

**LOGANVILLE BOROUGH, YORK COUNTY
PENNSYLVANIA**

ORDINANCE NO. 2018-01

**AN ORDINANCE SETTING FORTH REQUIREMENTS, APPLICATION PROCEDURES,
AND ADMINISTRATION FOR OPENING OR EXCAVATING ANY PUBLIC STREET.**

WHEREAS, Loganville Borough, a Pennsylvania municipal entity governed by the Borough Code, 8 Pa. C.S.A. § 101 et seq., has determined it to be in the best interest of the Borough residents to manage the public rights-of-way by requiring application for and prior approval of any opening, occupation, or excavation in, across or under any street, road or public right-of-way in the Borough, consistent with applicable law;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Borough Council of Loganville Borough, York County, Pennsylvania, as follows:

SECTION 1: TITLE. This Article shall be known and may be cited as the "Loganville Borough Street Opening Ordinance."

SECTION 2: APPLICATION, APPROVAL AND PERMIT REQUIRED.

a. It shall be unlawful for any person or entity to open or make any excavation of any kind in any Borough street, road, alley or right-of-way without first applying for and securing a permit for such excavation, in accordance with this ordinance and other Borough regulations. Municipal excavators, or excavators operating in emergency situations, may at the Borough's discretion be exempted from the requirements of this ordinance.

b. An application shall be submitted and a permit and approval obtained from the borough secretary, manager, or council president, in form and manner specified by the Borough. The application shall provide the contact information of at least one point of contact of a person who will be responsible or in charge of the excavation.

c. Upon receipt of an application, the Borough shall, within a reasonable time period, determine whether the application is complete, and may reject incomplete applications. If the application is deemed to be complete, the Borough may, in its discretion, deny, approve, or conditionally approve the application. If the application is denied, the Borough shall advise the applicant in a written communication of the basis for denial.

d. If the application is approved, the Borough shall issue a permit to the Applicant. The permit shall specify the location, extent, and method of the excavation, the start date and duration of the excavation, the permittee to whom the permit is issued, and any conditions the Borough deems appropriate to preserve and maintain the public health, safety, welfare, and convenience of the residents. Permits are not transferable without approval of the Borough.

e. The Borough may require the permittee to provide an appropriate bond or security to assure complete and appropriate repair to the excavation in the public right-of-way. Imposition, duration, and release of such bonding will be in amount and form as determined appropriate by the Borough Council, engineer and solicitor.

f. Each permit shall require the applicant to indemnify the Borough from liability in such terms determined appropriate by the Borough solicitor. The Borough may modify such indemnity and insurance provisions as they pertain to a particular permit.

g. Permits may, at the discretion of the Borough, be voided if the excavation has not begun within ninety (90) days of the start date specified on the permit, if the excavation is not prosecuted diligently to its conclusion, or if the excavation and restoration have not been completed within the specified duration. The Borough, in its discretion or upon request of the applicant, may issue extensions if deemed appropriate.

SECTION 3: MANNER OF PERFORMING WORK.

a. Any excavation shall be conducted in compliance with any Borough constructions specifications in place at any time. Any applicant shall meet with a Borough representative on site a minimum of two (2) business days prior to the start of any excavation. No excavation shall begin until all utility companies having facilities in the area of the excavation have been notified by means of the Pennsylvania One-Call System, Inc. Applicant shall conduct all excavation so as not to interfere with water mains, sewers, residential connections, or any other subsurface lines or construction, until permission of the proper authorities in connection with such subsurface lines or construction has been obtained. Any damage to such lines or construction shall be applicant's responsibility, shall be repaired immediately, and shall be reported to all affected parties thereof.

b. All work shall be of first class quality, free of any and all defects. All excavation and other infrastructure improvements shall be constructed in strict accordance with the application and permit.

c. During and upon completion of any excavation, the Borough shall have the right to inspect at any time as it deems necessary, to ensure compliance with the conditions, restrictions, and regulations prescribed by the permit. Inspection does not constitute acceptance of the excavation during construction. Applicant shall be responsible for the Borough's reasonable costs incurred as a result of, or related to, the excavation inspections.

d. Upon completion of the excavation, applicant shall restore the right-of-way to its pre-excavation state, or better, in manner required by the Borough engineer. Applicant shall be responsible to maintain, repair, or reconstruct the site the excavation so as to maintain a condition acceptable to the Borough for a period of two (2) years following completion and restoration of the excavation, or dedication of the infrastructure or excavated area, whichever is later in time.

e. Should the excavation not be completed or restored in the time and manner specified in the permit, or if in the judgment of the Borough the excavation presents at any time a public nuisance, public emergency or imminent threat that requires immediate action, the Borough may order the applicant to complete or close the excavation within twenty-four (24) hours. If the applicant should fail, neglect, or refuse to comply with such order, the Borough may complete or cause to be completed such excavation as the Borough deems expedient and appropriate, and the applicant shall be responsible to the Borough for any costs associated with the administration, repair, and restoration made necessary by the excavation or applicant's failure, though the use of the bond required by this ordinance or otherwise. Such completion shall not relieve applicant from liability for future failures at the excavation site.

SECTION 4: REPEALER; SEVERABILITY. The passage of this ordinance shall in no way be deemed to invalidate or repeal any provisions of any ordinance except as specifically provided for herein. If any portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions hereof.

SECTION 5: EFFECTIVE DATE. This ordinance shall become effective five (5) days after the adoption thereof.

ENACTED AND ORDAINED, this 6th day of August, 2018.

Attest:

LOGANVILLE BOROUGH COUNCIL

Norma J. Butters
Secretary

By: Donald L. Smith
President

Approved this 6th day of August, 2018.

By: Stephanie E. Haultney
Mayor