

Borough of Berwick  
**ORDINANCE 2015-05**

**AN ORDINANCE BY THE BOROUGH OF BERWICK IN COLUMBIA COUNTY, PENNSYLVANIA. SETTING REGULATIONS FOR CONTRACTORS AND UTILITY COMPANIES TO OBTAIN PERMITS FOR STREET CUTS AS WELL AS RESTORATION OF THE STREETS WHEN CONDUCTING WORK ON THE STREETS OF THE BOROUGH.**

**BE IT ORDAINED AND ENACTED, BY THE COUNCIL OF THE BOROUGH OF BERWICK, COLUMBIA COUNTY, PENNSYLVANIA, AS FOLLOWS:**

**SECTION 1: TITLE.** This ordinance shall be cited as the “Borough of Berwick Street Opening Ordinance”.

**SECTION 2: UNLAWFUL ACT.** It shall be unlawful for any person, firm, utility company, or corporation to make any excavation in or under any street, alley or thoroughfares within the limits of the Borough of Berwick, including those streets which are maintained by the Commonwealth of Pennsylvania Department of Transportation (Penn DOT), unless and until a permit is secured from the Borough of Berwick Codes Enforcement Department for each such separate undertaking. Such permit and the application therefore shall be in the form supplied by the Codes Enforcement Office and shall contain a statement that the applicant agrees to the terms and conditions of this Ordinance. The council of the Borough of Berwick shall have the authority to prohibit any work done without a proper permit or any work being done contrary to the terms of this Ordinance.

**SECTION 3: PERMIT REQUIRED.** No opening, cutting, excavating, grading, boring, crossing, installation or disturbance of any kind shall be allowed upon, in, under, or across any portion of a Borough road or any Borough road right of way without a permit granted by the Borough of Berwick.

**SECTION 4: APPLICATION FOR PERMIT; FEE.** The application for a permit shall be on a form provided by the Borough and submitted to the Borough. The Borough Codes Department shall be responsible for review and administration of the permit. This requirement (the waiving of fees) shall be at the discretion and vote of the Borough of Berwick Council. In addition, the applicant shall submit three copies of a sketch showing the location of the intended work, width of the traveled roadway, right-of-way lines, an address, and a dimension to the nearest intersecting road or other nearby landmark, so as to ascertain the location of the work.

**SECTION 5: DECISION ON THE PERMIT.** The permit application shall be approved or denied within 30 calendar days of submission of a complete application to the Borough. If the application and required documents do not conform to the requirements of this Ordinance and applicable ordinances, rules, and regulations; the Borough Engineer shall deny the application in writing, stating the reasons. If the Borough is satisfied that the proposed work conforms to the aforesaid requirements, the Borough shall issue a permit.

**SECTION 6: PA ONE-CALL.** At least 3 working days prior to the proposed start of work, the applicant or his representative shall contact the PA One-Call system at 1-800-242-1776; report the proposed work, and obtain a serial number, and provide such serial number to the Borough. No work shall begin until such date and time as authorized by PA One-Call and the Borough office receiving the serial number.

**SECTION 6: MAINTENANCE OF TRAFFIC.** At least one lane of traffic shall be maintained at all times. The applicant shall comply with the provisions of Penn DOT Publication 213, "Work Zone Traffic Control".

**SECTION 7: DETOURS.** Under extremely unusual circumstances, the Borough may allow a road to be closed and traffic to be detoured. No road shall be closed without giving the Borough at least 72 hours prior notice, to allow time to notify 911, police, fire departments, emergency services and school districts. No road shall be closed without the applicant submitting a detour plan to the Borough and having it approved by the Borough. No road shall be closed without proper detour signs, as approved by the Borough, having been installed by the applicant. All detour signs shall be maintained for the entire work period.

**SECTION 8: EROSION CONTROL.** All proper erosion control measures shall be taken to ensure compliance with applicable laws. If necessary, the applicant shall obtain erosion and sedimentation control plan approval from the County Conservation District prior to starting work.

**SECTION 9: OSHA REQUIREMENTS.** The applicant shall comply with all OSHA safety requirements and procedures; including without limitation all enclosed space requirements. All trenches over five (5) feet in depth shall be shored or protected with a trench box.

**SECTION 10: NOTIFICATION.** The applicant shall notify the Borough 24 hours in advance of starting any work and upon completion of temporary and permanent restorations.

**SECTION 11: BACKFILL.** All excavation backfill within the Borough right-of-way shall be a 2A modified crushed stone of optimum moisture content; compacted to 95% density, minimum. There shall be a minimum six (6) inches of bedding under the pipe or utility lines. Crushed stone backfill shall be mechanically compacted in eight (8) inch lifts. Where work is done outside the paved cartway or shoulder, the last six (6) inches of backfill shall be topsoil.

**SECTION 12: OVERNIGHT REQUIREMENTS.** If the work cannot be completed in one workday, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Borough until the next workday. The applicant shall comply with the provisions of Penn DOT Publication 213, "Work Zone Traffic Control".

**SECTION 13: CLEAN-UP.** The work area shall be swept clean, cleaned of debris and otherwise policed at the end of each workday and at the end of the project. Mud shall not be tracked onto the streets at any time. All mud shall be cleaned up within one (1) hour of verbal or written notice from the Borough or its agents. All loads shall be tarped.

**SECTION 14: INSTALLATION.** Conduits and pipes shall be installed with a minimum of eighteen (18") inches of cover. In no case shall conduits or pipes be allowed to be placed in or bond to the bottom of the paving, especially in the case of concrete paving. Separation shall be obtained by at least three (3) inches of screenings, to allow paving to be milled in the future without damage to utilities.

**SECTION 15: TEMPORARY RESTORATION.** The last two (2) inches of the excavation shall be backfilled with compacted "cold patch" or similar permeable asphalt material to allow percolation of water into the excavation while preventing dust and stone chip nuisances. All excavations shall be temporarily restored prior to allowing traffic on them. All settlement shall be brought back to grade within four (4) hours of verbal or written notice from the Borough or its agents. The temporary restoration shall remain in place for a minimum of two (2) months to allow for final settlement to occur through the actions of rain and traffic, but in no case shall it remain in place more than six (6) months. The person issued the permit shall send a postcard to the Borough indicating the date of completion of the temporary restoration.

**SECTION 16: PERMANENT RESTORATION.**

All streets or public alleys to be restored permanent with a minimum of:

- Six (6) inches of bituminous concrete base course and 1.5' inches of ID-2 bituminous wearing course.
- If on a state route, restoration shall be as directed by Penn DOT. All edges must be sawed in a suitable manner and are to be coated with PG-64 asphalt cement or an approved emulsion prior to placing the ID-2. After the wearing surface has been placed and thoroughly compacted, the cut or

surface where old and new meet will again be sealed with PG-64 asphalt cement or an approved emulsion.

Additional Restoration Requirements. If the permittee opens any roadway pavement having a bituminous concrete surface, whether to install a new facility or to modify an existing facility, the Permittee shall comply with the following requirements:

- When a longitudinal opening longer than ten (10) feet and wider than three (3) feet is made in the roadway pavement, the Permittee shall mill and overlay to a depth of 1.5 inches the entire width of the street in which the opening was made, for the entire length of the roadway that was opened, as directed by the Borough Engineer.
- When two (2) or more transverse trenches are made in the roadway pavement less than thirty (30) feet apart, the Permittee may be required to mill and overlay to a depth of 1.5 inches all traffic lanes in which the opening was made, for the entire length of the roadway between such opening, as directed by the Borough Engineer.
- When two (2) or more square type opening have been made by the Permittee in the roadway pavement less than fifty (50) feet apart, the Permittee may be required to mill and overlay to a depth of 1.5 inches all traffic lanes in which the opening were made, for the entire length of roadway covering such opening.
- When two (2) or more square type openings are made within ten (10) feet of each other, the Borough Engineer may require the Permittee to connect both excavations and treat such opening as one opening, providing full depth permanent restoration for the entire area.
- Where disturbed lanes adjacent to undisturbed lanes are overlaid, the edge of the disturbed lane shall be milled to a depth of 1.5 inches for the length of the opening and milled material removed, in order to insure a smooth joint. A full width overlay may be performed instead of saw cutting and stripping the disturbed lane or lanes.
- All ragged or broken edges and undermined areas shall be saw-cut straight; the minimum cutback shall be one (1) foot and the minimum depth shall be six and one half (6<sup>1</sup>/<sub>2</sub>) inches.
- Permanent restoration shall match existing thicknesses and materials, except in the case of asphalt paving where the minimum requirements shall be five (5) inches of BCBC and one and one half (1<sup>1</sup>/<sub>2</sub>) inches of ID-2, or equivalent Superpave.
- All edges shall be sealed a minimum of twelve (12) inches wide with GP64-22 liquid asphalt.
- All non-paved areas shall be restored with six (6) inches of topsoil, seeded and strawed.
- The person issued the permit shall send a postcard to the Borough indicating the date of completion of the permanent restoration.

- The permittee shall be required to repair the excavation by cutting back and resurfacing at least on (1') foot each side of the street opening in each direction.
- Any construction company or utility making 4 or more street cuts in the same block; in a 3 year period shall be required to repave the entire block and curb to curb.

**SECTION 17: RAMPS, CURBS and SIDEWALKS.**

- The Borough of Berwick requires compliance with the latest Penn DOT Road Construction (RC-28M and RC-67M) Standards and Chapter 149 of the Berwick Code Book for curbs and sidewalks.

**SECTION 18: INDENTIFICATION.** All excavations shall be marked after both temporary and permanent restoration. The following information shall be spray-painted on the existing road surface (not on the patch where it will quickly soak in): complete name of applicant, exact date of restoration, and emergency telephone number to be called in case of problems day or night. This information shall be painted in six (6) inch letters in the direction of travel, prior to the excavation, and in the proper APWA color (yellow for gas, green for sanitary sewers, etc.). The dates of temporary restoration and permanent restoration shall both appear. If the markings become worn prior to the end of the 2-year guarantee period, they shall be re-painted by the applicant.

**SECTION 19: GUARANTEE.** All work shall be guaranteed for a period of two (2) years from the date of final inspection and certification by the Borough Engineer that the work has been completed in accordance with the permit. All defects shall be corrected by the applicant within four (4) hours of verbal or written notice from the Borough or its agents.

**SECTION 20: SECURITY DEPOSIT.** At the time of permit application, the applicant shall deposit with the Borough financial security in an amount equal to 110% of the cost of completion of the work required to comply with this ordinance estimated as of 90 days following the date scheduled for completion provided that the cost exceeds \$25,000.00. The form, amount and administration of the financial security shall be in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10509. The financial security shall be held by the Borough until the end of the 2-year guarantee period and shall be used by the Borough as liquidated damages in case of default or non-performance by the applicant.

**SECTION 21: PROHIBITED LOCATIONS.** No utilities, except for transverse laterals, shall be placed in the planting area between the face of curb and the sidewalk, or within five (5) feet of the edge of cartway or paved shoulders. This area is reserved for Borough use for storm sewers, traffic signs, streetlights, etc.

**SECTION 22:** **Recently Paved Streets.** Except for emergencies, excavations will not be permitted in streets that have been built or overlaid within the previous five (5) years, unless the applicant agrees to overlay the full width of the excavated section with one and one half (1 1/2) inches of ID-2 or similar Superpave. In the case of transverse crossings, the overlay shall extend a distance of 100 feet on either side of the excavation. Overlays shall be placed within six (6) months of permanent restoration of the excavation.

**SECTION 23:** **DRIVEWAY PERMITS.** Permits shall be required for all new or widened driveways within the Borough. Driveway permits for Borough roads shall be obtained from the Borough. The application shall be accompanied by a fee in accordance with the Borough Schedule of Fees adopted from time to time by the Borough of Berwick Council. Driveway permits for State roads shall be obtained from PennDOT. The applicant shall also comply with the current zoning ordinance.

**SECTION 24:** **INSURANCE.** As part of the permit application, the applicant shall provide the Borough with insurance certificates for the following policies of insurance in full force and effect with an insurance company(ies) admitted by the Pennsylvania Insurance Commissioner to do business in the Commonwealth of Pennsylvania and rated not less than A in Best Insurance Key rating Guide:

1. Commercial general liability insurance, including property damage liability and personal injury liability of not less than \$1,000,000 for each occurrence and a \$2,000,000 minimum aggregate amount.
2. Automobile bodily injury liability insurance of not less than \$500,000 each person; \$500,000 each occurrence.
3. Statutory Workman's Compensation and employer's liability insurance.

All policies of commercial general liability required hereunder shall name the Borough, its council members, engineers and employees as additional insureds. Specifically, commercial general liability insurance policy shall name the borough and its officers, agents, supervisors, elected officials and employees as an additional insured under ISO endorsement or non ISO equivalent. Any policy or policies of insurance shall state that coverage shall not be cancelled by either party except after thirty (30) days' prior to written notice by U.S. certified mail, return receipt requested, has been given to the Borough. In addition, the applicant shall indemnify and hold harmless the Borough and shall assume the defense and all costs of lawsuits and awards.

**SECTION 25: VIOLATIONS and PENALTIES.** Any person or utility which shall violate or permit the violation of the provisions of this ordinance shall, upon being found liable therefore in a criminal enforcement proceeding, pay a fine of not more than \$1,000 nor less than \$300., together with court costs and reasonable attorney fees, and may be incarcerated for a period not exceeding 90 days. Such fines, costs, attorney fees and incarceration, after being reduced to a final, un-appealed judgment, shall be enforced by the Borough pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.

**SECTION 26: DEFINITIONS.** As used in this ordinance, the following terms shall have the meanings indicated:

- PERSON -- Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

**SECTION 27: SEVERABILITY.** If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**SECTION 28: EFFECTIVE DATE.** This ordinance shall be effective thirty (30) days from the date of enactment.

**ORDAINED** this 20<sup>th</sup> day of July, 2015

ATTEST:

Borough of Berwick:

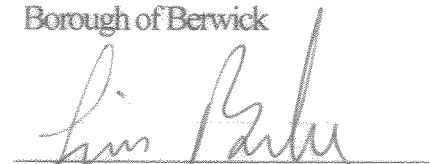


Debra Force, Borough of Berwick Manager



Alvin Hill, Council President

Borough of Berwick

  
Tim Burke, Mayor