

ROAD CUT ORDINANCE

ORDINANCE NO 5 of 2021
AMENDING ORDINANCE NO 5 of 2019

MUNICIPALITY
OF THROOP

LACKAWANNA COUNTY, PENNSYLVANIA

Title

This Ordinance shall be known and be cited as the "Road Cut Ordinance."

1. WORD USAGE: DEFINITIONS

A. Word usage. The following words, terms and phrases when used in this Article; shall have the same meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The word "shall" is always mandatory and not merely directory. Whenever in this Article the words "directed," "required," "permitted," "ordered," "designated," or words of like importance are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Municipal Street Commissioner, Municipal Engineer or their representatives or agents is intended; and similarly the words "approved," "acceptable," "satisfactory" or words of like importance shall mean "approved by," "acceptable to" the Municipal Street Commissioner or Municipal Engineer or their representatives or agents.

B. Definitions. As used in this Article, the following terms shall have the meanings indicated:

APPLICATION FOR A PAVE CUT PERMIT --- A form provided to the utility by the municipality, noting pertinent data for the purposes of inspection and control by the municipality and constituting a receipt for services performed by the municipality upon approval.

CAPITAL IMPROVEMENT--- Preplanned to improve or upgrade an existing system or to install a completely new system providing new or additional service.

CURB --- The raised edge of a pavement consisting of a vertical stone or concrete surface or a rolled bituminous lip providing vertical separation between the road surface and a sidewalk or lawn area.

EMERGENCY REPAIR--- Work necessitated by the rupture or sudden malfunction of existing underground facilities causing immediate danger to the property, life, health, or safety of any individual.

FACILITIES---All the plant and equipment of a public utility, including all tangible and intangible, real and personal property without limitations, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, controlled, furnished or supplied for, by or in connection with the business of any public utility; provided, however, that no property owned by the Commonwealth of Pennsylvania or any municipal corporation thereof at the date when this Article becomes effective shall be subject to any of the terms of this Article, except as elsewhere expressly provided herein.

INSPECTION--- A careful or critical investigation not necessarily confined to optical observation but is understood to embrace tests and examination for the purpose of ascertaining quality and

compliance as prescribed in this Article and discovering and correcting errors.

MUNICIPAL CORPORATION --- All cities, boroughs, towns, townships, or counties of this commonwealth and also any public corporation, authority or body whatsoever created or organized under any law of this commonwealth for the purpose of rendering any service similar to that of a public utility. For the purpose of this Article, "Municipal Corporation" shall mean the Borough of Throop.

MUNICIPALITY --- The Borough of Throop

PAVE CUT LOG --- A chronological record of pave cuts, as reported to the municipality, containing pertinent data as required by the municipality for the purpose of inspection and control.

PAVEMENTS--- Roadway surfaces, of machine-laid asphalt, concrete, brick, Belgian block, crushed stone, bituminous concrete, oil and stone or soil within the public right-of-way including sidewalks.

PERSON --- An individual, partnership, or association, other than a corporation, and includes their lessees, assignees, trustees, receivers, executors, administrators, or other successors in interest.

PUBLIC UTILITY:

- (1) Persons or corporations now or hereafter owning or operating in this commonwealth equipment or facilities for:
 - (a) Producing, generating, transmitting, distributing, or furnishing natural or artificial gas, electricity, or steam for the production of light, heat or power to or for the public for compensation.
 - (b) Diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation.
 - (c) Conveying or transmitting television or radio signals by cable to the public for compensation.
 - (d) Sewage collection, conveyance, treatment, or disposal for the public for compensation.
- (2) The term "public utility" shall not include:
 - (a) Any person or corporation, not otherwise a "Public utility," who or which furnishes services only to himself or itself.
 - (b) Any bona fide cooperative association which furnishes services only to its stockholders or members on a nonprofit basis.
 - (c) Any producer of natural gas not engaged in distributing such gas directly to the public or compensation.

SERVICE --- Used in this Article in its broadest and most inclusive sense, and includes any and all acts done, rendered or performed, and any and all things furnished or supplied and any and all facilities used, furnished or supplied by public utilities in the performance of their duties under this Article to their patrons, employees, other public utilities and the public, as well as the interchange of facilities between two (2) or more of them.

STREET --- Includes any street, highway, road, roadway, land, court, alley, or place of whatever nature, whether dedicated or not, open to the use of the public as a matter or right for purposes of vehicular travel.

TREELAWN --- The area between the curb and the sidewalk.

UTILITY CORRIDOR --- An area within any public right-of-way, usually underground but not limited to the same, reserved for and assigned to a specified utility for placing and operating its facilities for transmitting and distributing its particular commodity or service.

UTILITY RELOCATION --- Includes the adjustment, replacement, or relocation of utility facilities as required by a street construction or repaving project, such as removing or reinstalling the facility, acquiring the necessary right-of-way, moving, or rearranging existing facilities, changing the type of facility and any necessary safety and protective measures. It shall also mean the construction of a replacement facility functionally equal to the existing facility, where necessary for the continuous operation of the utility service, the project economy or sequence of street construction.

WORK --- The furnishing of all materials, labor, equipment, and other incidentals necessary or convenient to the successful completion of the project and the fulfillment of all duties and obligations imposed by this chapter.

2. PERMIT REQUIRED

A permit must first be obtained before any opening can be made in any street, paved thoroughfare, cart way, sidewalk, or tree lawn in the municipality unless the work is being performed by or under contract with the Municipality.

3. PERMIT PROCEDURE

- A. Applications for a pave cut permit shall be available from the Municipality of Throop at the Municipal Building 436 Sanderson Street, Throop, PA 18512. An authorized agent of a utility or contractor where the work involves connection or improvement to a sewer line may complete said application at the Municipal Building and deliver to the Street Commissioner by way of hand delivery or electronic mail at rkalinowski@throopboro.com. This shall be done a minimum of Twenty-four (24) hours in advance of the next scheduled business day of the planned excavation. A copy of the completed application, signed and issued a permit number by the Street Commissioner, or Borough Engineer or their agents, shall be in the hands of a competent person at the work site described in said application and shall constitute a permit.
- B. The application for the permit shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and the expected date of completion of the excavation as well as the length and width of the cut and such other data as may reasonably be required by the municipality. When in the sole opinion of the municipality, the excavation and/or construction planned is extensive, the municipality may require the application to be accompanied by plans showing the extent of the proposed excavation work and elevations of both the existing ground prior to said excavation and the purposed elevated surfaces, the location of the

excavation work and such other information as may be prescribed by the municipality. If a road closure is required, the application shall be accompanied by a detour plan which shall be approved by the Street Commissioner or Engineer prior to commencement of any work.

- C. The municipality shall keep a record of all permits so granted and, before granting the same, shall collect from the applicant a permit application fee in the amount set forth in the fee schedule set in Article #1 Public utilities may be billed for permit fees monthly.
- D. The contractor or utility performing the work must notify sufficiently in advance the Borough before any backfill or permanent pavement is placed so that an inspector may be dispatched to the site to inspect the work. All backfill and permanent pavement work must be performed under the continuous observation of a Borough designated inspector/testing agency.
- E. It shall be unlawful for any person, firm, or corporation to make any opening, cut or excavation in, or under any street, alley, or other thoroughfare within the limits of the Borough of Throop unless and until a permit therefore is secured for each separate undertaking. The Throop Police shall promptly prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit.

4. EMERGENCY PERMIT PROCEDURES

In the event of any emergency in which a main, conduit or utility facility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such main, conduit, utility or facility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health, and safety of individuals. However, such person owning or controlling such facility shall apply for a pave cut permit no later than the end of the next succeeding day during which the borough office is open for business. In addition, the utility shall immediately notify the municipality and inform them that an emergency exists as soon as they become aware of said emergency. An emergency contact number will be provided by the Borough so that an inspector can be dispatched to the site of the emergency repair. An inspector shall be present to inspect the backfill and permanent pavement work for all emergency repairs at the Borough's discretion.

5. PENALTY FOR WORK DONE WITHOUT PERMIT

All work done without a permit shall be subject to the penalty provided, plus fees (See Fee Schedule found under Section 44 herein).

6. WORK DONE WITHOUT AN INSPECTOR

Any backfill or permanent pavement work performed without the presence of a Borough designated inspector present shall be removed and replaced, at the Borough's discretion, under the observation of a Borough authorized inspector at the cost of the contractor performing the work. The removal and replacement of any uninspected work will be at no cost to the Borough. This shall be in addition to any penalties that may be incurred as a result.

7. SURETY BOND

No company, corporation or association shall excavate any street without first providing to the Borough a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the excavation, opening or closing of said streets. The surety bond provisions of this ordinance may not apply to excavations which are made under and subject to a contract with Throop Borough or made by the Borough.

8. INSURANCE REQUIREMENTS; INDEMNIFICATION; WAIVER OF SUBROGATION

A. Indemnification and Hold Harmless

The applicant shall be insured as set forth herein and shall, by the fullest extent of the law, protect, defend, indemnify and save harmless Throop Borough, its officers, employees, authorized representatives and/or agents thereof from and against any and all claims, demands, suits, actions and proceedings of every nature and description (including costs, expenses and reasonable attorney's fees on account thereof), just or unjust, which may be made or brought against Throop Borough, its officers, employees, authorized representatives and/or agents, for or on account of injuries to persons or damage to property (including theft) alleged to arise out of any materials or appliances used in the work or resulting from or on account of improper materials or workmanship or for or on account of any accident or any other acts, negligence or omissions of the applicant or his employees, agents, representatives subcontractor(s) or persons furnished by the applicant or under its supervision or control; and, by persons furnished by the applicant or his subcontractor(s) under Workers Compensation or similar acts, and regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder; and, Throop Borough shall not, in any way, be liable therefore during the period of the work progress and for the period following the completion of the work until the street is resurfaced or reconstructed by the municipality. The indemnification and hold harmless obligations herein shall survive the expiration or termination of the permit.

B. Waiver of Subrogation

The applicant waives all rights against Throop Borough and its officers, employees, authorized representatives and/or agents for damages to the extent such damages are covered by the proceeds of the insurance required herein. If the policies of insurance referred to herein require an endorsement to provide for continued coverage where there is a waiver of subrogation, the applicant shall cause them to be so endorsed.

C. Minimum Insurance Coverage Requirements

- (1) The applicant is required to provide and keep in full force and effect during the progression of work, restoration of the surface(s) and the term of the permit the following insurance coverage limits and rated at least A-X by AM Best Company:

- a. Commercial General Liability - \$1,000,000.00 with each occurrence and Aggregate Limits of \$2,000,000.00. Deductible limits are subject to approval by Throop Borough.
 - b. Automobile Liability - (Including hired/non-owned autos) with a combined Single Limit of \$1,000,000.00
 - c. Workers Compensation _ Statutory as required by law.
 - d. Umbrella/Excess Liability - Not less than \$1,000,00.00 per Occurrence and Aggregate
- (2) The Commercial General Liability, Automobile Liability and Umbrella Liability policy must be written on an occurrence basis and must be endorsed as follows:
- a. Throop Borough together with any of its officers, employees, authorized representatives and/or agents are named as Additional Insured for both ongoing and completed operations.
 - b. All Contractor policies must be endorsed primary and non-contributory with or in excess of any coverage which Throop Borough may carry, and evidence of such must be provided.
 - c. The applicant shall provide evidence of the above coverages satisfactory to Throop Borough with the Additional Insured endorsement(s) attached thereto. It is the applicant's responsibility to maintain these Insurances in full force and effect during the term of the permit. Failure to do so will be considered a material breach and Throop Borough has the right to withhold future permits or cure default in any other means it deems appropriate in its sole discretion.
 - d. Throop Borough shall have no other obligation for any insurance, endorsements or other protection required for the work contemplated under the permit, including premiums and other charges.
- (3) Evidence of Insurance in the form of a Certificate or letter executed by a duly authorized representative of the Applicant's Insurance Carrier shall be submitted to Throop Borough no later than each January 15th and with each policy renewal date. Said evidence of insurance shall include the provision that Throop Borough shall be given proper advance notice of at least thirty (30) days of cancellation or any material alterations in the Applicant's policy. The Certificate shall name Throop Borough, 436 Sanderson Street, Throop, PA 18512 as Additional Insured.

9. SAFETY PRECAUTIONS

During the progress of work, the applicant shall provide and maintain such barricades, lights, warning signs and flag persons as may be deemed necessary by the municipality to prevent accidents to the public and/or adjoining tenants. Precautions must include, but should not be limited to, advance warning signs on all approaches to the work, and safe crossing for pedestrians. All precautions shall be in accordance with the Manual of Uniform Traffic Control Devices, as adopted by the United States Department of Transportation, Federal Highway Administration, 1971 Edition, Part IV, Traffic Controls for Street and Highway Construction and Maintenance Operations, or the most recent edition of the same. And PA DOT Publication 213.

10. CLOSING OF STREETS

No Street in the Borough of Throop may be completely closed to traffic at any time. One (1) lane of traffic must be able to pass unobstructed at all times. Flag persons must be posted at the limits of work at all times to direct traffic through the work area, and all established traffic patterns must be maintained at all times. If all other means of traffic control have been exhausted, the municipality may permit a road to be completely closed temporarily only with the consent of the Chief of Police, Fire Chief and Street Commissioner. When an emergency exists, the Lackawanna County Communications Center shall be notified in advance by the respective Utility. An application form for a permit to close a street will be available from the municipality. The completed application, bearing the signatures of the before-mentioned officers, shall be returned to the applicant and shall constitute a permit. A penalty shall be imposed for failure to notify the Lackawanna County Communications Center or to close any street without the required endorsements.

11. TIME PERIODS FOR COMPLETION OF PAVE CUTS

For small area pave cuts (those twenty-five (25) feet or less in length), the utility or contractor shall be required to complete the back-filling immediately upon cessation of work unless authorized by written approval of the Street Commissioner, Engineer or Inspector. Extensions of time may be allowed upon appeal to the Municipal Street Commissioner or Municipal Engineer provided that the contractor substantiates sufficient reasons for the extension required.

Work on long cuts (those over twenty-five (25) feet in length) shall proceed in a continuous manner in accordance with safety precautions. Permanent restoration must be completed within forty-five (45) days of the final trench backfill in the work zone location. Any delay or failure of restoration will be reported to the pertinent utility, and repairs by the utility will begin within twenty-four (24) hours after notification. Upon failure of the utility to repair the cut in a satisfactory manner, the municipality shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied against the utility or contractor.

Permits for long cuts or capital improvements will not be granted during the months of November through March except by written permission from the Municipal Street Commissioner or Municipal Engineer.

The utility or contractor shall coordinate planned cuts in the municipal streets with the paving program of the municipality as they become available. The municipality will provide a paving program for a one- year period to the utilities prior to March 1st of each year. Changes in the utilities' schedule of planned cuts shall require a confirmation from the Municipal Street Commissioner or Municipal Engineer. Changes in the municipal paving program shall be submitted to all utilities at the earliest possible date to permit the utilities to adjust their respective schedules.

12. MISCELLANEOUS WORK PROVISIONS

All excavations shall be commenced and completed by the use of a reasonable workforce. Adequate steel plates shall be placed over the excavation while it is being worked to ensure full traffic flow. The maximum length of any opening in the roadway shall be sixty (60) feet unless otherwise permitted, in writing, by the Municipal Engineer or Municipal Street Commissioner. Steel plates are permitted during working hours only, for temporary flow of traffic.

Every storm drain capable of receiving runoff from unstabilized or otherwise active work areas shall be protected. Inlet protection shall be used in conjunction with other erosion and sediment controls to prevent sediment – laden stormwater and non stormwater discharges from entering the storm drain systems. All controls shall be maintained daily. Sediment produced from saw cutting operations shall be removed immediately and disposed of in a proper manner.

13. EXCAVATED MATERIAL

In peak traffic areas as determined by the Municipal Street Commissioner or Municipal Engineer, all excavated material shall be removed daily at the cessation of work. All cartways, sidewalks, gutters and drainage devices shall be kept clear of all debris, excavated material and sediment. Hydrants adjacent to the work shall be, at all times, readily accessible to fire apparatus and no material or obstructions shall be placed within fifteen feet of any hydrant. No fill or spoil material shall be stockpiled, stored, or allowed to accumulate on the paved cartway.

14. DISPOSAL OF WASTE MATERIAL

Material which is unsuitable and any surplus of excavated material shall be considered waste and shall be disposed of by the utility or contractor beyond the project limits. In no case shall waste material be left at the worksite.

15. SUITABILITY OF MATERIALS

The suitability of material to be used as backfill shall be determined by the Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency. All materials not conforming to the requirements of this Article, whether in place or not, shall be rejected. Such materials shall be removed promptly from the worksite.

FILL MATERIAL

- A. The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency shall be the judges of the stability and suitability of the fill material. In no case will excessively wet or dry material be allowed as fill material. Fill must be compacted to a dry density at least equal to ninety-five percent (95%) of the maximum dry density attained by the Modified Proctor Test, ASTM D1557, latest revision, Method C or Method D, as designated by the Street Commissioner, Municipal Engineer or Borough designated testing / inspection agency.
- B. Granular or other suitable materials, as determined by the Street Commissioner, Engineer or designated testing/inspection agency, free from rocks and boulders shall be deposited in the trench simultaneously on both sides of the pipe for the full width of the

trench to a height of at least six (6) inches above the top of the pipe, placed and had-tamped to fill completely all spaces under and adjacent to the pipe. In the event that suitable natural granular material is not encountered during the normal exaction of the trench or when the material encountered is determined unsuitable by the Engineer or Street Commissioner or designated testing/inspection agency for back-filing around the pipe as required above, the contractor shall furnish and place other approved material. This approved material should be furnished from suitable pit-run material for backfilling around the pipe according to specific direction from The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency at no cost to the municipality. Pipe bedding material shall be non-compactable.

- C. Succeeding layers of backfill shall consist of 2A modified and shall conform to the requirements of PA DOT publication 408 Article 703 and shall be free from large pieces of rock, frozen material, concrete, roots, stumps, tin cans, rubbish, and other similar articles whose presences in the backfill would cause future settlement of the trench or damage the pipe.

16. BACKFILLING REQUIREMENTS/TEMPORARY PAVE RESTORATION

- A. The Municipal Street Commissioner must be notified at least 24 hours in advance of placing any backfill for inspection purposes. In backfilling, six-inch layers shall be placed in the deepest portion of the backfill, and as placement progresses, each six-inch layer shall be horizontally constructed. Compaction operations shall be continued using mechanical tampers until each layer of fill is compacted to a dry density at least equal to ninety-five percent (95%) of the maximum dry density attained by the Modified Proctor Test, ASTM D 1557, and latest revision.
- B. Back filling will be done in such manner as to obtain compaction through the entire length of backfill not less than that which exists adjacent to the excavation. The method of backfill shall be consistent with good engineering practice. 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 protection of the balance of the work will permit.
- C. Depositing of backfill shall be done so the shock of falling material will not injure the pipe or adjacent structures.
- D. All deficiencies in the quality of material for backfilling the trenches or for filling depressions caused by settlement shall be supplied by the contractor.
- E. In all cases, the road shall be passable to traffic at all times. The contractor shall maintain the roadway in a condition acceptable to the Engineer or Street Commissioner at all times until final approval of the entire work by the municipality. Temporary pavement restoration shall be completed at the end of each workday. It shall consist of 9.5mm or 19mm Superpave WMA or HMA PG 64 – 22 plant mixed bituminous material having a minimum compacted depth of 2.5 inches. Deficiencies in the temporary pavement restoration shall be corrected by the permit holder within 24 hours of notification by the Municipality.
- F. The contractor shall remedy at his own expense any defects that appear in the backfill or pavement restoration for a period of five (5) years following final restoration.

17. PAVEMENT RESTORATION REQUIREMENTS

- A. The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency must be notified in advance of placing any permanent pavement for inspection purposes. No pavement shall be placed without a Borough designated inspector present.
- B. Where the excavation is in a paved surface, the pavement shall be permanently restored with not less than 6 inches of 2A Subbase, 5 inches of 25 mm Superpave Base Course or the full depth of the adjacent permanent bases, whichever is greater, and 1 ½ inches of 9.5 mm Superpave Wearing Course. All materials and work shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Sections 350 and 409 respectively. Prior to replacement of the pavement, one foot (1') outside of each edge of the opening shall be sawed the full depth of pavement and stone base in a neat straight line (1 foot cutback). The detached material shall be removed without damaging the adjacent pavement. The final pavement joint between new and existing pavement shall be sealed with PG 6422 or other sealant approved by The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency to a width of 4 inches either side of the joint and vertically along the perimeter of the existing asphalt. In cases where pave cuts are made between November 16 and April 15 and hot plant mixed bituminous material is not available, the pavement restoration shall consist of cold patch or similar temporary bituminous material. Final pavement restoration shall be completed as specified herein above during the next paving season, but in no event later than June 15th. Maintenance of the temporary patch shall be the responsibility of the contractor. Where a new excavation overlaps a previous surface disturbance, the entire area encompassed by all disturbances shall be restored.
- C. When a longitudinal opening longer than 100 linear feet is made in the pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the area of the opening and to an extent of ten feet (10') beyond the area of the opening. When four (4) or more transverse openings are made within 100 linear feet of pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the total opening length including those areas unexcavated. Overlay shall consist of 1 ½ inches of 9.5 mm Superpave Wearing Course. A milled paving notch, with a minimum 10 feet transition, shall be provided at each end of the overlay and at any intersecting streets within the length of roadway affected.

18. SIDEWALK, CURB AND LAWN RESTORATION REQUIREMENTS

- A. The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency must be notified in advance of placing any permanent pavement or concrete for sidewalks or curbing for inspection purposes. No pavement or concrete for sidewalks or curbing shall be placed without a Borough designated inspector present.
- B. Where the removal of a portion of a curb, sidewalk, or curb and gutter is required to

perform work the curb, sidewalk, or gutter shall be restored as follows:

- a. Asphalt sidewalks shall be a minimum of 2 ½ inches of 9.5 mm Superpave Wearing Coarse or the thickness of the adjacent materials, whichever is greater and a minimum of 4" at driveways.
- b. Asphalt curbs shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 636. The minimum allowable length of a replaced curb shall be 4 feet. Hand formed bituminous curb shall have a finished minimum height of four (4) inches above the road surface or match the height of adjacent curb, whichever is greater. All bituminous curbs must be thoroughly and uniformly compacted by either mechanical means or by hand compaction methods. Compaction must be deemed satisfactory by the Borough or its representative.
- c. Concrete sidewalks shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 676. The minimum allowable length of a replaced concrete sidewalk shall be 4 feet. ¼ inch steel dowels shall be installed as directed.
- d. Concrete curbs shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 630. The minimum allowable length of a replaced curb shall be 4 feet. 1/2" steel dowels shall be installed as directed.
- e. Stone curbs shall be replaced in kind. A minimum length of replaced curbs shall be 4 feet.
- f. Where curbing and/or sidewalks are composed of other materials (brick, pavers, granite, flagstone, etc.) every attempt should be made to save the original materials and replace them during restoration.
- g. Where lawn areas have been disturbed place clean, screened topsoil over disturbed areas after construction work has been completed to a minimum depth of four inches. Scarify subsoil to a depth of two inches prior to placement of topsoil to promote bonding of soils. On sloped areas perform such blending of soil so as to eliminate slip-planing between the soils. Leave finish grade surfaces free of objectionable material larger than one inch in diameter and dispose of objectionable material off site in a lawful manner. Adjust soil pH as necessary and incorporate soil supplements as required. Sow the required seed mixture at the rate specified and within three days of the incorporation of the soil supplements into the soil. Sow seeds in two applications using mechanical hand seeders. Sow one-half of the seed mixture in one direction and the remainder at right angles to the first. Embed the seed mixture into the topsoil ¼ inch deep utilizing a light drag or rake moving in a direction parallel to the contour lines. Immediately after dragging or raking, compact seeded areas using a cultipacker or similar lawn roller design, weighing 60-90 pounds per foot of roller. Roll at

right angles to the existing slopes and to an even surface conforming to the existing lines and grades.

1. Mulching: Apply manufactured straw matting over seeded areas not more than 24 hours after seeding. Cover all seeded areas with a straw blanket for erosion control. Install matting on dry ground in accordance with the manufacturer's recommendation. Overlap ends of adjacent rolls a minimum of 12" and stake edges and overlaps at 36" intervals with appropriate devices.

19. MACHINERY TO BE USED

Power-driven concrete saws or air hammers shall be used on all cuts in Portland-cement-based pavements in compliance with OSHA requirements. The cuts must be of sufficient depth to provide a smooth edge. No pavement busters, such as drop hammers, hoe rams and the like, shall be used without the written permission of the Street Commissioner or designated testing/inspection agency.

20. RESPONSIBILITY FOR DAMAGE TO UNDERGROUND FACILITIES

In the event a cut is made and, upon inspection, damage to another utility's underground facilities is discovered, it shall be the responsibility of the party making the cut to contact the Municipal Street Commissioner or Municipal Engineer and all respective utility owners to instruct their representative(s) to inspect the condition of their facilities before any backfilling is begun.

21. COMPLIANCE WITH STATUTES, RULES AND REGULATIONS

All contractors shall ensure compliance with the provisions of all applicable and relevant, state, local and federal statutes, rules, and regulations.

22. MAJOR IMPROVEMENTS OF SERVICES AND/OR LINE REPLACEMENT BY UTILITIES; PROCEDURES FOR NEW PAVEMENT CUTS

Upon notification from the municipality of a planned street repaving, resurfacing or reconstruction, all utilities will be required to test their lines and service and to schedule necessary capital improvements or new main lines and service connections prior to resurfacing or reconstruction. Thereafter any cuts which will be permitted in new pavement and any permits issued for the same shall be subject to the following:

- A. Pavement shall be considered new for a period of five (5) years from the date of final and complete placement of new pavement.
- B. Any utilities or contractors who make cuts in new pavements shall be required to make permanent restoration and repaving and resurfacing of said openings in pavements. Permanent restoration must be completed within thirty (45) days of the initial cut. Any delay or failure of restoration will be reported to the pertinent utility, and repairs by the utility will begin within twenty-four (24) hours after notification. Upon failure of the

utility to repair the cut in a satisfactory manner, the municipality shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied against the utility or contractor. All backfilling of new pavement cuts shall be in accordance with the backfilling requirements and provisions set forth in this Ordinance. Prior to the placement of the base course, the existing base and surface must be exposed twelve (12) inches on each side of any depressions that may have developed. Restoration of base pavements shall consist of 25mm Super Pave Base Course for the full depth of the adjacent permanent base or for a depth of five (5) inches, whichever is greater. The wearing course of topcoat shall be placed at a minimum depth of one and one-half (1 ½) inches and shall be 9.5 mm Super Pave Wearing Course and shall be rolled to conform with the existing road and the edges sealed. Surface treatments such as sand or chip seals are prohibited. On long cuts (those greater than twenty-five (25) feet in length), surface finishing must be rolled with not less than a six-ton roller. Small cuts may be finished with a mechanical plate tamper or vibrator. For cuts less than 90 sq. ft. in area the utility shall follow the same procedure outlined herein but the extent of milling and paving shall be limited to a length which extends ten (10) feet beyond the limits of disturbance and the full length of the roadway or a width as determined by the Street Commissioner or Borough Engineer. All openings in new pavement, regardless of size, must be permanently restored.

- C. The permanent restoration of special-type pavements such as concrete, brick, Belgian block, cobblestone, gutters, or tiles, shall consist of relaying the original wearing course in accordance with the original installation specifications in such a manner as to prevent settlement or other determination.
- D. Whenever any utility or contractor shall make cuts in new pavement for purposes of replacing a main line on a street or part thereof or for purposes of making any capital improvements or improving or upgrading an existing system, or when any utility or contractor shall for any purposes, including emergency purposes, make a cut or cuts in new pavement totaling ninety (90) square feet or more within any block in the Borough, then the utility shall be required to backfill and permanently restore, refinish, mill and repave the entire width of said street from curb to curb for the entire length of the block or blocks of said street or streets where there is located any pave cut or cuts or parts thereof with said backfilling and restoring, refinishing, milling, and repaving to be done in accordance with the provisions of this Article. For cuts less than 90 square feet in area the utility shall follow the same procedure outlined herein but the extent of the milling and paving shall be limited to a length which extends ten (10) feet beyond the limits of disturbance and the full width of the roadway or a width as determined by the Street Commissioner or Borough Engineer. (The purpose of this provision is to encourage utilities to replace their main lines and make capital improvements or improve or upgrade their systems prior to new repaving so as to prevent subsequent cutting of new pavement.)
- E. The utility shall be required to notify The Municipal Street Commissioner, the Municipal Engineer, or Borough's designated Testing/Inspection agency prior to commencement of permanent restoration. Such permanent restoration must be commenced and completed promptly. Any delay or failure of restoration will be

reported to the pertinent utility, and such work shall commence by the utility within twenty-four (24) hours after notification. Upon failure of the utility to restore the street in a satisfactory manner, the municipality shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied against the utility or contractor.

23. REPLACEMENT OF PAVEMENT MARKINGS

The utility and/or its contractor must replace, in kind, all pavement markings damaged or removed by pave cuts and work incident thereto. All markings must be replaced within five (5) days after permanent restoration. Should the contractor fail to replace the same, the municipality shall contract to have the necessary repairs made and bill the utility for the costs of the work, plus a twenty percent (20%) penalty.

24. REPLACEMENT OF TRAFFIC CONTROL DEVICES

Traffic control devices and ancillary equipment damaged or removed because of utility work, pavement excavation or work incident thereto must be replaced by the utility or its contractor, in kind, in whole or in part as required by the Street Commissioner. Should the contractor fail to replace the same, the municipality shall contract to have the necessary repairs made and bill the utility for the costs of the work, plus a twenty percent (20%) penalty.

25. REPLACEMENT OF PROPERTY PINS OR MONUMENTS

All property pins or survey control monuments damaged or altered as a result of the contractor's work shall be replaced at the contractor's expense by a Registered Pennsylvania Professional Land Surveyor. Should the contractor fail to replace the same as required, the municipality shall contract to have the necessary work done and bill the utility for the costs of the work, plus a twenty percent (20%) penalty.

26. UTILITY CONNECTIONS

The Borough of Throop provides by this Article for the laying, renewing and repairing of all gas, water or other pipes or conduits in any street before the paving, repaving or repairing of the same and for making the necessary house connections with said pipes and also for the necessary house connections and branches with and leading into main or lateral sewers, provided that in no case, except as a sanitary measure, of which the municipality shall be the judge, shall Throop require such house connections to be extended further from such sewers or from such gas, water or other pipes or conduits than to the right-of-way line of such corporations, persons and owners affected and, in default of compliance therewith, cause said pipes to be laid, renewed or repaired and said connections made and collect the costs of paving and repairing all pipes or conduits with interest; and the cost of the sewer connections shall be a first lien against the land for whose benefit such connections are made. A separate lien may be filed therefore, or such sewer connection costs may be included in any lien filed for the costs of such street improvement, and the lien and the proceedings thereon shall be as in the case of other municipal liens.

27. DETERMINATION OF LINES AND GRADES FOR STREET CONSTRUCTION OR RECONSTRUCTION

The Municipal Engineer shall have the final decision for determination of lines and grades for street reconstruction. This decision shall be based on good engineering practice and municipal standards. The determination by the Municipal Engineer shall be final.

28. REQUIRED UTILITY LINE DEPTHS

The following depths of cover for pipes and conduits are assigned to the utilities operating under this Article:

- A. Gas lines shall be a minimum of thirty (30) inches below grade.
- B. Water service lines shall be a minimum of forty-two (42) inches below grade; a water main shall be a minimum of five (5) feet below grade.
- C. Electric lines and conduits shall be a minimum of twenty-four (24) inches below grade.
- D. Telecommunication lines and conduits shall be a minimum of thirty-six (36) inches below grade.
- E. All new installations or replacement of existing utilities shall provide a minimum horizontal separation of 36" and vertical separation of 12" between any sanitary or storm sewer or appurtenance.

29. ADDITIONAL UTILITY PLACEMENT PROVISIONS

Aerial installations of electric power transmissions, telecommunications and other such lines suspended from supporting poles having their base and/or support wires within the public right-of-way and interfering with a roadway construction, reconstruction or repair project shall be relocated upon written order from the Borough Engineer or Street Commissioner to a point specified therein. The Borough Engineer may require the utility to place its aerial facilities underground where it is deemed necessary or desirable. Hereafter, aerial installations shall be placed subject to approval by the Borough Engineer. The Borough Engineer may assign horizontal corridors on a case-by-case basis for all new construction if practice is determined by Street Commissioner or Borough Engineer. All gate boxes, shutoff valves and other regulating devices underground for individual customers for gas, water, steam, electric and telecommunications lines shall be located inside the inner line of the curbstone or, in the case where no curbing exists, to a point specified by the Engineer or his agent.

30. MUNICIPALITY RESPONSIBILITY IN UTILITY RELOCATION

- A. An existing utility right-of-way is owned by the utility and interferes with a municipal construction project.
- B. Utility relocation may be necessary for the installation, maintenance, or repair of municipally owned or operated utility systems, such as the municipal sewer systems, or where the installation or modification of a municipally owned or operated utility is a part of a roadway construction project.

31. UTILITY RELOCATION PROCEDURES

- A. Upon receipt of notice from the Street Commissioner or Municipal Engineer

authorizing the start of physical work, the utility shall commence work within thirty (30) days unless otherwise stated in the notice in order to clear the construction area of the utility conflict(s). The utility shall perform the relocation work in accordance with the approved plan of the Engineer. The utility shall ensure compliance with the provisions of all relevant local, state, and federal acts, rules, and regulations.

- B. Utility relocation shall be accomplished by the utility to assure its completion prior to the commencement of a Municipal roadway construction, utility, or traffic control project. Areas of utility relocation of work, which cannot be accomplished prior to the start of construction but can be accomplished simultaneously without restriction the Municipal roadway project contractor, may be done concurrently with the contractor's operations when approved by The Engineer and the municipality's contractor.
- C. It is acknowledged that field conditions occasionally necessitate revision of the utility relocation plan. It shall be the responsibility of the utility to report and justify such revisions and to correct all data on file with the Engineer. The utilities are required to obtain the contractor's concurrence prior to such revisions within the right-of-way of the project under construction. Minor modifications of the relocation plan may be made without prior approval of the Engineer. All such changes shall be brought to the attention of the project engineer and shall be noted in the daily inspection report.

32. AUTHORIZATION OF MUNICIPAL ENGINEER AND MUNICIPAL STREET DEPARTMENT

The Council provides by this Article that the responsibility and authority for the administration and enforcement of this Article shall rest in the office of the Municipal Engineer and/or Municipal Street Commissioner.

33. DESIGNATION OF REPRESENTATIVES

The Engineer or Street Commissioner may appoint as his representative's a qualified person/s to enforce this Article. These agents shall have the authority and responsibility for the enforcement of this Article as vested in the Engineer or Street Commissioner.

34. ACTIONS UPON NONCOMPLIANCE

When work performed by a utility or contractor under this Article is found in violation of the same, the contractor or utility may be given the opportunity to make corrections as required by the municipality. If the corrections are not completed in the specified time or not completed as specified, the municipality may suspend all work, whether completed or in progress, in noncompliance with this Article and take appropriate safety precautions. All work performed or contracted by the municipality to attain compliance in this regard shall be billed to the utility or contractor, plus a twenty percent (20%) penalty. In addition, a penalty for noncompliance shall be imposed.

35. RESUMPTION OF SUSPENDED WORK

The utility shall actively resume work upon order from the municipality after suspension.

36. PROVISION FOR PENALTY

If the utility or contractor fails to make adequate corrections to work found in noncompliance with this Article in the time specified, a penalty shall be imposed until said corrections are completed to specifications.

37. NONISSUANCE OF PERMITS

- A. The municipality reserves the right to bar any contractor or his employee from working within the municipal limits whose work is found in noncompliance with this Article. The municipality reserves the right to refuse issuance of a permit to any applicant who fails to maintain pave cuts in accordance with this Article or who failed to pay sums due to the municipality within thirty (30) days from the date of billing.
- B. The municipality reserves the right to refuse issuance of a permit to cut new pavement.

38. DESIGNATION OF RESPONSIBLE AGENT

Every public utility shall file with the municipality a designation, in writing, of the name, email address and the post office address of a person within the Commonwealth of Pennsylvania upon who service of any notice, order or process may be made under this Article. Such designation may, from time to time, be changed by like writing, similarly filed.

39. GENERAL CONTRACTORS

At the discretion of the municipality, licensed contractors, other than those under contract to a utility, may be permitted to make and opening, cut or excavation in the municipality's public streets. Sections pertaining to public utilities shall be applicable to licensed contractors. (See Fee Schedule)

40. EFFECT ON EXISTING CONTRACTS AND OBLIGATIONS

All litigation, hearings, investigations, and other proceedings whatsoever pending under and act repealed by this Article, shall continue to remain in full provisions of this Article. All orders, rules or regulations issued or filed under any act repealed by this Article, and in full force and effect for the term issued or until revoked, vacated, or modified under the provisions of this Article. All existing contracts and obligations entered into or created under any act repealed by this Article, and in force and effect upon the effective date of this Article, shall remain in full force and effect, except for any matters relating to future fees for permits and permanent pavement restoration fees, which shall be governed by those fees set forth in this Article.

41. EFFECT ON REPEALED LAWS

The repeal by this Article of any other act shall not revive any law heretofore repealed or superseded and shall not impair or affect any act done, offense committed, or liability, penalty, judgment, or punishment incurred prior to the time this Article takes effect, but the same may be enforced, prosecuted, or inflicted as fully and to the same extent as if this Article had not been passed.

42. ACKNOWLEDGMENT OF GUILT; VIOLATIONS AND PENALTIES; CIVIL ACTION

- A. Acknowledgment of guilt. Any person charged with violating any provision of this Article may sign an acknowledgment of the offense committed, either before or after the beginning of suit, and pay to any duly authorized agent of the borough the maximum penalties provided by Throop Borough Council, together with costs accruing to that date. Such person shall receive a printed receipt therefore, which shall bear the imprint of the Seal of the borough and the signature of its President, which shall be evidence of full satisfaction of the offense committed.
- B. Penalties. Any person, firm or corporation who shall violate and provision of this Article shall, upon conviction thereof, be sentenced to pay a fine and/or penalty of not more than six hundred dollars (\$600) plus cost, or, in default of payment of such fine and costs, shall be subject to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this Article continues shall constitute a separate offense.
- C. Civil action. In addition to the foregoing, said borough may pursue such other and additional remedies as may be authorized by law.

43. FEE SCHEDULE

| | |
|--|--------------------|
| Processing and issuing a permit | \$200.00 ea |
| Processing and issuing a permit to close a road | \$50.00 ea |
| Inspection First hour (minimum inspection) | \$50.00/hr |
| Second hour or hours thereafter or part thereof, per hr. | \$35.00/hr |
| Penalty for failure to obtain a permit | \$600.00/event/day |
| Penalty for noncompliance with any other Section or part thereof (each day) | \$600.00/event/day |

Inspection fees at any time on Holidays, Saturdays, Sundays, or any weekday between the hours of 5:00 pm and 7:00 am will carry a surcharge of 50%.

44. DEFECTIVE WORK

All materials and workmanship shall be subject to inspection and examination, or test by the Borough at any and all times during construction and/or restoration and at any and all places construction is carried on. The Borough shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. If the Contractor fails, neglects, or otherwise refuses to correct rejected workmanship or defective materials the Borough may contact or otherwise have the defects remedied or rejected materials removed from the project area and charge the cost of the same plus 20% against the Contractor / utility without prejudice to any other rights or remedies of the Borough.

The inspector will have authority and sole direction to disapprove or reject the work, or portion

thereof, which is defective or which in his opinion, does not conform to the requirements of the Contract. He will also have authority to require special inspection or testing of the work as provided herein whether or not the work is fabricated, installed or completed. Such authority to disapprove or reject or to require special inspection or testing shall not be construed as giving the Inspector any power, control or authority over the Contractor's construction means, methods, techniques, sequences or procedures or safety practices, procedures or programs employed in connection therewith.

45. PERMIT REQUIRED / EMERGENCY WORK

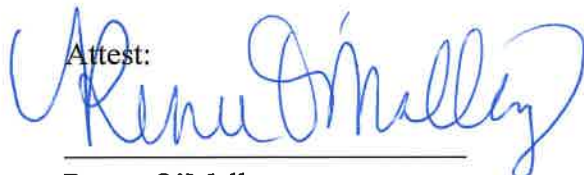
The Contractor shall notify the Borough sufficiently in advance of back-filling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the Borough, the Contractor shall uncover for inspection and recover such facilities all at his own expense, when so requested by the Borough.

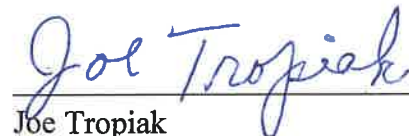
THROOP PAVE CUT ORDINANCE

Enacted and Ordained at a regular meeting of the
Throop Borough Council on ^{JULY 26}_____, 2021.

This Ordinance shall take effect immediately.


Richard Kucharski
Council President

Attest:

Renee O'Malley
Secretary


Joe Tropiak
Mayor