

BOROUGH OF WILMERDING
ORDINANCE NO. 1038

**AN ORDINANCE OF THE BOROUGH OF
WILMERDING, ALLEGHENY COUNTY,
COMMONWEALTH OF PENNSYLVANIA,
REGULATING STREET OPENING AND/OR
EXCAVATION; REPEALING ORDINANCE
NUMBER 965 ENACTED SEPTEMBER 7, 1999;
AMENDING CHAPTER 265, ARTICLE IV, OF THE
CODE OF THE BOROUGH OF WILMERDING AND
REPLACING SAME.**

WHEREAS, the Borough of Wilmerding has heretofore regulated and Ordained the manner in which public streets are opened and restored by Ordinance No. 965 codified in Wilmerding Borough Code Chapter 265, Article IV; and

WHEREAS, the Borough has heretofore provided for the specific manner in which an opening will be restored, and desires to update that standard; and

WHEREAS, it has been determined that the areas to be covered in the Ordinance must be expanded and that specifications for the improvements must be clarified; and

WHEREAS, it is in the public interest to regulate the location and construction of utility facilities within Borough street rights-of-way, for the purpose of insuring the structural integrity of such streets, economy of maintenance, preservation of proper drainage, and safe and convenient passage of traffic; and

WHEREAS, this Ordinance is passed pursuant to the Borough Code, and is deemed to be in the best interests of the safety and welfare of the residents of the Borough of Wilmerding.

AND NOW, THEREFORE, IT IS HEREBY ORDAINED BY the Borough Council of the Borough of Wilmerding, County of Allegheny, Commonwealth of

Pennsylvania, that no work shall be performed within the rights-of-way of a Borough street involving the placement of utility facilities or other structures or opening of the service or opening a street for any reason without first applying to the Borough of Wilmerding for a street occupancy permit, and obtaining from the Borough of Wilmerding an appropriate permit for the same, and it is hereby ordained and enacted by and with the authority of the same:

I. Ordinance No. 965 is hereby repealed in its entirety. Chapter 265, Article IV is hereby repealed and replaced with the following:

Section 265-14 -- Permit Required: Permit applications to the Borough of Wilmerding shall comply with the following:

1. Shall be submitted in person or by mail on a form provided by the Borough of Wilmerding. Additionally, all of the provisions of "Pennsylvania One Call" shall be strictly adhered to, and the applicant shall insure that the Borough is also directly given notice as to any activity involving its streets, roads and rights-of-way.
2. Shall be signed by the applicant.
3. Shall include two (2) sets of plans detailing the location and pertinent dimensions of the opening, the proposed installation and related highway features.
4. Shall be accompanied by a check or money order payable to the Borough of Wilmerding in the amount of \$1,500.00, or in lieu thereof, any utility which is regulated by the P.U.C. may post a ten thousand (\$10,000.00) annual bond with the Borough.

5. Such application shall be submitted to the Borough at least thirty (30) days prior to the anticipated start of the work; provided, that in cases of emergency, such application shall be submitted as soon as shall be practicable, but in no event later than five (5) days from the occurrence of the emergency. Work on permanent restoration after emergency repairs shall be completed within ten (10) days of the emergency repairs and shall be inspected by the Borough.

6. The appropriate Borough official shall examine and determine the completeness of each application, and may reject any application if said official is not satisfied with the information provided.

7. Upon approval by the Borough, a Permit shall be issued, including a Permit Placard. The placard shall be retained by the permittee and shall be posted and displayed in a prominent location at all times at the work site for the entire work period.

8. Not more than two hundred linear feet (200') shall be opened in any street at any time.

Section 265-15 – Permit Fees:

Permit fees in an amount necessary to defray the costs incurred by the Borough in reviewing and processing applications and plans, including the preliminary review of the site location identified in the application, issuing and processing the permit and monitoring

the work shall be as established from time to time by Borough Council by simple resolution.

Section 265-16 - Bond Required:

The applicant shall be required to execute and deliver to the Borough an Agreement, or its Performance and Labor and Materials Payment Bond(s) with approved surety, or both, as a prerequisite to the issuance of any such permit, in an amount to be determined by the appropriate issuing Borough official, the amount of which shall equal the estimated cost of the work, for the purpose of indemnifying the Borough for any costs, damages or expenses incurred or estimated as the result of the restoration of such Borough street and right-of-way, which is the subject of said application. Upon completion of restoration, the applicant shall be required to execute and deliver to the Borough an Agreement or its Maintenance Bond with an approved surety, or both, as its guarantee and warranty against defects regarding said restoration for a period of eighteen (18) months from the date of acceptance by the Borough of said restoration work.

Section 265-17 - Responsibility of Permit Holder for Certain Work to Restore Borough Roads:

Any applicant or permittee shall be required to restore a Borough road or street in accordance with regulations promulgated herein by the Borough of Wilmerding. The estimate of such restoration shall be set forth in detail on the permit issued by the Borough of Wilmerding.

Section 265-18 - Conformance with Borough Requirements and Standards:

The permittee shall be required to repair the excavation by cutting back and resurfacing at least one (1') foot on each side of the street opening in each direction, and the bond referred to herein shall include the cost of such restoration; provided, nevertheless, that the foregoing shall include restoration of Borough maintained streets. All 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 requirements and standards of the Borough of Wilmerding. If, at any time, it shall be determined by the appropriate official of the Borough that the work is not being done or has not been properly performed, the permittee, upon being notified in writing by said official, 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 aforementioned appropriate Borough Official, the Borough shall have the authority to suspend work until the question at issue is resolved.

Section 265-19 - Openings Parallel to the Road or Right-of-Way:

1. Requirements for openings parallel to a roadway or right-of-way are as follows:

A. 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, in which case occupancy within the pavement or shoulder may be authorized by the permit.

B. The top of a utility facility shall be installed at least three (3') feet beneath the surface.

C. On an unpaved road, the near edge of the opening shall be at least twelve (12') feet from the general center line of the traveled highway or as authorized in subsection (A).

D. No opening may be made for more than two hundred (200') linear feet at one (1) time, unless authorized by the permit.

E. The permittee shall protect its opening to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

F. The permittee shall be required to maintain the flow of traffic within the affected work area at all times, and shall be required to provide all necessary signage, flaggers and any other items necessary for traffic control in accordance with Penn D.O.T. requirements. NO road closures shall be permitted at any time without written permission from the Borough. The permittee shall be required to provide acceptable and adequate notification to all affected properties not less than seventy two (72) hours prior to the commencement of any construction activities, except in the event of an emergency, at which such notification shall be given as timely as possible and with the full knowledge and concurrence of the Borough.

G. The permittee shall store materials and equipment ONLY at the location(s) approved and acceptable to the Borough. The permittee shall obtain Borough approval not less than five (5) business days prior to the commencement of work and shall

NOT deliver ANY materials or equipment to the Borough without said approval.

2. Daily Stoppage of Work Requirements. Daily stoppage of work requirements including the following:

A. Except for emergency repairs of utility facilities, work within the pavement or shoulder shall be stopped prior to peak traffic hours that may exist on a particular roadway on a particular day and as specified in the permit.

B. At the end of each workday, an opening in the right of way shall be as follows:

(1) Covered with steel plates or bridging over openings which are not less than six (6') feet either length or width. The plates or bridging shall be extended a minimum of eighteen (18") inches from each edge of the opening and shall be secured in a safe manner.

(2) Backfilled to the bottom elevation of the pavement or base course, or to the original surface elevation if outside the pavement and shoulder, and protected under an approved traffic control plan until the surface is restored to its former condition.

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

Section 265-20 - Backfilling:

Any person who shall open or excavate any improved street in the Borough, shall thoroughly and completely backfill the opening or excavation, mechanically compact same so as to prevent any settling thereafter as it was before the opening or excavation, to the same surface and base materials, line and grade as it were before the opening or excavation as restored, the surface and base shall conform to the line and grade and be of the same materials as that of the undisturbed existing adjacent surfaces and bases.

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

A. The opening may first be backfilled with fine aggregate materials, meeting applicable Pennsylvania Department of Transportation standards, or standards as promulgated by the Borough from time to time, and placed to a height not to exceed one (1') foot over the top of the facility, if the material is compacted in not more than four (4") inch(s) loose layers or as authorized by the Borough. To help protect its facility from future excavations, the permittee shall place a permanent ribbon at least one (1') foot above its facility. If the facility is nonmetallic, the permittee shall place a metallic ribbon at a depth from which the ribbon can be sensed by typical metal locating instruments.

B. The opening shall then be backfilled with select granular material, unless retained suitable materials are authorized by the Borough or other coarse aggregate material specified in the permit. Select granular material or other aggregate material will be required for use as backfill of openings in pavements, paved shoulders and improved shoulders as well as unimproved shoulders within three (3') feet of the edge of pavement.

Retained suitable material will normally be authorized for use as backfill of openings outside shoulders and in unimproved shoulders more than three (3') feet outside the edge of pavement and up to within three (3') feet of the surface.

C. Backfill shall be compacted as follows:

(1) General Rule. Except as provided in subsection (2), backfill material shall be placed in loose layers not to exceed eight (8") inches if vibratory compaction equipment is used or authorized. Each layer shall be thoroughly compacted to preclude subsidence.

(2) Compaction Outside Pavement and Shoulders. At least fifteen (15) days prior to the start of work, the applicant may submit its written compaction plan to the Borough office requesting backfill in an opening outside the pavement and shoulder to be placed in layers thicker than eight (8") inches prior to compaction. The compaction plan shall include full details of equipment, materials and work methods as well as the permittee's acknowledgment of its obligation and commitment to regularly monitor the restoration of the permitted work and to promptly correct failure or subsidence of the roadway. The Borough may condition its approval of a compaction plan on the execution of a bond if a part of the opening is within the improved area.

(3) Existing Pavement Elevation. Compaction shall be completed to the bottom elevation of the existing pavement.

D. The Borough may require the permittee to have material proposed for use as backfill and compacted material tested, at the expense of the permittee.

Section 265-21 - Additional Restoration:

On improved streets, a temporary pavement consisting of bituminous cold patch material, not less than three (3") inch compacted depth shall be installed flush with the surface of the existing undisturbed pavement and shall be maintained until permanent restoration has been completed. On unimproved streets, compacted 2-A stone material, not less than three (3") inches compacted depth shall be installed and maintained until permanent restoration has been completed.

On streets or alleys that have been improved within a period of five (5) years or less from the date of the utility disturbance, the contractor shall be required to mill the existing pavement surface between the outside edges of pavement (curb line to curb line) of the existing pavement and to a point not less than two (2') feet beyond the limits of the opening. Trench restoration shall be the same as that described for Bituminous Pavement, excepting that the entire area shall receive a one and one half (1 1/2 ") inch compacted depth overlay of Superpave 9.5 mm Wearing Material.

PERMANENT RESTORATION shall be performed and completed as soon thereafter as the utility work has been completed, but in NO INSTANCE shall permanent restoration be completed any longer than three (3) months from the official date of said completion, except as may be necessitated by winter weather conditions and as approved by the Borough. Failure to comply shall result in the penalties as set forth elsewhere herein.

Permanent restoration shall meet the following requirements:

BITUMOUS PAVEMENT RESTORATION shall consist of the following:

Saw one (1') foot outside the initial excavation and remove temporary paving and base to a depth of seven and one half (7 1/2") inches below the existing finished surface and furnish and install the following.

- Thoroughly compact subgrade
- Place three (3") inch compacted depth of a 2-A modified stone base.
- Place three (3") inch compacted depth of 19.0 mm Superpave Binder Material.
- Place one and a half (1 1/2") inch compact depth of 9.5 mm Superpave Wearing Material.
- Immediately following paving operations hand mop and seal all edges where new pavement meets existing surfaces with AC-20 sealing material.

When four (4) or greater consecutive openings occur at one time (within a twelve consecutive month period) within one half of any street (from the center line to the outside edge of pavement (curb line) and/or the trench opening extends sixty (60%) percent or greater in a given block, the contractor shall be required to perform the following additional work:

Mill the existing pavement surface from the center line to the outside edge (curb line) of the existing pavement and to a point not less than two (2') feet beyond the limits of the farthest openings. Trench restoration shall be the same as that

described for Bituminous Pavement, excepting that the entire area shall receive a one and one half (1 ½") inch compacted depth overlay of Superpave 9.5 mm Wearing Material.

When four (4) or greater openings occur within one block between outside edges of pavement (curb line to curb line), (within a twelve (12) consecutive month period), and/or the trench opening extends sixty (60%) percent or greater in a given block, the contractor shall be required to perform the following additional work:

Mill the existing pavement surface between the outside edges of pavement (curb line to curb line) of the existing pavement and to a point not less than two (2') feet beyond the limits of the farthest openings. Trench restoration shall be the same as that described for Bituminous Pavement, excepting that the entire area shall receive a one and a half (1 ½") inch compacted depth overlay of Superpave 9.5 mm Wearing Material.

Where **CONCRETE CURB** is to be restored, the contractor shall **saw out** and remove affected curb to the next undisturbed expansion or contraction joint, shall place one half inch (1/2") pre-moulded expansion joint material and install medium depth eighteen (18") inch plain cement curb to match width and reveal of the adjacent existing undisturbed curb. Concrete shall be 4,000 p.s.i. air entrained. All new finished concrete surfaces shall be treated with BASF Enviroseal 40 or equivalent.

Where **CONCRETE SIDEWALK** is to be restored, the contractor shall excavate and remove existing affected sidewalk to the next undisturbed expansion or contraction joint, shall saw cut smooth and replace full slabs. Specifications shall include three (3") inch minimum depth of compacted cinders or crushed stone subbase and five (5") inch thickness of 4,000 p.s.i. air entrained concrete, with No. 6/6 gauge welded wire fabric, one half inch (1/2") pre-molded expansion joints where new concrete construction meets existing construction and placed at thirty (30') foot center to center, with contraction joints at ten (10') foot center to center. All new finished concrete surfaces shall be treated with BASF Enviroseal 40 or equivalent.

Additional restoration shall be required as follows:

A. If disturbed lanes adjacent to undisturbed lanes are overlaid, the edge of the disturbed lanes shall be saw cut or milled to a depth of one and one half (1-1/2") inches or the depth of the existing surface course, whichever is less, for the length of the opening to insure a smooth joint, with proper elevation and cross sections. A full width overlay may be authorized on various roadways instead of saw cutting or milling the disturbed lane.

B. Restored openings in the pavement or paved shoulder shall be sealed in the case of bituminous concrete or in the case of cement concrete.

Section 265-22 – Restrictions Regarding Trees and Shrubbbery:

The permittee or its contractors do not have the right to cut, remove or destroy trees

or shrubbery within the legal right-of-way without Borough consent except under specifications, regulations and conditions as the Borough may prescribe.

Section 265-23 - Penalty for Violation:

That any person, entity, firm or corporation violating any of the provisions of this Ordinance, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of six hundred (\$600.00) dollars for each day of each violation, plus the costs of prosecution and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days.

In addition, the proper authorities of the Borough of Wilmerding may institute any appropriate action or proceeding to prevent violations of the provisions of this Ordinance, or of any permit issued by the Borough. Upon receipt of oral or written notice of any violations from the proper Borough official, the permittee shall cease to perform any further work in the permitted area, except to restore the area to a safe condition. No further work shall commence in the permitted area until the violations have been remedied. Where the permittee has received oral notice of the violation, written notice shall be sent to the permittee within ten (10) days of receipt of the oral notice.

Section 265-24 - Revocation of Permit:

In addition, the proper official of the Borough may revoke the applicant's permit, provided, nevertheless, that the applicant shall have the right to appeal such revocation within five (5) days of receipt of notice of such revocation to Borough Council.

Section 265-25 - Repealer:

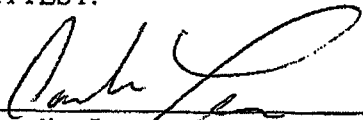
Any ordinance or any part of any ordinance conflicting with the provisions of this Ordinance is hereby repealed.

Section 265-26 - Effective Date:

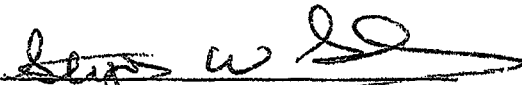
This Ordinance shall take effect immediately.

ORDAINED AND ENACTED this 3rd day of October, 2017.

ATTEST:

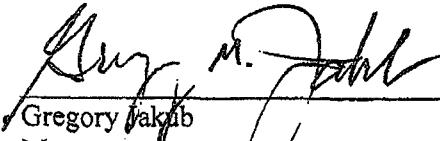


Caroline Lang
Borough Secretary
Borough of Wilmerding



Stephen W. Shurgot
President, Borough Council
Borough of Wilmerding

EXAMINED and APPROVED as to form this 3rd day of October, 2017.

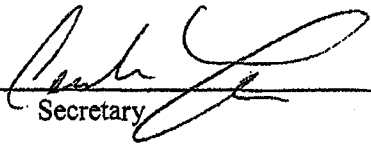


Gregory Jakub
Mayor
Borough of Wilmerding

CERTIFICATION

I, Caroline Lang, hereby certify that I am the Secretary of Wilmerding Borough, and that the within Ordinance was duly advertised and enacted at a regular meeting of Borough Council duly convened, at which a quorum was present and voted in favor thereon

Certified this 3rd day of October, 2017.


Secretary