

BOROUGH OF OHIOPYLE
FAYETTE COUNTY, PENNSYLVANIA

ORDINANCE NO. ____ OF 2025

**AN ORDINANCE OF THE BOROUGH OF OHIOPYLE, FAYETTE COUNTY,
PENNSYLVANIA, REGULATING THE EXCAVATION OF STREETS AND
THOROUGHFARES WITHIN THE BOROUGH OF OHIOPYLE, IN ACCORDANCE
WITH CERTAIN REQUIREMENTS WITH AND PRESCRIBING PENALTIES FOR
VIOLATIONS THEREON.**

WHEREAS, the Borough of Ohiopyle under and by virtue of and pursuant to the authority granted to it by the Pennsylvania Borough Code does hereby enact and ordain this Ordinance in the interests of providing for the public health, safety and welfare of the citizens and guests within the Borough; and

WHEREAS, the Borough Council for the Borough of Ohiopyle has determined that unregulated excavation of Borough streets, roads and thoroughfares is detrimental to the health, comfort, living conditions, welfare, and safety of the citizens, patrons and guests of Ohiopyle Borough, and it is hereby declared to be the policy of the Borough of Ohiopyle to safeguard the citizens of the Borough from unregulated excavation of Borough roads, streets and thoroughfares; and

WHEREAS, the Council of the Borough of Ohiopyle believes it to be in the best interests of the Borough, its residents therein and the public at large to enact an Ordinance to regulate excavation within Borough roads, streets and thoroughfares.

NOW THEREFORE, be it ordained and enacted by the Council of the Borough of Ohiopyle, and it is hereby ordained and enacted as follows:

Section 1 - Title.

This Ordinance shall be known and may be cited as the "Borough of Ohiopyle Street Opening Ordinance of 2025."

Section 2 - Permit Required Making Openings or Excavations in Streets and Alleys.

Whenever it is necessary for the digging or opening of trenches or excavations in any part of the public streets or alleys of the Borough of Ohiopyle, which shall include any part of the entire width of such street or alley, comprising caraway, gutter, curb, grass-plot, and/or sidewalk, a permit shall be secured from the City Clerk of the City. The applicant shall pay to the Borough Secretary such fee or fees as shall be prescribed in the schedule outlined in Section 113 of this Ordinance. This schedule can be revised or amended upon approval of the Borough Council and duly advertised for a period of ten (10) days in the newspapers used for advertisement of ordinances after which such schedule shall become effective. Provided that where any digging or opening of trenches or excavations shall be made in any improved street maintained by the Pennsylvania Department of Transportation, a Highway Occupancy Permit must be obtained from the Department of Transportation.

Section 3 - Refilling of Openings: All parties opening or digging any of the public streets or alleys of the Borough for any purpose whatsoever, shall refill the same in the following manner:

That if the street is unimproved or if it consists of the natural ground of ordinary material, the excavation or trench shall be refilled with the material excavated and thoroughly compacted by adequate tamping.

That, whenever the excavation is in a street (sidewalk, driveway or shoulder) packed with brick, concrete, amesite or with 2A modified, the excavation shall be filled solidly to the street level, but no pieces or parts of the paving of said improved surface which shall have been dug up, shall be used as backfill, and (the brick, concrete or amesite or 2A modified removed there from shall be deposited at a suitable place and in such a manner that will not have an adverse effect on the Borough or its residents.

Backfilling of trenches shall be done in the following manner and as shown on Standard Drawing SD-100.

Zone 1: Backfill shall extend from the trench bottom to 1.0 foot above the pipe or conduit. Selection of backfill material shall be at the discretion of the Permittee. The backfill shall be solidly rammed down and tamped with proper tools made for this purpose.

Zone 2: Backfill shall extend from the top of Zone 1 to the bottom of the pavement. Backfill shall be 2-A Limestone. The backfill shall be installed in six (6) inch layers and shall be solidly tamped with mechanical tampers.

Section 4 - Replacement of Pavement. All street paving, sidewalks, gutters, inlets and curbing where disturbed by the trenching operations, shall be restored by the permittee and shall be paved or rebuilt using the same type of construction as was in the original, except as otherwise specified herein. The requirements of this section shall not apply to streets maintained by the Pennsylvania Department of Transportation, where on such streets; specifications; of such Department shall be followed.

All paving materials and paving methods used in the work covered by this Section shall conform to the requirements contained in the current edition of the Pennsylvania Department of Transportation Specification Form 408.

Replacement of bituminous surfaces shall be done in the following manner, and as shown on Standard Drawing SD-100. The base course shall be a minimum of four (4) inches of Bituminous Binder Course 19.0mm Super pave (fine grade) or concrete. The surface course shall be a minimum of an inch and one-half (1 ½) of Bituminous Wearing Course 9.5mm Super pave (fine grade). Please see attached drawing form.

For work carried out on any of the few remaining brick streets in the Borough, a concrete base course and a brick replacement will be required.

For all unpaved streets, roads, lanes or other unpaved areas used as streets, driveways or walks through which excavation has been made, the Zone 2 backfill shall be extended to the ground surface and shall be considered the final surface.

At joints between existing pavements and repaving work, the edges of the existing pavements shall be cut back parallel with the trench in straight lines and right angles, neatly trimmed and as approved by the Engineer. In all cases, pavement and replacement shall be

extended to at least 6" beyond the edge of the trench onto undistributed base.

When paving and compaction is completed, all joints shall be sealed using AC-20 Asphalt Cement or Emulsions E1, E6, or E8. This application shall be a minimum of six inches in width.

The pavement replacement as specified above shall be installed within twenty (20) working days after backfilling is completed. The permittee will be responsible for the excavation during this time period, and shall visit the site daily to address any complaints, or unsafe conditions and correct. If it is not possible to install the permanent pavement after backfilling, for example, during the winter months, then temporary pavement shall be installed. The temporary pavement should be completed by no more than one business day after the backfill is complete. The temporary pavement shall be 4 inches of bituminous cold patch or with the approval of the City Engineer, 2-A modified stone. In emergency situations when outside temperature is below freezing 2-B modified stone may be used on a temporary basis. The temporary pavement shall be thoroughly compacted. All temporary pavements shall be removed and replaced with permanent pavement by May 15.

All disturbed areas requiring seeding shall be seeded and mulched and soil supplements applied, as required by the Pennsylvania Department of Transportation Specification Form 408.

The requirement of this section shall not apply to streets maintained by the Pennsylvania Department of Transportation, but on such streets, specifications of such equipment shall be followed.

Section 5 - Tunneling Restricted: Openings in Paved Street. No part of a trench on excavation shall be tunneled or undermined so as to leave the surface undisturbed, but all material shall be removed to the full length, width and depth of the excavation, exempting in such cases as may be approved by the Borough Engineer. The charges, however, shall be the same as if the surface has been removed. This section does not restrict approved methods of boring.

Section 6 - Extension of Permit to Cover Additional Work. Whenever more of the public streets or alleys shall be dug up than specified in any permit, the party or parties to whom such permit shall have been issued shall notify the Borough Secretary and secure an extension of the original permit and shall pay for the extra square feet of surface removed, over and above the amount specified in the original permit at the prices mentioned in this ordinance. Additionally, such person or persons violating the provisions of this section shall, in addition to paying the fees provided for in this ordinance shall also pay, provided further, that in cases where excavations are made in streets maintained by the Pennsylvania Department of Transportation an increased cash deposit or bond shall be filed as set forth in Section in this ordinance.

Section 7 - Information Given in Permit. When such permit is issued, it shall designate the locality at which the excavation is to be made, the kind of street surfacing and the approximate square feet of surface to be removed.

Section 8 - Responsibilities of Permit Holder and Borough. The party or parties to whom or for whom a permit may be issued shall assume all responsibility for the excavation made, for filling the same, repairing the improved surface and for repairing all reasonable damages that may arise from the digging of such trenches or excavations. The permittee will maintain such trenches or excavations.

With the exception of emergency situations, the Borough must be notified, in advance, of backfilling and paving operations, so that the city may inspect the performance of the work.

The party or parties requesting a street opening permit shall make such request to the Borough at least three (3) days in advance of the proposed excavations, except that in emergency situations, the excavations may be made, provided however, that the permit request be made within a reasonable time after the excavation is started. In all such emergency situations, the party or parties wanting to perform the excavations should try to notify the Borough prior to performing the excavations.

Provided further that in any case where the digging of such trenches or excavations occurs in an improved street maintained by the Pennsylvania Department of Transportation, then in such event said parties shall assume all responsibility for restoring the same in accordance with the adopted standards of the Pennsylvania Department of Transportation for the particular type of construction.

The permittee shall provide and maintain public liability and property damage insurance in an amount sufficient to indemnify and save harmless the Borough from all liability for damages or injury done to persons or property which may be incurred by reason for such opening or any failure to properly protect, maintain, barricade, light, backfill and/or properly effect the same. The insurance shall not be in an amount less than \$1,000,000.00 for injury to persons and \$3,000,000.00 for injury to property. The permittee shall name the Borough as additionally insured and provide proof of said insurance to the Borough.

Section 9 - Fees Payable Prior to Issuance of Permit. Before the issuance of any permits under the provisions of this ordinance there shall be filed on a record in the office of the Borough, a receipt signed by the Borough Secretary that all of the fees required by the provisions of this ordinance, and set forth in the application for a permit shall have been first paid to the Borough Secretary and no permit shall be issued or valid unless the provisions of this section shall have been fully complied with, except where prior arrangements have been made by utility companies to pay for total excavations on a monthly basis.

Section 10 - Verification of Extent of Excavations. In all instances where the Borough Engineer and the Borough Council may grant permission to dig up highways, the Borough Engineer shall verify the extent of the excavations.

Section 11 - Permit Holder to Remove and Dispose of Excess Excavated Materials. All excess of excavated materials on any street shall be promptly removed from the street by the party or parties receiving the permit, and they shall deliver and dispose at their expense to a permitted disposal area the Borough or its residents.

Section 12 - Correlation of other Ordinances. The provisions of this Ordinance shall not otherwise impair the provisions of any ordinance or ordinances providing for the giving of bonds to the Borough by any party or parties or corporations, for breaking ground or occupying any of the streets, roads, avenues, lanes or alleys within the Borough, except that no bond shall be exacted for repairing the street or keeping it in repair, other than these portions of this ordinance applicable to streets maintained by the Pennsylvania Department of Transportation.

Section 13 - Disposition and Use of Permit Fees. The fees received by the Borough Secretary in pursuance of the provisions of this Ordinance shall by him be placed in a fund designated "Trenching Fund" and the monies appropriated from said fund, from time to time,

shall be used exclusively for the payment of bills resulting from the Issuance of Street Opening Permits.

Section 14 - Penalty for Violations. Any person, partnership, firm or corporation, who or which shall violate any provision of this ordinance, shall upon conviction thereof, be sentenced to pay a fine of not less five hundred dollars (\$500.00) and costs of prosecution, and, in default of payment of such fine and costs to imprisonment for not more than ninety (90) days.

Section 15 - Schedule of Permit Fees. Any person, partnership, firm or corporation, who or which shall violate any provision of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred (\$500.00) dollars (\$250.00) and costs of prosecution, and in default of payment of such fine and costs, to imprisonment for not more than ninety (90) days.

Section 16 - Miscellaneous Provisions.

- A. The required permit fee must accompany the Street Opening Permit Application unless it is being paid on a monthly basis.
- B. Fee Schedule for making openings or excavations in Streets, Alleys and Sidewalks. Fee shall be \$500.00 per opening with a refund of \$200.00 after sixty (60) days upon completion of all requirements.
- C. A fee for opening or trench in excess of 2,000 square feet shall be negotiated between the city and the permittee.
- D. Inspections.
 - 1. Any authorized employee of the Borough or the Borough Engineer shall have the right to observe and inspect all work done under the street opening permit and shall see that all terms and conditions of this Ordinance are enforced.
- E. When calculating the size of the opening, a minimum trench width of two (2) feet shall be used.
- F. Requests for openings or more than one street cannot be combined into one permit. Individual permits will be issued for each street.

Section 17 - Repealer. All other ordinances or parts thereof which are in conflict with this chapter are hereby repealed.

Section 18 - Severability. The provisions of this chapter are severable, and, if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this chapter. It is hereby declared to be the intent of the Borough Council that this chapter would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

Section 19 - Effective date. This Ordinance shall take effect immediately upon execution by the Mayor.

ORDAINED AND ENACTED INTO LAW this ____ day of _____,
2025.

ATTEST:

BOROUGH OF OHIOPYLE:

Lindsey Strack, Secretary

By: _____
Jessica Kruse, President

Mark McCarty, Mayor

Conrad Hamather, Vice President

Pamela Kruse

Linda McCarty

Sara Conn