

BOROUGH OF LIGONIER
WESTMORELAND COUNTY,
PENNSYLVANIA
ORDINANCE NO. 572

AN ORDINANCE OF THE BOROUGH OF LIGONIER, WESTMORELAND COUNTY, PENNSYLVANIA, PROVIDING THAT NO ROADS OF THE BOROUGH OF LIGONIER BE OPENED OR CUT BY ANY PERSON, FIRM, CORPORATION, OR UTILITY WITHOUT FIRST SECURING A PERMIT IN ACCORDANCE WITH ORDINANCE AND REGULATIONS PURSUANT THERETO; PROVIDING FOR THE RESTORATION OF BOROUGH ROADWAYS WHEN OPENED; PROVIDING FOR CONSTRUCTION OF AND MODIFICATION OF DRIVEWAYS ENTERING BOROUGH ROADS; PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Borough of Ligonier ("Borough") expends significant tax payer funds in order to construct, repair, rehabilitate, pave and otherwise maintain Borough roads; and

WHEREAS, the Borough's roads are opened or cut by other entities to lay pipes, utility lines or other types work; and

WHEREAS, when the Borough roads are opened or cut, the structure and integrity of the roadways are compromised causing roadways to be uneven, pavement to be broken and travel over said roadways to be difficult and/or dangerous to citizens and their vehicles.

WHEREAS, the Borough believes that it necessary to enact rules and regulations in order to protect its Roadways to make sure that those entities working upon, opening and cutting the Borough's roads are required to maintain and restore the Borough's roadways in a manner that protects the integrity of said roadways; and

THEREFORE, IT IS ORDAINED BY THE BOROUGH OF LIGONIER, Westmoreland County, as follows:

SECTION 1. DEFINITIONS

a) BOROUGH: BOROUGH of LIGONIER, in Westmoreland County, Pennsylvania.

b) Driveway: Any private road or means of entry or exit adjacent to or abutting a BOROUGH Road intended or available for access to BOROUGH Road.

c) Plan: A sketch or drawing showing the Work dimensions such as location of facility or intended facility requiring opening or disturbing Road, width of traveled Roadway, right-of-way lines, and dimension to nearest intersecting Road; and where required for purposes of this Ordinance, profile of grades, depths of materials, utility poles, cuts and fills, and obstacles and structures inhibiting observation.

d) Person: Individual, partnership, corporation, Municipal Corporation, or authority, or any utility public or private or any other business entity.

e) Permitee: Person who makes application for permit from BOROUGH and who is responsible for compliance with the provisions of this Ordinance.

f) Road or Roadways: Any road, street, alley or way accepted by BOROUGH.

g) Work: Opening, constructing, tunneling, cutting, excavating, disturbing, altering, or modifying a BOROUGH Road.

SECTION 2. PERMIT REQUIRED TO OPEN, CUT OR OCCUPY BOROUGH ROAD

a) No roadway owned or maintained by BOROUGH shall be opened, cut or disturbed for any purpose except under such conditions, restrictions, and regulations relating to the installation and conditions, restrictions, and regulations relating to the opening and disturbing of BOROUGH roadways as may be prescribed in Road Cutting/Occupancy Permits granted by the BOROUGH for such purpose.

b) The application for a Permit shall be on a form prescribed by the BOROUGH, and shall be accompanied by:

1) A fee in accordance with the Schedule of Fees for Road Opening/Cutting/Occupancy Permits passed by Resolution of the Borough;

2) Two (2) copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled Roadway, right-of-way lines and the distance to the nearest intersecting public street, road or highway; and

3) The Restoration and Maintenance Security required under Section 3 herein.

c) A Permit shall be issued to the applicant after all the aforementioned requirements have been filed and reviewed by the BOROUGH and/or its agents. The BOROUGH may provide reasonable time limitations on the time frame for the Work to be completed. If a time limitation is provided, the Permit shall state the date in which the Permit shall expire.

d) Commencement of Work authorized by the Permit shall begin within ten (10) days of the issuance of the Permit. Failure to commence work shall result in automatic termination unless the BOROUGH (Public Works Director, Codes Officer, BOROUGH Engineer, etc.) has approved an extension.

e) Upon completion of the Work, the applicant shall give notice thereof to the BOROUGH.

f) Upon completion of the Work authorized by the Permit, the BOROUGH (Public Works Director, Codes Officer, BOROUGH Engineer, etc.) shall inspect the Work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the Permit and this Ordinance. Where any defect in the Work occurs and applicant fails to rectify the defect within thirty (30) days after notice from the BOROUGH, the Borough may take action pursuant to Section 3(d) of this Ordinance.

g) The BOROUGH may revoke any Permit issued for violating any provision of this Ordinance or causing/creating any condition constituting a nuisance or endangering life or property.

SECTION 3. RESTORATION AND MAINTENANCE SECURITY

Any person seeking a Permit to do Work on a Road shall provide Restoration and Maintenance Security pursuant to the following standards and rules:

- a) The amount of security shall be determined by the BOROUGH with said amount to reasonably assure restoration and/or maintenance of the affected areas of Roads
- b) The security shall be held by the BOROUGH for a period of twenty-four (24) months from the date of completion of the Work and/or restoration in the event that there is a failure of the Work and/or restoration performed by permittee.
- c) The security shall be submitted in the name of the BOROUGH in the form of cash, irrevocable letter of credit issued by a bank maintaining an office in the Commonwealth of Pennsylvania, or surety bond issued by a corporation duly registered as a surety company in good standing with the Pennsylvania Insurance Department, all such instruments to be in form and substance acceptable to BOROUGH.
- d) The security, if cash, shall be held by the BOROUGH in a non-interest-bearing escrow bank account, and shall be returned to the permittee twenty-four (24) months following the restoration and maintenance obligations as set forth above without interest.
- e) The BOROUGH shall have the power to forfeit or otherwise seize and use the Restoration and Maintenance Security upon a reasonable determination that permittee's has defaulted on its obligation to maintain and/or restore a Borough Roadway. BOROUGH shall also have authority to reduce the amount of security if it deems appropriate.
- f) The BOROUGH shall have the authority to waive or modify the posting requirements of Restoration and Maintenance Security hereunder where adequate provisions have otherwise been made for restoration and maintenance of the Work area.
 - Bond will only apply to large projects or Contracted Services for large projects.
 - A (2) Two year warranty will apply to all excavations performed on Primary Roadways.
 - A (1) One year warranty will apply to all excavations performed on Secondary Roadways.
 - See attachment map of Primary Roadways.

SECTION 4. CUTTING OR OPENING ACROSS ROADWAY

- a) Opening, cutting or trenching shall not be permitted across the improved area of a Road unless authorized by the Permit. No work shall be performed in excess than that specified in the Permit.
- b) Opening, cutting or trenching across the improved area of a Road may be authorized by the Permit where drilling, boring, driving or tunneling are not feasible because:
 - (1) The subsurface is solid rock.
 - (2) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching; or

(3) Adjacent development in a very congested urban area that makes the construction of a tunneling or boring shaft impossible.

c) No openings for the purpose of placing pipe lines or other structure under the improved surface of the road or highway by drilling, boring, driving or tunneling shall be made closer than three (3) feet to the edge of the road pavement, and trenches for conduits, water, steam, oil, gas pipes, sewers and other obstructions placed parallel with the road or highway shall be dug so that the near edge of the trench is at least three (3) feet outside of the edge of the road pavement with a minimum depth of three (3) feet below the surface of the road or highway, unless otherwise authorized in writing by the BOROUGH. A greater distance shall be used wherever practicable.

d) Any trench or opening shall not be opened a distance of more than 50 feet at any one time. At no time will the permittee be permitted to leave more than 50 feet of trench open at the end of a work day.

e) Where a tile drain or other structure of facility is encountered by permittee when performing its Work, it shall be replaced by the permittee in a manner satisfactory to the BOROUGH.

SECTION 5. TEMPORARY RESTORATION

a) Cold or hot (Super Pave, ID-2, or other as approved) mix shall be installed after work is performed in Roadway and berm. Compacted thickness shall be minimum two inches.

b) Maintain temporary paving in a condition satisfactory to the BOROUGH.

c) Thirty (30) days after substantial completion of Work, permanent restoration must be completed as set forth in this Ordinance.

SECTION 6. PERMANENT RESTORATION

a) Any person cutting, opening, trenching or otherwise modifying any Road shall comply with the requirements of this Ordinance.

b) Where an improved surface is disturbed, the excavation or opening shall be made by a clean cut with a diamond wheel or similar instrument. Openings shall be saw cut back twelve (12) inches from the limit of the opening or trench.

c) Any person opening or disturbing any Road shall backfill any resulting excavation with Type 2A aggregate as specified in the Pennsylvania Department of Transportation Publication 408, Section 703 (2) (c) – Table C. Backfill shall be limestone. Compaction of the aggregate shall be in lifts of no more than four (4) inches. Backfill shall be placed and graded to within six and one-half (6½) inches of the existing road grade.

d) Five (5) inches of Super Pave asphalt mixture Base Course shall be placed over the backfill in accordance with the Pennsylvania Department of Transportation Publication 408, Section 305, and shall conform to the most recent calculation methodology available from Penn DOT. Unless otherwise directed, the design shall be HMA Base Course, PG 64-22, 0.3 to <3.0 million ESALS, 25 mm mix, SRL-G.

e) One and one-half (1-1/2) inches of Super Pave asphalt mixture Wearing Course shall be placed over the Base Course (see b above) in accordance with the Pennsylvania Department of Transportation Publication 408, Section 421, and shall conform to the most recent calculation methodology available from Penn DOT. Unless otherwise directed, the design shall be HMA Wearing Course, PG 64-22, 0.3 to <3.0 million ESALS, 9.5 mm mix, SRL-G.

f) The joints at all Road openings shall be cleaned and sealed in accordance with the Pennsylvania Department of Transportation Publication 408, Section 469. Joint sealer shall be PG 64-22, or approved equal.

g) Where a road cut or opening occurs in a single lane of travel of a BOROUGH Roadway, the permanent restoration of the road cut or opening shall include the milling and overlay (Wearing Course) from curb to the middle of the Roadway.

h) Where a road cut or opening occurs in the middle of the Roadway or within both lanes of travel, the permanent restoration of the road cut or opening shall require the milling and overlay (Wearing Course) from curb to curb or full roadway width.

i) The BOROUGH may attach to this Ordinance, as an Appendix, technical drawings or sketches which provide guidance on the restoration and/or construction requirements of BOROUGH Roadways.

j) Concrete curbs, gutters, sidewalks or other facilities must be replaced with 4000 PSI Concrete matching the type, color and texture of adjacent surfaces.

SECTION 7. MULTIPLE ROAD CUTS

a) For a Roadway surface that has **NOT** been resurfaced within the past (5) five years and a permittee causes Five (5) or more cuts, openings or modifications in said Roadway within 150 feet of one another, depending on the location of the excavation within the roadway the permittee may be required to mill and overlay the entire section of roadway between all openings either from curb to curb or curb to centerline of the roadway.

b) For a Roadway that **HAS** been resurfaced within the past (5) five years and a permittee causes three (3) more cuts, openings or disturbances in said roadway within 150 feet of one another, depending on the location of the excavation within the roadway the permittee may be required to mill and overlay the entire section of roadway between all openings either from curb to curb, or curb to centerline of the roadway.

- Ligonier Borough reserves the right to waive or amend sections of this ordinance based upon future Borough roadway plans.

SECTION 8. EQUIPMENT DAMAGING ROADWAY

a) To protect the pavement and shoulders of existing Road surface, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

b) In the event that other than rubber-equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four (4) inches, unless the permit requires the permittee to repave the roadway full width.

c) If the equipment damages the pavement or shoulders of the Roadway, the permittee shall restore the pavement or shoulders to their former condition, at the permittee's expense.

SECTION 9. TRAFFIC PROTECTION AND MAINTENANCE

a) Maintenance and protection of traffic during Work shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.

b) The permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the PA DOT District Office. A traffic control plan shall be submitted to and approved by the BOROUGH and BOROUGH Engineer before detouring any traffic.

c) Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area. Blinking lights and/or barricades shall be used for overnight protection of area.

d) Designated employees shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 43 and Publication No. 90.

SECTION 10. APPROVAL BY BOROUGH

Approval by the BOROUGH of all or part of any permitted Work shall not constitute acknowledgment that the Work was performed in accordance with the Permit, nor shall such approval act as a release of the permittee or waiver by the BOROUGH of its right to seek performance or restitution from the permittee.

SECTION 11. BOROUGH STANDARDS

Work is to conform to BOROUGH standards. The Work shall be done at such time and in such manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the BOROUGH. If at any time it shall be found by the BOROUGH that the Work is not being done or has not been performed properly, the permittee, upon being notified by the BOROUGH, shall immediately take the necessary steps, at its own expense, to place the Work in a condition to conform to such requirements or standards. If any dispute arises between the permittee and the Borough's inspector/agent, the Borough's agent or inspector shall have the authority to suspend Work until the question at issue can be referred to and be decided by the BOROUGH.

SECTION 12. TEMPORARY DRIVEWAYS

Whenever a construction or demolition operation requires the movement of a vehicle from the property during the construction period, it shall be the responsibility of the permittee to install and maintain a stone-based driveway on the premises so as to prevent the tracking of mud and other debris onto the public Roadway. In the event that mud or other debris is transmitted onto the Roadway, it shall be the responsibility of the permittee to remove said mud and debris immediately from said Roadway.

SECTION 13. DRIVEWAYS

- a) No person shall construct, improve, modify or alter in any way a driveway, in the area where said driveway enters a BOROUGH Road, without first obtaining a Road Occupancy Permit and complying with this Ordinance and regulations issued hereunder. Adding gravel to an existing gravel driveway does not require a permit.
- b) Any driveway presently constructed or constructed hereunder shall be maintained in compliance with this Ordinance and regulations issued hereunder.
- c) Application for Road Occupancy Permit for driveway work shall be by owner or person with legal interest in property and authority to so apply, to BOROUGH accompanied by plans and fees as set forth by the Schedule of Fees for Road Occupancy Permits.
- d) At point of entry of driveway into Road right-of-way and paved or improved portion thereof, the surface and grade of Road shall not be altered; no material of any kind, temporary or permanent, shall be placed within the improved portion of the Road or gutter where the paved or improved area meets the berm; and the work shall not interfere with maintenance, snowplowing and drainage.
- e) Within twenty (20) days after submission of an application for Road Occupancy Permit for driveway, the BOROUGH shall approve or disapprove with reasons and send by certified mail notice of action to applicant. Upon approval, notice shall be given by applicant as set forth above and Road master or other agent of the BOROUGH shall inspect work to ensure compliance with approved application, entering approval of work on both Borough's copy and applicant's copy, if available.
- f.) Construction of a driveway of gravel, paver brick, decorative concrete or other decorative stone that is within five (5) feet of the paved cart way shall be prohibited. It shall be required that the five-foot area within which no paver brick, concrete or other decorative stone be installed and be paved with macadam, or plain concrete. Where sidewalks are not present the distance will be a minimum of five (5) feet. Where sidewalks are present, the material must be concrete and the distance may vary depending on the location of sidewalks in the specific area and will be set in each instance at the discretion of the BOROUGH.

SECTION 15. PENALTIES & REMEDIES

- a) Any person who shall violate any provision of this Ordinance shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine not exceeding \$1,000.00 for each violation, together with costs of prosecution in each case. Upon judgment against any person by summary conviction or proceedings by summons, on default of payment of fine or penalty imposed and costs, defendant may be sentenced and committed to the County Prison for a period not exceeding thirty (30) days.
- b) In addition to the above penalty, any person violating any provision of this Ordinance may be enjoined by civil proceedings.

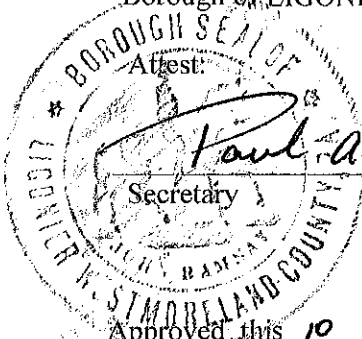
SECTION 16. SEVERABILITY

- a) If any sentence, clause, section or part 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 provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such

unconstitutional, illegal or invalid sentence, clause, section or part thereof had not been included herein.

b) Any Ordinance or part of Ordinance inconsistent herewith is hereby repealed insofar as it is inconsistent herewith.

ORDAINED AND ENACTED this 10 day of JANUARY, 2019, by Council of the Borough of LIGONIER and effective immediately upon the passing and execution of all signatures.



Attest:

Ligonier Borough

Paul A. Fry
Secretary

Joe P. McClain
Council President

Approved this 10 day of JANUARY, 20189

Ormond K. Bellas
Mayor

Appendix A

Examples of Road Openings or Cuts

