

TOWNSHIP OF WEST MAHANoy
Schuylkill County, Pennsylvania

ORDINANCE NO. 2009-4

AN ORDINANCE OF THE TOWNSHIP OF WEST MAHANoy, SCHUYLKILL COUNTY, PENNSYLVANIA, GOVERNING THE EXCAVATION AND PAVING OF TOWNSHIP STREETS. THIS ORDINANCE SETS FOR THE RULES, REGULATIONS, PROCEDURES, COST AND FEES RELATING TO THE EXCAVATION, BACKFILLING AND RESURFACING OF TOWNSHIP STREETS INCLUDING, BUT NOT LIMITED TO, PERMIT REQUIREMENTS, PROCEDURES AND FEES; APPLICANT REQUIREMENTS; SAFETY MEASURES TO BE USED; INSPECTION AND RESURFACING FEES; PAYMENT AND/OR WAIVER OF FEES; PERFORMANCE BONDS; AND VIOLATIONS AND PENALTIES.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is enacted and ordained by the Township Supervisors of the Township of West Mahanoy, Schuylkill County, Pennsylvania, as follows:

SECTION 1. Permit Required

It shall be unlawful for any person or person, firm or firms, association or associations, or corporation or corporations, or Authority to make or cause to be made any excavation of any nature whatsoever in any street, avenue, alley or lane within the Township limits without first securing a permit granting authority therefore as hereinafter provided.

SECTION 2. Definitions

As used in this Ordinance the following terms shall have the meanings indicated:

APPLICANT - Any person or person, firm or firms, association or associations, or corporation or corporations applying for and to whom a permit may be issued.

CURB HEIGHT - That portion of the curb, which extends above the road surface.

EXCAVATION and EXCAVATIONS - The digging of any trench or excavation through or under the roadway or sidewalk or the cutting into or opening and removal of any of the pavement surfaces of any street, avenue, alley or lane within the Township limits.

STREET SECTION - That portion of a street between two (2) intersecting streets in a built up area of the Township or in rural areas a 500 linear foot length of Township roadway.

SUBSTANTIAL AREA OF DISTURBED ROADWAY - Any area of disturbed roadway greater than or equal to thirty-five percent (35%) of the total roadway area within a street section.

TOWNSHIP - Township shall mean West Mahanoy Township of Schuylkill County and the Township official or officials designated by the Township Supervisors to administer and enforce this Ordinance.

SECTION 3. Application for Permit; Requirements of Applicant

- A. An application for the issuance of a permit shall be filed in the office of the Township Code Enforcement Officer or other person designated by Township Supervisors upon forms furnished by the Township for that purpose and shall be signed by the applicant.

Said application shall set forth the location and purpose of the proposed excavation, the dates between which said excavation is to be open, the length, width and depth of the trench, the area of the roadway surfaces to be removed and the names of all persons interested in or to be benefited by the work to be done. Said application shall be reviewed by the Township Road Forman or other person designated by Township Supervisors who shall issue approval or denial.

B. The applicant shall agree to protect and defend and indemnify and hold harmless the Township or officers or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the Township or officers or agents therefore or an account of any injuries or damages to persons or public or private property due to 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 fact, negligence or omissions of said applicant or his agent, servant or employees, and the Township shall not in any way be liable therefore.

C. The applicant shall agree to pay the entire cost and expense incurred in the replacement of the excavations, and the Township shall at all times have the right and authority to correct any and all omissions in the conduct to the work and have the power to take possession of and to do all the work and charge the expense thereof to the applicant. The expense so charged shall be deducted and paid by said Township out of such moneys as may have been deposited with the Township and in case such expense shall exceed the sum of deposit with the Township, then the applicant shall pay the amount of the excess to said Township.

D. The applicant shall also agree to safeguard and maintain in good order the excavation and restoration, and to maintain all existing drainage patterns and to assume all cost and expense due to defective backfilling for the period of one (1) year after the date of the completion of the excavation, provided that said date does not lie between October 31 and May 1. If the excavation and/or restoration is conducted between November 1 and March 31 the one (1) year period shall commence from April 1.

E. The applicant shall further agree to abide by all the terms and conditions of the ordinances and standard specifications adopted by the Township under which the permit is granted whether specifically mentioned in the application or not.

F. No permit shall be granted to any applicant unless said applicant shall have paid to the Township any and all moneys when due to the Township for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from the excavation of streets, alleys or highways of the Township under prior permit.

SECTION 4. Safety Measures; Warning Sign

A. Said applicant, during the progress of the work, shall provide Maintenance and Protection of Traffic in compliance with current MUTCD, PennDOT Publication 212 and PennDOT Publication 213. The convenience to the public and temporary approaches to and crossings of intersecting streets shall be provided for and kept in good condition. The sidewalks or portions of the street adjoining the work or its vicinity shall not be littered or obstructed, and the drainage gutters and inlets to the stormwater sewers shall at all times be kept clean and unobstructed.

SECTION 5. Excavation; Backfilling; Restoration by Applicant

- A. Excavation shall be by open cut from the surface, and no tunneling or drifting will be permitted except by permission and so noted on the permit. The amount of trench opened and also the amount unfilled shall at all times be subject to the decision of the Township. No trench or excavation shall be undercut or have a greater width at the bottom than at the top. In case of slips or slides of the sides of the excavation the same shall be trimmed to solid earth and the top surface cut back to the limit of the same before any backfilling is commenced. When necessary or required, the sides of a trench shall be sheathed and braced and rendered secure until the construction has been laid therein and the trench refilled. Care shall be taken not to move or disturb other subsurface structures, and in crossing these or running parallel with or near them, they shall be completed. The applicant shall maintain their respective services and shall repair all damage done to any of said structures.
- B. All proposed drilling and blasting shall be approved by the Township prior to commencing such operations. Proposals for drilling and blasting shall be made at the time of submitting the permit application with areas of proposed drilling and blasting clearly indicated.
- C. All excavations shall be commenced and completed by the use of a reasonable work force working around the clock, or in the alternative, all excavated material shall be removed and at the cessation of work day and suitable traffic plates and temporary trench plate ramps shall be placed over the excavation in order that traffic can continue over the excavation while it is not being worked.
- D. In backfilling, only approved stone as recommended by the Township Road Foreman or Township Engineer/Consultant shall be used. The method of backfilling shall be such as to ensure that the fill is thoroughly compacted. The method or methods used to compact shall be subject to the approval of the Township, which shall have the power to issue regulations and standard details as to such methods and materials.
- E. The applicant shall provide evidence that the materials are of a type and from a source approved by PADOT Bulletin 14 and in compliance with PADOT 408. All material certifications must be submitted prior to placement.
- F. In all unimproved streets and right-of-ways, the surface of the trenches after being filled and compacted shall be finished in that most workmanlike manner without needless delay and shall in every respect be equal or greater in quality, character and materials to the street surface existing previous to making the excavation.
- G. In the replacement or restoration of permanent roadway surfaces, the Township shall have the power to issue regulations and standard details as to such methods and materials.
- H. The Township may, at its option, immediately upon the completion by the applicant of the backfilling of a trench, require the applicant to permanently replace the base and wearing surface or may, within one (1) working day from the date of the completion of the backfilling by the applicant, or at any time thereafter, require temporary repair of the openings in the pavement surface. The expense of such temporary restoration and maintenance thereof, as well as the correction of any omissions in the backfilling, is the responsibility of the applicant.

SECTION 6. Additional Excavation

In no case shall an applicant open or remove a greater area of surface other than specified in the original application; provided, however, that if at the time of actually doing the work it should be necessary to open for remove a greater area of surface than originally applied for, the applicant shall first notify and secure, by telephone or otherwise, the consent of the Township to do so, upon the express condition that said applicant shall and will before 12:00 noon of the following business day file a supplementary application for the making of an additional excavation.

SECTION 7. Restoration Deposit; Permit and Inspection Fees

A restoration deposit shall be made by the applicant with the Township to cover the cost of street restoration in the event that the work performed by the applicant is unsatisfactory. This deposit shall be based upon a rate per square foot as established by West Mahanoy Township as set forth subsequently in Section 11, and said deposit shall be retained by the Township for twelve (12) months from the completion of the work of restoration and replacement. A \$150.00 permit fee will be paid by the applicant to cover the cost of issuing the permit. An inspection fee shall be submitted as a deposit for the costs of inspections incurred by the Township. If inspection fees exceed the amount of the initial inspection deposit the applicant shall be responsible for the additional inspections fees. Said Restoration Deposit, Permit Fee and Inspection Fees contained in this ordinance may be revised from time to time by resolution of the Township. In all cases where a permit has been issued and the work set forth in such permit has not been completed within six months from the date of the permit issuance, the permit shall be canceled and the restoration deposit and inspection deposit fees paid for the same shall be repaid by the Township to the applicant. Any fee for issuance of the permit shall not be returnable.

SECTION 8. Restoration by Township; Refund to Applicant

- A. In the event that the Township chooses to restore the pavement surfaces itself, the Township shall, as soon as may be practicable to do so, permanently replace and restore the pavement surfaces in such manner and with like material existing in the roadway pervious to the making of said excavations and shall estimate and charge the cost of making said restorations and the maintenance thereof.
- B. The Township shall by proper voucher refund to said applicant the difference in cost of the replacement of said excavation and the amount deposited, and in case of the cost replacement shall exceed the amount so deposited, then the excess shall be charged to the applicant. The sums due the Township shall be paid within thirty (30) days from the date of rendering a statement to said applicant, and no permit shall be issued to any applicant until all accounted due the Township on previous permits granted to him and owing shall have been paid.

SECTION 9. Utilities

- A. When utilities require a permit for a street opening, they shall complete the permit application as required.
- B. The utility shall notify the Township twenty-four (24) hours in advance of the street opening unless said opening is deemed an emergency. In this event, the utility shall so inform the Secretary of the Township.

- C. The Township is authorized to secure a booklet of permits for any such utility.

SECTION 10. Permit Fee

All applicants for permits required by this Ordinance shall pay to the Township of West Mahanoy a fee of one hundred fifty dollars (\$150.00) per street section or opening.

SECTION 11. Restoration Deposit & Inspection Fees

Every applicant shall deposit with the Township the following sums for making excavations as herein provided:

A. Restoration Deposit

- (1) Flexible Pavement: six dollars (\$6.00) per square foot of opening.
- (2) Concrete paving or concrete base with bituminous surface: six dollars (\$6.00) per square foot of opening.
- (3) Earth or Stone Street or Right-of-Way: three dollars (\$3.00) per square foot of opening.
- (4) Drill hole (maximum six-inch diameter): five dollars (\$5.00) per hole (Minimum \$50.00)
- (5) For all other excavation in roadways, improved shoulders and/or sidewalks not included in the above-named pavement surfaces, the least amount to be paid hereunder shall be the sum of six dollars (\$6.00) per square foot.

B. Inspection Fee

- (1) All street openings or excavations within a Township Right-of-Way: three dollars (\$3.00) per square foot of opening (Minimum Inspection Fee - \$150.00).

- C. In computing the area for the purpose of determining the amounts to be deposited, the size of the opening shall include the total area within the pavement cut, including the one-foot perimeter cut-back.

- D. A minimum of fifteen percent (15%) of the total restoration deposit for all street excavations shall be retained and charged by the Township for administrative expenses.

- E. The restoration and inspection fees shall be placed in the general account of the Township. No interest shall accrue or be payable to the applicant for the deposited funds.

SECTION 12. Payment of Fees: Waiver

Every applicant prior to commencing excavations shall deposit with the Township or its designated officer the fees required unless a waiver in full or in part is granted by the Township. In the event a waiver is granted for payment prior to excavation, the applicant shall pay the Township all fees by the tenth of the month following the month in which the excavations were made. It shall be the responsibility of each applicant who receives a waiver to tabulate the size

of the opening and forward the moneys to the Township. These moneys should include permit fee and restoration and inspection deposit.

SECTION 13. Performance Bond

In the event an applicant requests a waiver from payments required prior to the excavation, a performance bond in and amount equal to one-hundred twenty percent (120%) of the estimated resurfacing cost shall be filed with the Township. The estimated resurfacing cost shall be approved by the Township Engineer/Consultant.

SECTION 14. Method of Opening; Damage to Underground Utility Lines

- A. When final restoration is made to an existing paved street, the pavement shall be cut one (1) foot wider around the entire perimeter of the intended excavation. This requirement shall be calculated in the total square footage of the opening.
- B. All lines shall be neat and either parallel or perpendicular to the roadway edge and not irregular.
- C. Prior to the excavating of any opening, the applicant shall contact all utilities having underground installations in the Township in accordance with Pennsylvania ONE CALL requirements. Any person obtaining a permit for a street opening shall accept full responsibility for any damage caused in any way whatsoever to underground installations other than their own and shall make complete restitution for their repair or replacement.

SECTION 15. Backfilling and Resurfacing.

- A. All openings or excavation shall be backfilled and compacted immediately upon completion of work and in no case shall excavations remain open unless otherwise approved by the Township Engineer/Consultant.
- B. Material excavated from a street opening shall not be used for backfill unless requested in writing and approved at the time of submitting an application to the Township.
- C. The excavation shall be backfilled with 2A Stone conforming to the Pennsylvania Department of Transportation specifications and be from an approved supplier as listed PADOT Bulletin 14. The backfill shall be compacted in conformance to PADOT Road Construction Standards or standard specifications compiled by the Township.
- D. Tack coat, bituminous material and the sealing of all seams shall comply with Standard Specifications adopted by the Township.
- D. All curbs and sidewalks shall be restored with materials and surface texture approved by the Township's Engineer/Consultant.
- E. In the event that bituminous material is not available, temporary cold patch conforming to the Pennsylvania Department of Transportation specifications shall be used as a temporary surface only, and it shall be the responsibility of the holder of the permit to maintain the street surface until permanent repairs can be made. If the holder of the permit fails at any time to place sufficient bituminous material as a

temporary surface or maintain such temporary bituminous material to a level of the adjacent street surface unaffected by the opening, the Township reserves the right to immediately take over maintenance of such opening and charge the cost thereof in addition to the cost of permanent paving restoration. The Township reserves the right to require a permit holder to post a bond guaranteeing performance of all permanent repairs.

SECTION 16. Inspection

- A. Every opening or excavation made in any public street or alley of the Township shall be inspected by an authorized representative of the Township. It shall be the responsibility of the applicant to inform the Township of its excavating and backfilling schedule in order for the Township to properly inspect said opening.
- B. The applicant is responsible for all inspection fees in excess of those submitted at the time of the permit application pursuant to Section 11.

SECTION 17. Public-Service Corporation or Authority

All public-service corporations desiring to disturb the paving on any Township street shall adhere to all the foregoing provisions in the previous sections. All restoration work, including application of a wearing surface, shall be accomplished by the public-service corporation. In the event that the Township determines that a substantial area of a street or highway will be disturbed by excavation to be performed by the public-service corporation, the Township will be required that the public-service corporation place a one-and-one-half-inch overlay to cover the entire width of the street which will be disturbed. When an overlay is required, the following conditions shall apply:

- A. Potholes less than or equal to two (2) square feet in size shall be repaired by the Township at no cost to the public-service.
- B. Potholes greater than two (2) square feet in size shall be repaired by the public-service corporation at no cost to the Township.
- C. In areas where the curb height is less than or equal to five (5) inches, the existing pavement surface shall be milled to accept the overlay.
- D. In areas where the curb height is greater than five (5) inches, the full depth overlay shall extend to the curb lines and shall be tapered to a depth of one (1) inch at the curb line.
- E. Existing drainage patterns shall be maintained.

SECTION 18. Violations and Penalties

Any person, firm or corporation who shall final, neglect for refuse to comply with any of the terms or provisions of this Ordinance or of any regulation or requirement pursuant thereto and authorized hereby shall, upon conviction thereof, be ordered to pay a fine of not more than one thousand dollars (\$1,000.00) and, in default of payment of a fine and cost, imprisoned for more than thirty (30) days in the Schuylkill County Prison. Each day's violations shall constitute a separate offense.

SECTION 19. 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 Township of West Mahanoy that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

DULY ENACTED AND ORDAINED this 16 day of JUNE, 2009, by the Township Supervisors of the Township of West Mahanoy, Schuylkill County, Pennsylvania, in lawful session duly assembled. This Ordinance shall become effective June 21, 2009.

TOWNSHIP WEST MAHANoy
Schuylkill County, Pennsylvania

By:

Christopher M. Malen
Supervisors Chairman

Michael S. Melic
Secretary

ATTEST:

Frances M. Donkha