

**BOROUGH OF ST. LAWRENCE  
BERKS COUNTY, PENNSYLVANIA**

**ORDINANCE NO 434**

**AN ORDINANCE OF THE BOROUGH OF ST. LAWRENCE, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 260, DATED MAY 10, 1984, ENTITLED "STREET OCCUPANCY ORDINANCE" TO AMEND SECTION 3 TITLED "PERMIT REQUIRED," TO REQUIRE THAT A STREET OPENING PERMIT BE OBTAINED, AND FEES PAID, WHERE THE PROPOSED STREET OPENING OR EXCAVATION IS IN AN INTERSECTION AREA CONTAINING TRAFFIC SIGNAL LOOPS; TO AMEND SECTION 4 TITLED "ADMINISTRATIVE REQUIREMENTS," TO ADD SUBSECTIONS IMPOSING PENALTIES FOR UNSATISFACTORY RESTORATION, AND PENALTIES FOR FAILURE TO UTILIZE "PA ONE CALL SYSTEM" AND MARK AREAS OF UNDERGROUND UTILITIES; TO AMEND SECTION 10.A THEREOF, ENTITLED "ENFORCEMENT" TO AUTHORIZE THE ASSESSMENT OF A PENALTY IN THE AMOUNT OF UP TO THREE (3) TIMES THE STREET OPENING PERMIT FEE THEN IN EFFECT, IN ADDITION TO REQUIRED FEES AND COSTS, IN THE EVENT OF NON-EMERGENCY STREET OPENING PRIOR TO PERMIT ISSUANCE; TO TREAT AS A SUMMARY CRIMINAL OFFENSE THE FAILURE TO PROPERLY RESTORE THE STREET, UTILIZE THE PA ONE CALL SYSTEM, AND PROCURE BOROUGH AUTHORIZATION PRIOR TO THE CLOSURE OF A STREET; AND TO AMEND ALL FEE SCHEDULES ADOPTED PURSUANT TO ORDINANCE NO. 260, AS AMENDED, AND RESOLUTIONS ADOPTED CONTAINING FEE SCHEDULES FOR PERMITS TO REFLECT THE ADDITIONAL PERMIT FEES REFLECTED HEREIN.**

WHEREAS, the Borough of St. Lawrence, by Ordinance No. 260 dated May 10, 1984, adopted its "Street Occupancy Ordinance"

WHEREAS, Section 3 of said Ordinance No. 260 requires that prior to opening or excavating in a Borough street, other than the emergency repair of utility facilities, that an application be made and a permit be secured from the Borough;

WHEREAS, Section 4 of said Ordinance 260, entitled "Administrative Requirements, Subsection (E), entitled "Filing Fee and Certificates of Insurance" requires, *inter alia*, that an application for a street opening permit be accompanied by a filing fee as established from time to time by appropriate resolution duly adopted by Borough Council;

WHEREAS, the Borough has determined that the enforcement of permit requirements by the assessment of a meaningful and significant penalty for failure to procure a permit where required is necessary in order to effectuate the above-stated purposes of the permit requirement; and,

WHEREAS, the Borough has determined that failure to fully comply with Act 287 of 1974, as amended, which requires the marking on the surface of all areas of underground utilities, including traffic signal loops, by the use of the "Pennsylvania One Call System" endangers the health, safety, and welfare of residents of the Borough and persons travelling through the Borough, and causes the Borough to incur costs which should not be borne by Borough taxpayers and utility rate payers.

NOW, THEREFORE, the Borough Council of the Borough of St. Lawrence, Berks County, Pennsylvania, hereby ordains as follows:

**SECTION 1. Permit Required for Certain Intersection Areas.** Section 3 of Ordinance No. 260, dated May 10, 1984, titled "Permit Required," shall be amended to require that a street opening permit be obtained, and a fee paid, where the proposed

street opening or excavation is in an intersection area containing traffic signal loops, and shall read as follows:

It shall be unlawful for any person including any municipality authority created by the Borough, except for any department of the Borough, to perform any work including opening or excavation in or under any Borough street, or in or under any street or road in the Borough, regardless of Commonwealth or Borough jurisdiction, at which the opening or excavation will be in an intersection containing traffic signal loops, unless and until a permit therefore be secured from the Borough for each separate undertaking. All work performed within the right-of-way shall conform to the provisions of PennDOT Publication 213, titled Work Zone Traffic Control Guidelines. A loop detector mark-out fee must be paid to the Borough as part of the permit fee described herein. Notwithstanding the aforesaid, a permit shall not be required in the following instances:

A. Emergency repairs of utility facilities may be performed by using an emergency permit card pursuant to Section 5 of this Ordinance (relating to emergency work).

B. Permit applications are not required for the placing of newspaper receptacles or mail boxes, although their location is subject to the maintenance requirements of the Borough.

C. Permit applications are not required for accessing the utility facility through a manhole.

The Borough Engineer or duly authorized agent of the Borough may prohibit any work being done without a proper permit or contrary to the terms thereof.

**SECTION 2. Penalty for Unsatisfactory Restoration or Failure to Utilize the PA One Call System and Mark Areas of Underground Utilities.** Section 4 of Ordinance No. 260, dated May 10, 1984, titled "Administrative Requirements," shall be amended to add as sub-sections N, O, and P thereto the following:

N. Penalty for Unsatisfactory Restoration. In the event that the street restoration is, in the opinion of the Borough Manager and/or Borough Engineer,

unsatisfactory and requiring of additional work to bring the street back to pre-opening condition, the person(s) or entity(ies) which performed the excavation or opening of the street, that person or entity shall be guilty of a violation of this Ordinance and, upon conviction, shall be sentenced to pay a fine of not less than Fifty Dollars and 00/100 (\$50.00) plus costs of prosecution and any costs incurred by the Borough as a result of violation of this Ordinance, including all sums incurred by the Borough for administration costs and professional fees in compelling proper restoration of the street.

O. Penalty for Failure to Utilize "PA One Call System" and Mark Areas of Underground Utilities. In the event that a person or entity conducting a street opening or excavation fails to utilize the "PA One Call System" in the manner required by Act 287 of 1974, as amended, and fully and completely mark on the surface all areas of underground utility lines or facilities, in addition to any damages and penalties under applicable laws, regulations, and ordinances, the person or entity conducting the street opening or excavation that person or entity shall be guilty of a violation of this Ordinance and, upon conviction, shall be sentenced to pay a fine of not less than Fifty Dollars and 00/100 (\$50.00) plus costs of prosecution and any costs incurred by the Borough as a result of violation of this Ordinance, and shall be liable for additional fees and costs incurred by the Borough to ensure the safety and integrity of underground utility facilities. If a person or entity fails to mark all areas of underground utility lines or facilities, then the entire width of the street, multiplied by the length of the excavation shall be considered to be the area excavated for permitting, fee, and liability purposes.

P. Penalty for Failure to Provide Notice to the Borough and Receive Authorization for the Non-Emergency Closure of Streets. In the event that a person or entity conducting a street opening or excavation which does not qualify as an "emergency" closes a street, in whole or in part, to vehicular traffic without having afforded notice to the Borough Manager or designee of the Borough Manager and received prior authorization, that person or entity shall be guilty of a violation of this Ordinance and, upon conviction, shall be sentenced to pay a fine of not less than Fifty Dollars and 00/100 (\$50.00) plus costs of prosecution and any costs incurred by the Borough as a result of violation of this Ordinance.

### SECTION 3. Enhanced Permit Fee as Penalty for Non-Emergency Street

Opening Prior to Obtaining a Permit. Section 10 of Ordinance No. 260, dated May 10,

1984, titled "Enforcement and Penalties," Subsection A, titled "Enforcement," shall be amended to add as sub-paragraph 5 thereto the following:

5. In the event that any person or entity performs any non-emergency excavation or opening of any Borough Street without first making application, paying the required fees, and obtaining a Street Opening Permit, said person or entity shall, in addition to other enforcement actions permitted hereunder or under applicable law, pay to the Borough a penalty which shall be up to the sum of three (3) times the permit fee which would have been required at the time of submission of an application under the fee schedule then in effect.

**SECTION 4. Amendment of Fee Schedules.** All fee schedules adopted pursuant to Ordinance No. 260, as amended, and resolutions adopted containing fee schedules for permits, are hereby amended to reflect the additional permit fees for work prior to permit issuance.

**SECTION 5. Severability.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council of the Borough of St. Lawrence, Berks County, Pennsylvania that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein."

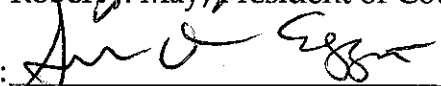
**SECTION 6. Repealer.** All Ordinances, Resolutions, and parts of Ordinances and Resolutions inconsistent herewith are hereby repealed.

**SECTION 7. Effective Date.** This Ordinance shall become effective on the earliest date permitted by law.

ENACTED AND ORDAINED this 13th day of August, 2015 by the Borough Council of the Borough of St. Lawrence, Berks County, Pennsylvania.

BOROUGH OF ST. LAWRENCE  
BERKS COUNTY, PENNSYLVANIA

By:   
Robert J. May, President of Council

Attest:   
Susan Eggert, Borough Secretary

Approved as an Ordinance this 13th day of August, 2015:

By:   
Michael Fritz, Mayor

**Proof of Publication of Notice in Reading Eagle**

Under Act No. 587, Approved May 16, 1929.

Commonwealth of Pennsylvania,  
County of Berks

} SS:

Lynn Schittler, Assistant Secretary, READING EAGLE COMPANY, of the County and Commonwealth aforesaid, being duly sworn, deposes and says that the READING EAGLE established January 28, 1868 is a newspaper of general circulation published at 345 Penn Street, City of Reading, County and State aforesaid, and that the printed notice or publication attached hereto is exactly the same as printed and published in the regular edition and issues of the said READING EAGLE on the following dates, viz.:

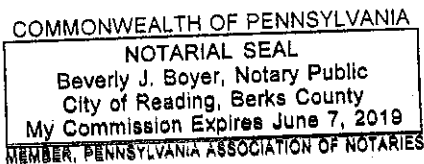
**Reading Eagle Thursday, July 30, 2015, A.D.**

Affiant further deposes that this person is duly authorized by READING EAGLE COMPANY, a corporation, publisher of said READING EAGLE, a newspaper of general circulation, to verify the foregoing statement under oath, and affiant is not interested in the subject matter of the aforesaid notice or advertisement, and that all allegations in the foregoing statements as to time, place, character of publication are true.

*Lynn Schittler*  
\_\_\_\_\_  
Lynn Schittler

Sworn to and subscribed before me on this day of July 30, 2015

*Beverly J. Boyer*  
\_\_\_\_\_  
Notary



**NOTICE**

The Borough Council of the Borough of St. Lawrence will consider the adoption of an ordinance at its meeting on Thursday, August 13, 2015 at 7:30 p.m. at the Borough of St. Lawrence Municipal Building, 3540 St. Lawrence Avenue, Reading, Pennsylvania 19606. A summary of the ordinance is as follows:

AN ORDINANCE OF THE BOROUGH OF ST. LAWRENCE, BERKS COUNTY, PENNSYLVANIA, AMENDING ORDINANCE NO. 260, DATED MAY 10, 1984, ENTITLED "STREET OCCUPANCY ORDINANCE" TO AMEND SECTION 3 TITLED "PERMIT REQUIRED," TO REQUIRE THAT A STREET OPENING PERMIT BE OBTAINED, AND FEES PAID, WHERE THE PROPOSED STREET OPENING OR EXCAVATION IS IN AN INTERSECTION AREA CONTAINING TRAFFIC SIGNAL LOOPS; TO AMEND SECTION 4 TITLED "ADMINISTRATIVE REQUIREMENTS," TO ADD SUBSECTIONS IMPOSING PENALTIES FOR UNSATISFACTORY RESTORATION, AND PENALTIES FOR FAILURE TO UTILIZE "PA ONE CALL SYSTEM" AND MARK AREAS OF UNDERGROUND UTILITIES; TO AMEND SECTION 10.A THEREOF, ENTITLED "ENFORCEMENT" TO AUTHORIZE THE ASSESSMENT OF A PENALTY IN THE AMOUNT OF UP TO THREE (3) TIMES THE STREET OPENING PERMIT FEE THEN IN EFFECT, IN ADDITION TO REQUIRED FEES AND COSTS, IN THE EVENT OF NON-EMERGENCY STREET OPENING PRIOR TO PERMIT ISSUANCE; TO TREAT AS A SUMMARY CRIMINAL OFFENSE THE FAILURE TO PROPERLY RESTORE THE STREET, UTILIZE THE PA ONE CALL SYSTEM, AND PROCURE BOROUGH AUTHORIZATION PRIOR TO THE CLOSURE OF A STREET; AND TO AMEND ALL FEE SCHEDULES ADOPTED PURSUANT TO ORDINANCE NO. 260, AS AMENDED, AND RESOLUTIONS ADOPTED CONTAINING FEE SCHEDULES FOR PERMITS TO REFLECT THE ADDITIONAL PERMIT FEES REFLECTED HEREIN.

Copies of the full text of the ordinance may be examined without charge or obtained for a charge not greater than the cost thereof at the Borough of St. Lawrence Municipal Building, 3540 St. Lawrence Avenue, Reading, PA 19606, at the Berks County Law Library, Berks County Courthouse, Sixth and Court Streets, Reading, PA 19601, and at the Reading Eagle-Times, 345 Penn Street, Reading, PA 19601.

Joan E. London, Esquire  
Solicitor, Borough of  
St. Lawrence