

**BOROUGH OF DARBY  
COUNTY OF DELAWARE  
COMMONWEALTH OF PENNSYLVANIA**

**ORDINANCE NO. 755**

**AN ORDINANCE OF THE BOROUGH OF DARBY, COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 125 OF THE CODE OF ORDINANCES OF THE BOROUGH OF DARBY, ENTITLED "STREETS AND SIDEWALKS," TO PROVIDE FOR WORK AND RESTORATION STANDARDS FOR PERSONS OPENING OR EXCAVATING ANY STREET IN THE BOROUGH OF DARBY**

**WHEREAS**, the Borough of Darby is a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, including but not limited to the Borough Code; and,

**WHEREAS**, the laws of the Commonwealth vests Darby with the power and authority to make and adopt all such ordinances, bylaws, rules and regulations not inconsistent with or restrained by the Constitution and laws of this Commonwealth, as is expedient or necessary for the proper management, care and control of, *inter alia*, Darby's finances, the maintenance of peace, good government, safety and welfare of Darby, its trade, commerce and manufacturers; and,

**WHEREAS**, Darby is empowered to regulate, *inter alia*, streets and sidewalks, including but not limited to maintenance and construction relating thereto; and,

**WHEREAS**, Darby and its residents have a substantial interest in ensuring the restoration of highways, streets and sidewalks after the opening, breaking and/or excavating of same; and,

NOW THEREFORE this 16<sup>th</sup> day of November, 2011, it is hereby Enacted and

Ordained by the Council of the Borough of Darby, that:

**SECTION I: Amendment of Chapter 125, Part II, entitled "Street and Sidewalk Excavating," § 125-18, entitled "Replacement."** § 125-18 of Chapter 125 of the Code of Ordinances of Darby Borough, entitled "Replacement" is hereby amended to rename such section "Work and Restoration Standards," and to delete the existing text thereof in its entirety and replace it with the following text:

**§ 125-18 WORK AND RESTORATION STANDARDS.**

**A. Highways**

1. Any person who shall make an opening or excavation in any highway in the Borough of Darby shall perform all such opening or excavation work and the restoration work required hereunder in accordance with the standards and provisions set forth in 67 PA Code §459.8, as amended. Likewise, any aboveground construction shall be in performed accordance with 67 PA Code § 459.9. All references in the foregoing Code sections to the "District Office", "Department of Transportation" or similar references shall be deemed to be references to the Borough of Darby.
2. In addition to the foregoing work standards, the Borough Engineer and/or Code Department shall be entitled to promulgate rules and regulations governing the opening, excavation, refilling, resurfacing and repaving of highways in the Borough of Darby, and after the same have been approved by the Council of the Borough of Darby and entered upon the minutes of Council, any work to be done or performed by any applicant or permitted governed by the terms of this article shall be done in compliance with such rules and regulations. Copies of said rules and regulations shall be furnished to any person making application hereunder.
3. If and to the extent that any person shall open or excavate any portion of a highway in a manner which results in 20 linear feet or

more of such highway being excavated on one side of the highway only, then such person shall be required to repave the highway the full length of the excavation from the center line of the highway to the curb on the side of the highway on which the excavation occurred; or in a manner which results in 20 linear feet or more of highway being excavated and such excavation occurs on both sides of the highway, then such person shall be required to repave the highway the full length of the excavation from curb to curb.

4. Whenever excavations are less than 6 feet apart restorations must include all trenches together in accordance with the regulations.
5. Temporary restoration work must be completed no later than 24 hours after completion of the work for which the digging or exaction was performed. Permanent restoration work shall commence no earlier than 60 day after such underlying work is completed to allow for settling, and permanent restoration work shall be completed no later than 90 days after such underlying work is completed, unless the Borough Engineer shall consent to a longer period of time for completion of the permanent restoration work. Each day that such restoration work in not completed in compliance with these timing requirements shall be considered a separate offense and violation of this ordinance.

**B. Sidewalks, curb and gutters**

Any persons who shall make an opening, break or excavation of any sidewalk, curb or gutter shall replace those in the same condition they were in before any such opening, break or excavation.

**SECTION II:** The Borough Manager, Code Enforcement Department and Borough Solicitor, and all others employed or appointed by Darby, are authorized to take all action necessary to ensure implementation of and effect the purpose hereof.

**SECTION III:** Any and all Ordinances and/or Resolutions, or parts thereof, conflicting herewith are repealed insofar as the matters herein are affected.

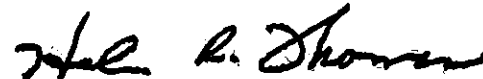
**SECTION IV:** The provisions of this Ordinance are severable, and if any clause, sentence, subsection or section hereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder but shall be confined in its operation and application to the clause, sentence, subsection or section rendered. It is hereby declared the intent of the Borough Council that this ordinance would have been adopted if such illegal, invalid, or unconstitutional clause, sentence, subsection, or section had not been included therein.

**SECTION V:** This is effective immediately upon enactment according to law, and shall remain in effect hereafter until revised, amended, or revoked by action of the Council of the Borough of Darby.

**PASSED** by the Borough of Council this 16<sup>th</sup> day of November, 2011.

  
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Council President,

**APPROVED** by the Mayor, this 16<sup>th</sup> day of November, 2011.

  
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Mayor

**ENACTED** this 16<sup>th</sup> day of November, 2011.

  
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Borough Manager/Secretary

**I HEREBY CERTIFY** that the foregoing is a true and correct copy of the said Ordinance duly adopted at a regular meeting of Borough Council held on the 16<sup>th</sup> day of November, 2011.

  
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Borough Manager/Secretary