

**ORDINANCE NO. 2021-5**

**AN ORDINANCE OF THE BOROUGH OF HALLAM, YORK  
COUNTY, PENNSYLVANIA, DEFINING AND REGULATING  
STREET OPENINGS AND STREET EXCAVATIONS.**

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of Hallam Borough, York County, Pennsylvania, under authority of law as follows:

**ARTICLE II  
STREET OPENINGS AND EXCAVATIONS**

**SECTION 1: Definitions and Interpretation**

- A. The following words, when used in this Ordinance, 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

BOROUGH - the Borough of Hallam, York County, Pennsylvania

COMMONWEALTH - The Commonwealth of Pennsylvania

EXCAVATE/EXCAVATION - any activity within the right-of-way of any Street or public way which involves cutting, breaking, or disturbing the surface thereof. In this Ordinance, the term "Open" or "Opening" shall have the same meaning as Excavation.

PERSON - any natural person, partnership, firm, association, organization, company, corporation, utility, 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 Hallam and established for the use of the traveling public.

- B. In this Ordinance, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

**SECTION 2: Permit Required to Make Opening or Excavation**

- A. It shall be unlawful for any Person to Open or to make any Excavation of any kind in any of the Streets or the Street right-of-way in the Borough without first securing a permit therefore from the Borough and satisfying the other applicable requirements consistent with the regulations as hereinafter provided.

**SECTION 3: Application for Permit**

- A. Any Person who shall desire to make any Opening or Excavation in any Street or Street right-of-way 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.

- B. 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, judgments, claims, costs, fees and charges for or by reason of the proposed Opening or Excavation, and all damages or injuries 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.
- C. The Applicant and/or the Applicant's contractor are required to have liability insurance which shall be maintained in the minimum coverage amount of \$1,000,000.00. A satisfactory certificate of insurance confirming such liability insurance coverage must be filed with the Borough before any work shall be commenced pursuant to the issued permit.

#### **SECTION 4: Required Fees and Charges**

- A. Before any permit shall be issued to Open or Excavate any Street in the Borough, the Applicant shall pay to the Borough any required fees and charges relative to (i) permit issuance, (ii) street closings, (iii) inspections, and (iv) street degradation. Such fees and charges shall be set, adopted, and may be subsequently modified from time to time by resolution of the Borough Council.

#### **SECTION 5: Issuance of Permits Restricted**

- A. 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.

#### **SECTION 6: Permit Approval/Disapproval**

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

#### **SECTION 7: Responsibility to Contact Utilities**

- A. 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.

#### **SECTION 8: Pre-Excavation Street Condition**

- A. Any Person who receives a permit shall be responsible to visually document the existing conditions of the Street subject to Excavation and the surrounding areas prior to the commencement of the Excavation. Documentation of the area subject to Excavation shall be in the form of photographs and/or video. It will be the Permittee's responsibility to defend any claims of damage filed by the Borough or other affected party.

**SECTION 9: 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 the 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 sixteen (16) feet wide or less, then the Applicant shall overlay the entire Street width for the entire length of the Opening.

**SECTION 10: 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 Hallam Borough Construction and Material Specifications which are hereby adopted as the specifications of the Borough for restoration of surfaces of Streets in the Borough. Construction and Materials not covered by either this Ordinance or the Borough Construction and Materials Specifications shall be in accordance with the Pennsylvania Department of Transportation Publication 408 ("Publication 408"). In addition, Applicant shall be responsible for all traffic control, safety, and protection of traffic during the Excavation, Opening, or any other construction process in accordance with the requirements set forth in Publication 408.
- 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 9.5 mm Superpave and seal with PG 64-S-22.
- E. The Applicant shall be responsible to replace all pavement markings that are removed or damaged. All material shall be in conformance with the Hallam Borough Construction and Material Specifications.

- F. Temporary paving shall be placed and maintained for a minimum of 60 days and a maximum of 180 days. Temporary paving shall be thoroughly bound and compacted, installed flush with the surface of the adjoining paving. Such temporary paving material and thicknesses shall be in accordance with the Hallam Borough Construction and Material Specifications. Alternate temporary paving consisting of cold patch may be used on a case-by-case basis if approved in writing by the Borough. Trenches shall remain unpaved for no longer than five (5) business days after backfilling and shall not remain unpaved during any weekend or any holiday officially observed by the Borough.
- G. Permanent paving shall be thoroughly bound and compacted, installed flush with the surface of the adjoining paving within ten (10) business days after receiving authorization from the Borough. Such permanent paving material and thicknesses shall be in accordance with the Hallam Borough Construction and Material Specifications. All temporary paving material shall be removed from trenches prior to placement of the permanent paving base course.
- H. 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 centerline of the Street before being refilled and the surface of the Street being restored to a condition safe and convenient for travel.
- I. No more than five hundred (500) feet longitudinally shall be Opened in any Street at any one time.
- J. 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.
- K. 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 in writing by the Borough, by its engineers, or by the inspector designated by the Borough.
- L. 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> unless approval is granted in writing by the Borough.
- M. The Applicant shall notify the Borough when the Opening or Excavation is ready for backfilling 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 so that inspections may be made.
- N. Monuments of concrete, iron, or other lasting material set for the purpose of locating or preserving the lines of any Street of property subdivision, or a precise survey reference point or a permanent survey benchmark 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.
- O. 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.
- P. 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.

- Q. In the Excavation of any Street, the Applicant shall take all necessary and reasonable precautions to ensure that the Street remains in a safe and passable condition for the traveling public at all times. Such precautions may include but are not limited to the use of signs, barriers, lanterns, and all other warning devices sufficient to alert the traveling public of possible dangers relative to the Excavation.
- R. The permission herein granted does not confer on the permit holder or its contractors the right to cut, remove, or destroy trees or shrubbery within the legal right-of-way except under specifications, regulations, and conditions as the Borough may prescribe.
- S. If at any time in the future the roadway is widened, reconstructed, or the alignment or grades are changed, the permit holder further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvements of the roadway at the permit holder's own cost and expense.
- T. Notwithstanding the foregoing, Applicant shall comply with all requirements of Publication 408 and shall comply with all local, state, and federal laws.

**SECTION 11: Responsibility for Correction of Unsatisfactory or Incomplete Work; Responsibility for Defects Occurring within Eighteen (18) Months**

- A. In the event that any work performed by or for an Applicant or 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 eighteen (18) months 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 permanent paving.
- D. Payment for all work done by the Borough under the provisions hereof shall be made by the Person made liable therefore within thirty (30) days after a bill 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.

**SECTION 12: Emergency Openings**

- A. 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 Ordinance 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 all of its costs and expenses of all work to such responsible Person.

**SECTION 13: Timely Notice**

- A. The Borough shall give timely notice to all Persons owning property on or abutting any Street in the Borough prior to it being resurfaced or reconstructed, 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 30 days of the notice unless such time is extended in writing for cause shown by the Borough. New paving shall not be Opened for a period of 10 years after the completion thereof except in the case of emergency. If it is sought to Excavate upon or Open a Street within ten (10) years after the completion of the paving thereof for any reason other than an emergency, the Applicant shall make written application to Borough Council, and a permit for such Opening shall only be issued after express approval of Borough Council.

**SECTION 14: Waiver of Degradation Fees**

- A. The Borough shall give timely notice to all Persons owning property abutting any Street, or any utilities with facilities located within the Borough prior to it being 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 pursuant to this Section 14, the Borough shall waive the street degradation fee for the Applicant, if a fee is required, for all work requiring Excavation of said Street.
- C. Where the Applicant is required to overlay the roadway or lane width as mandated in Section 9 herein, then the street degradation fee may be waived by the Borough.

**SECTION 15: Conditions for Laying and Extending Utility Lines**

- A. 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 a detailed plan has 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.

**SECTION 16: Restoration and Maintenance Financial Security**

- A. No Person shall Excavate any Street without first giving to the Borough a performance guarantee in an amount as determined by the Borough and acceptable to the Borough engineer. 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 Ordinance.

**SECTION 17: Applicability**

- A. The provisions of this Ordinance shall not apply to the laying of sidewalks or curbs or to the installation of utility poles.

**SECTION 18: Prohibited Acts**

- A. 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.

**SECTION 19: Penalty for Violation**

- A. Any Person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600.00. Every day that a violation of this Ordinance continues shall constitute a separate offense. In addition to the aforesaid penalty for a violation of this Ordinance, the Borough may seek such other relief and remedies, at law or in equity, to include but not be limited to injunctive relief as may be otherwise available.

**SECTION 20: Repealer**

- A. All Ordinances or parts of Ordinances which are not consistent herewith are hereby repealed.


**SECTION 21: Severability**

- A. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section, or part thereof not have been included herein.

This Ordinance shall become effective on November 8, 2021.

ENACTED, ADOPTED, AND ORDAINED on this 8 day of November, 2021.


**HALLAM BOROUGH COUNCIL**

By:  \_\_\_\_\_  
President

Attest:

  
Secretary

Approved this 8<sup>th</sup> day of November, 2021.

By:  \_\_\_\_\_  
Mayor