

**ORDINANCE NO. 2013-02**

**AN ORDINANCE OF THE TOWNSHIP OF MOUNT PLEASANT,  
ADAMS COUNTY, PENNSYLVANIA, DEFINING AND  
REGULATING STREET AND STREET EXCAVATIONS.**

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of Mount Pleasant Township, Adams County, Pennsylvania, under authority of law as follows:

**SECTION 1: Definitions and Interpretation**

- A. 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:

APPLICANT – any person who applies for a permit.

TOWNSHIP – the Township of Mount Pleasant, Adams County, Pennsylvania.

COMMONWEALTH – The Commonwealth of Pennsylvania.

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

PERSON – any natural person, partnership, firm, association, organization, company, corporation or municipal authority.

STREET – any street, road, lane, court, cul-de-sac, public way, public square, alley, highway, or other public place or way located in the Township of Mount Pleasant and established for the use of the traveling public.

- B. 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**

- A. It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets or the street right-of-way in the Township without first securing a permit therefor from the Township and satisfying the other applicable requirements consistent with the regulations as hereinafter provided.

**SECTION 3: Application for Permit**

- A. Any person who shall desire to make any opening or excavation in any street or street right-of-way of the Township shall make application to the Township in writing for that purpose. Such application shall be made upon forms 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 and depth thereof, and any other information that may be requested by the Township.

- B. The application 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, keep and hold harmless the Township from and indemnify it against any and all actions, suits, demands, payments, damages, costs, fees 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.
- C. The applicant and/or the applicant's contractor is required to have liability insurance which shall be maintained in the minimum coverage amount of \$1,000,000.00. A satisfactory certificate of insurance confirming such liability insurance coverage must be filed with the Township before any work shall be commenced pursuant to the issued permit.

#### **SECTION 4: Required Fees and Charges**

- A. Before any permit shall be issued to open or excavate any street in the Township, the applicant shall pay to the Township any required fees and charges relative to permit issuance, street closings, inspections and street degradation. Such fees and charges shall be set, adopted and may be subsequently modified from time to time, by resolution of the Township Board of Supervisors.

#### **SECTION 5: Issuance of Permits Restricted**

- A. Permits shall be issued by the Township only to persons furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

#### **SECTION 6: Permit Approval/Disapproval**

- A. A permit may be issued to the applicant after all the requirements therefor have been satisfied. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given by the Township to the applicant.

#### **SECTION 7: Responsibility to Contact Utilities**

- A. The work authorized by any permit issued hereunder is subject to all the provisions of the Underground Utility Line Protection Law, 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 applicant'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 Recorder of Deeds of Adams County, Pennsylvania. The applicant shall also be responsible for providing the serial number from the Pennsylvania One Call System to the Township.

#### **SECTION 8: Pre-Excavation Street Condition**

- A. Any person who receives a permit is required to provide visual proof of the condition of the street or streets subject to excavation prior to the commencement of the excavation. Proof of condition of the area subject to excavation shall be in the form of photographs or video of the entire area.

#### **SECTION 9: Requirements for Overlaying Traffic Lanes and Entire Disturbed Area; Limiting the Number of Patches and Pavement Joints**

- A. When a longitudinal opening longer than ten (10) feet and wider than three (3) feet is made in the street pavement, the applicant shall overlay the traffic lanes in which the opening was made for the entire length of street that was opened.

- B. When two (2) or more transverse trench openings are made in the street pavement less than one hundred (100) feet apart, the applicant shall overlay the traffic lanes in which the openings were made for the entire length of the street between such openings.
- C. When four (4) or more openings are made by the same applicant in the street pavement less than one hundred (100) feet apart, the Township engineers or such other agent or representative of the Township shall require the applicant to overlay the entire disturbed area.
- D. When the opening is to be closer than three (3) feet from the edge of the existing pavement, the opening shall be extended to the edge of pavement.
- E. When the permitted opening is to be closer than five (5) feet from the edge of an existing patch or patches in the pavement, the restoration shall be extended to include said patch.
- F. When the permitted opening is located in a street sixteen (16) feet wide or less, then the applicant shall overlay the entire street width for the entire length of the opening.

### **SECTION 10: Requirements and Specifications for Work**

- A. 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.
- B. Unless otherwise set forth in this Ordinance, all construction processes and material specifications shall be in accordance with the Mount Pleasant Township Construction and Material Specifications which are hereby adopted as the specifications of the Township for restoration of surfaces of streets in the Township. Construction and Materials not covered by either this Ordinance or the Township Construction and Materials Specifications shall be in accordance with the Pennsylvania Department of Transportation Publication 408.
- C. The surface shall conform to the proper grade and be of the same surface covering as the part of the street immediately adjoining the opening.
- D. Any applicant test boring or drilling into any Township street for location of leaks or venting of leaks shall be required to backfill holes with 2A stone to 2" below street surface and fill and compact holes with ID-2 or 9.5 mm Superpave and seal with PG 64-22.
- E. The applicant shall be responsible to replace all pavement markings that are removed or damaged. All material shall be in conformance with the Mount Pleasant Township Construction and Material Specifications.
- F. Temporary Paving shall be placed and maintained for a minimum of 60 days and a maximum of 180 days. Temporary Paving shall be thoroughly bound and compacted, installed flush with the surface of the adjoining paving. Such temporary paving material and thicknesses shall be in accordance with Section 2575 of the Mount Pleasant Township Construction and Material Specifications. An alternate temporary paving consisting of cold patch may be used on a case by case basis if approved by the Township. Trenches shall remain unpaved for no longer than five (5) business days after backfilling and shall not remain unpaved during any weekend or any holiday officially observed by the Township.

- G. Permanent Paving shall be thoroughly bound and compacted, installed flush with the surface of the adjoining paving within ten (10) business days after receiving authorization from the Township. Such permanent paving material and thicknesses shall be in accordance with the Mount Pleasant Township Construction and Material Specifications. All temporary paving material shall be removed from trenches prior to placement of the permanent paving base course.
- H. No opening or excavation in any street shall extend from the curb line into the street a distance greater than one (1) foot beyond the center line of the street before being refilled and the surface of the street being restored to a condition safe and convenient for travel.
- I. No more than five hundred (500) feet longitudinally shall be opened in any street at any one time.
- J. The excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with any buildings, or any other subsurface lines or constructions unless written permission from the proper authorities relative to such subsurface lines or constructions shall have been obtained.
- K. No tunneling shall be allowed without the express written approval of the Township with such approval endorsed and set forth upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Township, its engineers or inspector designated by it, and shall be done only in a method approved by the Township, by its engineers or by the inspector designated by the Township.
- L. The use of steel plates to cover open excavations shall be prohibited at all times between the dates of October 15th and April 15th.
- M. The applicant shall notify the Township 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 is ready for permanent paving so that inspections may be made.
- N. Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street of property subdivision, or a precise survey reference point or a permanent survey bench mark within the Township shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Township. Permission shall be granted only upon condition that the applicant shall pay all expenses incident to the proper replacement of the monument.
- O. When the work performed by the applicant interferes with the established drainage system of any street, adequate provision shall be made by the applicant to provide proper drainage to the satisfaction of the Township.
- P. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.
- Q. In the excavation of any street, the applicant shall take all necessary and reasonable precautions to ensure that the street remains in a safe and passable condition for the traveling public at all times. Such precautions may include, but are not limited to the use of signs, barriers, lanterns and all other warning devices sufficient to alert the traveling public of possible dangers relative to the excavation.

**SECTION 11: Responsibility for Correction of Unsatisfactory or Incomplete Work; Responsibility for Defects Occurring within Eighteen (18) Months**

- A. In the event that any work performed by or for a permit holder shall, in the opinion of the Township or its engineers, be unsatisfactory and where that work is not corrected in accordance with the Township's instructions within the time fixed by it, or in the event that the work for which the permit was granted is not completed within the time fixed by the Township, the Township may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost of the work to the applicant.
- B. When any earth, gravel, or other excavated material is caused to roll, flow, or wash upon any street, the applicant shall cause the same to be removed from the street within twenty-four (24) hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the Township shall cause the removal and the cost incurred shall be paid by the applicant.
- C. If within eighteen (18) months after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant or its contractor or otherwise related to the applicant's work, then the applicant shall reimburse the Township for the cost of all necessary repairs to the permanent paving.
- D. Payment for all work done by the Township under the provisions hereof shall be made by the person made liable therefor 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 at law or in the manner provided by law for the collection of municipal claims.

**SECTION 12: Emergency Openings**

- A. 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 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 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 Township, 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 all of its costs and expenses of all work to such responsible person.

**SECTION 13: Waiver of Degradation Fees**

- A. The Township shall give timely notice to all persons owning property abutting on any street, or any utilities with facilities located within the Township about to be paved or improved as part of the Township's pavement maintenance program, and to all public utility companies operating in the Township, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto which would necessitate excavation of the said street within thirty (30) days from the giving of such notice, unless such time is extended in writing for cause shown by the Township.
- B. If such work or repairs are completed before the street is paved or improved, the Township shall waive the degradation charges for the applicant, if any are required, for all work requiring excavation of the said street.

- C. Where the applicant is required to overlay the roadway or lane width as mandated in Section 9 herein, then the street degradation fee may be waived.

#### **SECTION 14: Conditions for Laying and Extending Utility Lines**

- A. 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 Township and such plan, and the exact location of such main or line, is approved by the Township. The Township shall not approve the location of any such main or line at a depth of less than thirty (30) inches from the surface of the street unless it is clear to the Township that locating the same at a depth of more than thirty (30) inches from the surface is impossible or impractical.

#### **SECTION 15: Restoration and Maintenance Financial Security**

- A. No company, corporation or association shall excavate any street without first giving to the Township a performance guarantee in an amount as determined by the Township and acceptable to the Township engineer. Without limitation as to other types of financial security which the Township may approve, which approval shall not be unreasonably withheld, irrevocable letters of credit issued by a federal or state chartered bank or lending institution or restrictive escrow accounts held by such banks or lending institutions shall be deemed acceptable financial security for the purposes of this Ordinance.

#### **SECTION 16: Applicability**

- A. The provisions of this Ordinance shall not apply to the laying of sidewalks or curbs or to the installation of utility poles.

#### **SECTION 17: Prohibited Acts**

- A. It shall be unlawful for any person to injure, damage, mar or deface any street in the Township, or to render the same unsafe or dangerous to the traveling public in any way, which shall include, but shall not be limited to, the following: (a) the dragging or drawing of logs, trees or timber or other heavy objects, whether composed of wood, metal or other substance, on or over the surface; (b) the building of fires or the burning of rubbish or other material upon or over the surface; (c) the placing of or allowing to run, leak or be placed upon the surface of any oil, gasoline, kerosene or other substance that might be harmful to the surface; or (d) the operation of any vehicle upon any street with the wheels covered with mud or other material to the extent that such mud or other material drops therefrom onto such street causing a discoloration and/or slippery condition.

#### **SECTION 18: Penalty For Violation**

- A. Any person who shall violate any provision of this Ordinance shall upon conviction thereof, be sentenced to pay a fine of not more than \$600.00. Every day that a violation of this Ordinance continues shall constitute a separate offense. In addition to the aforesaid penalty for a violation of this Ordinance, the Township may seek such other relief and remedies, at law or in equity, to include but not be limited to injunctive relief, as may be otherwise available.

#### **SECTION 19: Repealer**

- A. All Ordinances or parts of Ordinances which are not consistent herewith are hereby repealed.

**SECTION 20: Severability**

A. 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 Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not have been included herein.

**SECTION 21**

This Ordinance shall become effective on July 30, 2013.

ENACTED, ADOPTED, AND ORDAINED on this 25<sup>th</sup> day of July, 2013.

**BOARD OF SUPERVISORS OF  
MOUNT PLEASANT TOWNSHIP**

By: Larry E. Gebhart  
Larry Gebhart, Chairman

By: Richard Riser, Jr.  
Richard Riser, Jr., Vice Chairman

By: Charlie Wilson  
Charlie Wilson, Supervisor

Attest:

Diane L. Groft  
Diane L. Groft, Secretary

