

BOROUGH OF TURTLE CREEK

ORDINANCE NO. 1153

**AN ORDINANCE OF THE BOROUGH OF TURTLE CREEK,
COUNTY OF ALLEGHENY, REPEALING ORDINANCE 837 OF
THE TURTLE CREEK BOROUGH CODE AND ESTABLISHING
NEW REGULATIONS RELATED TO STREET OPENINGS AND
RESTORATION AND AUTHORIZING THE BOROUGH TO
CHARGE PERMIT FEES AND ESTABLISH BONDING
REQUIREMENTS**

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, after consultation with the Borough Engineer, the Council of the Borough of Turtle Creek has determined that Turtle Creek Borough Ordinance 837 should be repealed in its entirety and replaced by new, more comprehensive regulations regarding the opening and excavating of streets in the Borough; and

WHEREAS, this Ordinance is passed pursuant to the Borough Code; and

WHEREAS, the passage of this Ordinance is deemed to be in the best interests of the citizens of Turtle Creek Borough.

NOW THEREFORE, BE IT ORDAINED AND ENACTED and it is hereby ordained and enacted by the Council of the Borough of Turtle Creek, Allegheny County, Pennsylvania, as follows:

Section 1.

Ordinance 837 is hereby repealed in its entirety and replaced by the following:

Part 1

Street Openings

§101. Permit Required for Street Openings.

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 streets without first applying to the Borough for a street opening permit and obtaining from the Borough an appropriate permit for the same.

§102. Applications.

Permit applications to the Borough shall comply with the following:

1. Shall be submitted in person or by mail on a form provided by the Borough. Additionally, all of the provisions of "Pennsylvania One Call" shall be strictly adhered to, and the applicant shall insure that the Borough is directly put on 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 proposed opening, the proposed installation and related street features.
4. Shall be accompanied by a check or money order payable to the "Borough of Turtle Creek " for the permit fee described in §103.
5. That such application shall be submitted to the Borough at least thirty (30) days prior to the anticipated start of the work; provided, however, 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. Permanent restoration work as described in this Part shall be completed in compliance with §109.
6. The appropriate Borough official shall examine and determine the completeness of each application, and may reject any application if the applicant fails to provide the required information.
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.

§103. Fees.

Issuance 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, and issuing and processing the permit shall be as established from time to time by Resolution of Borough Council and shall be set forth on the Borough's Fee Resolution.

§104. Bond.

The applicant shall be required to execute and deliver unto the Borough a bond, letter of

credit or other security, in a form approved by the Borough Solicitor, 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, right-of-way, sidewalk and/or curb which is the subject of said application. Upon completion of restoration, the applicant shall be required to execute and deliver to the Borough a Maintenance Bond in a form approved by the Solicitor as its guarantee and warranty against defects regarding said restoration for a period of two (2) years from the date of acceptance by the Borough of said restoration work.

§105. Restoration.

Any permittee under this Part shall be required to restore a Borough road or street to the same condition as it was prior to entry thereon by the permittee in accordance with regulations promulgated by the Borough. The estimate of such restoration shall be set forth in detail on the permit issued by the Borough.

§106. Borough Standards.

The permittee shall be required to repair the excavation by cutting back and resurfacing at least one foot (1') on each side of the street opening in each direction, and the bond referred to herein shall include the cost of such restoration. 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. 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 condition to conform to such requirements or standards. In case any dispute arises between the permittee and the aforementioned appropriate Borough official, the Borough shall have the authority to suspend work until the dispute is resolved in a manner satisfactory to the Borough.

§107. Openings Parallel to the Road or Right-of-Way.

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

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, in which case placement of the facility within the pavement or shoulder may be authorized by the permit.
2. The top of a utility facility shall be installed at least three feet (3') beneath the surface.
3. 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 otherwise authorized by the Borough.

4. No opening may be made for more than two hundred linear feet (200') at a time, unless authorized by the Borough.

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

6. 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 Pennsylvania Department of Transportation ("PennDOT") 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, when such notification shall be given as timely as possible and with the full knowledge and concurrence of the Borough.

7. The permittee shall store materials and equipment only at the location(s) approved and acceptable to the Borough. The permittee shall obtain Borough approval of storage locations not less than five (5) business days prior to the commencement of work and shall not deliver or store any materials or equipment within the Borough without said approval.

8. Daily Stoppage of Work Requirements.

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:

(1) Covered with steel plates or bridging over openings which are less than six (6') feet both in 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.

§108 Backfilling.

Any person who shall open or excavate any improved street in the Borough shall thoroughly and completely backfill the opening or excavation and mechanically compact same so as to prevent any settling thereafter as it was before the opening or excavation. The permittee shall use the same surface and base materials to the same line and grade as existed in the street before the opening or excavation.

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

1. The opening may first be backfilled with fine aggregate materials, meeting applicable PennDOT standards, or standards as promulgated by the Borough from time to time, and placed to a height not to exceed one foot (1') over the top of the facility, or as otherwise authorized by the Borough. To help protect its facility from future excavations, the permittee shall place a permanent ribbon at least one foot (1') 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.

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

3. Backfill shall be compacted as follows:

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

B. Compaction Outside Pavement and Shoulders. In the alternative to subsection (A), at least fifteen (15) days prior to the start of work, the applicant may submit a written compaction plan to the Borough requesting backfill in an opening outside the pavement and shoulder to be placed in layers thicker than eight inches (8") 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 road or street. The Borough may condition its approval of a compaction plan on the execution of a bond if deemed necessary by the Borough at its discretion.

C. 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.

§109. Additional Restoration Required.

On improved streets, a temporary pavement consisting of bituminous cold patch material, with not less than three inches (3") of 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 or such other as reasonably determined by the Borough, not less than three inches (3") 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 street opening under this Part, 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 feet (2') beyond the limits of the opening.

Trench restoration shall be the same as that described for Bituminous Pavement Restoration below, excepting that the entire area shall receive a one and one-half inches (1/2") compacted depth overlay of Superpave 9.5 mm Wearing Material.

1. 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 date of completion of the temporary restoration, 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 herein.

2. Permanent restoration shall meet the following requirements:

Bituminous pavement restoration shall consist of the following:

A. Saw one foot (1') 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.

B. Thoroughly compact subgrade.

C. Place three inch (3") compacted depth of a 2-A modified stone base.

D. Place three inch (3") compacted depth of 19.0 mm Superpave Binder Material.

E. Place one and a half (1 1/2") inch compact depth of 9.5 mm Superpave Wearing Material.

F. Immediately following paving operations hand mop and seal all edges where new pavement meets existing surfaces with AC-20 sealing material.

G. When four (4) or more consecutive openings occur at one time (within a twelve (12) consecutive month period) within one half of any street (from the center line to the curb line) the contractor shall be required to 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 feet (2') beyond the limits of the farthest openings.

H. When four (4) or more openings occur from curb line to curb line within a twelve (12) consecutive month period, the permittee shall be required to mill the existing pavement surface from curb line to curb line and to a point not less than two feet (7) beyond the limits of the farthest openings.

I. 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 inch (18") 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.

J. 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 inch (3") minimum depth of compacted cinders or crushed stone subbase and five inch (5") thickness of 4,000 p.s.i. air entrained concrete, with No. 616 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') feet center to center, with contraction joints at ten feet (10') center to center. All new finished concrete surfaces shall be treated with BASF Enviroseal 40 or equivalent.

K. Additional restoration shall be required as follows:

(1) 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 inches (1W) 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 land.

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

L. To the extent that PennDOT standards for bituminous pavement restoration exceed the Borough standards, the Borough may, at its sole discretion, require the permittee to adhere to the PennDOT standards.

§110. Violation and Penalty.

That any person, firm or corporation violating any of the provisions of this Part, upon conviction thereof before a Magisterial District Judge, shall be sentenced to pay a fine of not less than six hundred dollars (\$600.00) or more than one thousand dollars (\$1,000.00), 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.

The proper authorities of the Borough may institute any appropriate action or proceeding to prevent violations of the provisions of this Part, 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 upon consent of the Borough. 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, the Borough shall provide written notice to the permittee within ten (10) days of receipt of the oral notice upon request of the permittee.

The proper official of the Borough may revoke the street opening permit issued under this Part in the event of a violation. The permittee shall have the right to appeal the permit revocation to Borough Council within five (5) days of receipt of notice of such revocation.

Section 2.

If any of the provisions or terms of this Ordinance shall be held invalid for any reason whatsoever, then, unless such provision or term is material to this Ordinance as to render this Ordinance impracticable to perform, such provision or term shall be deemed severable from the remaining provisions or terms of this Ordinance and shall in no way affect the validity or enforceability of any other provisions hereof.

Section 3.

Any ordinance or part of any ordinance conflicting with this Ordinance be and the same is hereby repealed insofar as the same affects this Ordinance.

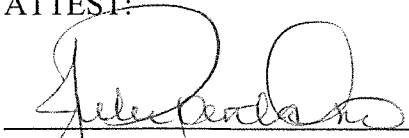
Section 4.

This Ordinance shall be effective upon adoption.

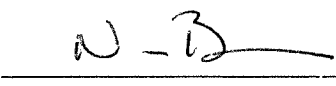
Adopted this 6th day of November, 2023.

ATTEST:

BOROUGH OF TURTLE CREEK

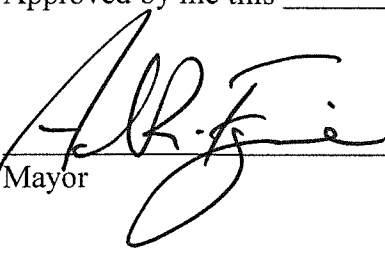


Administrator



President

Approved by me this 6th day of November, 2023.



Mayor