

Pave Cut Ordinance Revision
Ordinance 3 of 2017

Municipality of
West Wyoming Borough

Luzerne County, Pennsylvania

Article 1

Cutting of Pavement or Street

Title

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

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 import 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 import 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 the utility by the municipality, noting pertinent data for the purposes of inspection and control by the municipality, noting pertinent data for the purpose of inspection and control by the municipality and constituting a receipt for services performed by the city.

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

EMERGENCY REPAIR--- Work necessitated by the rupture or sudden malfunction of existing underground facilities.

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 West Wyoming.

MUNICIPAL CORPORATION--- The Municipality of West Wyoming

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 over a base of concrete, brick, Belgian block, crushed stone, bituminous concrete or oil and stone.

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, 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 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, 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.

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.

PERMIT REQUIRED

A permit must first be obtained before any opening can be made in any paved thoroughfare, cart way, side walk or tree lawn in the municipality.

PERMIT PROCEDURE

- A. Applications for a pave cut permit shall be available from the Municipality of West Wyoming at the Municipal Building 464 W. Eight St. An authorized agent of a utility or contractor may complete said application at the Municipal Building. This shall be done a minimum of Twenty-four (24) hours in advance of a planned excavation. A copy of the completed application, signed by the borough, 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.
- 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 this Article.1 Public utilities may be billed for permit fees monthly.
- D. 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 West Wyoming unless and until a permit there for is secured for each separate undertaking. The police shall promptly prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit.

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 or utility 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 an excavation permit not 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.

PENALTY FOR WORK DONE WITHOUT PERMIT

All work done without a permit shall be subject to the penalty provided, plus regular fees (See fee schedule)

INDEMNIFICATION OF MUNICIPALITY; INSURANCE REQUIRED.

A The applicant shall be insured as set forth below and shall protect, defend, indemnify and save harmless the municipality, its officers and/or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the municipality, its officers or agents thereof for or on account of any injuries or damages to persons or public or private property because of any materials or appliances used in the work or by or on account of improper materials or workmanship or for or on account of any accident or any other act, negligence or omissions of said applicant or his agents, servants or employees, and the municipality shall not, in any way, be liable therefor 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.

B Minimum insurance shall be:

- (1) Liability of one million dollars (\$1,000,000) for personal injury or death per individual with a limit of three million dollars (3,000,000) for each occurrence for bodily injury.
- (2) Liability of five hundred thousand dollars (\$500,000) for property damage.

C 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 the municipality no later than each January 15. Said evidence of insurance must include the provision that the municipality shall be given proper advance notice of at least thirty (30) days of cancellation or any material alterations in the applicant's policy.

SAFETY PRECAUTIONS

During the progress of work, the applicant shall provide and maintain such barricades, warning signs and flag persons as may be deemed necessary by the municipality to prevent accidents to the public and/or adjoining tenants. Minimum precautions must include, but should not be limited to, advance warning signs on all approaches to the work, safe crossing for pedestrians a minimum of each three hundred (300) feet and barricades with flashers on each exposed side at fifty-foot intervals. 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.

CLOSING OF STREETS

No street in the Borough of West Wyoming 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 and the Fire Chief. When an emergency exists, the Police and Fire Departments shall be notified. 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 Police Chief and Fire Chief.

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 within forty-eight (48) consecutive hours of the initial cut during the normal working week, excluding holidays and weekends. Extension time may be allowed upon appeal to the Municipal Street Commissioners 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. 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 February 15 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.

MISCELLANEOUS WORK PROVISIONS

All excavations shall be commenced and completed by the use of a reasonable workforce. In congested areas and the central business district, the municipality may limit work to other than normal daytime working hours. At the cessation of work, adequate steel plates shall be placed over the excavation while it is not being worked to ensure full traffic flow. The maximum length of any opening in the roadway shall be two hundred (200) feet unless otherwise permitted, in writing, by the Municipal Engineer or Municipal Street Commissioner.

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 gutters and drainage devices shall be kept clean of all debris and excavated material. 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 (15) feet of any hydrant.

SUITABILITY OF MATERIALS

The suitability of material to be used as backfill shall be determined by the Municipal Engineer or Municipal Street Commissioner or their agents. 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.

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.

FILL MATERIAL

- A. The Municipal Engineer and /or Street Commissioner 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 Municipal Engineer or Street Commissioner.
- B. Granular or other suitable materials, as determined by the municipality, 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 excavation of the trench or when the material encountered is determined unsuitable by the Engineer or Street Commissioner 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 surplus material obtainable from the excavation of adjacent trenches or from approved borrow areas. If suitable material is not available as stated above, the contractor should procure suitable pit-run material for backfilling around the pipe according to specific direction from the Borough Engineer or Street Department.
- C. Succeeding layers of backfill may contain coarse materials, but shall be free from large pieces of rock, frozen material, concrete, roots, stumps, tin cans, rubbish and other similar articles whose presence in the backfill would cause future settlement of the trench or damage to the pipe.
- D. Whenever suitable material existing within the upper four(4) feet of the finished grade of the paved or traveled portions of the street or roadway is removed by the excavation, the contractor shall replace said material (or material of equal quality) as backfill in the upper four(4) feet of the finished grade.

BACKFILLING REQUIREMENTS

- A. The Municipal Engineer or Municipal Street Commissioner must be notified in advance of all backfilling 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, latest revision, Method C or D method, as designated by the Municipal Engineer or Municipal Street Commissioner.

- 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 contractor shall blade and compact the roadway after the trench has been backfilled so that it shall be passable to traffic at all times. The contractor shall maintain the roadway in a condition acceptable to the Engineer or Street Commissioner at all times until final approval of the entire work by the municipality.
- F. The contractor shall remedy at his own expense any defects that appear in the backfill for a period of one (1) year following completion.

MACHINERY TO BE USED

Power-driven concrete saws or air hammers shall be used on all cuts in Portland-cement-based pavements. The cuts must be of sufficient depth to provide a smooth edge. Opening in brick or Belgian-block-based streets shall be of sufficient width to expose one-half (1/2) row of undisturbed interlocking stone. No pavement busters, such as drop hammers, hoe rams and the like, shall be used without the written permission of Municipal Engineer or Street Commissioner.

PRESERVATION OF SPECIAL PAVEMENTS

The removed riding surface of brick, Belgian block or cobblestone, tiles or other special surface shall be preserved at the worksite by the contractor for restoration after the opening has been backfilled.

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 concerned pertinent utilities to instruct the (it) to have representatives inspect the condition before any backfilling is begun.

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.

PERMANENT PAVEMENT RESTORATION FEES

All permittees shall pay permanent pavement restoration fees, in addition to all other fees, according to the following schedule as reasonable compensation to the municipality, which fees are reasonably related to the costs and expenses for the labor and materials necessary to be provided by the municipality to provide for the permanent pavement restoration and finishing of the surface, as well as for the time, energy, inspection. Efforts and other associated administrative work necessary to arrange for, oversee and complete the permanent pavement restoration and finishing:

PERMANENT PAVEMENT RESTORATION FEE SCHEDULE

Pave Cut Size (square feet)	Fee Per Square Foot Or Part Thereof
Less than 50	\$5.00
50 to 100	\$4.60
Over 100	\$4.50

INSPECTION AND TESTING

The Municipal Engineer and/or Street Department shall inspect all cuts, backfilling and restoration work, and an inspection fee shall be charged. (See Fee Schedule.) Such inspection fees shall constitute acceptance and approval of work performed by the utility or its contractor, but it is understood that such acceptance and approval does not relieve the utility of any responsibility under this Article throughout the guaranty period.

TESTING AND IMPROVEMENTS OF SERVICES 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 three (3) 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 (30) 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 Article. Prior to the placement of the base course, the existing base and surface must be exposed six(6) inches on each side of any depressions that may have developed. Restoration of base pavements shall consist of BCBC for the full depth of the adjacent permanent base or for a depth of six (6) inches, whichever is greater. The wearing course of top coat shall be placed at a minimum depth of one and one –half (1 ½) inches and shall be ID2 top coat 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 tamper or vibrator. 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, except 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, repave and repair 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 and repaving to be done in accordance with the provisions of this Article. 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 Engineer or Street Department 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.

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.

REPLACEMENT OF TRAFFIC CONTROL DEVICES

Electronic traffic control devices and ancillary equipment damaged or removed because of 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 Engineer or Street Department or their agents. The municipality shall contact to have the necessary repairs mad and bill the utility.

UTILITY CONNECTIONS

The Borough of West Wyoming 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 West Wyoming require such

house connections to be extended further from such sewers or from such gas, water or other pipes or conduits than to the inner line of the curbstone 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.

DETERMINATION OF LINES AND GRADDS

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

REQUIRED UTILITY LINE DEPTHS

The following depths 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 thirty-six (36) 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.

ADDITIONAL UTILITY PLACEMENT PROVISIONS

Aerial installations of electric power transmissions and telecommunications 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 located upon written order from the County Zoning Officer or Street Department 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 shall assign horizontal corridors on a case-by-case basis for all new construction. 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.

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 road way construction project.

UTILITY RELOCATION PROCEDURES

- A. Upon receipt of a letter from the Engineer or Street Department authorizing the start of physical work, the utility shall commence work within thirty (30) days unless otherwise stated by the

Engineer or Street Department with reasonable cause shown in order to clear the construction area. 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 roadway construction. Areas of utility shall relocation of work, which cannot be accomplished prior to the state of construction but can be accomplished simultaneously without restriction the 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 and 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.

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 Department.

DESIGNATION OF REPRESENTATIVES

The Engineer may appoint as his representatives persons to enforce this Article. These agents shall have the authority and responsibility for the enforcement of this Article as vested in the Engineer.

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.

RESUMPTION OF SUSPENDED WORK

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

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.

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.

DESIGNATION OF RESPONSIBLE AGENT

Every public utility shall file with the municipality a designation, in writing, of the name and the post office address of a person within the Commonwealth of Pennsylvania upon whom 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.

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)

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.

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.

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 West Wyoming 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.

Pave Cut Fee Schedule

(Revised March 13, 2017)

Fees shall be as follows:

<u>PERMITS/SERVICES/PENALTY</u>	<u>FEE</u>
Processing and issuing a permit	\$50.00
Processing and issuing a permit to close a road	\$50.00
Inspection First Hour (minimum inspection)	\$85.00
Inspection Second Hour or hours thereafter or part thereof, per hr	\$85.00

Engineering fees incurred by the Borough shall be paid within thirty days of billing, in addition to the Hourly rates provided above.

Field testing, testing, laboratory tests and similar tests shall be paid within thirty days, in addition to The hourly rates if the testing is not provided by the Utility or Contractor.

Penalty for failure to obtain a permit (each)	\$600.00 /event/day
Penalty for noncompliance with any other section or part thereof (each day)	\$600.00 / event/day

The Borough may amend the above fees and charges by Resolution of Council

- All invoices to permittee shall be fee plus 10%
- Inspection fees between the hours of 5:00PM and 7:00AM will carry a surcharge of 20%
- Inspection fees beyond 8 hours in a day will incur a premium surcharge of fee times 1.5. No additional surcharge will be applied.

West Wyoming Pave Cut Ordinance Revision

Enacted and Ordained at a regular meeting of the

West Wyoming Borough Council

On the 13th day of March 2017

This ordinance shall take effect immediately

Bary Stanish

Council Chair Bary Stanish

March 13, 2017

Date

Joe Herbert

Mayor Joe Herbert

Attest

Mare Redley

Secretary

