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**ORDINANCE 2018-1**

**STREET/ROAD OPENING**

**REVISING 2011-9**

AN ORDINANCE OF MOUNT CARMEL TOWNSHIP, NORTHUMBERLAND COUNTY, PENNSYLVANIA, REGULATING ROAD OPENINGS AND COMPACTION RATES, SETTING FINES AND PENALTIES FOR THE VIOLATION THEREOF.

**Section 1. Title**

This ordinance shall be titled "Mount Carmel Township Street/ Road Opening Ordinance".

**Section 2. Unlawful Act**

It shall be unlawful for any person, firm, utility company, corporation, municipal authority or any other entity of any kind to make any excavation in, under, over or through any street, alley, or thoroughfares, including areas located within public right of ways within the limits of the Township of Mount Carmel, including streets maintained by the Commonwealth of Pennsylvania Department of Transportation (PennDOT), unless and until a permit is secured from the Mount Carmel Township Codes Enforcement Department for each separate undertaking. Such permit and application shall be in the form supplied by the Codes Enforcement Office and shall contain a statement that the applicant agrees to the terms and conditions of the ordinance. The Mount Carmel Township Supervisors shall have the authority to prohibit any work being done without a permit or any work being done contrary to the terms of this ordinance.

**Section 3. Permit Required**

No opening, cutting, excavating, grading, boring, direction drilling, crossing, installation or disturbance of any kind shall be allowed upon, in, under or across any portion of a Township Road or Township Right of Way without a permit granted by the Township.

**Section 4. Specifications:**

Unless otherwise noted in this ordinance, all construction shall be in accordance with PennDOT Specifications, Publication 408, and Construction Standards, Publication 72. In the case of a conflict in specifications with PennDOT standards, the more stringent of the requirements shall be required unless otherwise approved by the Township.

**Section 5. Application for Permit**

Any application for the issuance of an excavation permit shall be filed in the office of the Code Enforcement Officer, upon forms furnished by the Mount Carmel Township Codes Enforcement Department for that purpose, and shall be signed by the applicant. Such application shall set forth the location and purpose of the proposed excavation; the dates between which such excavation is to be opened; 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 benefitted by the work to be done, and the name, address, phone number and Mount Carmel Township contractor's license number of the contractor employed to do the work.

For openings less than 500 l.f., a sketch plan is required in accordance with the requirements of PennDOT M-949C. For openings greater than 500 l.f., a drawing prepared by an engineer licensed in the Commonwealth of Pennsylvania with said engineer's seal and signature affixed to the drawing, shall be submitted with the application. The 500 l.f. threshold shall be sum of the impact of the entire project within the Township and may not be broken in smaller projects or phases.

**Section 6. Permit Fee**

Before an issuance of an excavation permit, the Mount Carmel Township Codes Enforcement Department shall collect from the applicant and the applicant shall pay to the Mount Carmel Township Codes Enforcement Department the amount of money from the following schedule of charges:

1. $100.00 initial application fee for the opening. If there is more than one opening in the block there will be an additional charge of $25.00 per opening.
2. A $20.00 fee per square yard, per opening, will be charged..
3. There will be a charge of $50 per day for closing or barricading a street closed to traffic. All road closures must adhere to the requirements of 'Section 10. Detours and Road Closures'.

**Section 7. Decision of the Permit**

The permit application shall be approved or denied within 30 calendar days of submission of a complete permit application to the Township. If the application and required documentation do not meet the requirements of this ordinance and any other applicable regulations, the Township Engineer shall deny the application in writing, stating the reasons. If the Township is satisfied that the proposed work conforms to the requirements, the Township shall issue the permit.

**Section 8. PA One Call**

All provisions of Act 287 relating to Pennsylvania One Call System shall apply.

**Section 9. Maintenance of Traffic**

The applicant shall comply with the provisions of PennDOT Publication 213 "Work Zone Traffic Control". At least one lane of traffic must be maintained and opened at all times.

**Section 10. Detours and Road Closures:**

Under certain circumstances, the Township may allow a road to be closed and traffic to be detoured. No road shall be closed without giving the Township at least 72 hours prior notice to allow time to notify. No road shall be closed without submission of a detour plan to the Township and approval by the Township. No road shall be closed without proper detour signs installed by the applicant. All detour signs shall be maintained for the entire work period.

**Section 11. Erosion Control**

All work shall conform to the requirements of PA Code Title 25 Chapter 102 relating to erosion and sediment control. If necessary, the applicant shall obtain erosion and sediment control plan approval from the Northumberland County Conservation District.

**Section 12. OSHA Requirements**

The applicant shall comply with all OSHA safety requirements and procedures. All trenches over five (5) feet in depth shall be shored or protected in a trench box,

**Section 13. Notification**

The applicant shall notify the Township at least 24 hours in advance of starting any work and upon completion of temporary and permanent restoration.

**Section 14. Emergencies**

In case of any emergency arising at night or on Saturdays, Sundays, legal holidays or at such times as the office of the Code Enforcement officer is closed and an immediate excavation is necessary for the protection of public or private health and/ or property, the same shall be reported to the Police Department, which shall grant permission to make the necessary excavation upon the express condition that an application be made to the Code Enforcement Officer on or before 12:00 noon of the next business day.

**Section 15. Tunneling Prohibited.**

No tunneling shall be allowed without the express approval of the Township and permission therefore endorsed upon the permit. Tunneling shall be defined as a horizontal passageway under the road intended to allow a person or vehicle to pass with an equivalent . This does not include directional drilling or borings for pipe utilities. The applicant shall submit drawings certified by a professional engineer. The Township Engineer shall review said drawings and if found acceptable by the Township, the backfilling of a tunnel excavation shall be made only in the presence of the Township Engineer or an inspector designated by him/her and shall be done only in a method approved by his or her designee. The charges for the permit, however, shall be the same as if the surface of the street had been removed.

**Section 16. Backfill**

All backfill within a Township right-of-way shall be 2A modified crushed stone of optimum moisture content and compacted to 95% density, minimum. There shall be a minimum of six (6) inches of bedding under all pipes and utility lines. 2A backfill shall be mechanically compacted in eight (8) inch lifts. Where work is outside of the paved cartway or shoulder, the last six (6) inches shall be topsoil. All material and procedures shall meet the requirements of PennDOT publication 408.

**Section 17. Overnight Requirements**

If the work cannot be completed in one work-day, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Township until the next work day. The applicant shall comply with the provisions of PennDOT Publication 213, "Work Zone Traffic Controls".

**Section 18. Clean-up**

The work areas shall be swept clean, cleared of debris and inspected at the end of each work day and at the end of the project. Mud shall not be tracked onto the streets at anytime. All mud shall be cleaned up within one (1) hour of notice from the Township. All loads shall be tarped.

**Section 19. Installation**

Conduits and pipes should be installed with a minimum of 18" cover. No conduits or pipes shall be placed in or bond the bottom of the paving. Separation shall be maintained by a minimum of three (3) inches of screenings.

**Section 20. Temporary Restoration**

The last two (2) inches of the excavation shall be backfilled and compacted with with "cold patch" or similar material to allow percolation of water into the excavation while preventing stone chips and dust from escaping. All excavations shall be temporarily restored prior to allowing traffic on them. The temporary restoration must remain in place for a minimum of two (2) months to allow for settlement and shall remain in place no longer than six (6) months.

**Section 21. Permanent Restoration**

All paved areas shall be permanently restored with the minimum requirements:

1. Six (6) inches of bituminous concrete base course (BCBC) and 1.5" inches of ID-2 bituminous wearing course (or superpave equivalent)

2. All edges must be sawed in an acceptable manner and sealed with PG-64 asphalt cement or equal prior to placement of the ID-2 wearing course. Once the installation is complete, the joint must again be sealed with PG-64

3. The permittee shall be required to repair excavation by cutting back and resurfacing at least one (1) foot each side of the street opening in each direction.

4. When more than 1/4 of a thoroughfare is affected by the ditch or trench (including one-foot cutback on each side) the applicant must resurface the width of a thoroughfare as established by the Code Enforcement Officer or his representative. Both sides and ends of the thoroughfare must be milled to a tapered depth suitable to accept paving.

5. Any entity making 4 or more street cuts in the same block in a 3 year period shall be required to repave the entire block curb to curb (or existing edge of road to existing edge of road in the case where no curb exists)

6. In areas of non-ashphalt paving, the permanent restoration shall match existing thicknesses and materials.

7. All non-paved areas shall be restored with six (6) inches of top soil, seeded and mulched.

8. The person issued the permit shall be responsible for notification to the Township when the completion of the permanent restoration occurs. The date of the restoration completion will be determined after inspection of the final restoration occurs subsequent to the notification of completion.

**Section 22. Ramps, Curbs, Sidewalks**

All curbs, sidewalks and ramps affected by street openings shall be replaced in kind. In the case of total reconstruction of a block or large section of a block, PennDOT Publication 72 and Publication 408 shall be followed.

**Section 23. Identification**

All excavations shall be marked after both temporary and permanent restoration and the dates of the temporary restoration and permanent restoration shall appear in six (6) inch letters in a color associated with the APAW system (blue for water, green for sanitary sewer, etc.); Should the markings become worn prior to the end of the guarantee period, they shall be re-painted by the applicant.

**Section 24. Guarantee/ Maintenance Bond**

The applicant shall be responsible for any failure of the street surface during a period of 5 years following completion of the permanent restoration work of the trench. All work shall be guaranteed by a maintenance bond, escrow or other acceptable financial security for a period of two (2) years from the date of final inspection and certification by the Township Engineer that the work has been completed in accordance with the permit. Such guarantee shall be in the amount of 10% of the total contractors price to perform the work. All defects shall be corrected by the applicant within twenty four (24) hours of verbal or written notice from the Township or their agents.

**Section 25. Financial Security**

At the time of permit application, the applicant shall post financial guarantee to ensure the completion of the work required to comply with this ordinance, provided that such costs exceed $10,000.00, unless otherwise waived by the Board of Supervisors. If the required work is bonded with another entity, proof of financial security must be provided to the Township.

25.1 AMOUNT OF IMPROVEMENT GUARANTEE

A. The financial guarantee to be posted shall equal 110% of the cost of completing the

improvements estimated as of 90 days following the date scheduled for completion.

B. Annually the Township may adjust the amount of the financial guarantee by comparing

the actual cost of the improvements that have been completed and the estimated cost

for the completion of the remaining improvements as of the expiration of the 90th day

after either the original date scheduled for completion or a rescheduled date of

completion. The Township may require the developer to post additional security in order

to assure that the financial security equals 110%. The developer shall post any

additional security.

25.2 BASIS OF IMPROVEMENT GUARANTEE AMOUNT

A. The amount of financial guarantee required shall be based on an estimate of the cost to

complete the required improvements, prepared by the applicant’s professional engineer.

The engineer shall certify it to be a fair and reasonable estimate of such cost. The

Township, upon the recommendation of its Engineer, may refuse to accept such

estimate for good cause shown.

B. If water and/or sanitary sewer infrastructure are to be installed under the jurisdiction and

rules and regulations of a public utility or a municipal authority separate and distinct from

the Township, then financial security to assure proper completion and maintenance shall

be posted in accordance with the regulations of the controlling public utility or municipal

authority and shall not be included within the financial security required by this section.

The applicant shall provide evidence that sufficient financial guarantee, to secure

completion of the water and sewer infrastructure, has been provided to and been

accepted by the public utility or municipal authority.

C. If the applicant and the Township are unable to agree upon an estimate, then the

estimate shall be recalculated and recertified by another professional engineer chosen

mutually by the Township and the applicant. The estimate certified by the third engineer

shall be presumed fair and reasonable and shall be the final estimate. In the event that a

third engineer is chosen, fees for the services shall be paid equally by the Township and

the applicant.

25.3 TYPES OF FINANCIAL GUARANTEE

The following are acceptable types of financial guarantee.

A. **Surety Performance Bond.** A security bond from a surety bonding company

authorized to do business in the Commonwealth of Pennsylvania. The bond shall be

payable to the Township and shall be in a form satisfactory to the Commission.

B. **Escrow Account.** A deposit of cash with the Township in escrow with a Federal or

Commonwealth chartered financial institution. In the case of an escrow account, the

applicant shall file with the Township an agreement between the financial institution and

the applicant or developer guaranteeing the following:

1. That the funds of the escrow account shall be held in trust until released by the

Township and may not be used or pledged by the applicant as security for any

other purpose during that period.

2. In the case of a failure by the applicant to complete the improvements, the

institution shall immediately make the funds available to the Township for use in

the completion of those improvements.

3. Withdrawals from the account to pay for completed improvements shall be

pursuant to Section 710 of this Ordinance.

C. **Letter of Credit**. An irrevocable commercial letter of credit provided by the applicant

and/or developer from a Federal or Commonwealth chartered financial institution. This

letter shall be deposited with the Township and shall certify the following:

1. The amount of credit.

2. In the case of failure by the applicant to complete the improvements, the creditor

shall pay to the Township funds necessary to finance the completion of those

improvements, up to the limit of credit stated in the letter.

3. The letter of credit is irrevocable and may not be withdrawn, or reduced in

amount, until released or partially reduced by the Township in writing. See

Appendix I for an example.

D. **Certified Check.** A certified check payable to the Township drawn on a Federal or

Commonwealth chartered financial institution.

E. **Other Forms of Security**. Any other form of guarantee acceptable to the Township

**Section 26. Recently Paved Streets**

Except for emergencies, excavations will not be permitted in streets that have been built or overlaid within the previous five (5) years unless the applicant agrees to overlay the full width of the excavated section with one and one half (1-1/2) inches of ID-2 or similar superpave, Overlays shall be placed within six months of the permanent restoration of the excavation.

**Section 27. Equipment**

All equipment driven on Township Roadways shall have rubber tires or rubber tracks. Metals track equipment is strongly discourage, however, if circumstances require the use of a metal track machine, material deemed suitable by the Township shall be placed over the roadway surface in the location where the equipment is to driven on and under no circumstances shall the metal tracking make contact with a Township roadway surface.

**Section 28. Insurance**

Proof of insurance must be provided naming Mount Carmel Township as an additional insured and having a minimum general liability (including property damage liability and personal injury liability) of not less than $1,000,000.00 for each occurrence and a $2,000,000.00 aggregate amount; automobile, injury liability of not less than $500,00.00 each person and $500,000 each occurrence as well as Workman's Compensation insurance

**Section 29. Inspections**

The Township reserves the right to place an inspector on any and all excavations it deems necessary in order to ensure good workmanship. All cost involved with placing an inspector on the job will be the responsibility of the applicant.

**Section 30.Additional Safety Requirements**

The applicant, during the progress of the excavation work, shall provide and maintain such fences, barriers, “street closed” or “danger” signs, flashing lights and watchmen as may be necessary to prevent avoidable accidents to the public and adjoining property owners. The convenience of the public and temporary approaches to crossings and intersection streets shall be provided for and kept in good condition when practicable. The sidewalks or portions of the street adjoining the work or its vicinity shall not be littered or obstructed more than necessary, and the drainage gutters and inlets to stormwater sewers shall at all times be kept clean and unobstructed. Plates or bridging may be required on all openings within the improved surface which have a shortest dimension in length or width of six feet or less whenever work cannot be completed within the same day, during peak traffic hours. The plate or bridging is to be extended a minimum of 18 inches on either side of the opening and tied into the existing cartway. All signs used by the applicant must be the type, condition and size which are under current approval by PennDOT.

**Section 31. Liability; terms and conditions**

By acceptance of the excavation permit, the applicant agrees to pay the entire cost and expenses incurred in the replacement of the excavation and street resurfacing, and agrees to protect, defend, indemnify and save harmless the Township, its officers, agents, servants or employees thereof from all claims, suits, actions, proceedings of every nature and description which may be brought against the Township, the officers, agents, servants or employees thereof or for any injuries or damage 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 by or on account of any accident or any other act, negligence or omission of such applicant or his agents, servants or employees, and the Township, its officers, agents, servants or employees thereof shall not in any way be liable therefore. The applicant agrees to safeguard and maintain in good order the excavation and to abide by all terms and conditions of this Article, whether specifically mentioned in the application or not. The grant of a permit by the Township does not relieve the applicant from obtaining any consent otherwise required from the owner or owners of the abutting property and does not confer upon the applicant the right to cut, remove or destroy trees or shrubbery within the legal limits of the street, alley or thoroughfare except under the conditions, restrictions and regulations as the permit may specifically prescribe.

**Section 32. Improper or incomplete work; expenses**

If the excavation is not performed promptly or shall be unskillfully or improperly or incompletely done, the Mount Carmel Township Board of Supervisors, on a recommendation of the Township Engineer, may cause the same to be done in a manner it deems proper, and the expense thereof, including any overhead expense, shall be charged to the applicant, together with 20% additional as a penalty.

**Section 33. Violations and penalties**

Any person, whether as principal, agent or employee, violating or assisting in the violation of the provisions of this Article, upon conviction thereof, shall be sentenced to pay a fine of not less than $500 nor more than $2,500 and the cost of prosecution and in default of payment thereof to imprisonment in Northumberland County Jail for not less than 10 days nor more than 30 days, provided that each day’s violation of any of the provisions of this Article shall constitute a separate offense.

All Ordinances or parts thereof inconsistent with this ordinance are hereby repealed to the extent of the inconsistency. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the other Plan ordinances of Mount Carmel Township. The provisions of this Ordinance are declared to be severable.

**ENACTED, ORDAINED AND PASSED** by the Board of Supervisors of the Township of Mount Carmel, County of Northumberland, Commonwealth of Pennsylvania this 21st day of March, 2018.

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 Aaron Domanski, Chairman

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 Matthew Susnoskie, Vice-Chairman

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 Richard Mychak, Supervisor