

BOROUGH OF COKEBURG
WASHINGTON COUNTY, PENNSYLVANIA

ORDINANCE NO. 221

**AN ORDINANCE OF THE BOROUGH OF COKEBURG, WASHINGTON
COUNTY, PENNSYLVANIA, SETTING PERMITTING AND RESTORATION
REQUIREMENTS ON EXCAVATIONS IN THE STREETS
AND ROADWAYS OF THE BOROUGH**

BE IT ORDAINED AND ENACTED, by the Council of the Borough of Cokeburg, Washington County, Pennsylvania, as follows:

ARTICLE I

Street Excavations

§ 1. Definitions; word usage.

A. The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

PERSON — Any natural person, partnership, firm, association or corporation.

SIDEWALK — Any sidewalk, walkway, paved walk or other place for pedestrian travel adjacent to any roadway in the Borough of Cokeburg.

STREET — Any right-of-way line to right-of-way line in any public street, avenue, road, square, alley, way, highway or other public place located in the Borough of Cokeburg and established for the use of vehicles.

B. In this article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 2. Location of excavations.

It shall be unlawful for any person to open, to dig or to make any excavation of any kind or type in any right-of-way line to right-of-way line in any street or sidewalk in the Borough of Cokeburg, except in and upon those portions thereof established for the use of vehicles and as walkways.

§ 3. Permit required.

Except in cases of an emergency, it shall be unlawful for any person to open, to dig or to make any excavation of any kind or type in any street or sidewalk in the Borough of Cokeburg without first securing a permit therefor, as hereinafter provided.

§ 4. Application for permit; permit conditions.

A. Any person who shall desire to make any opening or excavation in any street or sidewalk in the Borough of Cokeburg shall first make application to the Borough Secretary, in writing, for said purpose. Such application shall be made on forms to be furnished by the Borough and shall set forth the name and address of the applicant, the location of the proposed opening or excavation and the approximate length, width and depth thereof and such other information as the Borough Council shall require and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough of Cokeburg and the laws of the Commonwealth of Pennsylvania in relation thereto and that the applicant shall well and truly save, defend and keep or save harmless the Borough of Cokeburg from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation 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 relating thereto.

B. The applicant shall take out and maintain public liability and property damage insurance in an amount sufficient to indemnify and save harmless the Borough of Cokeburg from all liability for damages or injury done to persons and property which may be incurred by reason of such opening or any failure to properly protect, maintain, barricade, light, backfill and/or otherwise properly affect the same. The insurance shall not be in an amount less than \$25,000 for injury to persons and \$10,000 for injury to property. The Borough Council shall set the amount of insurance

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§ 5. Permit fees.

The permit fee shall be in an amount of \$2500.00 or as set forth from time to time by resolution of the Borough Council to cover the cost of inspection and other incidental services in connection therewith. In the event that the permit holder completes his work under the provisions of this article to the satisfaction of the Borough Street Maintenance Committee and Department, he or it shall receive a refund in an amount equal to the balance of the permit fee less any documented inspection fees paid to inspectors or the wages paid to borough employees for their time in inspecting or overseeing the permitted project. Or as set forth from time to time by resolution of the Borough Council out of the aforesaid permit fee.

The Borough may charge (against the amount to be refunded) an additional inspection fee in an amount as set forth from time to time by resolution of the Borough Council for each extra inspection beyond two return inspections. The Borough shall hold the balance of the permit fee for a period of up to 12 months after the completion of

the work as a security deposit for any defect which may arise from defective backfilling and surfacing.

§ 6. Restoration of disturbed surfaces.

A. Every person who shall open or excavate any improved street or sidewalk in the Borough shall thoroughly and completely refill the opening or excavation with granulated slag or equivalent so as to prevent any settling thereafter and shall restore the surface to the same condition as it was before the opening or excavation. Such restoration shall be in accordance with the specifications of the Pennsylvania Department of Transportation, which are hereby adopted as specifications of the Borough for restoration of surfaces of street and sidewalks in the Borough. As restored the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If, within two years after the restoration of the surface, as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall redo the work within the period of time set by the Borough Manager or reimburse the Borough for the cost of all necessary repairs to the permanent paving.

B. Old fill, soil, broken pavement, stones, roots and any other material or debris shall not be used in the aforesaid backfill.

C. It shall be a condition of the opening permit that all material excavated from said opening shall be removed from the site and replaced by all new granulated slag or the equivalent as above described.

§ 7. Supervision of work; costs.

All other work in connection with openings in any street or sidewalk, including excavation, protection, refilling and temporary paving, shall be done by the permit holder at his expense, and all such work shall be subject to the provisions of this article and to the supervision and approval of the Borough Street Committee or Department, provided that the Borough Council or Engineer may require that cutting of the surface of improved streets or sidewalks and the backfilling of all excavations therein shall be done by the Borough, and the charge therefor shall be paid by the permit holder on the basis of actual costs of the work plus 10%.

§ 8. Excavation regulations; manner of doing work.

A. No opening or excavation in any street shall extend from the curblin into the highway a distance greater than one foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.

B. No more than 500 longitudinal feet shall be opened in any street at any one time.

C. The work of excavation shall be conducted so as not to interfere with access to fire hydrants, fire stations, water mains, sewers or their connections with the house or any other subsurface lines or constructions until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.

D. No tunneling shall be allowed without the express approval of the Borough Engineer and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough Engineer or inspector designated by him and shall be done only in a method approved by him.

E. All openings or excavations shall be backfilled promptly with suitable materials and thoroughly compacted in layers, each of which shall not exceed six inches in depth. On improved streets, the backfilling shall be placed to within 10 inches of the surface and in compliance with § 6 of this article.

F. On unimproved streets, a temporary paving of suitable stony materials, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving.

G. During the making of any excavation in any street or sidewalk, every necessary and reasonable precaution shall be taken by the permit holder and the parties making the same to keep the street or sidewalk in a safe and passable condition both by day and night by guards, barriers, lanterns and other devices, and all excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages or otherwise whatsoever which may or shall be occasioned at any time by said excavation or by any leak, explosion or other injury from any pipe, apparatus, conduit or any other matter placed in said excavation.

H. The permit holder shall notify the Borough Engineer or Inspector when the opening or excavation is ready and the backfilling is to be done and when the work is completed by proper backfilling in the case of unimproved streets and by temporary paving in the case of improved streets and sidewalks. If there is to be more than one opening in a small area of the street, the Borough Engineer may require the permittee to provide a new surface or restoration to encompass as one all the small openings by one patching or repaving and/or in addition require the full width of said street to be repaved.

I. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough Engineer or Inspector, be unsatisfactory and the same shall not be correct in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed with the time fixed by the Borough Engineer or Inspector, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof, plus 10%, to the permit holder.

J. The permit holder shall, at all times and at his or its own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. The permit holder shall, at his or its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damages to public or private property or streets or sidewalks resulting from his or its failure to properly protect and carry out said work. Whenever it may be necessary for the permit holder to trench through any lawn area, said area shall be reseeded or the sod shall be carefully cut and rolled and replaced with said cut sod or new sod after ditches have been backfilled as required by this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began shall replace any trees or shrubs removed from said area at his or its cost and expense.

K. As the excavation work progresses, all streets or sidewalks shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permit holder and shall be completed to the satisfaction of the Borough Street Department. From time to time, as may be ordered by the Mayor, Council or Street Department, and in any event immediately after completion of said work, the permit holder shall, at his or its expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the Mayor, Council or Street Department, said work may be done by the Borough Street Department, and the permit holder shall be liable to the Borough for the cost thereof, plus 10%.

L. Completion of work.

(1) After any excavation is commenced, the permit holder shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street or sidewalk to its original condition or as near as may be so as not to obstruct the public place or travel thereon more than is reasonably necessary.

(2) In the event the permit holder fails to prosecute with diligence and expedition all excavation work covered by the excavation permit, the permit holder shall complete said work within 72

hours from the time he or it receives written notice from the Engineer or Street Department to complete said work. In the event that the permit holder fails to comply with the Borough Engineer or Street Department's written notice to complete said work within the time specified in said written notice, the Borough Street Department may complete said work and the permit holder shall be liable to the Borough for the cost thereof, plus 10%.

(3) A temporary or cold patch of suitable material may not be permitted beyond 30 days from the original excavation.

M. The permit holder shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience or annoyance to the general public and occupants of neighboring property. The permit holder shall take appropriate measures to reduce the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except in case of emergency, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

N. Only that material excavated which is suitable for backfilling unimproved streets or sidewalks shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets or sidewalk and so that as little inconvenience as possible is caused to those using the street, sidewalk and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow street, the Borough Street Department shall have the authority to require that the permit holder haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling. It shall be the permit holders' responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites. All suitable material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic or as specified by the Borough Street Department. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Borough Manager to prevent the spreading of dirt into traffic lanes.

O. Any monument set for the purpose of location or preserving the lines of any street or sidewalk or property subdivision or a precise survey reference point or a permanent survey bench mark within the Borough of Cokeburg shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission, in writing, from the Borough Council or Engineer to do so. Permission to remove or disturb such monuments, reference points or bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of this monument, reference point or bench mark by the Borough.

§ 9. Emergencies; excavations prior to permit application.

In case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be unlawful for the property owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition without first securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all provisions of this article are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction or apparatus, the Borough Engineer and Street Department, after such notice as they shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency and charge the same on the basis of cost, plus 10%,

§ 10. Notice of proposed excavation.

The Borough Council shall give timely notice to all persons owning property abutting on any street or sidewalk within the Borough about to be paved or improved and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto, which would necessitate excavation of said street or sidewalk within 60 days from the giving of such notice, unless such time is extended, in writing, for cause shown by the Borough Engineer.

New paving shall not be opened for a period of five years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening of such paving to be determined by the Borough Engineer. If it is desired to excavate upon or open a street within five years after the completion of the paving thereof for any other reason than an emergency above stated, the applicant shall make written application to the Borough Council, and a permit for such opening shall only be issued after express approval of the Council. In such a case the council may require an addition fee, in an amount as set forth from time to time by resolution of the Borough Council, which only an amount as set forth from time to time by resolution of the Borough Council.

§ 11. Water and gas mains.

A. No new water or gas mains shall hereafter be laid or constructed and no existing water or gas mains shall be extended in any of the streets of the Borough until the location thereto and the plan therefor shall have been first approved by the Borough Council.

§ 12. Payment for work done by Borough.

Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within 30 days after a bill therefor is sent to such person by the Borough. Upon failure to pay such charges within such time, the

same shall be collectible by the Borough in the manner provided by law for the collection of municipal claims.

§ 13. Liability.

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

§ 14. Records; rules and regulations

A. Every public utility, after the enactment of this article, shall maintain adequate records of its underground facilities, except relatively minor facilities which connect a particular premise or building to a facility serving more than one premise or building and except oil or gas gathering or field lines. Said utility company must file with the Borough three copies of a survey showing the new line as-built.

B. Further, the Borough Council may make changes, change fees and set new rules and regulations concerning all aspects of this article by adopting such rules and regulations at a regular Council meeting with said effective date after 10 days of posting said changes on the Borough bulletin board and/or in the Borough Post Office.

C. Said rules and regulations may be changed each year at the time of adoption of the Borough budget and passage of the tax ordinance for the subsequent year. The fees provided for herein under this chapter and Chapter 68, Amusement Devices, may also be changed from year to year by the same method.

§ 149-15. Authority.

The Borough Manager shall make such inspections as are reasonably necessary in the enforcement of this article. The Mayor shall have the authority to promulgate and cause to be enforced and carry out the intent of this article.

§ 149-16. Violations and penalties.

Any person, whether as principal agent or employee, violating or assisting in the violation of any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500 nor less than \$100, plus the costs, and/or to undergo imprisonment for not more than 90 days. Each violation of any provision of this article and each day the same is continued shall be deemed to constitute a separate offense. All fines shall be made payable to the Borough of Cokeburg

This Ordinance shall be in full force and effect from the date of its adoption by the
Cokeburg Borough Council and upon publication as provided by law.

Adopted this 11th day of AUGUST, 2021.

ATTEST:

COUNCIL OF THE BOROUGH OF COKEBURG

Deborah Norquist By: Harry Dutton Shantz
Borough of Cokeburg Secretary Council President

Examined and APPROVED, this 11 day of August, ~~2020~~ 2021

ATTEST:

Deborah Norquist Carol Savare
Borough of Cokeburg Secretary Mayor