

ORDINANCE NO. 355 - 18

AN ORDINANCE OF THE TOWNSHIP OF FORKS AMENDING CHAPTER 168 OF THE CODE OF THE TOWNSHIP OF FORKS, STREETS AND SIDEWALKS, TO REVISE PROVISIONS RELATED TO THE OPENING OF STREETS AND REPEALING ALL ORDINANCES INCONSISTANT HEREWITH.

WHEREAS, the Forks Township Board of Supervisors has deemed it necessary to amend Chapter 168 of the Code of the Township of Forks in its entirety and replace it with the following:

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Forks, County of Northampton and Commonwealth of Pennsylvania, as follows:

“SECTION 1: Chapter 168, Streets and Sidewalks, of the Township of Forks Code of Ordinances, is hereby deleted in its entirety and replaced with the following:

§ 168.1. Definitions and interpretations.

A. The following words, when used in this article, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

ACT – The Act shall be understood to mean the Pennsylvania Underground Utility Line Protection Law, Act 287 of 1974, as amended by Act 121 of 2003, and as may be supplemented or amended from time to time.

APPLICANT – Any person, firm, or corporation submitting a Street Opening Permit Application as defined herein. The Applicant shall be a utility owner or adjacent landowner; a contractor and/or developer may submit an application as an agent for the utility owner or adjacent landowner provided the name of the utility owner or adjacent landowner is identified as the Applicant.

EXCAVATION – Any activity within the right-of-way of any street, alley, or cartway which involves cutting, breaking, or disturbing the surface thereof. In this article, the term “opening” shall have essentially the same meaning as “excavation.”

PENNDOT – The Department of Transportation of the Commonwealth of Pennsylvania.

PERMITTEE – Any person, firm, or corporation issued a Street Opening Permit as defined herein. The Permittee shall be the name of the utility owner or adjacent landowner as submitted on the Street Permit Opening Application.

PERSON – Any natural person, partnership, firm, association, corporation or municipal authority.

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

TRAVEL LANE – The designated width of a roadway pavement to carry through or turning traffic and to separate it from opposing traffic, traffic in the same direction of flow but occupying other travel lanes, a parking lane, or the shoulder. The travel lane may be designated by pavement markings. If the travel lane is not designated on both sides by pavement markings, the travel lane shall be twelve (12) feet in width as measured from an adjoining pavement marking or from the centerline of the road, or from the edge of another travel lane (should the road contain more than two unmarked travel lanes).

TOWNSHIP – The Township of Forks, Northampton County, Commonwealth of Pennsylvania.

TOWNSHIP CONSTRUCTION OBSERVER – The person designated by the Township to observe all excavation and construction pursuant to this chapter.

TOWNSHIP STANDARD CONSTRUCTION DOCUMENTS – The Forks Township Standard Construction Documents as prepared by the Township Engineer, as may be amended from time to time.

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

§ 168.2. Application for permit.

Any person, firm, or corporation who shall desire to make any opening or excavation in any of the streets in the Township shall submit an application to the Public Works Director or his/her designee in writing for that purpose. Such application shall be made upon forms to be furnished by the Township and shall set forth the name and address of the Applicant, the location of the proposed opening or excavation, and the approximate length, width, area and 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, including its elected and/or appointed officials, employees, and consultants, from and indemnify them 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.

§ 168.3. Permit fee.

- A. Before any permits shall be issued to open or excavate any street in the Township, the Applicant shall pay a permit fee in a minimum amount as shall be set from time to time by resolution of the Board of Supervisors to cover the cost of inspection and other incidental services in connection therewith.
- B. When application shall be made to open any longitudinal opening or excavation in excess of 25 lineal feet or 100 square feet, before any permit shall be issued so to open or excavate, the Applicant shall pay, in addition to such minimum fee, an additional fee per foot as shall be set from time to time by resolution of the Board of Supervisors.
- C. When an application shall be made to open Township-owned land, other than street right-of-way such as common open space, parks, etc., the Applicant shall pay an amount as set from time to time by resolution of the Board of Supervisors.
- D. When a longitudinal opening or excavation exceeds 200 feet in length or 500 square feet in area, the cost of the permit shall be equal to the Township's construction observation costs, and shall be calculated according to the following method:
 - (1) A fee in an amount as shall be set from time to time by resolution of the Board of Supervisors shall accompany the permit application.
 - (2) The total compensation of the Township Construction Observer, including salary, fringe benefits, etc. shall be included in the cost. The Township, at their discretion, may utilize a representative of the Township Engineer as the Construction Observer. In such cases, the charge rate based on the Township Engineer's Professional Rate Schedule in place at the time of the work shall be utilized to calculate the construction observation fee.
 - (3) The Applicant for the permit shall estimate the amount of working days required for the project, and shall pay to the Township an estimated amount for construction observation in advance of the work taking place.
 - (4) In the event that the cost exceeds the amount that has been provided by the Applicant, the Applicant shall reimburse the Township for the additional costs. In the event that the amount paid in advance is more than the actual costs, the Township shall reimburse the Applicant.

§ 168.4. Issuance of permits restricted.

A permit hereunder shall be issued only to persons furnishing public utility services, or to the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

§ 168.5. Information contained on permit.

Any permit issued hereunder shall specify the location where the opening or excavation is to be made, the approximate permitted length, width, area and depth thereof, and the time within which the work for which the permit is granted is to be completed.

§ 168.6. Permit approval/disapproval.

A permit may be issued to the Applicant after all the requirements therefore have been filed. If the application is disapproved, written notice of said disapproval together with reasons therefore shall be given to the Applicant.

§ 168.7. Responsibility to contact utilities.

The work authorized by the permit is subject to all the provisions of the Act. It shall be the Permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act.

§ 168.8. Requirements for work.

- A. No opening or excavation in any street shall extend from a travel lane into an adjacent travel lane a distance greater than two (2) feet before the initial travel lane is refilled and its surface restored to an acceptable temporary condition.
- B. No more than 100 feet longitudinally shall be opened in any street at any one time.
- C. The work of excavation shall be so conducted as not to interfere with the water mains, sewers, or any other subsurface lines or facilities, or their connection with any structures, until permission of the proper authorities in connection with such subsurface lines or facilities shall have been obtained.
- D. No tunneling shall be allowed without the express permission of the Public Works Director or his/her designee and as endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Township Zoning Officer or his/her designee, and shall be done only in a method acceptable to the Township.
- E. All openings or excavations shall be backfilled promptly with PENNDOT No. 2A aggregate and thoroughly compacted in layers, each layer shall not exceed eight inches in depth, in accordance with the Township Standard Construction Documents. For the purposes of this article, the use of slag is not permitted. In the event of any conflict between these requirements, PENNDOT Publication 408, and the Township Standard Construction Documents, the most restrictive requirement shall apply. In the event that a street would be totally excavated and a completely new street constructed, the most restrictive requirements of Chapter 230, Subdivision and Land Development relating to street construction, PENNDOT Publication 408, and the Township Standard Construction Documents shall apply.
- F. All temporary pavement restoration shall conform to the Township Standard Construction Documents and be maintained for a minimum period of 30 days and until final pavement restoration is performed. The Township can, at its own discretion, waive the required thirty-

day waiting period prior to final pavement restoration. After the required thirty-day period, permanent pavement restoration shall be performed as specified herein.

- G. On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be 16 square feet.
- H. If two (2) cuts are made less than one-hundred (100) feet apart, the entire area between the 2 cuts and including the two (2) cuts shall be milled and overlaid for a width of one-half the street/alley width, unless the repair crosses the centerline of the street/alley, then the mill and overlay shall be for the full width of the street/alley.
- I. If more than 4 cuts are made within a five-hundred (500) foot span in the street/alley, the section must be milled and overlaid for one-half (1/2) the width of the street/alley, unless the repair crosses the centerline of the street/alley, then the mill and overlay shall be for the full width of the street/alley for the entire length of work.
- J. Milling and overlay may also be required wherever designated by the Director of Public Works.
- K. The time from milling to final paving shall not exceed 24 hours. The milled section of street/alley shall be closed to traffic until final restoration is complete. Permittee is responsible for Traffic control during the street closure.
- L. Permittee is responsible for the final restoration of the street for one year from the date of final restoration.
- M. Permittee shall inspect all temporary patches on a daily basis and make necessary repairs until final repair is made.
- N. Permittee shall inspect final patches and restorations every three (3) months for a period of one year from the date of the final restoration to ensure the original street/alley grades and cross sections are maintained.
- O. All permanent paving restoration shall be completed within ninety (90) days of the issuance of the Permit (unless otherwise specified), in accordance with the Township Standard Construction Documents, and as specified herein. Where an opening or excavation is made within a travel lane, the entire existing width of said travel lane shall receive the mill and overlay as specified in the Township Standard Construction Documents details for Permanent Trench Restoration. Where an opening or excavation is made within fifty (50) feet of any opening or excavation within the travel lane by the same Permittee, utility, and/or landowner, then that Permittee shall perform additional mill and overlay for the full existing width of the travel lane to encompass the entire longitudinal distance between the outside limits of those openings or excavations.
- P. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the Permittee 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 Permittee to whom the same is issued shall indemnify, save and keep harmless the Township, and its elected and/or appointed officials, employees, and consultants, from any losses in damages, or otherwise whatsoever which may or shall be occasioned at any time by the said excavation, or by any matter placed in said excavation.

- Q. The Permittee shall notify the Public Works Director or his/her designee when the opening or excavation is ready for backfilling and before any backfilling is done, when backfilling work is completed, when temporary restoration shall be installed, and when permanent restoration shall be installed so that the Township may arrange for appropriate construction observation.
- R. A portion of the roadway may be used for staging of equipment and materials during the workday; however, all materials and equipment must be removed from the street right-of-way at the end of the day, unless otherwise agreed to by the Public Works Director or his/her designee. Any areas within the street right-of-way disturbed for the staging of equipment and/or material shall be returned to its original condition no later than thirty (30) days after final pavement restoration of the street opening is concluded.
- S. The permit holder agrees to fully indemnify Forks Township against all claims for damages and injuries to persons or property and against all suits and losses and to pay all costs and damages that may be recovered against Forks Township by account of digging up or opening the street.
- T. It is the permit holder's responsibility to notify Pennsylvania 1 Call (811 or 1-800-242-1776) and appropriate City/State/Township agencies for utility locations prior to excavation. A Dig Safe number is required on all applications for street opening permits.
- U. The permit holder must adequately support and protect by timbers, sheeting, etc. all pipes, conduits, poles, cables or other appurtenances that may be affected by the excavation work. The excavation work may not interfere with access to fire stations, fire hydrants, water gates, underground vaults, catch basins or any other public structure.
- V. The permit holder will keep all gutters free and unobstructed for the full depth of the adjacent curb and for at least one (1) foot in width from the face of the curb at the gutter line. Catch basins must be kept clear and serviceable.
- W. The permit holder is responsible for all erosion control, for protecting drainage structures from siltation, and for obtaining any necessary permits from the conservation district. In the event that a drainage structure is damaged from siltation, the contractor will clean the structure before completing the temporary patch.
- X. The street may not be encumbered by any debris or materials, including any excess excavated material, surplus water, muck, silt, residue or other runoff pumped or removed from excavations at the site. If the street or way is not wide enough to hold the excavated material for temporary storage, the material must be removed immediately. All hazardous materials must be properly disposed of per applicable statutes, state and federal laws.
- Y. At the end of each day, all trenches must be plated if the work is incomplete and/or backfilled, compacted, and temporarily patched on the day the work is completed. No open, unplated

trenches are permitted overnight, and work in plated trenches must be conducted to minimize the time trenches are plated. Plates must be properly installed and trenches illuminated. Trench plating is not allowed during the winter or to remain over weekends. In no case will a trench be left unattended or unmarked.

- Z. The permit holder will take appropriate measures to ensure that normal traffic conditions are maintained to the greatest extent possible at all times. Signs warning all approaching motorists of the work site are required. Cones or other approved devices must be placed appropriately to safely channel traffic. Warning signs, lights, and other cautionary devices must conform to the latest edition of the Manual on Uniform Traffic Control Devices. Construction materials and equipment must be limited in quantity and in the space, they occupy so as not to unduly hinder traffic.
- AA. Following completion of permanent patch placement, the permit holder will contact the appropriate DPW division(s) to arrange an inspection. A minimum of seventy-two (72) hours' notice is required.
- BB. The contractor must at all times, at the contractor's own expense, protect all adjoining property, including buildings, walls, fences, trees, and other property, from damage. Damages to public or private property or streets resulting from a failure to meet these guidelines are the responsibility of the contractor.
- CC. The permit holder will ensure all excavations on paved streets and walkways shall be cut, not ripped, in a neat, straight line with pavement breakers or saws. Heavy duty pavement breakers may be prohibited when the use thereof may threaten existing substructures or other property.
- DD. No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames, and/or covers missing damaged or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Public Works Department.
- EE. The permission herein granted does not confer upon the Permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way except under specifications, regulations and conditions as the Township may prescribe.

§ 168.9. Correction of Defects.

In the event that any work performed by or for a Permittee shall, in the opinion of the Public Works Director or his/her designee be unsatisfactory and the work is not corrected in accordance with the instructions and within the time fixed by the Public Works Director or his/her designee, or in the event that the work for which the permit was granted is not completed within the time fixed herein or as specified by the Permit, the Township may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus 20% to the Permittee.

§ 168.10. Refilling of opening or excavation; restoration of surface; responsibility for defects occurring within two 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 more restrictive of the PENNDOT Specifications Publication 408, as may be subsequently revised and/or amended, and the Township Standard Construction Documents, both of which are hereby adopted and incorporated by reference as if set forth herein at length as requirements 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 material as the part of the thoroughfare immediately adjoining the opening. If within two years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the Permittee, the Permittee shall reimburse the Township for the cost of all necessary repairs to the permanent paving.

§ 168.11. 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 shall be made immediately and not later than the next business day thereafter, and that all other provisions of this article are fully attended to by the owner or person responsible for such pipe, line, construction or apparatus, the Township Zoning Officer or his/her designee, after such notice as he/she 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 20% to such owner or person.

§ 168.12. Work necessitating opening or excavation to be done prior to street improvement and not until five years thereafter; exception.

Prior to the Township undertaking the reconstruction and/or resurfacing of any street, the Township Zoning Officer or his/her designee shall give timely notice to all persons owning property abutting on any street about to be paved or improved within the Township, and to all public utility companies operating in the Township, and all such persons and utility companies shall make all utility connections, as well as any repairs thereto which would necessitate excavation of said street within 30 days from the giving of such notice, unless such time is extended in writing for cause shown by the Public Works Director or his/her designee. New paving shall not be opened or excavated for a period of five years after the completion of any Township commissioned reconstruction or resurfacing, except in case of emergency, the existence of which emergency and the necessity for the opening or excavation of such paving to be determined by the Public Works Director or his/her designee. If it is sought to excavate upon or open a sewer or other utility within five years after the completion of the reconstruction or resurfacing thereof for any reason other than an emergency as above stated, the Applicant shall make written application to the Board of Supervisors and a permit for such opening shall be issued only after express approval of the Board of Supervisors.

§ 168.13. 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.

§ 168.14. Conditions for laying and extending utility lines.

No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Township until the plan therefor shall have been first filed with the Public Works Director or his/her designee and such plan, and the exact location of such main or line, approved by him/her. The Public Works Director or his/her designee shall not approve the locating of any such main or line at a depth of less than 30 inches from the surface of the street unless he/she shall be convinced that locating the same at a depth of more than 30 inches from the surface is impossible or impractical.

§ 168.15. Bond required.

No, company, corporation or association shall excavate any street or alley without first giving to the Township a bond with some acceptable trust or surety company as surety in the sum of \$10,000, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys. The requirement may be waived for municipal-owned utilities.

§ 168.16. 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 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 or in the manner provided by law for the collection of municipal claims.

§ 168.17. Violations and penalties.

PENALTIES: The following penalties are established for failure to abide by various portions of this Ordinance. All penalties must be paid at the Township Office, and all conditions corrected before work can resume.

- A. Failure to Obtain a Street Opening Permit \$100.00
- B. Failure to Obtain a Street Opening Permit W/I One Work Day After an Emergency Situation \$100.00
- C. Failure to Take Protective Measures \$200.00
- D. Failure to Provide Adequate Traffic Control Devices \$200.00

§ 168-18. Applicability.

The provisions of §168-1 to 168-18 shall not apply to laying sidewalks or curbs.”

SECTION 2: Severability. The provisions of this Ordinance are severable, and if a court of competent jurisdiction declares any provision of this Ordinance to be invalid or ineffective in whole or in part, the effect of such decision shall be limited to those provisions which are expressly stated in the decision to be invalid or ineffective, and all other provisions of this Ordinance shall continue to be separately and fully effective.

SECTION 3: Repealer Clause. All Ordinances or parts of ordinances or Resolutions conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4: Effective Date. This Ordinance shall be effective five (5) days after adoption.

ORDAINED AND ENACTED this 1st day of March, 2018, at a regular public meeting.

ATTEST:

By: Robert D. Egolf
Robert Egolf, Secretary

BOARD OF SUPERVISORS
FORKS TOWNSHIP

By: John O'Neil
John O'Neil