

## **ORDINANCE NO. 2023-03**

# **AN ORDINANCE OF THE BOROUGH OF KULPMONT, NORTHUMBERLAND COUNTY, PENNSYLVANIA, PROVIDING FOR THE ISSUANCE OF AN EXCAVATION PERMIT FOR CERTAIN WORK TO BE CONDUCTED WITHIN THE BOROUGH OF KULPMONT**

SECTION 1. The Council of the Borough of Kulpmont, Northumberland County, Pennsylvania, does hereby ENACT AND ORDAIN by and with the authority of the same as follows:

### SECTION 2. ACTIVITIES REQUIRING ISSUANCE OF PERMIT.

- A. No person, persons, firm partnership, corporation or association shall perform any construction or excavation on any property without a permit on any of the streets of the Borough of Kulpmont or any ancillary roads connected thereto or any public grounds located within the Borough of Kulpmont, without a permit. A bond of 110% is to be conditioned upon the restoration of the street or public ground to its original condition. Notwithstanding the foregoing, in lieu of a bond, any municipal authority or public utility may pay one bond, in an amount established by Council, to cover all permits issued relative to work being done by said authority or public utility.

### SECTION 3. APPLICATION FOR PERMIT.

The application for a permit shall be on a form prescribed by the Borough and submitted to the Borough no less than thirty days prior to the beginning of construction. Exceptions may be made in the case of an emergency. A fifty dollar (\$50.00) fee shall be paid to the code office for inspection and direction of sidewalk demolition/reconstruction/repair before and after work is done. The application shall be accompanied by a fee established by a resolution of the Council of the Borough of Kulpmont; said fee schedule may be changed from time to time by resolution of the Council of the Borough of Kulpmont and to the extent not specifically set in that resolution, the fee shall be established in accordance with the Schedule of Fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit three copies of a sketch showing such dimensions as the location of the intended construction, width of the traveled roadway, right of way lines and a dimension to the nearest intersecting street. The Borough Roadmaster shall maintain a list of streets scheduled for pavement or other structural improvements in the Borough capital improvement construction

schedule. If the applicant has made an agreement with the Borough for shared restoration of an upcoming project, the Borough, as part of that agreement, shall have the ability to exempt the applicant from the permit application and related fees.

#### SECTION 4. ISSUANCE OF PERMIT.

A permit shall be issued to the applicant only after all the requirements of this part have been fulfilled.

#### SECTION 5. CONDITIONS OF PERMIT.

All work done pursuant to a permit issued under the provisions of this part shall be performed under the direction and to the satisfaction of the Borough or the Borough designated representative. The permit is binding upon the applicant, its agents' contractors, heirs, personal representatives, successors and assigns and shall be in compliance with the following:

- a. Responsibility. The applicant is responsible for causing compliance with the terms and conditions of the permit by its employees, agents and contractors. Responsibility for compliance with the terms of the permit may not be assigned or transferred by the applicant without first obtaining approval from the Borough after submitting a written request to do so. If a permit is assigned or transferred without first obtaining approval from the Borough or the Boroughs designated representative, the assignment or transfer is void.
- b. Liability. The applicant is liable to the Borough for failure to comply with the permit and this chapter. The liability of the applicant to the Borough does not preclude the applicant, the Borough or a property owner adjacent to permitted work from bringing an action against the applicant contractor, subcontractor, engineer, architect, assignee, agent, workers, employees or other persons.
- c. Traffic control. The applicant shall be responsible to maintain traffic control devices during the duration of work. All maintenance and protection of traffic control devices shall be in accordance with PennDOT Publications 213 and 408, as amended.
- d. Working hours. All work shall occur between the hours of 7:00 a.m. and 5:00 p.m., EST, unless the permit specifically allows a variance from this work or if the work was completed as an emergency repair.
- e. Notifications required. In addition to complying with the requirements of Pennsylvania Act 187 of 1996, as amended, any person or firm to whom a permit has been issued shall notify the Mount Carmel Area School District and the Northumberland County 911 Center of any hard road closing. The

notification shall be given to the Mount Carmel Area School District not less than thirty-six hours in advance of the commencement of the work. The notification to the County 911 Center shall occur immediately prior to the commencement of the work. The notification to both entities shall indicate the time, place, and purpose of the street excavation. A similar notification shall be sent when the road is again passable.

- f. Drainage alterations.
  - 1. Altering drainage is prohibited unless specifically authorized by the permit. The applicant shall not:
    - a. Alter the existing drainage pattern or the existing flow of drainage water.
    - b. Direct additional drainage or surface water toward, onto or into or in any way affect the highway right of way or highway facilities. Additionally, the permit does not authorize the applicant to direct, divert or otherwise drain surface waters over the property of another property owner.
  - 2. The permit does not relieve the applicant from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.
- g. Equipment damaging highway.
  - 1. To protect the pavement and shoulders, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface, unless otherwise authorized by the permit.
  - 2. In the event that other than rubber equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four inches.
  - 3. If the equipment damages the pavement or shoulders, the applicant shall restore the pavement or shoulder to its former condition, at the applicant's expense.
- h. The applicant must also provide proof the PA-1 call was made the results of such call.

## SECTION 6. RESTORATION.

- a. Backfill and temporary restoration.
  1. It shall be the duty of any person, firm or corporation causing an opening or excavation to be made to thoroughly and completely backfill the same.
    - a. All excavation and trenches shall be backfilled to the original ground surface or to the grades specified. The backfill shall begin as soon as practical after the pipe or other construction has been placed and shall thereafter be carried on as rapidly as the protection of the balance of the work will permit. Depositing of the backfill shall be done in such a manner that the shock of falling material will not injure the pipe or adjacent structures. All excavation backfill shall be PennDOT certified No. 2A Coarse aggregate. Under no circumstance may the original backfill be utilized. Trenching/backfilling for water, gas or electric services shall be in compliance with IRC, UCC or whichever is more stringent. Grade shall not be lower than six inches within the first ten (10) feet and 2% away from buildings.
    - b. Compaction of the backfill shall be done in lifts of uniform layers not to exceed eight inches in depth. Each lift shall be compacted over the full width of the excavated area. Backfill shall be compacted to ninety-seven percent of its maximum dry density as measured using the standard proctor density test method.
    - c. Special compaction shall be done around all valves, hydrants and other structures and utilities by the use of pneumatic tampers, place tamper or plate vibrators, with lifts not to exceed eight inches in depth.
  2. The applicant will temporarily pave the opening with flexible base paving immediately after backfill is complete and shall maintain said filled opening for a period not to exceed six months, by which time the opening shall be permanently restored. The applicant is responsible for providing a smooth riding surface at all times over the trench or opening and shall make required repairs as directed by the Borough or Borough Engineer or their designee.
  3. At the end of excavation and backfill operations, the applicant shall provide temporary flexible base pavement restoration in accordance with the following:

- a. The temporary flexible base pavement shall consist of a minimum of three inches of bituminous concrete meeting the requirements of PennDOT Publication 408, as amended, or other base course material authorized by the Borough.
    - b. The temporary flexible base pavement shall remain in place a minimum of sixty days prior to the placement of the final pavement restoration, unless otherwise specified in the permit.
  4. At the end of the workday, an opening in the right of way shall be covered, backfilled or protected. If work is stopped on a project, the applicant shall promptly backfill the opening and restore the surface and work may not be resumed until the applicant is prepared to proceed with the work to its completion. If the applicant fails to backfill the opening or proceed until completion of the work, the Borough reserves the right to do the work upon notice to the applicant, where practical and shall be reimbursed for the costs by the applicant, within thirty days after receipt of the Borough invoice.
  5. In all cases, the contractor shall blade and compact the highway after the trench has been backfilled, so that it shall be passable to traffic at all times. The contractor shall maintain the roadway in a condition acceptable to the Borough or the Borough designated representative at all times until final approval of the entire work by the Borough or the Borough designated representative.
  6. Temporary restoration includes the restoration of any curbing.
- b. Permanent restoration.
1. Final base and surface restoration. Final base and surface restoration of flexible base pavements shall be in accordance with the following:
    - a. Prior to final restoration of the pavement, one foot outside of each edge of the opening or any damaged area shall be sawed the full depth of pavement in a neat straight line. If tear out or other pavement damage subsequently occurs, the line shall be resawn one foot beyond any damaged area. The detached material shall be removed without damaging the adjacent pavement. The use of a pavement breaker is prohibited. The applicant may partial saw cut the pavement to a depth of at least three inches and cut the remaining

pavement with a jackhammer weighing no more than ninety pounds.

b. Exposed vertical and horizontal surfaces shall be prepared under Section 6 of PennDOT Publication 408.

c. The base course shall consist of Superpave 25.0 MM Base Course material, PG 64-22, 0.0 to 0.3 ESALs, meeting the requirements of Section 309 of Publication 408 or other base course material authorized the Borough. The base course material shall have a minimum depth of five inches or a depth equal to the existing base course, whichever is greater.

d. The wearing course shall consist of Superpave 9.5 MM Wearing Course material, PG 64-22, 0.0 to 0.3 million ESALs, meeting the requirements of Section 309 or Publication 408. The wearing course shall have a minimum depth of 1.5 inches or a depth equal to the existing wearing course, whichever is greater.

e. Where utilities have been added to existing sidewalks: curbing and finish shall be repaired to previous condition, adding expansion jointing and sealant where cuts were made.

f. Grade shall not exceed two percent (2%) and site shall comply with all the Americans with Disabilities Act.

2. Markings. All roadway markings are to be restored by the applicant.

3. Ongoing obligations. It shall be the responsibility of the applicant to continue the maintenance of that repaired opening for the life of the street or until the Borough resurfaces the street.

c. Additional restoration requirements. If the applicant opens any roadway pavement having a bituminous concrete surface, the applicant shall comply with the following requirements:

1. When a longitudinal opening longer than ten feet and wider than three feet is made in the roadway pavement, the applicant shall mill and pave to the preexisting elevation and water discharge the entire traffic lane in which the opening was made for the entire length of the roadway that was opened, as directed by the Borough, the Borough Engineer or their designee.

2. When two or more transverse trench openings are made in the roadway pavement, less than thirty feet apart, the applicant may be required to overlay all traffic lanes in which the openings were made for the entire length of the roadway between such openings, as directed by the Borough, Borough Engineer or their designee.
  3. When five or more square type openings have been made by the same applicant in the roadway pavement less than fifty feet apart, the applicant may be required to overlay all traffic lanes in which the openings were made, for the entire length of the roadway covering such openings, as directed by the Borough, Borough Engineer or their designee.
  4. When two or more square type openings are made with ten feet of each other, the Borough, Borough Engineer or their designee may require the applicant to connect all holes and treat such opening as one opening.
  5. When disturbed lanes adjacent to undisturbed lanes are overlaid, the edge of the disturbed lane shall be saw cut to a depth of 1.5 inches for the length of the opening and the detached material removed, in or to ensure a smooth joint. A full width overlay may be performed instead of saw cutting and stripping the disturbed lane or lanes.
  6. In the event any roadway pavement is disturbed within five years of the road being paved by the Borough, the applicant shall overlay the entire roadway width, curb to curb, for the entire length of the roadway that was opened.
- d. Clean surface requirement. Streets and alleys shall be kept free of mud, dust and aggregate material at all times sweeping shall occur as necessary.
  - e. Financial security agreements. When more than 2,000 square feet of roadway is disturbed, the Borough may, at its sole discretion, require the applicant to execute a financial security agreement in an amount equal to 110% of the estimated restoration costs of the construction or reconstruction. If financial security is required, it shall be delivered to the Borough or the Borough designated representative in a form and amount acceptable to the Borough Solicitor and shall guarantee restoration and maintenance of the highway for a period of at least two years after the acknowledged

completion of the permitted work. The following documents are acceptable forms of financial security:

1. An individual or blanket bond executed by the applicant and naming the Borough as obligee.
  2. An irrevocable letter of credit signed by a bank officer and naming the Borough as sole beneficiary; to be honored on presentment.
  3. An assignment of cause of action when authorized by the Borough.
  4. An escrow account in a form acceptable to the Borough.
- f. Professional fees. If the Borough or the Boroughs designated representative anticipates that the cost of reviewing the required application information or inspecting the permitted work will exceed the permit application fees, the following additional fees shall be assessed:
1. If the Borough or the Borough designated representative determines that the permitted work is of sufficient magnitude or importance to warrant assignment of one or more persons to inspect the permitted work on a more than spot inspection basis, the permit will so indicate, and the applicant shall be charged the inspection fee hourly rate incurred by the Borough or the Borough designated representative for inspection.
  2. The charges will be calculated either on an actual cost basis or a standard unit cost basis.
  3. The Borough of the Borough designated representative will provide an itemized invoice for additional fees due the Borough.
  4. All fees shall be paid in full prior to the start of work. In the event the fees are unknown or will occur after the issuance of the permit, the applicant shall escrow those items with the Borough.
- g. Insurance.
1. Contemporaneous with the submission of an application for a permit, the applicant shall submit to the Borough, or the



Borough designated representative written evidence, satisfactory to the Borough, of a permanent public liability insurance in an amount of not less than \$1,000,000.00. The same shall remain in full force and effect until ninety days after the date of the completion of the work for which the permit has been issued. The insurance will be in such form and with such company as shall be satisfactory to the Borough. The Borough shall be named as a coinsured and the policy shall include a provision to indemnify and defend the Borough.

2. In the event the applicant fails to provide written evidence of said insurance as required herein or fails to maintain the said insurance as required herein, the applicant shall cease all work and the Borough may exercise its rights under the financial security agreement to complete the work or take such action as is necessary to make the area of work safe or pay for liability insurance. The costs of any action taken by the Borough shall be paid from the financial security required hereunder or the same shall be collectible by the Borough in the manner provided by law for collection of municipal claims. The applicant shall be responsible for all costs incurred but not paid from the financial security.

#### SECTION 7. NOTICE OF COMPLETION/INSPECTION OF WORK.

Upon completion of the work authorized by the permit, the applicant shall give written notice thereof to the Borough. Upon receipt of such notice, the Borough shall inspect the work and when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify it within thirty days after written notice from the Borough to do so, the Borough may do the work and shall impose upon the applicant the cost thereof, together with an additional twenty percent of such cost.

#### SECTION 8. PENALTIES.

Any person, firm or corporation who shall violate any provision of this part, upon conviction thereof in an action brought before a District Judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not more than \$1,000.00 plus costs and in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety days. Each day that a

violation of this part continues or each section of this part which shall be found to have been violated shall constitute a separate offense.

SECTION 9. REPEALER.

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

SECTION 10. This ordinance shall take effect five days after its enactment.

Enacted and ordained this 14th day of June 2023.

This ordinance shall become effective five (5) days after the adoption hereof.

DULY ENACTED AND ORDAINED BY Borough Council, of the Borough of Kulpmont, Northumberland County, Pennsylvania, this 14<sup>th</sup> day of June 2023, in lawful session duly assembled.

ATTEST:

BOROUGH OF KULPMONT:

\_\_\_\_\_  
SECRETARY

BY:  
ROBERT SLABY, MAYOR

\_\_\_\_\_  
SECRETARY

BY:  
STEPHEN BIELSKIE, PRESIDENT

KULPMONT BOROUGH  
9 NORTH 8<sup>TH</sup> STREET  
KULPMONT PA 17834  
570-373-1521

APPLICATION FOR OPENING OR EXCAVATION OF STREETS  
(SUBMIT APPLICATION IN DUPLICATE)

Name of Applicant: \_\_\_\_\_

Address of Applicant: \_\_\_\_\_

Location of Excavation: \_\_\_\_\_

Purpose of Excavation: \_\_\_\_\_

Dates Excavation is to be open: \_\_\_\_\_

Length and width of trench: \_\_\_\_\_

Depth of trench: \_\_\_\_\_

Person(s) or business benefitted by excavation: \_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

The Applicant, Project Owner, or Contractor, by their signature(s) on the application, certifies that they agree to abide by all terms and conditions of Ordinance No.2023-03, adopted on the 14<sup>th</sup> day of June 2023, whether specifically mentioned in this application or not. The signature also acknowledges receipt of a copy of the above-mentioned Ordinance No.2023-03.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approved/Denied

\_\_\_\_\_  
Date

Provided a detailed drawing of the area of the roadway surfaces to be excavated, in duplicate. Street Opening/Excavation Drawing Submission:

Date: \_\_\_\_\_

Applicant: \_\_\_\_\_

Location of Excavation: \_\_\_\_\_

Size of Opening (length, width, and depth): \_\_\_\_\_

Type of base: \_\_\_\_\_ Estimated Date of Restoration: \_\_\_\_\_

Purpose: (repair, replace, new line, etc.): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date

**BOROUGH OF KULPMONT**  
**STREET OPENING FEE**

1. The application fee for the opening or excavation of streets in the Borough shall be \$100.00.
2. A minimum road cut assessment shall be \$100.00.
3. For roads with pavement older than five (5) years, a \$0.50 assessment per square foot shall apply.
4. For roads with pavement newer than five (5) years, a \$5.00 assessment per square foot shall apply.
5. These fees may be modified in the future by resolution of the Council.

