

TOWNSHIP OF CENTER
ORDINANCE NO. 6-2014

**AN ORDINANCE OF THE BOARD OF SUPERVISORS
OF THE TOWNSHIP OF CENTER, BEAVER COUNTY, REGARDING
OPENING OR EXCAVATION IN TOWNSHIP STREETS, REQUIRING A
PERMIT FOR OPENING OR EXCAVATION IN TOWNSHIP
STREETS, AND ESTABLISHING STANDARDS FOR OPENING,
EXCAVATION AND RESTORATION OF TOWNSHIP STREETS**

WHEREAS, from time to time it is necessary for various utility companies, contractors and Township residents to excavate within the Township of Center's streets, and

WHEREAS, the Township of Center has determined that protection of Township streets is necessary where excavation in the streets is to take place.

NOW THEREFORE, be it ordained and enacted by the Board of Supervisors of the Township of Center and it is hereby ordained and enacted by the authority of the same as follows.

Section 1. Permit Required,

A. It shall be unlawful for any person, firm, entity or corporation to make any opening, excavation or trench in or under any Township street, alley, thoroughfare or right-of-way or to grade, repave or otherwise alter any Township street, alley, thoroughfare or right-of-way unless and until a permit therefore is secured from the Township Secretary for each separate undertaking.

B. Such permit and the application therefore shall be in such form as may be required from time to time by the Township Secretary, and which form shall contain among other things a statement that the applicant agrees to comply with the provisions of this Ordinance. Reasonable restrictions and conditions may be attached to the permit.

The Township Secretary, building official or police officers of the Township shall promptly prohibit any work being done without a proper permit.

Section 2. Fee for Permit.

The fee for said permit shall be \$60.00 plus 50 cents per square foot for each foot over 50 feet of the opening for each separate undertaking, which sum shall be paid at the time of application for the said permit. This fee shall be non-refundable, this fee may be adjusted from time to time by Resolution of the Board of Supervisors.

Section 3. Application for Permit; Emergencies; Restrictions upon Excavating Recently Improved Street.

A. The application for the permit and every issued permit shall be upon a form provided by the Township and shall include the name, address and 24 hour emergency phone number of the applicant; shall describe the location where such activity will take place, approximate size of the activity, the purpose and the time when the work will begin, hours of work and the estimated start and completion dates for the project, and such further information as the Township Secretary may from time to time require; and any additional surface to be disturbed, and any additional time required shall be endorsed on the permit. The application will also include a traffic plan and site plan of the affected area. Any other provision herein notwithstanding, emergency breaks or leaks may be repaired, and a permit therefore secured within one (1) business day thereafter.

B. Each permit shall be valid for sixty (60) days and all work must be completed within that period of time. After sixty (60) days, the applicant may request an extension of the permit upon good cause shown.

C. No permit shall be issued by the Township Secretary which would allow an excavation or opening in a paved and improved street surface that is less than five (5) years old, unless the applicant demonstrates clearly that (i) the public health or safety requires that

the proposed work be permitted or (ii) unless an emergency condition exists that requires that the work be performed.

Section 4. Maintenance and Protection of Traffic,

A. Any person, firm, company, corporation, or entity including utility company working under said permit shall provide, erect and maintain suitable lighted barricades, warning lights, or warning devices as needed or as directed in order to prevent damage or injury to persons, vehicles and property and to minimize the inconvenience and danger to the public by construction operations. Barricades shall be of substantial construction and shall be white having reflective tape or panels to increase visibility. Suitable warning signs shall be positioned and illuminated at night to identify in advance the work area. The type and location of signs and other traffic control devices shall be in accordance with the most current "Manual on Uniform Traffic Control Devices" as prepared by U.S. Department of Transportation, Federal Highway Administration.

B. The applicant or agent shall arrange operations to provide access to properties along the street including temporary bridges to driveways and provide access to fire hydrants, gate valves, manholes or other utilities. No road or street shall be closed to the public unless permission is granted by the Center Township Police Department.

C. No overnight open excavations will be permitted. All construction activities shall be backfilled to grade at the close of each workday or properly covered with a steel plate.

Section 5. Insurance Certificate, Bond or Cash Deposit to be Filed Before Permit Issued.

No permit shall be issued unless and until the applicant shall have filed with the Township all of the following:

A. A certificate or other document, issued by an insurance company properly authorized to do business in the Commonwealth of Pennsylvania evidencing the issuance to

the applicant of a policy of public liability Insurance, including so-called XCU coverage, insuring against personal injury or property damage which may be occasioned by the proposed opening. The said policy shall provide for maximum coverage of at least \$1,000,000 per occurrence, \$2,000,000 aggregate, for personal injury or property damage. The certificate shall reflect that the Township Is an additional insured party as to work performed upon or in streets of the Township, and not merely a certificate holder.

B. A bond executed by the applicant and one corporate surety, and approved by the Township Secretary, in a sum determined by the Township Secretary, to be sufficient to indemnify and save harmless the Township from any and all damages of whatever kind which may not have been paid by the aforementioned liability insurance policy and which might be incurred by reason of the opening of said street, or thoroughfare, as aforesaid, and by reason of any failure to properly protect, maintain, light, restore and repair the same.

C. Cash or certified check in such sum as the Township Secretary shall designate to be used for the following purposes:

1. in filling or refilling or generally repairing or replacing any opening which the applicant has not properly repaired, replaced or filled; and
2. for the completion of the proper improved surfacing to restore the affected area, whether it be brick, concrete or asphalt, and any other needed improvement or permanent sealing, where the applicant has not properly performed these tasks.

D. Any public utility company or municipal authority, lawfully operating upon or in the streets and thoroughfares of the Township, may file, in lieu of separate certificates, bonds and cash deposits as described in subsection A through C above for each separate excavation, a certificate of insurance, bond and deposit meeting the requirements of subsections A through C above and covering all operations of the applicant upon or in Township streets for a year or

other period of time. The appropriate amount of the periodic deposit made by a particular utility or authority shall be determined by the Township Secretary based upon the applicant's then-recent volume of street excavations in the Township. The certificate, bond and deposit shall conform in all other respects to the requirements of subsections A through C.

Section 6. Permanent Paving.

A. The applicant or permit holder shall be responsible for requesting inspections of the restoration and permanent paving activities by the Township at least 24 hours prior to performing the work. Failure to have required inspections may result in rejection of the work activities.

B. The permanent paving (brick, concrete or asphalt) shall be placed by a contractor selected by the permit holder and approved by the Township, and paid for by the holder of such permit. The permanent paving must be completed promptly and must comply with the design standards set forth in the attached details and the Township's Subdivision and Land Development Ordinance. For purposes of this Ordinance, "promptly" means within two (2) weeks of the completion of the work necessitating the opening or excavation. In the event that the permanent paving is not completed promptly, the permit holder shall notify the Township Secretary and provide good cause for not completing the permanent paving. Said time may be extended by the Township Secretary for good cause shown, which will include adverse weather conditions.

C. The applicant or permit holder shall be required to pave/restore/overlay the entire cartway width for the entire length of the opening plus ten (10) feet on each side of the opening in accordance with Township specifications. The Township Secretary in her sole discretion may allow paving of a lesser portion of the cartway where the opening is of a de minimus nature.

D. The applicant or permit holder shall be responsible to maintain or repair any permanent paving or restoration for a period of one (1) year after the Township's final inspection and approval. It is the applicant's responsibility to request a final inspection when the restorations are completed. The inspector shall provide the applicant an inspection report. This report shall identify any observed deficiencies requiring correction or, if the permanent paving and restoration is accepted, initiate the maintenance period.

Any deficiencies arising from the permanent restoration activities during the one (1) year maintenance period deemed unsafe by the Township shall be rendered safe for public use within eight (8) hours of notification. If the repairs are not made safe within eight (8) hours, the Township may take whatever action is necessary and reasonable to make the patch safe and the applicant or permit holder shall be responsible for the costs incurred. The repair activities shall be re-inspected. The applicant is responsible to request a re-inspection. The inspector shall provide the applicant a second report identifying the deficiencies requiring correction or a revised maintenance period expiration date. The one (1) year maintenance period shall be extended for an additional period of ninety (90) calendar days for each repair.

Section 7. Authority for Township To Do Certain Work and Collect Cost and Additional Charge.

If the work in opening or filling or maintaining or permanently paving and completely restoring the surface shall not be promptly done, or shall be unskillfully, improperly or incompletely performed, or shall not be completed according to the required Township specifications, the Township Engineer, or such other person designated by Board of Supervisors, may cause the same to be done in such manner as the Township Engineer may deem proper, and the expense thereof, including any overhead expense, shall be

charged to the person, firm or corporation or permit holder by whom the opening or excavation as aforesaid was made, together with ten percent (10%) additional charge. No new openings under an existing permit shall be made, and no new permit shall be issued to any person, firm or corporation where either or both of the following are present: (1) the person, corporation, firm or permit holder is in default under this Ordinance, until the costs and penalty herein provided for are paid, or (ii) the person, firm, corporation or permit holder has openings or excavation already caused by them which have not been properly filled, and the surface maintained and restored as aforesaid, in a safe condition at the proper grade, all of which the Township Engineer or other person so designated by Board of Supervisors shall be sole judge, and whose opinion thereon shall be final.

Section 8. Penalty for Violation.

Any person, partnership or corporation violating any provision of this ordinance shall upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000.00) and costs of prosecution. Each violation of any provision of this ordinance, and each day the same is continued, shall be deemed a separate offense.

Section 9. Appointment/Designees.

The Township Secretary may delegate to any servant, agent or employee of the Township any or all of the duties and functions imposed upon the Township or the Township Secretary by this ordinance and may authorize such person or persons to carry out such duties and functions as he may from time to time assign.

Section 10. Severability,

If any provision of this Ordinance is determined to be unlawful, invalid, void or unenforceable, then that provision shall be considered severable from the remaining provisions of the Ordinance and the remaining portions of the Ordinance shall remain in full force and effect.

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Section 11. Repealer,

Any previous Ordinances or Resolutions, or any part thereof, which conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 12. Effective Date

This Ordinance shall enter into effect Immediately upon enactment.

ORDAINED AND ENACTED into law by the Board of Supervisors of the Township of Center on this 18th day of August, 2014.

TOWNSHIP OF CENTER

ATTEST:

Joanne DeLima
Township Secretary

Bill DeLima
Chairman, Board of Supervisors