

TOWNSHIP ORDINANCE NO. 3 - 2007

AN ORDINANCE OF MORRIS TOWNSHIP, GREENE COUNTY, PENNSYLVANIA, DEFINING AND REGULATING STREET EXCAVATIONS AND OPENINGS; SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, FORMS AND FEES AND THE APPROVAL AND ISSUANCE OR DISAPPROVAL THEREOF; REQUIRING NOTIFICATION OF UTILITIES; FIXING RESPONSIBILITY FOR RESTORATION OF OPENINGS AND SURFACES AND DEFECTS THEREFROM; ESTABLISHING REQUIREMENTS AND SPECIFICATIONS FOR WORK UNDER PERMIT; AUTHORIZING EMERGENCY WORK; AUTHORIZING THE TOWNSHIP TO DO WORK AND COLLECT COSTS; AND PRESCRIBING ENFORCEMENT AND PENALTIES FOR VIOLATION.

The Board of Supervisors of Morris Township, Greene County, Pennsylvania, hereby ordains:

SECTION 1. Definitions and Interpretation. The following words, when used in this ordinance, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

EXCAVATION - any activity within the right-of-way of any street, alley, or cartway which involves cutting, breaking, or disturbing the surface thereof. Said activity shall include, but not be limited to the following: (1) railroad or street railway construction upon any township road; (2) railroad or street railway crossings, driveway connections, gas pipe, water pipe, electric conduits or other piping laid upon or in, any portion of a township

road; and (3) telephone, telegraph or electric light or power poles or any coal tipples or any other obstructions erected upon or in, any portion of a township road. In this ordinance, the term OPENING shall have essentially the same meaning as excavation.

STREET - any public street, avenue, road, square, alley, highway, or other public place located in the Township and established for the use of vehicles, but shall not include State highways.

PERSON - any natural person, partnership, firm, association, corporation or municipal authority.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 2. Permit Required to Make Opening or Excavation. It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Township without first securing a permit therefor, as hereinafter provided.

SECTION 3. Application for Permit. Any person who shall desire to make any opening or excavation in any of the streets in the Township shall make application in duplicate to the Board of Supervisors or its agent in writing for that purpose. Such application shall be made upon blanks to be furnished by the Township and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof,

and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Township and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend and keep harmless the Township from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto.

SECTION 4. Fees. The Township shall collect a fee as determined by the Pennsylvania Department of Transportation for processing the application and another fee for making the inspection. Each application shall be accompanied by both fees. All fees received shall be paid into the Township treasury.

SECTION 5. Information Contained on Permit. Any permit issued hereunder shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof and the time within which the work for which the permit is granted to be completed.

SECTION 6. Permit Approval/Disapproval. A permit may be issued to the applicant after all the requirements therefor have been filed. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given to the applicant.

SECTION 7. Responsibility to Contact Utilities. The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, 1 et seq., as amended or supplemented from time to time. It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act. A partial list of utilities providing services in the Township and their office addresses may be obtained from the County Recorder of Deeds.

SECTION 8. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years. Any person who shall open or excavate any street in the Township shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of Transportation of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Township for restoration of surfaces of streets in the Township, as restored; the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. The Board of Supervisors or its agents shall inspect the work authorized by the permit upon the completion thereof and, when necessary, enforce compliance with the conditions, restrictions and regulations specified by the Township. In addition to that inspection, the Board of Supervisors or its agents may reinspect the work not more than two years after its completion,

and, if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the township, it may enforce compliance therewith. If the applicant fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight hours or any other defect within sixty days after written notice from the Board of Supervisors to do so, the Board of Supervisors or its agents may do the work and impose upon the applicant the cost thereof, together with an additional twenty percent of the cost.

SECTION 9. Responsibility of Permit Holder for Certain Work; Right of

Township to Do Certain Work; Charges Therefor. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this ordinance and to the supervision and approval of the designated official, provided that the Board of Supervisors or its agent may if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by the Township, in which event the applicant shall pay the actual cost of the work performed by the Township.

SECTION 10. Requirements for Work; Correction of Unsatisfactory Work;

Completion of Incomplete Work.

1. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other subsurface lines or

constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.

2. No tunneling shall be allowed without the express approval of the Board of Supervisors or its agent and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Board of Supervisors or its agent or an inspector designated by him, and shall be done only in a method approved by him.

3. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Township from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.

4. The applicant shall notify the Board of Supervisors or its agent when the opening or excavation is ready for backfilling before any backfilling is done, when backfilling work is completed, when the temporary paving has been installed and when the street has been permanently restored so that inspections may be made.

5. In the event that any work performed by or for a permit holder shall, in the opinion of the Board of Supervisors or its agent be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the Board of Supervisors or its agent, the Township may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus twenty percent (20%) to the applicant.

SECTION 11. Emergency Openings. In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, to commence an excavation to remedy such condition before securing a permit, provided that application for a permit and fees shall be submitted within five (5) days after completion of the work, and that all other provisions of this ordinance are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction, or apparatus, the Board of Supervisors or its agent, after such notice as it shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency, and charge the same on the basis of cost plus twenty percent (20%) to such owner or person.

SECTION 12. Permittee Responsibilities for Future Relocation of Work. If

at any time in the future the roadway is widened, reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

SECTION 13. Payment for Work Done by Township. Payment for all work

done by the Township under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within thirty (30) days after a bill therefor is sent to such person by the Township. Upon failure to pay such charges within such time, the same shall be collectible by the Township by an action in assumpsit in the Court of Common Pleas of Greene County or in the manner provided by law for the collection of municipal claims.

SECTION 14. Enforcement. The Board of Supervisors or its agent shall

enforce the provisions of this Ordinance by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pa.R.Crim.P. No. 83(c) (relating to trial in summary cases).

SECTION 15. Penalties. Any person, firm or corporation who shall violate any

provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more

than One Thousand and no/100 (\$1,000.00) Dollars; and in default of payment, to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

SECTION 16. Enforcement in Equity. This Ordinance may be enforced by the Township and/or its agent through an action in equity brought in the Court of Common Pleas of Greene County.

SECTION 17. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed:

SECTION 18. 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 Board of Supervisors or its agent that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been include herein.

SECTION 19. Effective Date. This Ordinance shall become effective on adoption.

ORDAINED and ENACTED into an Ordinance and passed by the Board of Supervisors of Morris Township, Greene County, Pennsylvania, on this 5th day of April, 2007.

MORRIS TOWNSHIP
BOARD OF SUPERVISORS

BY Jeff Mooney
Jeff Mooney

Glenn Adamson
Glenn Adamson

Robert Keller
Robert Keller

ATTEST:

Judy Moninger
Judy Moninger, Secretary