

ORDINANCE NO. 2019-11-3

**AN ORDINANCE OF THE BOROUGH OF RED LION, YORK COUNTY, PENNSYLVANIA, AMENDING CHAPTER 21, PART 2 CODE OF ORDINANCES OF THE BOROUGH OF RED LION REGULATING STREETS BY REPLACING IT WITH A NEW PART 2.**

The Borough Council of the Borough of Red Lion hereby enacts, adopts, and ordains the following:

**SECTION 1:** Chapter 21, Part 2 of the Code of Ordinances of the Borough of Red Lion, entitled "Streets,"

**Part 1**

**Streets**

**§21-100. Definitions and Interpretation.**

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

**APPLICANT** — any person who applies for a permit. The applicant must be the owner of the facility related to the need for the permitted work.

**BOROUGH** — the Borough of Red Lion, York County, Pennsylvania.

**COMMONWEALTH** — the Commonwealth of Pennsylvania.

**EXCAVATION** — any activity within the right-of-way of any street, alley or cartway which involves cutting, breaking, or disturbing the surface thereof. In this ordinance, the term "opening" shall have essentially the same meaning as excavation.

**PERSON** — any natural person, partnership, firm, association, organization, company, corporation or municipal authority.

**STREET** — any street, road, lane, court, cul-de-sac, public way, public square, alley, highway, or other public place or way located in the Borough of Red Lion and established for the use of the traveling public.

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

**§21-101. Permit Required to Make Opening or Excavation.**

It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Borough without first securing a permit therefor from the Borough and satisfying the other applicable requirements consistent with the regulations as hereinafter provided.

**§21-102. Application for Permit.**

- A. Any person who shall desire to make any opening or excavation in any street of the Borough shall make application to the Borough in writing for that purpose. Such application shall be made upon forms to be furnished by the Borough and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size and depth thereof, and any other information that may be requested by the Borough. In addition, the application shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Borough and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend, keep and hold harmless the Borough from and indemnify it against any and all actions, suits, demands, payments, damages, costs, fees and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.
- B. The applicant is required to have liability insurance which shall be maintained in the minimum coverage amount of \$500,000.00. A satisfactory certificate of insurance must be filed with the Borough before any work consistent with the issued permit may be commenced.

**§21-103. Permit Fee.**

Before any permit shall be issued to open or excavate any street in the Borough, the applicant shall pay to the Borough the required fees and charges as established, set, adopted, and which may be subsequently modified from time to time, by resolution of the Borough Council.

**§21-104. Issuance of Permits Restricted.**

Permits shall be issued by the Borough only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

**§21-105. Permit Approval/Disapproval.**

A permit may be issued to the applicant after all the requirements therefor have been satisfied. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given by the Borough to the applicant.

**§21-106. Responsibility to Contact Utilities.**

The work authorized by any permit issued hereunder is subject to all the provisions of the Underground Utility Line Protection Law, Act of December 10, 1974, P.L. 852, No. 287, 1 et seq., as amended or supplemented from time to time. It shall be the applicant's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing services in the Borough and their office addresses may be obtained from the Recorder of Deeds of York County, Pennsylvania. The applicant shall also be responsible for providing the serial number from the Pennsylvania One Call System to the Borough.

**§21-107. Pre-Excavation Street Condition.**

Any person who receives a permit is required to provide visual proof of the condition of the street or streets subject to excavation prior to the commencement of the excavation. Proof of condition of the area subject to excavation shall be in the form of photographs or video of the entire area. This information shall be provided in digital form to the Borough at the time of permit application

**§21-108. Requirements for Overlaying Traffic Lanes and Entire Disturbed Area; Limiting the Number of Patches and Pavement Joints.**

- A. When a longitudinal opening longer than ten (10) feet and wider than three (3) feet is made in the street pavement, the applicant shall overlay the traffic lanes in which the opening was made for the entire length of street that was opened.
- B. When two (2) or more transverse trench openings are made in the street pavement less than one hundred (100) feet apart, the applicant shall overlay the traffic lanes in which the openings were made for the entire length of the street between such openings.
- C. When four (4) or more openings are made by the same applicant in the street pavement less than one hundred (100) feet apart, the Borough engineers or such other agent or representative of the Borough shall require the applicant to overlay the entire disturbed area.
- D. When the opening is to be closer than three (3) feet from the edge of the existing pavement, the opening shall be extended to the edge of pavement.
- E. When the permitted opening is to be closer than five (5) feet from the edge of an existing patch or patches in the pavement, the restoration shall be extended to include said patch.
- F. When the permitted opening is located in a street or alley sixteen (16) feet wide or less, then the applicant shall overlay the entire street or alley width for the entire length of the opening.

**§21-109. Requirements and Specifications for Work.**

- A. Any person who shall open or excavate any street in the Borough shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation.

- B. Unless otherwise set forth in this ordinance, all construction processes and material specifications shall be in accordance with the Red Lion Borough Construction and Material Specifications which are hereby adopted as the specifications of the Borough for restoration of surfaces of streets in the Borough.
- C. The surface shall conform to the proper grade and be of the same surface covering as the part of the street immediately adjoining the opening.
- D. Any applicant test boring or drilling into any Borough street for location of leaks or venting of leaks shall be required to backfill holes with 2A stone to 2" below street surface and fill and compact holes with ID-2 or 9.5 mm Superpave and seal with a rubberized bituminous sealant.
- E. The applicant' shall be responsible to replace all pavement markings that are removed or damaged. All material shall be in conformance with PennDOT Publication 408 Specifications.
- F. No opening or excavation in any street shall extend from the curb line into the street a distance greater than one (1) foot beyond the center line of the street before being refilled and the surface of the street being restored to a condition safe and convenient for travel.
- G. No more than five hundred (500) feet longitudinally shall be opened in any street at any one time.
- H. The excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with any buildings, or any other subsurface lines or constructions unless written permission from the proper authorities relative to such subsurface lines or constructions shall have been obtained.
- I. No tunneling shall be allowed without the express written approval of the Borough with such approval endorsed and set forth upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Borough, its engineers or inspector designated by it, and shall be done only in a method approved by the Borough, by its engineers or by the inspector designated by the Borough.
- J. The use of steel plates to cover open excavations shall be prohibited at all times between the dates of October 15<sup>th</sup> and April 15<sup>th</sup>.
- K. A temporary paving of cold patch premix a minimum of two inches, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period no longer than of 90 days. Unpaved trenches shall not remain unpaved longer than five (5) working days after backfilling, nor over weekends and holidays.
- L. Permanent paving courses consisting of five inches (5) thick, compacted 25 mm Superpave base course and one and a half (1-1/2") thick, compacted 9.5 mm Superpave wearing surface, or any other applicable specifications that are or may be required by PennDOT, shall be installed flush with the adjoining paving no longer than ten (10) working days after receiving authorization from Borough. Ambient temperatures must be 40 degrees (F) and rising on the day of final pavement placement. All paving shall be petroleum grade PG-64-22, meet anticipated traffic else loading (ESAL's) and ADT be designed to adequate

skid resistant (SRL) ratings for the roadway being repaired. If greater than six and one half inches (6-1/2") of pavement exists, new pavement shall be installed to match existing thicknesses. All joints shall be sealed with a rubberized bituminous sealant. Saw cutting of existing pavement shall be in accordance with PennDOT Publication 408 Specifications. All temporary paving material shall be removed from the trench before placement of the permanent base course. Compaction testing shall be completed by a qualified testing agency to provide written testing results to document compliance with the Borough's current "Construction and Material Specification" manual, supplied to the Borough upon completion of the final restoration. A minimum of one test shall be presented associated with the subgrade for each patch. For trenches in excess of 500' longitudinal, one test for every 500' is required.

- M. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Borough from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.
- N. The applicant shall offer the Borough visual proof that the opening or excavation is ready to be backfilled before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street is ready for permanent paving. The applicant shall provide certification by a third party that the compaction has been completed as required.
- O. Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey bench mark within the Borough shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Borough. Permission shall be granted only upon condition that the applicant shall pay all expenses incident to the proper replacement of the monument.
- P. When the work performed by the applicant interferes with the established drainage system of any street, adequate provision shall be made by the applicant to provide proper drainage to the satisfaction of the Borough.
- Q. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.

**§21-110. Responsibility for Correction of Unsatisfactory or Incomplete Work;  
Responsibility for Defects Occurring within five (5) years.**

- A. In the event that any work performed by or for a permit holder shall, in the opinion of the Borough or its engineers, be unsatisfactory and where that work is not corrected in accordance with the Borough's instructions within the time fixed by it, or in the event that

the work for which the permit was granted is not completed within the time fixed by the Borough, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost of the work to the applicant.

- B. When any earth, gravel, or other excavated material is caused to roll, flow, or wash upon any street, the applicant shall cause the same to be removed from the street within twenty-four (24) hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Borough shall cause the removal and the cost incurred shall be paid by the applicant.
- C. If within five (5) years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant or its contractor or otherwise related to the applicant's work, then the applicant shall reimburse the Borough for the cost of all necessary repairs to the subgrade and permanent paving.
- D. Payment for all work done by the Borough under the provisions hereof shall be made by the person made liable therefor within thirty (30) days after a bill therefor is sent to such person by the Borough. Upon failure to pay such charges within such time, the same shall be collectible by the Borough by an action at law or in the manner provided by law for the collection of municipal claims.

#### **§21-111. Emergency Openings.**

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, to commence excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this Part are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Borough, after such notice as it shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the cost of all work to such responsible party.

#### **§21-112. Waiver of Degradation Fees**

- A. The Borough shall give timely notice to all persons owning property abutting on any street, or any utilities with facilities located within the Borough about to be paved or improved as part of the Borough's pavement maintenance program, and to all public utility companies operating in the Borough, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within thirty (30) days from the giving of such notice, unless such time is extended in writing for cause shown by the Borough.
- B. If such work or repairs are completed before the street is paved or improved, the Borough shall waive the degradation charges for the applicant, if any are required, for all work requiring excavation of the said street.

#### **§21-113. Conditions for Laying and Extending Utility Lines.**

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Borough until the plan therefor shall have been first filed with the Borough and such plan, and the exact location of such main or line, is approved by the Borough. The Borough shall not approve the location of any such main or line at a depth of less than thirty (30) inches from the surface of the street unless it is clear to the Borough that locating the same at a depth of more than thirty (30) inches from the surface is impossible or impractical.

**§21-114. Restoration and Maintenance Financial Security.**

No company, corporation, authority or association shall excavate any street or alley without first giving to the Borough a performance guarantee in an amount as determined by the Borough and acceptable to the Borough manager. Without limitation as to other types of financial security which the Borough may approve, which approval shall not be unreasonably withheld, irrevocable letters of credit issued by a federal or state chartered bank or lending institution or restrictive escrow accounts held by such banks or lending institutions shall be deemed acceptable financial security for the purposes of this Part.

**§21-115. Applicability.**

The provisions of this Part shall not apply to the laying of sidewalks or curbs .

**§21-116. Prohibited Acts.**

It shall be unlawful for any person to injure, damage, mar or deface any street in the Borough, or to render the same unsafe or dangerous to the traveling public in any way, which shall include, but shall not be limited to, the following: (a) the dragging or drawing of logs, trees or timber or other heavy objects, whether composed of wood, metal or other substance, on or over the surface; (b) the building of fires or the burning of rubbish or other material upon or over the surface; (c) the placing of or allowing to run, leak or be placed upon the surface of any oil, gasoline, kerosene or other substance that might be harmful to the surface; or (d) the operation of any vehicle upon any street with the wheels covered with mud or other material to the extent that such mud or other material drops therefrom onto such street causing a discoloration and/or slippery condition.

**§21-117. Penalty For Violation.**


Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000. Every day that a violation of this Part continues shall constitute a separate offense.

**SECTION 2:** All remaining provisions of Chapter 21 of the Code of Ordinances of the Borough of Red Lion shall remain in full force and effect unless otherwise repealed by any other ordinance. All other ordinances and parts of ordinances inconsistent herewith are hereby repealed only to the extent that the same are inconsistent herewith.

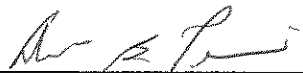
**SECTION 3:** This Ordinance shall become effective on November 11, 2019.

**ENACTED, ADOPTED, AND ORDAINED** on this 11<sup>th</sup> day of November 2019.

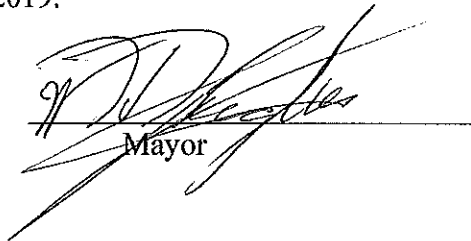
**BOROUGH OF RED LION**

By:   
\_\_\_\_\_  
President of Borough Council

Attest:

  
\_\_\_\_\_  
Secretary

**APPROVED** this 11<sup>th</sup> day of November, 2019.

  
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Mayor