utilities shall be applicable to licensed contractors. (See Fee Schedule)

XLII. EFFECT ON EXISTING CONTRACTS AND OBLIGATIONS

All litigation, hearings, investigations and other proceedings whatsoever pending under act and repealed by this Article, shall continue to remain in full provisions of this Article. All orders, rules or regulations Issued or filed under any act repealed by this Article, and in full force and effect for the term issued or until revoked, vacated or modified under the provisions of this Article. All existing contracts and obligations entered into or created under any act repealed by this Article, and in force and effect upon the effective date of this Article, shall remain in full force and effect, except for any matters relating to future fees for permits and permanent pavement restoration fees, which shall be governed by those fees set forth in this Article.

XLIII. EFFECT ON REPEALED LAWS

The repeal by this Article of any other act shall not revive any law heretofore repealed or superseded and shall not impair or affect any act done, offense committed or liability, penalty, judgment or punishment incurred prior to the time this Article takes effect, but the same may be enforced, prosecuted or inflicted as fully and to the same extent as if this Article had not been passed.

XLIV. ACKNOWLEDGMENT OF GUILT; VIOLATIONS AND PENALTIES; CIVIL ACTION

- A. Acknowledgment of guilt. Any person charged with violating any provision of this Article may sign an acknowledgment of the offense committed, either before or after the beginning of suit, and pay to any duly authorized agent of the borough the maximum penalties provided by Jermyn Borough Council, together with costs accruing to that date. Such person shall receive a printed receipt therefore, which shall bear the imprint of the Seal of the borough and the signature of its President, which shall be evidence of full satisfaction of the offense committed.
- B. Penalties. Any person, firm or corporation who shall violate and provision of this Article shall, upon conviction thereof, be sentenced to pay a fine and/or penalty of not more than six hundred dollars (\$600) plus cost, or, in default of payment of such fine and costs, shall be subject to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Article continues shall constitute a separate offense.
- C. Civil action. In addition to the foregoing, said borough may pursue such other and additional remedies as may be authorized by law.

XLV. SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provision, sentences, clauses, or sections of the Ordinance. It is hereby declared to be the intent of the Council of the Borough of Carbondale that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

XLVI. REPEALER

Any Ordinance conflicting with this Ordinance shall be and the same is hereby repealed insofar as the same affects this Ordinance.

XLVII. FEE SCHEDULE

The Borough shall set fees by Resolution on a yearly basis.

XLVIII. EFFECTIVE DATE

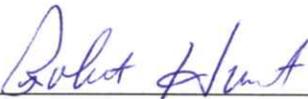
This Ordinance shall become effective immediately upon enactment.

ENACTED AND ORDAINED THIS 15th DAY OF February, 2024.

ATTEST:

BOROUGH COUNCIL OF THE
BOROUGH OF JERMYN

 (SEAL)
SHANNON LEE
Borough Secretary

BY: 
ROBERT HUNT
President

APPROVED THIS 15th DAY OF February, 2024.


ANTHONY FUGA
Mayor, Borough of Jermyrn

