

BOROUGH OF ARCHBALD
LACKAWANNA COUNTY, PENNSYLVANIA

ORDINANCE NO 05-2023

AN ORDINANCE GOVERNING PAVECUTS AND
EXCAVATION OF STREETS WITHIN THE BOROUGH OF
ARCHBALD, LACKAWANNA COUNTY, PENNSYLVANIA

WHEREAS, the Archbald Borough Council has determined it is necessary to adopt the within Ordinance to ensure the health, safety and welfare of the residents and visitors to the Borough of Archbald and for the proper management, care and control of the Borough of Archbald and its finances and the maintenance of peace, good government, safety and welfare of the Borough of Archbald and its trade, commerce and manufactures;

NOW, THEREFORE, pursuant to the powers and statutory authority expressly granted to the Borough of Archbald by the Pennsylvania Borough Code, 8 Pa.C.S Section 101 et seq., specifically including, but not necessarily limited to, the power to prohibit and remove any nuisance or dangerous structure on public grounds, including, but not limited to, obstructions or nuisances in the streets of the Borough of Archbald, 8 Pa.C.S Section 1202(4); the power to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the Borough, 8 Pa.C.S. Section 1202(5); the power to regulate the streets, sewers, public squares, common grounds, sidewalks, curbs, gutters, culverts and drains, and the heights, grades, widths, slopes and their construction, and to prohibit the erection or construction of any building or other obstruction to the convenient use of the same, 8 Pa.C.S. Section 1202(12); the power to impose fines and penalties, incurring partial or total forfeiture, or to remit the same, 8 Pa.C.S. Section 1202(3) and the power to make and adopt all ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution of Pennsylvania and laws of this Commonwealth as may be expedient or necessary for the proper management, care and control of the Borough and its finances and the maintenance of peace, good government, safety and welfare of the Borough and its trade, commerce and manufactures, 8 Pa.C.S. Section 1203, it is hereby **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Archbald, County of Lackawanna and Commonwealth of Pennsylvania, as follows:

SECTION 1 – TITLE

This Ordinance shall be known as Ordinance #05 of 2023, “The Borough of Archbald Pavecut Ordinance”.

SECTION 2 - DEFINITIONS

A. **Word usage.** The following words, terms and phrases when used in this Ordinance; 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 Ordinance the words “directed,” required,” “permitted”, ordered”, designated”, or words of like importance are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Borough of Archbald, Archbald Borough Municipal Engineer or their duly authorized representatives or agents is intended; and similarly the words

“approved”, “acceptable”, “satisfactory” or words of like import shall mean “approved by,” “acceptable to” the Borough of Archbald, Archbald Borough Municipal Engineer or their duly authorized representatives or agents.

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

APPLICANT- means the person applying for, and issued, a permit under this Ordinance allowing for work to be performed within a Borough Street.

APPLICATION FOR A PAVE CUT PERMIT – means a form provided to the Applicant by the Borough, noting pertinent data for the purposes of inspection and control by the Borough, noting pertinent data for the purpose of inspection and control by the Borough and constituting a receipt for services performed within the Borough.

BOROUGH – means the Borough of Archbald, Lackawanna County, the Archbald Borough Council or any duly authorized representative of the Archbald Borough Council, including, but not limited to the Archbald Borough Municipal Engineer.

CAPITAL IMPROVEMENT – means any preplanned activities designed and implemented to improve, maintain or upgrade an existing system or to install a completely new system providing a n y new or additional service within the Borough of Archbald.

EMERGENCY – means any work necessitated by unforeseen circumstances, such as the rupture or sudden malfunction of existing underground facilities, necessitating urgent action to prevent injury or the loss of life or to prevent serious property damage.

FACILITIES – means all of the plant and equipment of an Applicant or Public Utility, including, but not necessarily limited to, all tangible and intangible real and personal property without limitation, 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 Applicant or Public Utility; provided, however, that no property owned by the Commonwealth of Pennsylvania or any municipal corporation prior to the date when this Ordinance becomes effective shall be subject to any of the terms of this Ordinance, except as elsewhere expressly provided herein.

INSPECTION - means whatever careful and critical review, observation, investigation and assessment is deemed necessary and appropriate by the **BOROUGH** or the Archbald Borough Engineer. **INSPECTION** is not limited to optical observation and is specifically understood to include whatever testing and examination is, or may be, required for the purpose of ascertaining quality of work and/or materials and compliance with the terms and conditions of the within Ordinance as well as to discover and correct whatever errors are determined to exist by the Archbald Borough Engineer.

MUNICIPAL CORPORATION – means all cities, boroughs, towns, townships or counties of the Commonwealth of Pennsylvania as well as any public corporation, authority or body whatsoever created or organized under any law of the Commonwealth of Pennsylvania for the purpose of rendering any service similar to that of a public utility. For the purpose of this Ordinance, “Municipal Corporation” shall also include the Borough of Archbald.

OPENING– means any activity within any road, thoroughfare, street, right-of-way of any street, alley, cartway, tree lawn, sidewalk or roadway surfaces within the Borough of Archbald which involves cutting, breaking, or disturbing the surface thereof and specifically includes, but is not necessarily limited to, a pavecut.

PAVECUT – means any activity within any road, thoroughfare, street, right-of-way of any street, alley, cartway, tree lawn, sidewalk or roadway surfaces within the Borough of Archbald which involves cutting, breaking, or disturbing the surface thereof and specifically includes, but is not necessarily limited to, an opening.

PAVECUT 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.

PAVEMENT--- means any road, thoroughfare, street, right-of-way of any street, alley, cartway, tree lawn, sidewalk or roadway surfaces of machine-laid asphalt over a base of concrete, brick, Belgian block, crushed stone, dirt, bituminous concrete or oil and stone within the Borough of Archbald.

PERSON --- means any natural person, individual, partnership, firm, association, corporation, political subdivision, municipal authority, Public Utility, the Commonwealth of Pennsylvania and its agencies and instrumentalities, or any other entity and includes all 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 Ordinance in its broadest and most inclusive sense, and includes by way of illustration and not by means of limitation, 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 an Applicant or Public Utility in the performance of their duties under this Ordinance 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, right-of-way of any street, highway, road, roadway, thoroughfare, land, court, alley, cartway, tree lawn, sidewalk 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 or pedestrian 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 Ordinance.

SECTION 3 - PERMIT REQUIRED

Before any work can be performed which will involve a pavecut, or before any opening can be made in any paved street, right-of-way of any street, highway, road, roadway,

thoroughfare, land, court, alley, cartway, tree lawn, sidewalk 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 or pedestrian travel within the Borough of Archbald, a pavecut permit must first be obtained from the Borough of Archbald.

SECTION 4 - PERMIT PROCEDURE

- A. The Borough of Archbald shall make available Applications for a pavecut permit at the Archbald Borough Municipal Building, 400 Church Street Archbald, Pennsylvania 18403, during regular business days on which the Borough is open to the public for business from 7:30 a.m. to 4:00 p.m. An Applicant, or the authorized agent of an Applicant, Public Utility, utility or contractor may complete said application at the Archbald Borough Municipal Building. This shall be done a minimum of Twenty-four (24) hours in advance of any pavecut, opening or planned excavation. A copy of the completed application, signed by the Borough, or Archbald Borough Engineer or a duly authorized agent thereof, shall at all times be in the possession of a competent representative of the Applicant 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 proposed pavecut, opening or excavation, the date of commencement of the work and the expected date of completion of the work as well as the length and width of the pavecut or opening and such other data as may reasonably be required by the Borough. When, in the sole opinion of the Borough, the pavecut, opening, excavation and /or construction planned is extensive, the Borough may require the application to be accompanied by plans satisfactory to the Borough 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 Borough.
- C. The Borough 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 by the Archbald Borough Council, by Resolution, from time to time. The Permit Application Fee shall be made available to all Applicants at the time an application is provided. At the sole discretion of the Borough, Public Utilities may be billed for permit fees monthly.
- D. The Applicant, or the Applicant's contractor or utility performing the work, must notify the Borough before any backfill or permanent pavement is placed so that a Borough inspector may be dispatched to the site to inspect the work before any backfill is performed or permanent pavement is applied. All backfill

and permanent pavement work must be performed under the continuous observation of a Borough designated inspector/testing agency and any backfill performed or pavement applied in violation of this Section shall be removed at the sole expense of the Applicant in addition to whatever other penalties apply for any violation of this Section.

- E. It shall be unlawful for any Applicant, person, firm or corporation to make any opening, pavecut or excavation in or under any street, alley or other thoroughfare within the limits of the Borough of Archbald unless and until a permit therefor is secured for each separate undertaking. The police shall promptly stop and prohibit any work to be done without a permit and shall halt any work in progress being performed without a permit.

SECTION 5 - 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 a pavecut permit no later than the end of the next succeeding day during which the Borough office is open for business. In addition, the Applicant or utility shall immediately notify the Borough and inform the Borough that an emergency exists as soon as it become aware of said emergency. An emergency contact number will be provided by the Borough so that a Borough inspector can be dispatched to the site of the emergency repair. An inspector must be present to inspect the backfill and permanent pavement work for all emergency repair and all emergency work.

SECTION 6 - PENALTY FOR WORK DONE WITHOUT PERMIT

Any work done without a permit in violation of this Ordinance shall be subject to the penalties provided herein, plus regular fees as set forth herein. Th Penalties for violation of this Ordinance may be amended by the Archbald Borough Council, from time to time, by Resolution.

SECTION 7 - WORK DONE WITHOUT AN INSPECTOR

Any backfill or permanent pavement work performed without prior notification to the Borough and without the presence of a Borough designated inspector present shall be

removed and replaced under the observation of a Borough authorized inspector at the sole cost of the Applicant and/or the contractor performing the work. The removal and replacement of any uninspected work will be at no cost to the Borough.

SECTION 8 - INDEMNIFICATION OF BOROUGH; INSURANCE REQUIRED.

A The Applicant shall be insured as set forth below and shall protect, defend, indemnify and save harmless the Borough, its officers and/or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the Borough, its officers or agents thereof for, or on account of, any personal injuries or damages to persons or public or private property due to of any materials or appliances used in the work or by or on account of improper materials, faulty workmanship or for or on account of any accident or any other act, negligence or omissions of said Applicant or its agents, servants, representatives or employees, and the Borough 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 Applicant to the satisfaction of the Borough.

B Minimum insurance shall be:

- (1) Liability of one million dollars (\$1,000,000.00) for personal injury or death per individual with a limit of three million dollars (\$3,000,000.00) for each occurrence for bodily injury.
- (2) Liability of five hundred thousand dollars (\$500,000.00) 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 Borough along with the completed Application for a Pavecut Permit. Said evidence of insurance must include the provision that the Borough shall be given proper advance notice of at least thirty (30) days of cancellation or any material alterations in the Applicant's policy and, where required by the Borough, shall include evidence the Borough is an Additional Insured under the Applicant's policy for the work performed which is the subject of the Application.

SECTION 9 - 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 Borough to prevent accidents to the public and/or adjoining landowners/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.

SECTION 10 - CLOSING OF STREETS

No street in the Borough of Archbald 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 Borough may permit a road to be completely closed temporarily only with the consent of the Archbald Borough Chief of Police and the Archbald 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 Borough. The completed application, bearing the signatures of the above-mentioned officers, shall be returned to the Applicant and shall constitute a permit. Any failure of the Applicant to notify the Archbald Borough Police Chief and the Archbald Fire Chief of an emergency shall be a violation of this Ordinance subjecting the Applicant to the fines and penalties set forth herein.

SECTION 11 - TIME PERIODS FOR COMPLETION OF PAVE CUTS

For small area pavecuts (i.e., those pavecuts that are twenty-five (25) feet or less in length), the Applicant, utility or contractor shall be required to complete the back-filling within forty-eight (48) consecutive hours of the initial pavecut or opening during the normal working week; excluding holidays and weekends. An extension time may be allowed upon appeal to the Archbald Municipal Engineer provided that the Applicant substantiates sufficient reasons for the extension required. Work on long pavecuts (i.e., those pavecuts that are over twenty-five (25) feet in length) shall proceed in a continuous manner in accordance with safety precautions. Permits for long pavecuts or capital improvements shall not be granted during the months of November through March except upon written permission from the Borough or the Archbald Municipal Engineer. The Applicant, utility or contractor shall coordinate planned pavecuts in Borough streets with the paving program of the Borough as they become available. The Borough will provide a paving program for a one-year period to the utilities by February 15 of each calendar year. Changes in the utilities' schedule of planned pavecuts shall require a confirmation from the Borough or the Archbald 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.

SECTION 12- MISCELLANEOUS WORK PROVISIONS

All pavecuts and excavations shall be commenced and completed by the use of a reasonable workforce. In congested areas and the Borough's central business district, the Borough may limit work to other than normal daytime working hours. At the cessation of work, adequate steel plates shall be placed over the pavecut and excavation sites while the sites are 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 Borough or the Borough Municipal Engineer.

SECTION 13 - EXCAVATED MATERIAL

In peak traffic areas as determined by the Archbald Municipal Engineer, all excavated material shall be removed daily at the cessation of work. All gutters and drainage devices shall be kept clear 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.

SECTION 14 - SUITABILITY OF MATERIALS

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

SECTION 15 - 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 Applicant, utility or contractor beyond the project limits. In no case shall waste material be left at the worksite.

SECTION 16 - FILL MATERIAL

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

boulders shall be deposited in the trench simultaneously on both sides of the pipe for the full width of the trench to a height of at least six (6) inches above the top of the pipe, placed and had-tamped to fill completely all spaces under and adjacent to the pipe. In the event that suitable natural granular material is not encountered during the normal exaction of the trench or when the material encountered is determined unsuitable by the Borough Engineer or designated testing/inspection agency for back-filing around the pipe as required above, the contractor shall furnish and place other approved material. This approved material should be furnished from 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 the Borough's designated testing/inspection agency at no cost to the municipality.

- C. Succeeding layers of backfill may contain coarse materials (-2"), but shall be free from large pieces of rock, frozen material, concrete, roots, stumps, tin cans, rubbish and other similar Ordinances 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.
- E. As an alternate, 250 psi flowable fill may be used. Flowable fill shall be in accordance with PennDOT Publication 408, Section 220 (Latest Edition) with a compressive strength not less than 150 psi.

SECTION 17 – BACKFILLING REQUIREMENTS

- A. The Borough Engineer or the Borough's designated testing/inspection agency must be notified at least 2 hours in advance of the placing of any backfill for inspection purposes. No backfill shall be placed without a Borough designated inspector present. 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 Street Commissioner or designated testing/inspection agency.
- 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 filing 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 two (2) years following compaction.

SECTION 18 – PERMANENT PAVEMENT REQUIREMENTS

- A. The Borough Engineer or the Borough's designated testing/inspection agency must be notified in advance of placing any permanent pavement for inspection purposes. No pavement shall be placed without a Borough designated inspector present.
- B. Where the excavation is in a paved surface, the pavement shall be restored with not less than 6 inches of 2A Subbase, 4 ½ inches of 25 mm Superpave Base Course or the full depth of the adjacent permanent bases, whichever is greater, and 1 ½ inches of 9.5 mm Superpave Wearing Course. All materials and work shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Sections 350 and 409 respectively. Prior to replacement of the pavement, one-foot (1') outside of each edge of the opening shall be sawed the full depth of pavement and stone base in a neat straight line (1-foot cutback). The detached material shall be removed without damaging the adjacent pavement. The final pavement joint between new and existing pavement shall be sealed with PG 6422 or other sealant approved by the Street Commissioner or designated testing/inspection agency to a width of 4 inches either side of the joint. In cases where pave cuts are made between December 1 and April 15, the pavement restoration shall consist of cold patch or similar temporary material. Final pavement restoration shall be completed as specified herein above during the next paving season, but in no event later than July 1st. Maintenance of the temporary patch shall be the responsibility of the contractor.

- C. When a longitudinal opening longer than 100 linear feet is made in the pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the area of the opening. When four (4) or more transverse openings are made within 100 feet linear feet of pavement, the entire roadway width shall be milled and overlaid with 9.5 mm Superpave within the total opening length including those areas unexcavated. Overlay shall consist of 1 ½ inches of 9.5 mm Superpave Wearing Coarse. A milled paving notch, with a minimum 10 feet transition, shall be provided at each end of the overlay.

SECTION 19 - SIDEWALK CURB RESTORATION REQUIREMENTS

- A. The Borough Engineer or the Borough's designated testing/inspection agency must be notified in advance of placing any permanent pavement or concrete for sidewalks or curbing for inspection purposes. No pavement or concrete for sidewalks or curbing shall be placed without a Borough designated inspector present.
- B. Where the removal of a portion of a curb, sidewalk, or curb and gutter is required to perform work the curb, sidewalk, or gutter shall be restored as follows:
 - a. Asphalt sidewalks shall be a minimum of 2" of inches of 9.5 mm Superpave Wearing Coarse or the thickness of the adjacent materials, whichever is greater.
 - b. Asphalt curbs shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 636. The minimum allowable length of a replaced curb shall be 4 feet.
 - c. Concrete sidewalks shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 676. The minimum allowable length of a replaced concrete sidewalk shall be 4 feet.
 - d. Concrete curbs shall meet the requirements of PennDOT Publication 408 Specifications (Latest Edition), Section 630. The minimum allowable length of a replaced curb shall be 4 feet.
 - e. Stone curbs shall be replaced in kind. A minimum length of replaced curbs shall be 4 feet.
 - f. Where curbing and/or sidewalks are composed of other materials (brick, pavers, granite, flagstone, etc.) every attempt should be made to save the original materials and replace them during restoration.

SECTION 19 - MACHINERY TO BE USED

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

SECTION 20 - RESPONSIBILITY FOR DAMAGE TO UNDERGROUND FACILITIES

In the event a pavecut 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 Borough and the Borough Engineer and all other concerned pertinent utilities to provide appropriate notification of the damage and to have representatives inspect the condition before any backfilling is begun.

SECTION 21 - COMPLIANCE WITH STATUTES, RULES AND REGULATIONS

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

SECTION 22 - INSPECTION AND TESTING

The Borough's Designated Testing Company shall inspect all pavecuts, backfilling, pavement restoration and curb/sidewalk restoration work that occurs within the Borough's streets. An inspection fee shall be charged for this inspection as determined by the Archbald Borough Council, by Resolution, from time to time. Such inspection fees shall constitute acceptance of work performed by the contractor, but it is understood that such acceptance does not relieve the Applicant or utility of any responsibility under this Ordinance throughout the warranty period.

In order to ensure proper testing, the Borough shall retain an independent testing agency meeting the following requirements:

- Maintains a facility that is AMRL and CCRL certified and meets the minimum requirements of ASTM E-329
- Has the ability to provide field testing technicians that have the appropriate ACI, NICET, and NECEPT certifications for inspecting the work being performed as follows:

INSPECTION TYPE**REQUIRED CERTIFICATIONS**

Permanent Backfill

NICET Level I Soils and
QC Nuclear Regulatory Certified

Permanent Asphalt Paving

NICET Level I Asphalt and
NECEPT Bituminous Field Test
TechnicianPermanent Concrete (Sidewalks or
Curbs)NICET Level I Concrete and
NECEPT Concrete Field Test Technician

- Has the ability to mobilize for contractor requests within one (1) hour of being notified.
- Has the ability to submit Inspection Reports to the Borough engineer upon completion of work.

SECTION 23 - MAJOR IMPROVEMENTS OF SERVICES AND/OR LINE REPLACEMENT BY UTILITIES; PROCEDURES FOR NEW PAVEMENT CUTS

Upon notification from the Borough 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 the Borough's resurfacing or reconstruction. Thereafter any cuts which will only be permitted in new pavement and any permits issued for the same shall be subject to the following terms and conditions:

- 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 pavecuts in new pavement shall be required to make permanent restoration and repaving and resurfacing of said openings in pavement. Permanent restoration must be completed within thirty (30) days of the initial cut. Any delay or failure of restoration shall be reported to the pertinent utility, and repairs by the utility must begin within twenty-four (24) hours after notification. Upon failure of the utility to repair the cut in a satisfactory manner, the Borough shall have the option to do the work or to contract to complete the work and bill the utility for the costs of permanent restoration, plus twenty percent (20%). In addition, penalties for noncompliance shall be levied against the utility or contractor. All backfilling of new pavement cuts shall be in accordance with the backfilling requirements and provisions set forth in this Ordinance. Prior to the placement of the base course, the existing base and surface must be exposed twelve (12) inches on each side of any depressions that may have developed. Restoration of base pavements shall consist of 25mm Super Pave

Base Course for the full depth of the adjacent permanent base or for a depth of 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 9.5 mm Super Pave Wearing Course and shall be rolled to conform with the existing road and the edges sealed. Surface treatments such as sand or chip seals are prohibited. On long cuts (those greater than twenty-five (25) feet in length), surface finishing must be rolled with not less than a six-ton roller. Small cuts may be finished with a mechanical 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 pavecuts 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 pavecut or pavecuts in new pavement totaling ninety (90) square feet or more within any block in the Borough, then the utility shall be required to backfill and permanently restore, refinish, mill and repave the entire width of said street from curb to curb for the entire length of the block or blocks of said street or streets where there is located any pave cut or cuts or parts thereof with said backfilling and restoring, refinishing, milling, and repaving to be done in accordance with the provisions of this Ordinance. (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 Borough Engineer or the Borough's designated testing/inspection agency prior to commencement of permanent restoration. Such permanent restoration must be commenced and completed promptly. Any delay or failure of restoration will be reported to the pertinent utility, and such work shall commence by the utility within twenty-four (24) hours after notification. Upon failure of the utility to restore the street in a satisfactory manner, the Borough 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.

SECTION 24 - REPLACEMENT OF PAVEMENT MARKINGS

The Applicant, 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 Applicant or contractor fail to replace the same, the Borough shall contract to have the necessary repairs made and bill the Applicant or utility for the costs of the work, plus a twenty-percent (20%) penalty.

SECTION 25 - 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 Applicant or the utility or their contractor, in kind, in whole or in part as required by the Borough Engineer or the Borough's designated testing/inspection agency. The Borough shall contract to have the necessary repairs made and bill the Applicant or the utility.

SECTION 26 - REPLACEMENT OF PROPERTY PINS OR MONUMENTS

All property pins or survey control monuments damaged or altered as a results of the contractors work shall be replaced at the Applicant's and/or the contractor's expense by a Registered Pennsylvania Professional Land Surveyor.

SECTION 27 - UTILITY CONNECTIONS

The Borough of Archbald provides by this Ordinance 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 Borough shall be the judge, shall the Borough 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.

SECTION 28 - DETERMINATION OF LINES AND GRADES FOR STREET CONSTRUCTION OR RECONSTRUCTION

The Borough Engineer shall have the final decision for determination of lines and grades for street reconstruction. This decision shall be based on good engineering practice and municipal standards. The determination by the Borough engineer or the Borough's designated testing/inspection agency shall be final.

SECTION 29 - REQUIRED UTILITY LINE DEPTHS

The following depths for pipes and conduits are assigned to Applicants and utilities operating under this Ordinance:

- 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.

SECTION 30 - 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 Borough 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.

SECTION 31 - BOROUGH 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.

SECTION 32 - UTILITY RELOCATION PROCEDURES

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

testing/inspection agency 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 Borough 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 Boorugh Engineer and the Borough'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 Borough 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 Borough Engineer. All such changes shall be brought to the attention of the project engineer and shall be noted in the daily inspection report.

SECTION 33 - AUTHORIZATION OF MUNICIPAL ENGINEER AND MUNICIPAL STREET DEPARTMENT

The Archbald Borough Council provides by this Ordinance that the responsibility and authority for the administration and enforcement of this Ordinance shall rest in the office of the Borough Engineer and the Archbald Police Department, where applicable.

SECTION 34 - DESIGNATION OF REPRESENTATIVES

The Borough Engineer may appoint representative persons to enforce this Ordinance. These agents shall have the authority and responsibility for the enforcement of this Ordinance as vested in the Borough Engineer.

SECTION 35 - ACTIONS UPON NONCOMPLIANCE

When work performed by an Applicant, utility or contractor under this Ordinance is found in violation of the same, the Applicant, contractor or utility may be given the opportunity to make corrections as required by the Borough. If the corrections are not completed in the specified time or not completed as specified, the Borough may suspend all work, whether completed or in progress, in noncompliance with this Ordinance and take appropriate safety precautions. All work performed or contracted by the Borough to attain compliance in this regard shall be billed to the Applicant, utility

or contractor, plus a twenty-percent (20%) penalty. In addition, a penalty for noncompliance shall be imposed.

SECTION 36 - RESUMPTION OF SUSPENDED WORK

The Applicant or utility shall actively resume work upon order from the Borough after suspension.

SECTION 37 - PROVISION FOR PENALTY

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

SECTION 38 - NONISSUANCE OF PERMITS

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

SECTION 39 - DESIGNATION OF RESPONSIBLE AGENT

Every Applicant and Public Utility shall file with the Borough 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 Ordinance. Such designation may, from time to time, be changed by like writing, similarly filed.

SECTION 40 - GENERAL CONTRACTORS

At the discretion of the Borough, licensed contractors, other than those under contract to a utility, may be permitted to make an opening, pavecut or excavation in the Borough's public streets. Sections pertaining to public utilities shall be applicable to licensed contractors.

SECTION 41 - EFFECT ON EXISTING CONTRACTS AND OBLIGATIONS

All litigation, hearings, investigations and other proceedings whatsoever pending under and act repealed by this Ordinance, shall continue to remain in full provisions of this Ordinance. All orders, rules or regulations issued or filed under any act repealed by this Ordinance, and in full force and effect for the term issued or until revoked, vacated or modified under the provisions of this Ordinance. All existing contracts and obligations entered into or created under any act repealed by this Ordinance, and in force and effect upon the effective date of this Ordinance, 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 Ordinance.

SECTION 42 – SEVERABILITY AND REPEALER

- A. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- B. All ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

SECTION 43 - ACKNOWLEDGMENT OF GUILT; VIOLATIONS AND PENALTIES; CIVIL ACTION

- A. Acknowledgment of guilt. Any person charged with violating any provision of this Ordinance 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 Archbald 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 any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine and/or penalty of not more than six hundred dollars (\$600) plus costs, 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 Ordinance 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.

SECTION 44 - FEE SCHEDULE

Fees shall be determined by the Archbald Borough Council, by Resolution, from time to time, as the Archbald Borough Council, deems necessary. The current fee schedule is as follows:^{1,2,3}

<u>PERMITS/SERVICES/PENALTY</u>	<u>Fee</u>
Processing and issuing a permit	\$125.00 ea
Inspection First hour (minimum inspection)	\$65.00/hr
Second hour or hours thereafter or part thereof, per hr.	\$65 .00/hr
Penalty for failure to obtain a permit	\$600.00/event/day
Penalty for noncompliance with any other Section or part thereof (each day)	\$600.00/event/day

¹All invoices to permittee shall be fee plus 10%.

²Inspection fees between the hours of 5:00 pm and 7:00 am will carry a surcharge of 20%

³Inspection fees beyond 8 hours in a day will incur a premium surcharge of fee times 1.5. No additional surcharge will be charged.

SECTION 45 – EFFECTIVE DATE

This Ordinance shall take effect immediately upon its enactment.

BOROUGH OF ARCHBALD

BY: 

DAVID MORAN,
Council President

ATTESTED:

BY: 

MARY LOFF,
Archbald Borough Secretary

(SEAL)

Examined and Approved this _____ day of December, 2023,

BY: 

SHIRLEY BARRETT, Mayor