

**LANGHORNE MANOR
BOROUGH BUCKS COUNTY,
PENNSYLVANIA
ORDINANCE NO.2020-01**

**AN ORDINANCE REGULATING EXCAVATION/PAVING ACTIVITIES AND
INSTALLATION OF FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY IN
LANGHORNE MANOR BOROUGH, BUCKS COUNTY, PENNSYLVANIA,
AUTHORIZING THE ISSUANCE OF PERMITS, REQUIRING SECURITY AND
SAFETY PRECAUTIONS, REQUIRING RESTORATION OF SUCH WORK AND
PROVIDING PENALTIES FOR VIOLATION THEREOF.**

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BE IT ENACTED AND ORDAINED by the Borough Council of Langhorne
Manor Borough, Bucks County, Pennsylvania as follows:

SECTION 1. Short Title

This ordinance shall be known as the "Langhorne Manor Borough Excavation Ordinance".

SECTION 2. Purpose

It shall be unlawful for any person, firm, association or corporation to construct, install, repair, replace, line, upgrade, abandon, any utility or facility located either above or below ground located within the Langhorne Manor Borough's public right-of-way, including the installation, opening, excavation, boring, bursting, compaction or paving/resurfacing (either temporary or permanent) of any improved or unimproved surface in Langhorne Manor Borough's right-of-way, including service lines privately owned and/or maintained by individual property owners in the

Langhorne Manor Borough, without having first obtained a permit therefore from the Building Code and Zoning Officer of the Langhorne Manor Borough.

Facility owners are made aware that "Pavement Reinforcing Fabric" is installed in all streets in the Borough.

SECTION 3. Definitions

Abandon/ Abandonment - A facility which is no longer being used to provide service.

Access Drive - An improved surface for vehicular travel which provides access between a street and a property or parking area. For purposes of this ordinance, "access drive" shall be construed to mean any road, alley, lane or other entrance suitable for use by automobiles for ingress and egress onto a street maintained by either the Borough or by the Commonwealth of Pennsylvania for all commercial, industrial, and multi-family uses.

Acknowledgement of Completion- The date on which the Borough records that the permitted work has been completed as outlined in the permit.

Backfill- material used to replace or the act of replacing material removed during construction.

Base Course- The layer or layers of bituminous material placed on the backfill or subbase.

Best Management Practices (BMPs) - Erosion, sedimentation, and stormwater practices and structures installed to reduce pollution and flooding. BMPs shall conform to the Commonwealth of Pennsylvania, Department of Environmental Protection, Storm Water Management Manual.

Borough- Langhorne Manor Borough, Bucks County, Pennsylvania

Borough Engineer- A Professional Engineer, licensed in the Commonwealth of Pennsylvania, employed or contracted by the Borough.

Borough Inspector -The Borough's Inspector may consist of the Zoning Officer, Building Code Officer, Borough Engineer, or other suitable staff member, including contract/consultant staff, as designated by the Borough Council.

Chapter 441- Pennsylvania Code, Chapter 441, Access to and Occupancy of Roadways by Driveways and Local Roads.

Chapter 459- Pennsylvania Code, Chapter 459, Occupancy of Highways by Utilities.

Driveway - An improved surface for vehicular travel which provides access between a street and a lot. For purposes of this ordinance, "driveway" shall be construed to mean any road, alley, lane or other entrance suitable for use by automobiles for ingress and egress onto a street maintained by either the Borough or by the Commonwealth of Pennsylvania for all residential uses (except multi-family).

Emergency - An unforeseen occurrence or combination of circumstances which calls for immediate action or remedy.

Emergency Permit Card (EPC)- PennDOT form M-940 relating to emergency repair.

Emergency Repair - Repair to a facility undertaken to address damage resulting from a vehicle accident, collision, failed component, or storm damage.

Excavation - Removal of material within the Borough's right-of-way, including augering for the installation of utility poles.

Facility - The infrastructure of a utility, whether public, private, cooperative, or municipal/authority maintained lines and systems used for production, transmission, distribution, etc. (i.e. cable, gas, water, sewer, internet, phone, storm, etc.) which provides service in or conveys services through Langhorne Manor Borough, including service lines providing individual or privately owned or maintained access beyond the main.

Fee Schedule – The Fee Schedule in effect in the Borough at the time an application is submitted pursuant to this Ordinance, unless otherwise expressly provided herein. Said Fee Schedule shall be publicly available at the Office of Langhorne Manor Borough and/or online at the Borough website.

Grout - A mixture of cement, water, and sand.

Hazardous Materials/Waste - All materials defined by the Commonwealth of Pennsylvania, Department of Environmental Protection as either "Hazardous Waste", including but not limited to, wastewater, sludge, acutely or extremely hazardous chemicals and toxic chemical products (such as creosote) or "Residual Waste", including but not limited to, contaminated soil, industrial equipment, electronics, pumps, piping, storage tanks, filters, wastes that contain asbestos, oil and PCBs, paints, etc.

Improved Surface/Impervious Surface/Impervious Material - Any area within the right-of-way covered with and material other than vegetative cover. Improved surfaces include, but are not limited to, roadways, shoulders, curbs, sidewalks, driveways, etc.

Infiltration Structure - A structure designed to direct storm water runoff into the ground to control storm water runoff, improve water quality and groundwater recharge, and reduce flooding.

Maintenance & Protection of Traffic (MPT) – All necessary and required traffic control devices, including, but not limited to, materials (i.e. cones, barrels, guiderails, signs, posts, barricades, signals, etc.), equipment (i.e. crash attenuators, changeable message boards, light plants/illumination, pilot vehicles, etc.), personnel (flaggers, etc.), in accordance with PennDOT Publication 213, Temporary Traffic Control Guidelines.

Non-Working Hours - Any time workers are not present in the right-of-way.

Pavement Markings - Markings installed on the improved surface, conforming to statutory and regulatory requirements as outlined in the Vehicle Code (Title 75) and PennDOT's Publication 212, Official Traffic-Control Devices.

Pavement Reinforcing Fabric/ Paving Fabric - Tencate Geosynthetics, Mirafi MPV 600, or approved equal.

Pavement Structure – The sum of all lift thickness of each aggregate, asphalt, or concrete pavement layer multiplied by its individual material coefficient, as defined by PennDOT Publication 242, Pavement Policy Manual. Structural coefficients shall not be reduced. All existing and proposed asphalt pavement shall be considered to have a structural coefficient of 0.44. Full depth stone backfill shall not be considered part of the pavement structure. Soil shall have a coefficient of zero. Full Depth Reclamation shall have a maximum coefficient of 0.20, unless otherwise substantiated by laboratory testing.

Permit - An authorization by Langhorne Manor Borough to construct, install, repair, line, upgrade, abandon, any utility or facility located either above or below ground located within the Borough's public right-of-way.

PennDOT-The Commonwealth of Pennsylvania Department of Transportation.

Plans - Drawings which show the location, character, type, and dimension of the proposed facility, including limits of excavation and restoration, pipes, manholes and appurtenances, hydrants, valves, inlets, poles, transformers, junction boxes, lines, ducts, guys, etc., including all necessary features such as plans, profiles, and cross-sections. All plans shall be prepared and sealed by a professional engineer licensed in the Commonwealth of Pennsylvania.

Plowing - Direct burial of a facility using a plow type mechanism, which breaks the ground, places the utility, and closes the break in a single operation.

Property Owner - The owner or owners of the property on which the improved or unimproved surface is located.

Right-of-Way - The area acquired by the Borough for roadway purposes.

Roadway - The street system of the Borough including the entire right-of-way which the Borough has assumed or legislated.

Roadway Construction Standards - PennDOT Publication 72M.

Service Line – A privately owned connection/lateral/line providing a physical connection between an individual property and the facility (i.e., main, curb box, transmission line, transformer, etc.) The service line shall be owned and maintained by the property owner.

Stormwater Management Ordinance - The Stormwater Management Ordinance of Langhorne Manor Borough.

Subbase - The layer or layers of granular material placed on the subgrade.

Subgrade - The underlying layer of natural soil on which the roadway is built.

Suitable Material - Soil and/or other granular materials excavated from the existing right-of-way, which shall be suitable to prevent subsistence.

Structure – A building or permanent construction, typically with a roof and walls, intended to shield the interior from the elements. The structure may be residential, commercial, industrial, institutional, etc. and shall comply with the ordinance of the Borough.

Surface Course - The top layer or layers of the bituminous surface which resists skidding, abrasion to traffic, and the disintegrating effect of climate. Also referred to as the Wearing Course.

Test Boring/Test Hole/ Core Hole/ Bar Hole - An exploratory opening less than 100 square inches, intended for pavement sampling, leak detection, or venting of gasses.

Unimproved Surface/Vegetative Cover - Any area within the right-of-way covered with vegetation.

Utility - The entity, whether public, private, cooperative, or municipal/authority which provides production, transmission, distribution, etc. (i.e. cable, gas, water, sewer, internet, phone, storm, etc.) of services in or conveys services through Langhorne Manor Borough.

Working Hours -Any time workers are present in the right-of-way.

Zoning Officer - The Zoning Officer of Langhorne Manor Borough, Bucks County, Pennsylvania.

Zoning Ordinance - The zoning ordinance of Langhorne Manor Borough, Bucks County, Pennsylvania adopted 1993, as amended.

SECTION 4. Application Procedure

Permits shall be required to construct, install, repair, replace, line, upgrade, abandon, any facility located either above or below ground located within the Borough's public right-of-way, including the installation, opening, excavation, boring, bursting, compaction, paving/resurfacing (either temporary or permanent) of any improved or unimproved surface.

The Permit Application shall be submitted to the Borough Office. The permit application shall be submitted electronically via the Langhorne Manor Borough website, in person or by mail to the attention of the Langhorne Manor Borough Building Code and Zoning Officer.

- (1) Each excavation location/opening/cut shall require a separate fee. For continuity, multiple locations may be listed on the same application/plan.
- (2) Upon receipt of the application, the Borough shall investigate the application to determine whether the proposed location achieves compliance with the requirements of this Ordinance, as well as any relevant Zoning and/or Subdivision and Land Development Ordinance provisions.
- (3) The Borough shall have the right to review the permit for thirty (30) days.
- (4) In the event of more complex projects, the Borough may require review by a Professional Engineer, cost of such review shall be paid by the Facility owner.
- (5) The permit application shall include the following items:
 - (i) Permit shall be signed by the facility owner's authorized signatory (property

owner for privately owned service lines). Applications signed by contractors or consultants shall not be accepted.

- (ii) Submittals shall include name, phone number, mailing and email address, etc. for the applicant.
 - (iii) Submittal shall identify any consulting engineer(s) responsible for the submittal.
 - (iv) Submittal shall include four (4) sets of documents and accompanying sketches/plans.
 - (v) If related to an emergency repair, date, time, location, and description of emergency work.
 - (vi) Submittals shall be on either the Borough's standard forms (8-1/2" x 11") and accompanied by facility sketches (8-1/2" x 11") or full-size plans (24" x 36") in the event of more complex projects.
 - (vii) Sketches and plans shall be of sufficient quality and contain sufficient information and dimensions to determine type, size, and location of all proposed facilities, including limits of excavation and restoration.
 - (viii) Plans shall be drawn at a scale of 1"=50'.
 - (ix) Plans shall include depths and/or aerial clearances, as appropriate.
 - (x) Work affecting heavily used pedestrian areas, especially in the vicinity of The Borough's facilities, Cairn University, and the SEPTA West Trenton Line (Langhorne) Station may require additional safeguards. The Borough may require a pedestrian access protection plan to be submitted to the Borough Engineer for review and approval as part of the permit. The facility owner shall be responsible to implement the pedestrian access plan as part of the permit.
 - (xi) All plans shall contain the seal of a Professional Engineer licensed in the Commonwealth of Pennsylvania.
 - (xii) All fees.
- (6) Emergency repairs may be conducted to temporarily repair and/or secure existing facilities in order to reduce or eliminate further damage through the use of an Emergency Permit Card (EPC). Repairs conducted in this manner do not waive applicant's responsibility to submit follow-up permit applications and appropriate fees to the Borough, or to make permanent repairs in accordance with this ordinance. Permits must be applied for within 15 working days from the date of the emergency repair.
- EPCs shall be reconciled with the Borough Zoning Officer on an annual basis.
- (7) If the proposed location and design is in compliance with Borough ordinances, the Zoning

Officer shall issue a permit to the applicant.

- (8) Information provided in the submittal shall be accurate. Falsification of documents or improperly provided information shall constitute immediate revocation of the permit.
- (9) Unless the proposal demonstrates compliance with this Ordinance, the permit shall be refused.
- (10) The applicant has the right to appeal the decision of the Zoning Officer to the Borough Zoning Board and the Borough Solicitor.
- (11) Applicants, their consultants, contractors, and employees may be debarred by the Borough due to:
 1. Unsatisfactory past performance, as documented by records, reports or performance ratings.
 2. Failure to complete previously permitted work.
 3. Attempting to provide bribes or gratuities to the Borough or its employees.
 4. Length of debarment shall be 6 to 18 months for the first offense. Subsequent offenses may extend debarment up to 36 months.
- (12) No contractor debarred by the Commonwealth of Pennsylvania shall be allowed to occupy the Borough's right-of-way.

SECTION 5. Permit Application Requirements

All applications for a Permit under this ordinance shall be made to the Langhorne Manor Borough Building Code and Zoning Officer on forms to be supplied by the Borough and shall be accompanied by a fee as determined by Resolution of the Borough Council of Langhorne Manor Borough.

- (1) *Scope of permit.* The permit shall be binding upon the facility owner, its agents, contractors, successors, and assigns.
 - (i) The Borough may, at its discretion, and at the cost of the facility owner, photo document the limits of the right-of-way including both the improved and unimproved surface, as well as any adjoining improvements, in which the work is proposed.
 - (ii) The facility owner shall be responsible for causing compliance with all terms and conditions of the permit by its employees, agents, and contractors.
 - (iii) The permit shall be located at the work site and shall be available for inspection by any representative of the Borough.
 - (iv) The permit shall be maintained by the facility owner as a permanent record

and remain in effect, subject to the permit conditions, as long as the utility or facility authorized by the permit exists.

- (v) The facility owner shall be principally liable to the Borough for any failure to comply with the permit. The principal liability of the facility owner to the Borough shall not preclude the Borough from bringing any action against the facility owner's contractor, subcontractor, engineer, architect, or any other person.
 - (vi) The Borough, in granting a permit, will waive none of its powers or rights to require the future change in operation, removal, relocation, or proper maintenance of any facility within Borough's right-of-way.
- (2) *Additional restrictions.* All work authorized by the permit shall be subject to the following:
- (i) All applicable laws, rules, and regulations, including but not limited to the following:
 - (A) Act of October 26, 1972 (P. L. 1017, No. 247) (53 P. S. § 1611), concerning environmental control measures related to pollution and the preservation of public natural resources.
 - (B) Act of December 10, 1974 (P. L. 852, No. 287) (73 P. S. § § 176-182), concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utility facilities.
 - (C) O.S.H.A. construction safety and health regulations, 39 Fed. Reg. 22801 (June 24, 1974) and 29 CFR § 1926.1 *et seq.*
 - (D) Title VI, Civil Rights Act of 1964.
 - (ii) Any rights of any person, including Borough property owners. This permit does not authorize damage or removal of private improvements within the right-of-way (i.e. mailboxes, driveways, shrubbery, trees) nor does it authorize the diversion of water onto any portion of the right-of-way or private property in which it did not previously flow.
 - (iii) The conditions, restrictions, and provisions of the permit.
- (3) *Work to conform to Borough standards.* The work shall be done at such time and in such a manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Borough including, but not limited to, PennDOT Publication 408 & 72M, and the attached details. If at any time it shall be found by the Borough that the work is not being done or has not been properly performed, the facility owner upon being notified in writing by the Borough shall immediately take the necessary steps, at their own expense, to place the work in

condition to conform to such requirements or standards. In case any dispute arises between the facility owner and the Borough Inspector, the Borough Inspector shall have the authority to suspend work until the question at issue can be referred to and be decided by the Borough Engineer.

All materials, products, equipment and/or suppliers for roadway use used within the right-of-way, including but not limited to, aggregate, concrete, and bituminous materials, as well as any guiderail, pavement markings, ADA compliant materials, and appurtenances, shall be included in the following Commonwealth of Pennsylvania Department of Transportation bulletins, unless otherwise approved by the Borough:

- (i) Commonwealth of Pennsylvania Department of Transportation, Bulletin 15, Qualified Products List for Construction, Publication 35

Material certifications shall be provided to the Borough Engineer for all materials for roadway use installed in the right-of-way. Commonwealth of Pennsylvania, Department of Transportation Form CS-4171, Certificate of Compliance, shall be provided daily for all materials.

(4) *Facility owner responsibilities.* Facility owner responsibilities shall be as follows:

- (i) The facility owner shall pay all fees, costs, and expenses incident to or arising from the project. The facility owner shall reimburse the Borough for any and all inspection costs within 30 days after receipt of the Borough's invoice.
- (ii) In the event of failure or neglect by the facility owner to perform and comply with the permit or the provisions of this chapter, the Borough may immediately revoke and annul the permit and order and direct the facility owner to remove any or all structures, equipment, or property belonging to the facility owner or its contractors from the legal limits of the right-of-way and to restore the right-of-way to its former condition at the exclusive cost of the facility owner.
- (iii) If work is stopped on a project for any reason, including the end of any normal workday, any excavation which is intended to remain open and/or unsecured, the facility owner, shall refill or plate the excavation, prior to the end of the workday. Work shall not be resumed until the facility owner is prepared to proceed immediately with the work to its completion. In the event the facility owner fails to refill or plate the excavation or proceed to completion of the work upon notice from the Borough to do so, the Borough may perform the necessary and required work and shall be reimbursed for the costs by the facility owner within 30 days after receipt of the Borough's invoice. Equipment shall not be used to barricade or secure excavations. All plates shall be securely fasted to the roadway surface and transitioned with asphalt material. Signs shall be erected for any plates left unattended.
- (iv) If the facility owner, after making an opening in the surface to place or repair a facility or for any other purpose, fails to restore any portion of the right-of-way to

conform with Borough specifications upon notice from the Borough to do so, the Borough may perform the work and the facility owner shall reimburse the Borough for the costs within 30 days after receipt of the Borough's invoice.

- (v) At no time shall in excess of 1000 LF of Borough right-of-way be excavated at any time, including plated areas.
- (5) *Restoration of unimproved areas.* All disturbed unimproved areas, especially slopes or earthen areas shall be restored to a non-erodible/vegetated condition, or in a manner approved by the Borough. Restoration may include the use of straw mulch, erosion control matting, hydroseeding, or other suitable method.
- (6) *Altering drainage prohibited.* Unless specifically authorized by the permit, the facility owner shall not:
 - (i) alter the existing drainage pattern or the existing flow of drainage water;
 - (ii) direct additional drainage of surface water onto or into the Borough or State right-of-way or roadway facilities in a way which would have a detrimental effect on the roadway or roadway facilities.
- (7) *Disposition of materials.* Disposition of materials shall comply with the following:
 - (i) The facility owner shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the roadway during the performance of work authorized by the permit.
 - (ii) The facility owner shall be responsible for controlling dust conditions created by its operations.
 - (iii) No excavated materials shall be reinstalled beneath an improved surface. All excess material and any other material that is not suitable for backfill for use under an unimproved surface shall be removed and disposed of in conformance with the standards of the Commonwealth of Pennsylvania Department of Environmental Protection and the Bucks County Conservation District.
 - (iv) No materials shall be stored on any improved surface or stockpiled within the Borough's right-of-way as the work progresses, unless approved in advance by the Permit.
 - (iv) All retained suitable material shall be placed or stored outside the improved area, and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch, or waterway.
 - (v) Any excavated materials which are classified as hazardous materials shall be disposed of in accordance with the Commonwealth of Pennsylvania, Department of Environmental Protection.

- (vi) As a linear project or based on the size of the excavation, the facility may be exempt from submitting E&S, NPDES, and/or PCSWM plans to either Bucks County Conservation District or the Commonwealth of Pennsylvania, Department of Environmental Protection. However, this does not exempt the facility owner from having a written E&S plan on site and installing and maintaining all necessary and required BMPs necessary to reduce the erosion potential of the project. The Borough may require submittal of both permits and plans as part of the review process. All E&S, NPDES, and PCSWM plans and permits shall be made part of the Borough's permit, be available on site, and shall be enforceable by the Borough.
- (8) *Equipment damaging roadway.* Equipment used for the construction of the facility shall conform with the following conditions:
 - (i) 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.
 - (ii) In the event that other than rubber equipped machinery is authorized for use by the Permit, 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.
 - (iii) If the equipment damages the pavement or shoulders, the facility owner shall restore the pavement or shoulders to their former condition, at the expense of the facility owner.
- (9) *Traffic protection and maintenance.* Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Borough, as set forth in PennDOT Publication 213.
 - (i) The facility owner shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Borough. A traffic control plan shall be submitted as part of the Permit submittal to be reviewed and approved by the Borough before closing any portion of a lane to vehicular traffic. PATA standard figures may be acceptable.
 - (ii) Traffic control devices shall be provided in accordance with PennDOT Publication 213. Any open trench or hole shall be adequately barricaded to prevent possible injury to pedestrians and the motoring public during working hours. No open trenches shall be left during non-working hours. All traffic control devices shall be of an approved type. Signs shall conform to the requirements of Publication 213.
 - (iii) Flaggers shall be provided as specified in the permit and in accordance with Publication 213.
 - (iv) Illumination of flaggers shall be required during evening hours.

- (v) All roadways shall remain open to traffic. In the event that the facility owner wishes to close a roadway, a fee shall be provided to the Borough pursuant to the Fee Schedule then in effect. All affected residents shall be notified no less than three (3) days prior to the closure in a manner suitable to and approved by the Borough (i.e., mailing, door hanger, street posting, changeable message board). Verbal notifications shall not be acceptable.
- (10) *Protection of Existing Facilities and Private Property.* The facility owner and its contractor(s) shall be responsible to comply with Pennsylvania's One Call System (811), as required by Pennsylvania Act 287, as enacted December 10, 1974, as amended. All existing facilities, including any facilities owned by other facility owners shall be protected during in construction, installation, repair/replacement, upgrade, or abandonment.
- All Borough facilities shall be protected, including any storm water management or infiltration facility within the right-of-way or situated on private property.
- Issuance of a Permit does not authorize damaging, cutting, trenching, or removal of ANY privately owned improvements such as access drives, driveways, shrubbery, trees, etc.
- Any facility which proposes to impact any privately owned improvement shall provide, as part of the submittal package, all written agreements for the restoration or removal of said improvement.
- (11) *Restoration.* All disturbed portions of the roadway, including slopes and all appurtenances and structures such as guide rail or drainpipes, shall be restored by the facility owner to a condition at least equal to that which existed before the start of any work or the detail attached. This includes resetting or upgrading guiderail, replacing or relocating sidewalk and curb, reinforcing, weatherproofing, providing appropriate end treatments on guiderail systems where such systems are affected or by the facility.
- (12) *Approval by inspector.* Approval by the Borough Engineer of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval of the inspector act as a release of the facility owner or waiver by the Borough of its right to seek performance or restitution by the facility owner.
- (13) *Maintenance.* All facilities, structures, and appurtenances, and adjacent areas within the right-of-way shall be continuously maintained by the facility owner so as to conform to the permit and so as not to interfere or be inconsistent with the design, maintenance, and/or drainage of the roadway, or the safe and convenient passage of traffic upon the roadway.
- (14) *Indemnification.* The facility owner shall fully indemnify, hold harmless and defend the Borough, and any and all of its agents and employees, of and from all liability for damages or injury, of any nature and degree, occurring to any person or persons or

property through or in consequence of any act or omission of any contractor, agent, servant, employee, or person engaged or employed in, about, or upon the work, by, at the instance, or with the approval or consent of the facility owner; from any failure of the facility owner or any such person to comply with the Permit or this Ordinance.

(15) *Warranty.* For a period of two (2) years after completion of the permitted work of any failure of the roadway in the immediate area of the work performed under the permit where there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work.

(16) *Insurance, Bonds & Escrow.* The facility owner shall submit to the Borough a certificate or certificates of insurance and bonds for workers' compensation, public liability, property damage, restoration, and maintenance, in form and amount set by resolution, but at no time be less than as listed below, to cover any loss that may be incurred for or on account of any matter, cause, or thing arising out of the permitted construction.

(i) Commercial General Liability (CGL) on an "occurrence basis" Insurance including contractual liability for hazards, product and completed operations and independent and subcontractors' protection liability insurance covering all claims which may arise from facility owner's performance of the work, whether such performance is by the facility owner or by a subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The CGL policy shall not contain any exclusions related to explosion, collapse and underground hazards or railroad property. Proof of insurance shall be submitted to the Borough. Insurance coverage shall be statutory unless otherwise noted below.

- \$1,000,000 Commercial General Liability Each Occurrence
- \$3,000,000 Commercial General Liability Aggregate Per Project
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Contractual Liability

Facility owner shall also purchase and maintain during the life of the Contract, Excess Liability/Umbrella insurance coverage in the amount not less than \$3,000,000.

(ii) Comprehensive Automobile Liability Insurance including Employer' s Non-Ownership Liability and Hired Car Liability Insurance to protect themselves and any subcontractors performing the work covered by this Permit from claims for damages, whether such operations be by them or any subcontractor or by anyone directly or indirectly employed by either of them. Proof of insurance shall be submitted to the Borough. Insurance coverage shall be statutory unless otherwise noted below.

- \$2,000,000 Combined Single Limit
- (iii) Worker's Compensation Insurance including employer's liability coverage (Coverage B). Proof of insurance shall be submitted to the Borough. Insurance coverage shall be statutory unless otherwise noted below.
- \$100,000 Each Person
 - \$500,000 Each Accident
 - \$500,000 Disease - Each Employee
 - \$2,000,000 Combined Single Limit
- (iv) The Borough shall be designated as an additional insured for all insurance coverages other than Workers' Compensation and Employers' Liability.
- (v) Additional insurance acceptable to the Borough Solicitor is required in the event that the applicant proposes blasting.
- (vi) Certificates of Insurance acceptable to the Borough shall be filed with the Borough prior to the commencement of the work. Said Certificates shall evidence that the Facility Owner has all the insurance coverages required under this Permit and shall contain the provision that the coverage afforded under the policies will not be cancelled until at least thirty (30) days prior written notice has been submitted to the Borough.
- (vii) Restoration Bonds. Bonds in a form and amount acceptable to the Borough to guarantee restoration of the permitted area in compliance with the Borough's standards for a period of two (2) years after the acknowledged completion of work.
- Restoration Bonds shall be set by Resolution: \$100.00 / SY minimum.
 - Restoration Bonds may be returned upon satisfactory installation of service lines.
- (viii) Maintenance Bonds. Bonds in a form and amount acceptable to the Langhorne Manor Borough to guarantee maintenance costs of the restoration within the permitted area in compliance with the Borough's standards for a period of two (2) years after the acknowledged completion of work.
- Maintenance Bonds shall be set by Resolution: \$25.00 / SY minimum.
 - Maintenance Bonds may be waived for service lines.
- (ix) Escrow. Sufficient currency shall be submitted to the Langhorne Manor Borough, to be deposited in a separate interest bearing escrow account which is sufficient to secure the obligation of the Restoration (iv) and Maintenance (v). Bonds may be submitted in lieu of cash, with the review and approval of the Borough Solicitor.

- (17) *Damage to Roadway.* Restoration of roadway shall include the following:
- (i) If there is a failure of the roadway, including slope or any other appurtenance thereto, in the immediate area of the permitted work within two (2) years after the completion of the permitted work and there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work, the facility owner shall have absolute responsibility to make all temporary and permanent restoration including restoration of the adjacent area if it has also failed.
 - (ii) If the permitted work is the proximate cause of damage to the roadway, including slope or any other appurtenance thereto, beyond the adjacent area, the facility owner shall be responsible for all remedial work and shall make all temporary and permanent restoration.
 - (iii) Where the facility owner has the responsibility to restore the roadway, including slope or any other appurtenance thereto, including instances where a presumption of responsibility has not been rebutted, the facility owner shall have the duty to restore the improved area in accordance with the permit. If the facility owner fails to restore the improved area properly, the Borough will have the authority to do the work at the expense of the facility owner. The facility owner shall reimburse the Borough for the costs within 30 days after receipt of the Borough's invoice.

(18) *Preregistration*

- (i) Facility owners are encouraged to preregister annually with the Langhorne Manor Borough. In doing so, they may provide blanket insurances and bonds which may be applied to multiple projects throughout the year.
- (ii) Insurances and bonds may be required in excess of the minimums set forth in this Ordinance, depending on the proposed value of the projects and limits of excavation.

(19) *Use of roadway prohibited.* Prohibited use of the roadway shall be as follows:

- (i) No part of the right-of-way shall be used for servicing vehicles, displays or conducting business.
- (ii) Improvements within the right-of-way shall be so located that parking, stopping, and maneuvering of vehicles on the right-of-way will not be impeded.
- (iii) Storage of equipment or materials during non-working hours.

(20) *Working Hours*

- (i) All permits are subject to the Borough's Working Hours.

- (ii) Working Hours are defined as 7:00 AM to 10:00 PM Monday through Saturday.
- (iii) No Working Hours shall be permitted on Sunday.
- (iv) Requests to work outside Working Hours shall be submitted in writing to the Zoning Officer.
- (v) Emergency Repairs shall be exempt from Working Hours

SECTION 6. Fees

The following fees in the amount set by resolution, but at no time be less than as listed below, shall accompany the permit submittal:

- (1) *Application Fee.* The Application Fee shall be submitted to the Borough, which amount shall be determined by the Fee Schedule, to offset the cost of clerical costs associated with the Permit. Each excavation location/opening/cut shall require a separate fee. For continuity multiple locations may be listed on the same permit/plan.
- (2) *Review Cost.* The Review Cost, which amount shall be determined by the Fee Schedule, shall be submitted to the Borough at time of the application's filing to offset the cost of reviewing the application by the Borough's professional staff. Any additional cost of the review shall be paid prior to permit issuance, any unused portion of the retainer shall be returned to the applicant.

Service lines may be installed in accordance with the Borough's approved excavation details. In the event the Applicant chooses to utilize the Borough's details in lieu of providing separate drawings, the Review Cost Retainer shall total \$100.00.

- (3) *Inspection Cost/Retainer Amounts as required per location and with regard to linear excavations.* The inspection cost and the minimum retainer amount shall be calculated by the Fee Schedule which shall consider the location and nature of the excavation. Service Line Retainer shall also be set by the Fee Schedule but shall not be less than \$500.00. Retainer fee for more complex projects shall be set by the Borough Engineer. Any additional cost of the inspection shall be paid prior to permit closure, any unused portion of the inspection retainer shall be returned to the applicant. Inspection fees will be charged hourly at the Borough's Inspection Rate as set by the Fee Schedule.
- (4) *Excavation Fee.* The cost per square yard in the improved portion of the right-of-way, or per square yard in the unimproved portion of the right-of-way, shall be calculated according to the rates set forth in the Fee Schedule.
- (5) *Test Boring Fee.* The Test Boring Fee shall be provided to the Borough per the Fee Schedule.
- (6) *Degradation Fee.* A Degradation Fee per square yard, as set by the Fee Schedule, shall be provided for any excavation within the improved portion of the Borough's right-of-

way to offset damage imposed to the pavement structure as a whole by excavation. The Fee shall be submitted prior to issuance of the Permit based on excavation limits shown on the plan. A final measurement of degradation shall be taken by the Borough Inspector prior to closure of the Permit.

Any additional cost of Degradation Fee shall be paid prior to permit closure, any unused portion of the Degradation Fee shall be returned to the Applicant. The full Degradation Fee shall be charged the entire calendar year following the substantial completion of a Borough paving project (Year 0). Degradation Fees may be calculated by block (intersection to intersection) for larger projects.

Reduction of Degradation Fee shall be calculated on the following sliding scale, on December 31st of the subsequent calendar years:

Year 1: 100% of Base Degradation Fee

Year 2: 100% of Base Degradation Fee

Year 3: 95% of Base Degradation Fee

Year 4: 90% of Base Degradation Fee

Year 5: 80% of Base Degradation Fee

Year 6: 70% of Base Degradation Fee

Year 7: 60% of Base Degradation Fee

Year 8: 50% of Base Degradation Fee

Year 9: 40% of Base Degradation Fee

Year 10: 20% of Base Degradation Fee

Subsequent Years: Degradation Fee Waiver

Degradation Fee may be waived for the installation and/or repair of service lines (water, sewer and/or gas) for existing structures.

- (7) *Road Closure Fee.* A Road Closure Fee shall be charged per day in accordance with the rate set forth in the Fee Schedule, or portion thereof, in which any public street is closed to through traffic in the Borough Emergency Repairs shall be exempt from the Road closure Fee for up to 24 hours.
- (8) *Time Extension Fee.* The Borough may grant up to two-time extensions for projects previously permitted, as outlined in Time Extension, and the fee associated therewith shall be set forth in the Fee Schedule.
- (9) *Emergency Permit.* Applicant to pay regular fees and costs. If abused, Emergency permits shall be charged as “Failure to Obtain a permit in the Borough right-of-way may be required to be re-opened, re-excavated, and suitability re-installed.
- (10) *Failure to Obtain a Permit.* All permit fees shall be doubled for any facility owner failing to obtain a permit. Any work undertaken without a permit in the Borough right-of-way may be required to be re-opened, re-excavated, and suitably re-installed.

- (11) Any work completed on behalf of the facility owner by the Langhorne Manor Borough due to failure to protect the public safety or complete the project shall be charged to the facility owner, bond, retainer, etc. for all costs plus 20%, including, but not limited to, construction, equipment, materials, traffic control, police enforcement, labor, inspection, engineering, legal, administration etc.
- (12) The permit application fee is non-refundable. In the event the applicant cancels the project, the Borough shall refund any unused portion of the fees or costs, at time of cancellation.

SECTION 7. Time Limit

- (1) The facility must be completed in compliance with the approved Permit.
- (2) The Permit shall be valid for no more than 12 months.
- (3) The work to be performed in accordance with the Permit and shall commence no later than 90 days after receipt of the approved Permit.
- (4) No work shall be completed, beyond the permit term, on an expired permit.
- (5) The facility owner may request up to two (2) six (6) month extensions, without refiling the required permit, fees, drawings, and accompanying documents. Updated insurance, bonds, escrow, etc. may be required by the Borough at time of extension. A time extension fee is required.
- (6) The facility shall not be considered completed until the Borough Building Code and Zoning Officer has approved it as being completed in writing.

SECTION 8. Construction

All facility excavations shall be completed in accordance with the provisions of the application and with the following requirements:

- (1) The facility owner shall notify the Borough a minimum of three (3) days in advance of start of work.
- (2) All excavation within the Borough's right-of-way shall be inspected by the Borough Inspector to ensure that the proposed location does not impact the unimpeded flow of the Borough's roadside drainage.
- (3) The Borough reserves the right to require full-time inspection of all excavation and backfill.
- (4) Installation of facilities in or across "Waters of the Commonwealth" or "Waters of the United States" as part of the permit require submittal of an approved permit from the Commonwealth of Pennsylvania, Department of Environmental Protection and/or the United States Army Corps of Engineers.
- (5) All exposed surfaces created by the installation of the facility must be stabilized so

as not to erode within fifteen (15) days of completed disturbance. An erosion and sedimentation plan shall be available on site, as required.

- (6) All pavement excavations shall be saw cut. No improved surface shall be removed without prior saw cutting to adequate depth, prior to the removal of any asphalt layer(s). All excavations shall be neat. Cuts shall be parallel or perpendicular to the centerline of the road and be substantially square or rectangular. Saw cuts shall not be placed in the wheel path. Linear excavations shall be of consistent width. Varying and fluctuating widths and odd configurations will result in removal of additional materials by the facility owner, at their cost, as directed by the Borough Engineer to provide a more suitable repair. Milling is not permitted without the expressed approval by the Borough Engineer.
- (7) Any excavation/restoration/projects which damage or disturb the Borough's pavement reinforcing fabric shall be responsible to completely restore, reinstall reinforcing fabric, and repave the area to the limits of excavation, disturbance or damage, as outlined in Additional Pavement Restoration below.
- (8) It shall be the duty of the facility causing the excavation to suitably backfill or secure the excavation in accordance with this Ordinance. No exposed aggregate trenches or exposed excavation within the improved surface of the Borough's right-of-way shall be left overnight with exposed PennDOT 2A or 2RC stone base, DSA, AASHTO #1 (aka PA #4) ballast and screenings or equivalent material(s), at the surface. All surface materials shall be asphalt, unless approved in advanced by the Langhorne Manor Borough.
- (9) All excavations shall be backfilled with no greater than 6" compacted lifts. All material shall be carefully placed within the right-of-way. Dumped backfill or mass backfill shall not be accepted. The Borough shall inspect all backfill operations within the right-of-way. PennDOT 2A aggregate shall be used as full depth stone backfill beneath all improved surfaces within the right-of-way; previously excavated retained materials/suitable fill shall not be used as backfill beneath the improved surface. Suitable fill material, as approved by the Borough Engineer, may be used as backfill only beneath the unimproved surface. The Borough Engineer may consider the use of flowable fill on a case-by-case basis in lieu of full depth stone backfill, in advance, as part of the permit review and approval process.
- (10) Backfill shall be installed per the attached detail, or as approved in advance by the Borough Engineer. Geotextile grid, grade separation fabric, full depth reclamation, soil stabilization techniques, etc. may be considered, but are not required. Any proposed alternative shall have an equivalent or greater pavement structure than the required detail.
- (11) No pavement shall be placed directly on the subsurface material, unless otherwise approved by the Borough Engineer.
- (12) All vertical surfaces shall be primed per the Borough's detail.
- (13) Improved surfaces (sidewalk, curb, concrete, asphalt, etc.) shall be replaced in kind to the extent of the disturbance. All improvements shall be installed to PennDOT Publication 72M and 408. All restoration shall meet the Langhorne Manor Borough's

restoration detail.

- (14) Unimproved surfaces (vegetation) shall be replaced in kind to the extent of the disturbance. All improvements shall be installed to PennDOT Publication 72M and 408. All restoration shall meet the Borough's restoration detail.
- (15) All finished joints shall be sealed immediately upon completion of the restoration.
- (16) Additional pavement restoration may be required, as site conditions warrant; facility owners are responsible for these repairs. Pavement reinforcing fabric shall be also be reinstalled. As follows:
 - a. Excavations completed within 24 months of any Borough overlay project are not encouraged. Excavation within this time limit requires a complete mill and overlay of the entire block. No partial blocks shall be paved.
 - b. Longitudinal (parallel to the centerline of the roadway) openings in excess of (10) feet require the mill and overlay of the entire travel lane of the improved surface for the length of the opening. Starting no less than 10 feet before the opening and terminating no less than 10 feet beyond the opening.
 - c. Longitudinal openings which cross diagonally over the centerline of the roadway require a minimum mill and overlay of the first travel lane as noted above, terminating no less than 10 feet after the point at which the excavation crosses the centerline with an additional mill and overlay in the second travel lane starting no less than 10' before the point at which the excavation crosses the centerline and terminating as noted above.
 - d. When two (2) transverse (perpendicular to the centerline of the roadway) openings are made in the improved surface less than 50 feet apart requires a mill and overlay of the affected lane or lanes beginning no less than 10 feet before the first excavation and terminating no less than 10 feet beyond the second excavation. When three (3) or more transverse openings are made per block, requires a mill and overlay of the entire block.
 - e. When two (2) or more openings of any size are made within 20 feet shall be considered one opening and shall require a mill and overlay of the affected lane or lanes beginning no less than 10 feet before the first excavation and terminating no less than 10 feet beyond the last excavation.
 - f. When five (5) square type openings of any size are made within 100 feet requires a mill and overlay of the affected lane or lanes beginning no less than 10 feet before the first excavation and terminating no less than 10 feet beyond the second excavation.

- g. Milling may be waived by the Langhorne Manor Borough if site conditions warrant.
 - h. An additional negotiated fee may be paid to the Borough in lieu of this work.
- (17) Recycled Asphalt Pavement (RAP), including millings, and "co-mingled" materials, including RAP mixed with aggregate and/or soil, is not an acceptable surface material.
 - (18) Additional storm water runoff generated from the installation of any new facility which increases the improved surface area within the right-of-way, these facilities shall require the installation of storm water management facilities.
 - (19) No facilities shall direct water toward the public right-of-way.
 - (20) Subsurface facilities shall be installed at a depth of no less than 36" below the finished surface of the ground.
 - (21) No subsurface utilities shall be installed utilizing plowing.
 - (22) Test holes shall be immediately backfilled and restored in accordance with the permit.
 - (23) Utilities are not encouraged to be installed in the wheel path of the improved surface. Underground utilities are encouraged to locate themselves in the unimproved surface.
 - (24) All manholes, junction boxes, valves, etc. shall be set to the same elevation as the surrounding grade.
 - (25) Facility owners shall restore any existing signs or pavement markings damaged or removed during the installation of the facility. All signs must be approved by Langhorne Manor Borough prior to installation. All pavement markings shall be thermoplastic. All material and installations shall conform to PennDOT Publication 212 and 213. All signs shall comply with the minimum sign retroreflectivity requirements as determined by the federal highway administration.
 - (26) The Borough does not own any bridges and requires no bridge licensing.
 - (27) Aboveground facilities shall be installed with an unobstructed clearance of no less than 18 feet above the finished surface of the ground.
 - (28) Guys shall not interfere with pedestrian traffic, fire hydrants, or vehicular traffic.
 - (29) Utility poles shall be installed no less than 18" behind the edge of paved travel lane or shoulder and shall exhibit a clear accessible path around the pole. In the event that the facility restricts the accessible path, the facility owner shall be responsible to install all necessary improvements (curb, sidewalk, etc.) to reestablish the accessible path.
 - (30) Alternate designs which are proposed to vary from the Borough's standards may be submitted for the Borough Engineer's review and approval. All design submittals shall be signed and sealed by a professional engineer licensed by the Commonwealth

of Pennsylvania in accordance with the "Engineer, Land Surveyor and Geologist Registration Law". The Borough Engineer may require the submittal of supporting calculations, measurements, surveys, geological/soil testing, pavement analysis, infiltration tests, studies, and/or reports to substantiate the alternate design. The facility owner shall be responsible for all review costs incurred by the Borough Engineer.

- (31) Blasting is strictly prohibited without prior approval of the Langhorne Manor Borough and the Langhorne Manor Police Department. Additional plans, submittals, reviews, and insurance shall be required prior to any controlled blasting being undertaken within the Borough.
 - i. Applicant shall have a license and registered blaster on site at all times during the transport, storage and use of explosives.
 - j. No blasting is permitted within 500 feet of any home, business, public building, railroad, utility, bridge, or box culvert.
 - k. Facility owner is responsible for any damage claims arising from the blasting.
- (32) For proposed boring, casing, lining, bursting, driving, or tunneling operation.
 - l. Any facility utilizing casing shall grout the annular space between the casing and facility.
 - m. Water and jet boring is prohibited.
 - n. Directional drilling may be utilized.
 - o. No access point or boring pit shall be located closer than 3' from the improved surface. No access points shall be unsecured during non-working hours.
- (33) As Built Plans, sealed by a registered (in the state of PA) engineer, shall be submitted to the Borough.
- (34) Upon the facility being completed in accordance with the above requirements, the Borough Zoning Officer shall issue a final completion certificate.

SECTION 9. Abandonment

Facility owners, including utilities and property owners, intending to abandon partial or complete facilities are not exempt from permit. All facilities shall be suitably removed, backfilled, grouted, or otherwise sufficiently stabilized to insure against settlement or future failure or collapse within the Borough's right-of-way. The demolition plan shall be submitted as part of the permit submittal package. At a minimum the following shall be included in the plan:

- 1) Type, size, and location of the facility to be abandoned.
- 2) No above ground facilities shall be abandoned in place.
- 3) Underground cables, wires, etc. shall be deactivated/deenergized. Facility owners shall suitably prove to the Borough Inspector that such facilities have been disconnected from their deactivation point. No less than 10 feet of the facility shall be removed at the deactivation point; all other such facilities may be abandoned in place.
- 4) All manholes, junction boxes, inlets, and or any other similar below grade structure shall be removed in their entirety.
- 5) All underground lines, conduits, mains, laterals, services, etc. 6" in diameter or less shall be grouted solid to prevent collapse or removed.
- 6) All underground lines, conduits, mains, laterals, services, etc. excess of 6" diameter shall be removed.
- 7) Facility owners are responsible for all excavation and restoration.

SECTION 10. Exemptions

- (1) This ordinance is not intended to address private driveways (except when tying into a Borough right-of-way), planting of trees, or any other improvements, other than utility service lines constructed or maintained by individual property owners within the improved or unimproved right-of-way.
- (2) Modifications to parts of existing permitted facilities without excavation (i.e. cables within conduits, replacement of existing streetlights, repair or replacement of transformers, installation of manhole riser rings or adjustment of valve boxes for roadway resurfacing, etc.)
- (3) Installation or replacement of overhead utility lines on existing poles. Access to an existing facility within an existing manhole.
- (4) Installation of aerial or head guy wires. Ground based guy wires are not exempt.
- (5) This Ordinance shall in no way prevent facility owners from conducting "maintenance activities" such as flushing of mains and hydrants, actuating valves, televising or inspecting line, etc. Maintenance activities shall be exempt from a permit.

SECTION 11. Revocation

- (1) Violation of this Ordinance allows for the suspension or revocation of previously issues permits.
- (2) Upon oral or written notice of violation from the Borough Inspector or other authorized

Borough Repetitive, including a police officer. The facility owner, employees, and contractors shall cease to perform any further work in the area except to restore the area to a safe condition. No further work shall commence until the violation is remedied. Where the facility owner, employees, and contractors have received an oral notification, the Borough shall have 10 working days to issue a written notice of violation.

- (3) Installation of facilities without prior approval of the Borough may result in re-excavation, re-installation, re-backfilling, re-inspection, and or removal of said facilities. Any and all costs associated with this violation shall be borne by the facility owner. See also Permit Fees.
- (4) The facility owner shall be responsible for all associated fees and costs plus 20%, including but not limited to administrative, legal, engineering, inspection, police enforcement, construction, equipment, material, labor, degradation, repair, damages, etc.

SECTION 12. Penalty

Any person, firm, association or corporation violating any of the provisions of this ordinance shall, upon conviction in a summary civil proceeding pursuant to the Pennsylvania Rules of Civil Procedure before a Magisterial District Justice be subject to a fine not to exceed two thousand dollars (\$2,000.00) per violation and to imprisonment to the extent allowed by law for the punishment of summary offenses. A separate offense shall arise for each day or portion thereof in which a violation is found to exist and/or for each section of the ordinance which is found to have been violated.

SECTION 13. Severability

If any section, clause, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, then such decision shall not affect other section, clause, provision, or portion of this Ordinance, so long as the Ordinance remains workable minus the invalid portion.

SECTION 14. Repealer

Article III Street Excavation of Chapter 141 of the Code of the Borough of Langhorne Manor adopted June 6, 1995 is repealed and all provisions or parts of Ordinances of the Borough conflicting with or inconsistent with this Ordinance shall be and same are hereby repealed insofar as same are affected by this Ordinance.

SECTION 15. Effective Date

This Ordinance shall be effective pursuant to law upon enactment.

ENACTED and **ORDAINED** this _____ day of _____, 2020.

ATTEST:

LANGHORNE MANOR BOROUGH COUNCIL

Borough Secretary

By: _____
Dawn Seader
Council President

Approved: _____
Robert C. Byrne
Mayor