

STREET AND SIDEWALK ORDINANCE

ORDINANCE NO 2-2017

MUNICIPALITY OF  
HAWLEY

WAYNE COUNTY, PENNSYLVANIA

## STREETS AND SIDEWALKS

### **Article I: Definitions**

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 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 Engineer or their representatives or agents.

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

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 municipality and constituting a receipt for services performed by the municipality.

ADJACENT AREA - The area surrounding the immediate area of the permitted work which can reasonably be assumed to have been affected by the permitted work.

BACKFILL - Material used to replace or the act of replacing material removed during construction.

BASE COURSE - The layer or layers of specified or selected material or designed thickness placed on a subbase or a subgrade to support a surface course.

BOROUGH - The Borough of Hawley, Wayne County, Pennsylvania, a Pennsylvania municipal corporation, acting by and through its Council.

CAPITAL IMPROVEMENT - Preplanned to improve or upgrade an existing system or to install a completely new system providing new or additional service.

EMERGENCY REPAIR - Repair to a utility undertaken under to repair damage resulting from a vehicle accident or collision with the facility, a failed component or storm damage. The term does not include service connections or disconnections unrelated to vehicle accident, a failed component or storm damage.

EQUIPMENT - Machinery and equipment, together with the necessary supplies for upkeep and maintenance, and tools and apparatus necessary for the proper construction and completion of the work.

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.

**FLEXIBLE BASE PAVEMENT** - A pavement structure which maintains intimate contact with and distributes loads to the subgrade and depends on aggregate interlock, particle friction and cohesion for stability.

**IMPROVED AREA** - The area within the right-of-way which has been constructed for roadway purposes, including roadbed, pavement, shoulders, slope, sidewalks, drainage facilities and other appurtenances.

**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.

**INSPECTOR** - The Permittee's authorized representative assigned to inspect permit operations.

**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 Hawley.

**PAVEMENT** - The combination of subbase, base course and surface course placed on subgrade to support the traffic load or distribute it to the roadbed, or both. The term normally includes the traveled portion of the street and extends to the face of the curb in curbed sections. The term does not include shoulders.

**PERMIT** - A street or highway occupancy permit issued by the Borough of Hawley under these regulations.

**PERSON** - A natural person, firm, copartnership, association, corporation, authority or political subdivision.

**PLANS** - Drawings which show the location, character and dimensions of the proposed occupancy and related roadway features, including layouts, profiles, cross sections and other details.

**PUBLIC UTILITY:**

- (1) Persons or corporations now or hereafter owning or operating in this commonwealth equipment or facilities for :
  - (a) 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.
  - (b) Diverting, developing, pumping impounding, distributing or furnishing water to or for the public for compensation.
  - (c) Conveying or transmitting television or radio signals by cable to the public for compensation.
  - (d) Sewage collection, treatment or disposal for the public for compensation

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

**RIGHT-OF-WAY** - The area which has been acquired by the Borough for roadway purposes.

**SEAL COAT** - A thin treatment consisting of bituminous or other approved material, usually covered with aggregate, applied to the surface course.

**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.

**SHOULDER** - The existing improved or graded portion of the roadway, contiguous to the traffic lanes, for accommodation of stopped vehicles, for emergency use or for lateral support to the surface course of pavements.

**STREET** - A roadway or bridge on the system of Borough roadways and bridges, including the entire width between right-of-way lines, over which the Borough has assumed or has been legislatively given jurisdiction.

**SUBBASE** - The layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

**SUBGRADE** - The top surface of a roadbed upon which the pavement structure and shoulders, including curbs, are constructed.

**SUITABLE MATERIAL** - Soil, granular material or shale meeting the specifications in the Pennsylvania Department of Transportation Specifications, Publication 408 (latest edition), in Section 206.2 when placed and compacted under Section 459.8(g) of said publication.

**SUPPLEMENT** - An amendment to a permit issued, in writing, by the Borough.

**SURFACE COURSE** - One or more layers of pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion and the disintegrating effects of climate. The top layer is sometimes called the "Wearing course."

**UTILITY** - A person owning a utility facility, including any wholly owned or controlled subsidiary.

**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.

UTILITY FACILITY or FACILITY - Privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, refined petroleum products, liquefied petroleum gas (LPG), crude products, coal, water, steam, waste, storm water and other similar commodities, including fire and police signaling systems and street lighting systems, which directly or indirectly serve the public or any part thereof.

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.

VEHICLE - Every device which is or may be moved or drawn upon a street or roadway.

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.

## **Article II. Snow and Ice Removal**

Owner to remove snow and ice; violations and penalties.

If any person or persons being the occupant or occupants of any lot, house, store, shop, office or other buildings or if any person being the owner of any unoccupied building or part of a building or lot within the limits of the borough or if any church or religious society, congregation or association or if any corporation occupying any real estate within such limits or owning any unoccupied real estate within such limits shall neglect or refuse to remove the snow and ice from the sidewalks so occupied or owned by him, her, them or it less often than once in every twelve (12) hours, such person or persons, society or congregation, association or corporation so offending shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not less than \$100 nor more than \$500, plus costs of prosecution, and upon failure to pay the fine may be committed to jail for a period not to exceed 30 days, provided that each violation of any one of the provisions of this article shall constitute a separate offense. If any person or persons shall neglect or refuse to perform his, her or their duties under this article, the District Justice may cause such walks to be cleared of ice and snow and collect the total costs thereof, in the name of the borough, from the owner or occupant of said property for the services rendered, provided that the above regulations shall not apply between the hours from 6:00 p.m. to 6:00 a.m.

## **Article II. Use of Streets and Sidewalks by Public Utilities**

### **Permission granted; conditions.**

Permission is hereby granted to any public utility, its successor, assign or lessee to construct, maintain and operate such conduits, ducts, mains, pipes, cables, wires, manholes, terminal poles and all other necessary appliances on, under and across the streets and highways within the Borough of Hawley, as each may require, subject to the following terms and conditions:

A. Construction and maintenance of a utility's appliances shall be subject to the supervision of the Borough of Hawley, and said utility shall replace and properly relay the portion of sidewalk or street pavement which it may displace or damage in said operations.

B. Space on the terminal poles erected and in the conduits constructed under the provisions of this article may be used, free of charge, for the purpose of carrying wires of any fire alarm or police telegraph system owned and maintained by said borough, provided that said wires are placed and maintained in such a manner as may be prescribed by the owner of said pole or conduit and that no use shall be made of such space by the borough which will result in interfering with or impairing of the operation of said owner's property or service or which will endanger its property or employees.

C. Each utility shall maintain all terminal poles, cables, wires, conduits, ducts, mains, pipes, manholes and all other apparatus erected or constructed under the provisions of this article in good and safe order and condition and shall, at all times, fully indemnify, protect and save harmless said borough from and against all actions, claims, suits, damages and charges and against all loss and necessary expenditures arising from the erection, construction and maintenance of said works or from its neglect or failure to maintain said works in good and safe order and condition.

### **Applicability.**

The term "utility" above-mentioned shall include each public utility now or hereinafter operating in said borough and their successors, assigns or lessees.

## **Article III. Excavations**

### **Permit Required:**

Except as provided for in Subsections A through D below, no work may be performed within the right-of-ways of the Borough of Hawley involving the placing of utility facilities or other structures or opening of the surface without first obtaining a permit from the Borough of Hawley.

A. Emergency repairs of utility facilities may be performed by the owner of the utility without first obtaining a permit, provided that an application for a permit, as provided for herein, shall be made no later than three business days following the emergency opening.

B. A permit is not required for modifying parts of existing permitted facilities, such as cable within conduit, cross arms or transformer poles, or manhole riser rings prior to resurfacing if no opening in the surface is required.

C. A permit is not required for stringing overhead utility lines.

D. A permit is not required for accessing an existing utility facility through a manhole.

**Permit Procedure:**

- A. Applications for a pave cut permit shall be available from the Hawley Borough Building, 94 Main Avenue, Hawley, PA 18428. An authorized agent of a utility or contractor may complete said application at the Municipal Building. This shall be done a minimum of Five (5) Business Days in advance of a planned excavation. A copy of the completed application, signed by the Borough, 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 municipality 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 municipality 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.1 Public utilities may be billed for permit fees monthly.
- D. The contractor or utility performing the work must retain the services of a 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: .

<u>INSPECTION TYPE</u>	<u>REQUIRED CERTIFICATIONS</u>
Permanent Backfill	NICET Level I Soils and QC Nuclear 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

E. The applicant shall also deposit, with the Borough, a fee of five (\$5.00) Dollars per square foot of the surface to be opened, which sum shall be returned to the

applicant upon satisfactory completion of the work, as determined by the Borough, less a retention of ten (10%) per cent of the deposit.

F. In lieu of the five (\$5.00) Dollar per square foot deposit, an applicant may take out a performance bond in form and amount satisfactory to the Borough, which bond would guarantee the completion of the project in accordance this Ordinance.

G. 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 Hawley unless and until a permit there for is secured for each separate undertaking. The Borough Roadmaster or authorized designee shall promptly prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit.

### **Application for permit.**

A. Who may execute applications.

(1) If a corporation, authority, political subdivision or other person in the business of providing utility service owns, operates or intends to operate the facility, the application shall be submitted in the name of and executed by the party. An application shall not be submitted in the name of the contractor of the owner or operator, nor in the name of persons only being served by the facility.

(2) In the case of a facility owner who is not in the business of providing utility service, such as a developer whose land is located outside of a utility's service jurisdiction, the application may be made in the name of the developer with the express written acknowledgment of the owner of the utility. The applicant shall indemnify and hold harmless the Borough from any claims by anyone claiming residual property interests in the permitted area.

B. Required application information. A permit application shall be submitted to the office of the Borough of Hawley at least Five (5) days prior to the anticipated start of work, except as provided for under emergency work. The application shall be submitted in person or by mail on a properly completed application form provided by the Borough.

(1) The application shall:

(a) Be signed by an authorized agent of the applicant.

(b) Include at least three sets of plans, of a sufficient quality, detailing the location and pertinent horizontal and vertical dimensions of the opening, the proposed utility installation and related roadway features, including center line, edges of pavements, outside edge of shoulders, curbing, guide rail, drainage structures and right-of-way lines. Freehand drawings of features or utility facilities are unacceptable.

(c) Be accompanied by a check or money order, payable to the Borough of Hawley, in the appropriate amount.

(d) Be accompanied by a detailed traffic control plan for the permitted work (if necessary).



(2) The Borough may also require satisfactory evidence of the applicants ability to completely discharge construction, maintenance and financial duties imposed by this article. The Borough may require security, including but not limited to:

- (a) Execution of an indemnity agreement of a form satisfactory to the Borough.
- (b) Insurance in a form and amount acceptable to the Borough.
- (c) Surety bonds in a form and amount acceptable to the Borough for a period of at least one year after the acknowledged completion of the permitted work.
- (d) Surety bonds in a form and amount acceptable to the Borough to guarantee maintenance costs for the facility and the right-of-way in which it is located for a period of at least one year after the acknowledged completion of the permitted work.
- (e) Depositing sufficient currency in an escrow account acceptable to the Borough to fully secure the obligations in Subsection B(2)(c) and (d) above.
- (f) The use of bonded contractors.

C. Accuracy of application. The information provided in the application shall be accurate. The applicant is responsible for the accuracy of information submitted to the Borough, including the application, plans, drawings, reports and correspondence.

D. Authority to reject application. The Borough shall examine and determine the genuineness, regularity and legality of every application and may reject an application if not satisfied as to its genuineness, regularity or legality or truth of a statement contained in the application. The Borough may also make investigations and inquire additional information as it deems necessary.

### **Issuance of permits.**

Upon approval of an application submitted hereunder, a permit will be issued by the appropriate Borough official, subject to the regulations hereunder and any conditions contained in the permit and its attachments and supplements. The permit shall be the applicants authority to proceed with the work specified in the permit. A copy of the permit and relevant plans shall be available at the work site for review.

### **Permit supplements.**

The permittee may request a supplement to a permit to amend a permit condition, such as revising the traffic control plan or extending the permit expiration date. A permit is valid for a period of six months, or multiples thereof as specified on the permit, subject to the following:

A. If the permittee has not completed the authorized work by the expiration date of the permit, an application shall be submitted requesting a time extension on the permit.

B. If approved, a supplement to the permit authorizing a new completion date will be issued by the Borough.

C. No extension of the permit will be authorized unless the permittee obtains an extension on the duration of the bond, insurance or other security required as a condition of the permit. Said extension shall correspond with the permit time extension.

D. No work may be performed on an expired permit until a time extension supplement or new permit is obtained.

**Work completion notification.**

The permittee shall notify the Borough within five (5) business day of completion of the excavation permitted hereunder.

**Permit fees.**

A. The Hawley Borough Council shall establish a schedule of fees and collection procedures for permits required herein. Said schedule of fees shall be adopted or amended by resolution and will be posted in the office of the Borough of Hawley.

B. It shall be the responsibility of the applicant to pay for all additional or unusual costs, including inspection costs, incurred by the Borough for the review and processing of applications filed for approval hereunder.

**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 municipality and inform them that an emergency exists as soon as they become aware of said emergency. An emergency does not eliminate the requirement for a certified inspector, in accordance with the requirements of this ordinance, to be present during an emergency repair. An inspector must be present to inspect the backfill and temporary pavement work for all emergency repair. No permanent pavement repair shall be undertaken without a Borough Road Opening Permit

**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)

**Work done without an Inspector**

Any backfill or permanent pavement work performed without the presence of a certified inspector present shall be removed and replaced under the observation of a certified inspector and the borough 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.

**Indemnification of Municipality; Insurance Requirements.**

- 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 municipality 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.
- B. Minimum insurance shall be:
  - a. 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.
  - b. Liability of five hundred thousand dollars (\$500,000) for property damage.
- C. 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 municipality no later than each January 15. Said evidence of insurance must include the provision that the municipality shall be given proper advance notice of at least thirty (30) days of cancellation or any material alterations in the applicant's policy.

**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 municipality 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 the Manual of Uniform Traffic Control Devices, as adopted by the United States Department of Transportation, Federal Highway Administration, 1971 Edition, Part IV, Traffic Controls for Street and Highway Construction and Maintenance Operations, or the most recent edition of the same.

**General permit conditions.**

- A. Work performed shall conform to the Borough's standards, including but not limited to the following:
  - (1) Borough reserves the right to inspect all construction activities within Borough streets and ROW at the expense of the permittee.
  - (2) The work shall be done at a time and in a manner consistent with the safety of the traveling public and conform to the requirements of the Borough.

(3) If it is found by the Borough that the work is not being done or has not been properly performed, the permittee shall promptly take the necessary steps, at his/her own expense, to place the work in the condition to conform to the requirements or standards.

(4) If a dispute arises, the Borough Inspector has the authority to suspend work until the question at issue may be referred to and decided by the Borough.

B. In the event of failure or neglect by the permittee to comply with the permit or this article, the Borough may immediately revoke and annul the permit and order and direct the permittee to remove structures, equipment or property belonging to the permittee or his/her contractor from the legal limits of the Borough right-of-way and to restore the right-of-way to its former condition.

C. At the end of a workday, any opening in the right-of-way shall be covered, backfilled or otherwise adequately protected so as not to cause a threat to the public and/or create an attractive nuisance. If work is stopped on a project for reasons other than at the end of a normal workday or for a period of time longer than two days, the permittee shall promptly backfill the opening and restore the surface, and work may not resume until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the opening or proceed until completion of the work, the Borough reserves the right to do the work upon notice to the permittee, where practical, and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Borough's invoice.

D. If the permittee, after making an opening in the surface to place or repair a facility or for another purpose, fails to restore the surface as required herein within 30 days, the Borough reserves the right to do the work upon notice to the permittee, where practical, and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Borough's invoice.

E. Unless specifically authorized by the permit, the permittee shall not:

- (1) Alter the existing drainage patterns or the existing flow of drainage water.
- (2) Direct additional drainage or surface water toward, onto or into or in any way affect drainage facilities of the Borough. The permit does not authorize the permittee to direct, divert or otherwise drain surface waters over the property of another property owner.

F. The permittee is responsible for damage caused to property as a result of the work done under the permit.

G. The streets of the Borough shall be protected in accordance with the following:

- (1) To protect the pavement and shoulders, equipment shall have rubber wheels or runners and have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.
- (2) If other than rubber-equipped machinery is used, the pavement and shoulders shall be protected from equipment damage by the use of matting or other suitable protective material, unless the permittee requests, in writing, a waiver from the use of protective material, thereby acknowledging his/her obligation to repair or reconstruct the pavement or shoulder, if damaged, to its former condition.

H. Maintenance and protection of traffic shall be carried out by the permittee.

I. Prohibition of road closure.

- (1) No Borough street or road shall be entirely closed to traffic. At least one travel lane shall remain open during any road activity contemplated under this article.
- (2) Notwithstanding the road-closure prohibition of this ordinance, if work on any Borough street or road shall require a street closure due to the nature of the work or due to any width limitations of the street, a Borough street or road may be closed entirely upon written authorization from the Hawley Borough Roadmaster, who shall have the further discretion to establish limitations and/or parameters relative to the street closing.

### **Indemnification of Borough.**

Indemnification of the Borough for property and personal injury will be governed by the following: The permittee shall fully indemnify and save harmless and, if requested, defend the Borough, its officers agents and employees of and from liability for damages or injury to persons or property in a claim or suit seeking to impose liability on the Borough, its officers, agents and employees, arising out of an act or omission of a contractor, agent, servant, employee or person engaged or employed in, about or upon the work, by, at the insistence of or with the approval or consent of the permittee or his/her agent to comply with the permit or this article.

### **Restoration of roadway.**

The responsibility of the permittee for restoration of, or damage to, the roadway includes the following:

- A. If there is a failure of the roadway, including a slope or other appurtenance thereto, in the area of the permitted work within one year after the acknowledged completion of the permitted work and there is no similar failure of the roadway beyond the area of the permitted work, the permittee has absolute responsibility to make temporary and permanent restoration or repairs of the area unless the permittee delivers clear and convincing evidence to the Borough demonstrating that the failure was caused by another person or for reasons unrelated to the permitted work performed.
- B. In situations where the permittee has the responsibility to restore the roadway, including slope or other appurtenances thereto, under Subsection A above, the permittee has the duty to restore the area in accordance with the permit or to the state that existed prior to the permitted work. If the permittee fails to restore the area properly, the Borough reserves the right to do the work and shall be reimbursed for the costs, by the permittee, within 30 days after receipt of the Borough's invoice.
- C. The obtaining of a bond, other security or an agreement to secure restoration costs does not relieve the permittee of the restoration obligations imposed by Subsections A and B above. The obtaining of a bond, other security or an agreement to secure restoration costs will not act as a release of the permittee from the liability under principles of tort law with respect to a failure of the roadway, in the permitted area, occurring after the expiration of the bond, other security or agreement.

### **Inspector's acknowledgment of completion of work.**

Acknowledgment by an Inspector of the Utility Company that all or part of the permitted work has been completed does not constitute approval or acceptance of the work or agreement that the work was performed in accordance with the permit. Acknowledgment of completion by the

Inspector will not act as a release of the permittee or a waiver by the Borough of its rights to seek performance or restitution from the permittee.

**Special conditions for subsurface operations.**

**A. Pavement removal.**

- (1) All excavations of streets by the open cut method shall include removal of the pavement to a minimum width of at least one foot beyond the limits of the trench and one foot beyond the limits of any damaged pavement.
- (2) The pavement shall be saw cut prior to excavation unless otherwise indicated on approved plans. Cuts in driveways or street approaches may require an overlay of the entire approach as determined by the Borough Streets Department.
- (3) All saw cuts shall be made in a straight line and shall be parallel to existing transverse and longitudinal joints unless otherwise approved.
- (4) If contractor operations remove or damage more than 20% or more of the street surface or the surface is less than five years or less old, or it is determined that any open cut will result in substantial surface deterioration, the entire street shall be overlaid or reconstructed as required by the Borough Streets Department.

**B. Trenching across a street or roadway. Trenching across an improved area may be performed only when specifically authorized by the permit and in accordance with the following:**

- (1) The top of every utility facility shall be installed at least three feet beneath the surface unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
- (2) Where trenching is authorized by the permit, the trenching operation shall be performed by one of the following methods:
  - (a) Utility facility placed in one piece across the roadway.
    - [1] Traffic shall be routed over 1/2 of the pavement width.
    - [2] The closed half of the pavement shall be opened to the required depth and bridged with steel plates.
    - [3] Traffic shall be shifted to the bridged half of the pavement.
    - [4] The unbridged 1/2 of the pavement shall be opened to the required depth.
    - [5] The facility shall be placed full width.
    - [6] The open trench shall be backfilled and restored half width in accordance with this section
    - [7] The traffic shall be shifted to the restored half of the pavement.
    - [8] The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section.
  - (b) Utility facility placed in more than one piece across the roadway.
    - [1] Traffic shall be routed over 1 /2 of the pavement width.
    - [2] The closed half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section.
    - [3] Traffic shall be shifted to the restored half of the pavement.

[4] The remaining 1/2 of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section.

(3) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

C. Trenching parallel to a roadway. Trenching parallel to a highway shall conform to the following requirements:

(1) A utility facility shall be placed outside the pavement and shoulder unless there is no feasible space outside the pavement and shoulder for placing the facility.

(2) The top of every utility facility shall be installed at least three feet beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.

(3) No opening may be made for more than 200 linear feet at one time, unless authorized by the permit.

(4) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

(5) Daily stoppages of work. Daily stoppages of work requirements include the following:

(a) At the end of each workday, an opening in the right-of-way shall be protected by one of the following:

[1] Covered with steel plates or bridging over openings which are less than six feet in either width or length. The plates or bridging shall be extended a minimum of 18 inches from each edge of the opening and shall be secured in a safe manner.

[2] Backfilled under this section to the original surface elevation.

(b) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

D. Multiple open cuts.

(1) Multiple open cut excavations such as might occur during installation of sanitary sewers, water main, natural gas main, etc., in an existing street justifies permanent repair of the disturbed area followed by an asphalt cap over the entire width and length of the affected street and shall be performed as defined in Subsection F(2), final pavement replacement.

(2) The top of every utility facility shall be installed at least three feet beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.

(3) No opening may be made for more than 200 linear feet at one time, unless authorized by the permit.

- (4) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
- (5) Daily stoppages of work. Daily stoppages of work requirements include the following:
  - (a) At the end of each workday, an opening in the right-of-way shall be protected by one of the following:
    - [1] Covered with steel plates or bridging over openings which are less than six feet in either width or length. The plates or bridging shall be extended a minimum of 18 inches from each edge of the opening and shall be secured in a safe manner.
    - [2] Backfilled under this section to the original surface elevation.
  - (b) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

E. Backfilling. An opening shall be backfilled by the permittee in accordance with the following:

- (1) The opening may first be balled with fine aggregate material meeting the requirements of Section 703.1 of Pennsylvania Department of Transportation Specifications, Form 408, or granular material to protect the facility, placed to a height not to exceed one foot over the top of the facility. The material shall be compacted in not more than six-inch loose layers or as authorized under Pennsylvania Department of Transportation Specifications, Form 408.
- (2) The opening shall then be backfilled with select granular material, unless retained suitable material is authorized or other coarse aggregate material meeting the requirements of Section 703.2 of Pennsylvania Department of Transportation Specifications, Form 408, is specified in the permit. Retained suitable material shall normally be authorized for backfill outside of the pavement and shoulder. Backfill material shall be placed in a loose layer not to exceed eight inches, and vibratory compaction equipment shall be used. Each layer shall be thoroughly compacted to preclude subsidence under Section 601.3 of Pennsylvania Department of Transportation Specifications, Form 408. Compaction shall be completed to the bottom elevation of the existing pavement.
- (3) Backfill material shall be free of broken concrete, asphalt, woody material, sod, debris, clumps, frozen materials, or clods.
- (4) The permit holder shall supply sufficient density tests conducted by an approved independent testing laboratory at the permit holders expense to assure the Borough that compaction requirements are being accomplished. The permit holder shall notify the Borough of the name, address, and phone number of the testing laboratory a minimum of 72 hours prior to backfilling operations.
- (5) Field compaction tests shall be used that give immediate results.
- (6) 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.

F. Restoring flexible pavements.

- (1) Temporary replacement (patching).
  - (a) All pavement removed in a crossing and/or paralleling paved street, or as a result of damage caused by the permit holder, shall be temporarily replaced by the permit holder in accordance with the following.



(b) Base and surface restoration of flexible pavements shall be performed under this section and as required in the permit. Prior to replacement of the base course, one foot outside the edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate subbase or stone base course and detached material shall be removed.

(c) Exposed vertical surfaces shall be prepared as required under Section 401.3(f) of Pennsylvania Department of Transportation Specifications, Form 408. The base coarse material shall consist of bituminous concrete meeting the requirements of Section 305 of Pennsylvania Department of Transportation Specifications, Form 408, and shall have a minimum depth of four inches or a depth equal to the existing base course, whichever is greater.

[1] From May 1 through November 14, a minimum of four inches compacted thickness of hot mixed base coarse material shall consist of bituminous asphalt meeting the requirements of Section 305 of Pennsylvania Department of Transportation Specifications, Form 408.

[2] From November 15 through April 30 when hot mixed bituminous asphalt is not available, a minimum of three inches compacted cold patch asphalt over 12 inches compacted #2A Aggregate (Note: The dates shown here are approximate only. If hot mixed bituminous material is reasonably available between November 15 and April 30, it shall be used if suitable weather allows.) Cold patch temporary repair shall be replaced with hot mixed bituminous repair prior to final paving restoration.

[3] Temporary pavements must be placed immediately after utility installation in the crossing and/or paralleling of streets. Failure to do so shall be just cause of either the temporary or permanent suspension of the permit holder's permit. Temporary pavements may be placed in accordance with the requirements of Subsection F(1)[3] as permanent as pavements, subject to the acceptance by the Borough.

[4] All temporary pavements must be maintained and kept in good condition by the permit holder until the final pavement replacement is made. Costs for emergency repairs by the Borough will be billed to the permit holder.

(2) Final pavement replacement.

(a) All excavations by the open cut method shall include removal of the pavement to a minimum width of at least two feet beyond the limits of the trench or excavation. The pavement shall be restored with not less than 6 inches of 2A Subbase, 4 ½ 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 PennDOT 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 Roadmaster or designated agency to a width of 6 inches either side of the joint.

(b) If more than 20% of the width of a lane of an asphalt-surfaced street (or section thereof) is removed or damaged by the permit holder's operations, a full cap of the street width (or section thereof) will be required. The full cap shall

consist of a bituminous overlay. The wearing course shall consist of 9.5mm Superpave wearing course meeting the requirements of Section 421 of Pennsylvania Department of Transportation Specifications, Form 408, and shall have a depth of One and one-half inches 1 ½" or a depth equal to the existing wearing course, whichever is greater. Other types of pavements and shoulder surfaces shall be replaced in kind or as specified in the permit. Restored openings shall be sealed in accordance with Pennsylvania Department of Transportation Specifications, Form 408. Milling/saw-cut at tie-in to existing pavement shall be made on a 6:1 angle the entire width of the area to be paved. (c) The final area of pavement to be replaced and/or capped shall be determined by the Borough Streets Department. The final paving shall be done by an approved paving contractor in accordance with the current Borough specifications for paving. The name of the proposed paving contractor shall be submitted in writing to the Borough and approved in writing by the Borough. The Borough reserves the right to inspect all work and materials to be used at the permit holder's cost. All pavements and right-of-way damage by the permit holder's operations shall be restored to the satisfaction of Borough at the permit holder's expense.

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

Upon notification from the municipality 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 three (3) 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 thirty (30) 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 municipality 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 (1 ½) 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 Borough 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 municipality 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.

### **Sidewalk and Curb Restoration Requirements**

- A. 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 to match the previously existing condition and as follows:
  - a. 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.
  - b. 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 4 feet.
  - c. 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 4 feet.
  - d. 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 4 feet.
  - e. Stone curbs shall be replaced in kind. A minimum length of replaced curbs shall be 4 feet.
  - f. 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.

### **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 municipality shall contract to have the necessary repairs made and bill the utility for the costs of the work, plus a twenty-percent (20%) penalty.

### **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 agency. The municipality shall contract to have the necessary repairs made and bill the utility.

### **Replacement of Property Pins or Monuments**

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

### **Violations and penalties.**

A. General rule. Violation of the provisions of this article or the permit requirements constitutes grounds for the imposition of the following penalties:

- (1) Upon receipt of oral or written notice of violations from an authorized representative of the Borough or a police officer having jurisdiction in the work area, the permittee shall cease to perform any further work in the area except to restore the area to a safe condition. No further work may commence in the area until the violations have been remedied. When the permittee has received oral notice of a violation, written notice shall be sent to the permittee within 10 days of receipt of the oral notice.
- (2) Confiscation of the permit by any authorized representative of the Borough or a police officer having jurisdiction in the work area.
- (3) Revocation of the applicant's permit.
- (4) Removal of facilities installed without a permit is in violation of this article.
- (5) Fines, imprisonment or other penalties as are provided for by law. Any person, firm, partnership or corporation who or which shall violate any provision of this article shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$600, plus costs of prosecution, and upon failure to pay the fine may be committed to jail for a period not to exceed 30 days, provided that each violation of any one of the provisions of this article shall constitute a separate offense.
- (6) Other action as may be necessary or proper.
- (7) Other violations and penalties as stated in the schedule of fees.

B. Other grounds for revocation. Additional grounds for revocation of a permit are as follows:

- (1) The Borough may revoke a permit whenever it determines that the permitted facility is not being properly maintained, is in violation of a condition of the permit or this article,

constitutes a hazard to traffic or interferes with the proper use of the roadway by the Borough or the public.

(2) The Borough may revoke a permit for nonpayment of a fee as authorized herein, including default of a check submitted for payment.

**Modification of conditions.**

A. General rule. When a term or condition of this article cannot be met, an applicant may request, in writing, that the Borough modify the term or condition as it pertains to the specific application under the following:

(1) The applicant has done all that can be reasonably expected to be done to comply with the term or condition.

(2) The proposed modification satisfies the intent of the term or condition to be modified.

(3) The reason for the requested modification is infeasibility of meeting the exact terms or conditions of this article rather than mere economic benefit to the applicant.

B. Modification granted. If requested modification is granted, the permit will specify the required modification. A permit issued under authority of this section shall be signed by the Chairman of the Streets Committee.

**FEE SCHEDULE**

Fees shall be as follows:

<u>PERMITS/SERVICES/PENALTY</u>	<u>Fee</u>
Processing and issuing a permit	\$100.00 ea
Penalty for failure to obtain a permit	\$600.00/event/day
Penalty for noncompliance with any other Section or part thereof (each day)	\$600.00/event/day

Enacted and Ordained at a Regular Meeting of the Hawley Borough Council

This Ordinance shall take effect immediately

---

Name Title

---

Name Title

---

Name Title

Attest

---

Secretary