

TOWNSHIP OF EPHRATA
Lancaster County, Pennsylvania

ORDINANCE NO. 269

AN ORDINANCE OF THE TOWNSHIP OF EPHRATA, LANCASTER COUNTY, PENNSYLVANIA TO REPEAL THE EPHRATA TOWNSHIP ROAD ORDINANCE AND REPLACE WITH A REVISED ORDINANCE REGULATING STREET OPENINGS AND EXCAVATIONS.

WHEREAS, Ephrata Township enacted Ordinance No. 21 in 1974, which has been in force and effect since enactment; and

WHEREAS, the Township wishes to update its regulations relating to street openings and excavations by repealing Ordinance No. 21 and enacting a new ordinance.

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Ephrata, Lancaster County, Pennsylvania, as follows:

Section 1. Ordinance No. 21, is hereby repealed in its entirety, and the following Ephrata Township Road Occupancy Ordinance is enacted in its place:

§ 101 Legislative Authority and Purpose.

- A. The Township is empowered to regulate these activities by the authority of Section 2322 of the Second-Class Township Code.
- B. It is in the public interest to regulate the location and construction of utility facilities, other structures, and excavations and openings within the Township street right-of-way for the purpose of insuring the structural integrity of the street, economy of maintenance, preservation of proper drainage and safe and convenient passage of traffic.

§ 102 Definitions

- A. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section.

ACKNOWLEDGEMENT OF COMPLETION – The date on which the Township records that permitted work appears to be completed under the permit and this Ordinance.

APPLICANT – Any person who makes application for a permit. For the purposes of this Ordinance, any public utility company or municipal authority required to obtain a permit shall be considered the applicant. An application shall not be submitted in the name of contractors of the public utility company or municipal authority.

BOARD OF SUPERVISORS – The Board of Supervisors of the Township of Ephrata.

CALENDAR YEAR – January 1 through December 31, inclusive.

CLEAR ZONE – The portion of right-of-way beyond the pavement edge within which, under PennDOT Design Manual, Part 5, no new obstructions may be located.

COST – Actual expenditures incurred by the Township for labor, equipment and materials including, without limitation, all fringe benefits and overhead.

EMERGENCY – An unforeseen circumstance which calls for immediate action to protect or safeguard life or property or for the restoration or continuance of a public utility or other public service. The term includes, but is not limited to, damage resulting from a vehicle accident or collision with a facility, a failed component or storm damage. The term does not include service connections or disconnections unrelated to a vehicle accident, a failed component or storm damage.

EXCAVATION – Any activity within the right-of-way of any street which involves cutting, breaking, crossing (either laterally or longitudinally), drilling, grading, digging, or disturbing the earth or other material making up the surface or subsurface of any street. In this Ordinance, the term "opening" shall have the same meaning as excavation.

IMPROVED AREA – The area within the right-of-way which has been constructed for street purposes, including roadbed, pavement, shoulders, slope, sidewalks, drainage facilities and other appurtenances.

MUNICIPAL AUTHORITY- Any municipal authority created, in whole or in part, by the Board of Supervisors under the Municipality Authorities Act (53 Pa.C.S. §5601 et. seq.), to administer a revenue producing public enterprise.

PAVEMENT – The combination of subbase, base course and wearing course placed

on a subgrade to support the traffic load or distribute it to the roadbed, or both. The term normally includes the traveled portion of the street and extends to the face of curb in a curbed section. The term does not include shoulders.

PERMITTEE – Any applicant and their employees, agents, successors and assigns who has been issued a permit and who shall have by acceptance thereof agreed to fulfill all provisions of this Ordinance.

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

POLICE DEPARTMENT – The Ephrata Police Department or any successor municipal or multi-municipal police department having jurisdiction within the corporate boundaries of the Township.

PUBLICATION 213 – PennDOT Publication 213, Temporary Traffic Control Guidelines.

PUBLICATION 408 – PennDOT Publication 408, Specifications.

PUBLIC UTILITY – Any utility company, excluding municipal authorities, licensed by the Public Utility Commission of the Commonwealth of Pennsylvania.

SECOND CLASS TOWNSHIP CODE – The Act of May 1, 1933 P.L. 103, No. 69, as reenacted and amended by the Act of November 9, 1995, P.L. 350, No. 60, as amended.

SIDEWALK AREA – That portion of the street right-of-way, or pedestrian easement adjacent to a street-of-way, reserved sidewalks.

STREET – A public street, public easement, right-of-way, public highway, public alley, public way or public road accepted or maintained by the Township, or open for travel and use by the public, whether or not so accepted or maintained, including the entire area within the right-of-way thereof and any pedestrian easement adjacent to a street right-of-way.

TOWNSHIP – The Township of Ephrata, Lancaster County, Pennsylvania, or any individual authorized by the Board of Supervisors to act on behalf of the Township.

- B. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
1. Words used or defined in one tense or form shall include other tenses or derivate

forms.

2. Words in the singular number shall include the plural number, and word in the plural number shall include the singular number.
3. The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.
4. The words "shall," "must" and "will" are mandatory in nature and establish an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive.
5. The time, within which any act required by this Ordinance is to be performed, shall be computed by excluding the first day and including the last day. However, if the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the Pennsylvania General Assembly, it shall also be excluded. The word "day" shall mean a calendar day, unless otherwise indicated.
6. References to officially adopted regulations, standards, or publications of other governmental agencies shall include the regulation, publication, or standard in effect on the date when a permit application is first filed. It is the intent of the Township in enacting this Section to incorporate such changes to statues, regulations, and publications to the extent authorized by 1 Pa. C.S. §1937.

§ 103 Permit and Application Requirements.

A. Permit Required:

1. It shall be unlawful for any person to make any boring, tunnel, opening, or excavation of any kind, or the installation of any utility, line, pipe, structure or other appurtenances in, under or over the surface of any street without first obtaining a permit from the Township for each separate undertaking, except as provided in paragraphs (3), (4) and (5) below.
2. Any person working in the vicinity of a street who in any manner disturbs such street or who in any manner causes damage to a street shall be required by this Ordinance to obtain a permit and to correct such damage in accordance with the standards of the Township.
3. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an excavation without first obtaining a permit when emergency circumstances demand the work to be done completely,

provided the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit within five (5) days after completion of the work. In all cases where emergency excavations are necessary, the Township and police department shall be notified prior to such excavation.

4. A permit application is not required for maintenance of existing permitted facilities if no surface excavation is required, such as cable within an existing conduit, cross arms or transformers on poles, or accessing an existing utility facility through a manhole.
5. The obtaining of street excavation permits by Township departments shall not be required when work is to be performed by Township personnel.

B. Application Requirements:

1. Applications shall be submitted to the Township on a properly completed form prescribed by the Township.
2. Applications shall be signed by the entity that owns or will own or is otherwise legally responsible for the infrastructure installed or work proposed.
3. The application shall identify the consulting engineers performing work related to the application.
4. The application shall include:
 - a. Two (2) sets of plans and one electronic copy detailing the location and pertinent horizontal and vertical dimensions of all work including, but not limited to, excavation, proposed utility installation and related street features.
 - b. The following street information:
 - i. Centerline
 - ii. Edges of pavement
 - iii. Curb
 - iv. Sidewalks
 - v. Shoulders
 - vi. All drainage structures

- vii. Guiderail
 - viii. All existing overhead or subsurface utilities
 - ix. Any other physical or manmade features located within or ten (10) feet beyond the street right-of-way line
 - x. Existing and dedicated right-of-way lines.
5. The application shall be accompanied by the fees, payable to Ephrata Township, as follows:
- a. Permit application fee to defray cost incurred by the Township in reviewing and processing the application and plans, including the preliminary review of the site location identified in the application, whether or not a permit is issued and processed. The application fee shall be in accordance with PennDOT regulations as required by Section 2322 of the Second-Class Township Code.
 - b. Inspection fee. General inspection to defray costs incurred by the Township for inspections of permitted work or subsequent inspections after the permitted work has been completed and to monitor compliance with the permit. The inspection fee shall be in accordance with PennDOT regulations as required by Section 2322 of the Second-Class Township Code. The area computed for the inspection fee shall be based on the actual size of excavation or disturbance including any pavement that must be removed to enable an overlap of surface course on the existing base course.
 - c. Degradation fee. The degradation fee shall be set by resolution by the Board of Supervisors.
6. A complete application shall be submitted to the Township a minimum of thirty (30) days prior to the anticipated start of work.
- C. Any permit application for the occupancy of the pavement or shoulder of a street shall include detailed plans which comply with the following:
- 1. Plans depicting occupancy of pavement or shoulder, or both, shall have a horizontal scale of 1 inch equal to no more than thirty (30) feet.
 - 2. Plans shall identify utility facilities and other structures within the right-of-way that will be affected by the proposed work and shall include typical cross-sections at each change in street cross-section features.

3. Plans depicting installation of a facility within any pavement or shoulder, or both, shall verify there is no feasible space outside the pavement or shoulder available for placing the facility.
4. Plans shall show all existing or proposed overhead or subsurface shared facilities.
5. A traffic control plan, prepared in accordance with PennDOT Publication 213, shall be submitted for any work within the street right-of-way.

D. Commencement of work.

1. Work for which a permit has been issued shall commence within 30 days after the issuance of the permit.
2. If work has not commenced within 30 days after issuance of the permit, the permit shall be terminated automatically unless the permittee applies for an extension of time, in writing, within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension.
3. Permits which terminate by reason of failure to commence work within 30 days after issuance or within any time extension granted under paragraph (2) may be reissued upon the payment of an additional permit fee as originally required.
4. Permits and any extensions thereto shall be issued for a period not to exceed one year.
 - a. If the permittee shall be unable to complete the work within the specified time, the permittee shall, prior to expiration of the permit, present in writing to the Township a request for an extension of time setting forth the reasons for the requested extension. If the Township, in its sole discretion, finds that the failure to complete the work under the permit within the time specified therein was due to circumstances reasonably beyond the control of the permittee and that an extension of time to complete the work under the permit is necessary and not contrary to the public interest, the permittee may be granted additional time for completion of the work.

§ 104. Permit Issuance and Conditions.

A. Permit issuance.

1. Upon approval of an application submitted under this Ordinance, a permit will be

issued by the Township. The Township may attach reasonable conditions to the approval of a permit to further the intent of this Ordinance. The permit shall be the applicant's authority to proceed with the work specified in the permit subject to application and its attachments and supplements, this Ordinance and any conditions imposed by the Township.

2. The applicant shall agree to indemnify, defend and hold harmless the Township, its officers, employees and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under said permit. The application for a permit to be issued under the authority of this Ordinance shall be considered acceptance and agreement by the applicant and permittee of this indemnification requirement, whether the same is expressed or not.
- B. Financial security. The Township may, at its discretion, require the applicant to execute an agreement and provide financial security, as a prerequisite to issuance of the permit. If financial security is required, it shall be delivered to the Township in a form acceptable to the Township Solicitor and shall guarantee restoration and maintenance of the street, to the satisfaction of the Township, for a period of at least two years after the acknowledged completion of the permitted work.
- C. Insurance. The permittee shall obtain, prior to the start of work, a policy of insurance, issued by an insurer having a certificate of authority and a licensed agent authorized to transact the business in insurance in this Commonwealth, in accordance with the following conditions:
1. The permittee shall have the Township added as an additional insured to its insurance policy and to its contractor's insurance policy to secure the permittee's indemnification of the Township for as required by this Ordinance.
 2. The amount of insurance coverage shall be at least \$1,000,000 per person and at least \$1,000,000 per occurrence, or other statutory limitations on damages as the General Assembly may establish. The insurance policy shall also provide indemnification and hold harmless coverage to the Township pursuant to Subsection A.2 above. The insurance policy shall not lapse or otherwise be canceled during the term of permit.
 3. The permittee shall deliver a certificates of insurance evidencing that the coverage required has been obtained to the Township prior to the issuance of a permit authorizing any work under this Ordinance.
 4. The permittee or its contractor shall obtain insurance for public liability and property damage, in form, amount and duration satisfactory to the Township, to cover a loss that may be incurred for construction, reconstruction, repair,

relocation or installation of the permitted structure or facilities in an amount satisfactory to the Township.

5. If blasting is authorized by the permit, the insurance coverage shall include property damage and personal injury occasioned by blasting. In addition, the insurance policy shall provide coverage for damage to the streets, street structures and appurtenances or another Township property in an amount satisfactory to the Township.

D. General conditions. The following conditions apply to permits issued under this Ordinance:

1. The permit is binding upon the permittee, its agents, contractors, successors and assigns.
 - a. The permittee is responsible for causing compliance with the terms and conditions of the permit by its employees, agents and contractors.
 - b. A copy of the application, plans, attachments, supplements and permit shall be available at the work site at all times and be available for inspection by representatives of the Township or the Police Department.
 - c. The permit shall be maintained by the permittee as a permanent record and remain in effect, subject to the permit conditions and this Ordinance, as long as the permittee's facilities authorized by the permit occupy the right-of-way.
 - d. Responsibility for compliance with the terms of the permit may not be assigned or transferred by the permittee without first obtaining approval from the Township in writing. A facility installed under the authority of the permit shall be subject to removal or relocation at the sole expense of the permittee.
 - e. The permittee is liable to the Township for failure to comply with the permit and this Ordinance. The liability of the permittee to the Township does not preclude the permittee or the Township from bringing an action against the permittee's contractor, subcontractor, engineer, architect, assignee, agent, workers, employees or other persons.
2. Work authorized by the permit is subject to:
 - a. Applicable laws, rules and regulations, including but not limited to:
 - i. The act of December 10, 1974 (P.L. 852, No.287), concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utilities.

- ii. The Clean Streams Law (Act of June 22, 1937, P.L.1987, No.394).
 - iii. O.S.H.A. construction safety and health regulations at 29 CFR 1926.1-1926.1051.
 - iv. Title VI, Civil Rights Act of 1964 (23 U.S.C. §§ 140 and 315) and implementing regulations.
 - v. The Federal Highway Program Manual- Volume 6, Chapter 6, section 3.
 - vi. 66 Pa.C.S. §§ 2701 - 2706 (relating to railroads), in instances where the Pennsylvania Public Utility Commission has taken jurisdiction of a public rail- street crossing.
- b. The rights of any person.
 - c. The conditions, restrictions and provisions of the permit.
3. All work shall be completed in conformance with the plans, attachments, supplements and permit and all applicable Township standards.
4. Permittee responsibilities include the following:
- a. The permittee shall notify the Township at least 3 full workdays prior to the start of work.
 - b. The permittee shall pay the costs and expenses incident to or arising from the project, including, but not limited to, the application, inspection and degradation fees, temporary traffic control, all cost for temporary and permanent restoration of all disturbed areas, and all inspection costs and professional fees incurred by the Township. All outstanding obligations shall be paid in full by the permittee within 30 days after receipt of the Township's invoice.
 - c. In the event of failure or neglect by the permittee to perform and comply with the permit or this Ordinance, the Township may immediately revoke and annul the permit and order and direct the permittee to remove structures, equipment or property belonging to the permittee or its contractors, or both, from the legal limits of the right-of-way and to repair or recast the street to its former condition.
 - d. At the end of a workday, all excavations in the right-of-way shall be covered,

backfilled or protected to the satisfaction of the Township. If work is stopped on a project, other than at the end of a normal workday, the permittee shall promptly backfill the excavation and repair or recast the street. Work may not be resumed until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the excavation or proceed until completion of the work, the Township reserves the right to do the work upon written notice to the permittee. The permittee shall reimburse the Township for the costs incurred by the Township within 30 days after receipt of the Township's invoice.

- e. If the permittee, after making an excavation in the surface to place or repair a facility or for another purpose, fails to restore any portion of the right-of-way in accordance with the plans, attachments, supplements and permit, the Township reserves the right to do the work and the permittee shall reimburse the Township for the costs incurred by the Township within 30 days after receipt of the Township's invoice.
 - f. The permittee shall identify to the Township both its contractor and its inspector-in-charge who shall be assigned to monitor all excavation, installation, construction, backfill and temporary and permanent restoration work. The permittee's inspector-in-charge, as well as the permittee, is responsible for ensuring work is performed in compliance with the plans, attachments, supplements and permit and this Ordinance.
5. Altering any existing drainage pattern or drainage facility is prohibited unless authorized by the plans, attachments, supplements and permit.
- a. Unless specifically authorized by the permit, the permittee shall not:
 - i. Alter the existing drainage pattern or the existing flow of surface or subsurface drainage water.
 - ii. Direct additional drainage of surface water toward, onto, or into or in any way affect the street right-of-way or street facilities.
 - b. The permit does not authorize the permittee to direct, divert, or otherwise drain surface waters over the property of another property owner.
 - i. The permit does not relieve the permittee from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.
 - ii. The permittee is responsible for damage caused to any property owners as a

result of work done under the permit.

6. All streets and related appurtenances shall be protected in accordance with the following:
 - a. To protect the pavement and shoulders, equipment shall have rubber wheels or runners and have rubber, wood or similar protective pads between the outriggers and the surface.
 - b. If other than rubber equipped machinery or equipment is used, the pavement and shoulders shall be protected from equipment damage using matting or other suitable protective material. Failure of the permittee to protect the pavement and shoulders will require the permittee to repair or reconstruct the pavement and shoulder to the satisfaction of the Township.
 - c. If the equipment damages the pavement or shoulders for any reason, the permittee shall repair or reconstruct the damaged pavement or shoulder, to the satisfaction of the Township.
7. The approved traffic control plan, prepared in accordance with PennDOT Publication 213, shall be fully implemented prior to the start of any work and shall be maintained throughout the duration of the project by the permittee.
8. All blasting operations shall be planned and implemented in accordance with PennDOT requirements.
9. The permittee is responsible to operate and maintain any structure or facilities, permitted and placed in, upon or along the right-of-way.
10. Damaged structure or facility to be repaired. If a structure or facility becomes damaged, the permittee shall promptly have it repaired, removed, or otherwise made safe. The permittee shall repair or reconstruct any portion of the street damaged by the repair or removal of any structure or facility to the satisfaction of the Township.
11. Damage to street. Responsibility of the permittee for restoration of the street includes the following:
 - a. The permittee shall repair or reconstruct any street damaged by any construction activity authorized by the permit to the satisfaction of the Township.

- b. All repair or reconstruction work shall be completed within forty-five (45) days of the installation or construction of the work authorized by the permit.
 - c. If there is a failure of a street, including a slope or other appurtenance thereto, in the area of the permitted work within two (2) years after the completion of the permitted work the permittee shall repair or reconstruct the street to the satisfaction of the Township.
 - d. The Township has the ability, but not the obligation, to repair or reconstruct any street damaged by any construction activity authorized by the permit if the permittee fails to complete the repair or reconstruction of any damaged street to the satisfaction of the Township within forty five (45) days of the construction of any structure or facility. The permittee shall reimburse the Township for the costs within 30 days after receipt of the Township's invoice.
 - e. The obtaining of a bond, other security to secure restoration costs does not relieve the permittee of any repair or reconstruction obligations imposed by this Ordinance.
 - f. The obtaining of a bond, other security or an agreement will not act as a release of the permittee from liability under principles of tort law with respect to failure of the street in the permitted area occurring after the expiration of the bond, other security or agreement.
12. If in the future the street is altered for public convenience or necessity, the permittee shall, within sixty (60) days of receipt of written notice from the Township and at its own cost and expense, change or relocate all or a part of the structures or facilities authorized by the permit which interfere with the street alterations or which is inconsistent with the purpose of the street alterations to the satisfaction of the Township.
13. Acknowledgement by the inspector of the Township that all or part of the permitted work has been completed, does not constitute approval or acceptance of the work or agreement that the work was performed in accordance with the permit. Acknowledgement of completion by the inspector will not act as a release of the permittee or waiver by the Township of the right to seek performance or restitution from the permittee.
14. Work hours. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless the permittee has obtained prior written consent from the Township to do the work at any time on a Saturday or Sunday or any day before 7:00 a.m. or after 5:00 p.m.

- E. Photo Documentation. At least 15 days prior to any excavation of any street the permittee shall deliver photo documentation to the Township verifying the preconstruction condition of the pavement and shoulder surfaces in accordance with the following:
1. The pavement and shoulder that will be disturbed shall be photo documented in its entirety in a digital format acceptable to the Township.
 2. The photo documentation shall be of a quality and resolution that clearly documents the preconstruction condition of the pavement and should surfaces.
- F. The permittee shall notify the Township in writing within fifteen (15) days of the completion of any structure or facility.
- G. Permits not transferable.
1. Permits are not transferable from one person to another.
 2. The work location shall not be transferred or performed in any place other than the location specifically designated in the permit.
- H. Rights of Township. Every permit shall be granted subject to the right of the Township or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used not inconsistent with the permit.
- I. The work authorized by the permit is subject to all applicable laws, rules and regulations. The work shall be done at such time and in such manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Township.
- J. In granting any permit, the Township may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property. The conditions may include but are not limited to the following:
1. Prohibition of road openings between November 15 and March 15 except in the case of emergency.
 2. Restrictions as to the size, weight, and type of equipment.
 3. Designation of routes upon which materials may be transported.

4. Designation of the place and manner of disposal of excavated materials.
5. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise, and other results offensive or injurious to the neighborhood, the general public, or any portion thereof.
6. Regulations as to the use of streets in the course of work.

§ 105. Bond Requirements.

- A. When required by the Township at its sole discretion, the applicant or permittee, prior to the issuance of a permit shall provide the Township with an acceptable corporate surety bond to guarantee the proper repair and restoration of the road surface and other disturbed portions of the right-of-way, the repair of any other facilities that may be damages, and to guarantee the maintenance of such restoration and repairs for a period of time up to 24 months. The amount of the bond shall be 110% of the estimated cost of repairing or reconstructing the disturbed or damaged street and maintaining such repairs/restoration and shall be prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The term of the bond shall begin upon the date of posting thereof and shall terminate upon written notice from the Township or 24 months from the date of completion of the work.
- B. If the permittee anticipates requesting more than one permit per year as required by this Ordinance, the permittee may furnish one continuing corporate surety bond to guarantee the repairs, restoration and maintenance in such amount as the Township deems necessary. The amount of such bond shall be in relation to the cost of restoring and maintaining pavement cuts to be made by the permittee throughout the year and shall be prepared by a professional engineer licensed as such in this Commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The term of the bond shall begin upon the date of posting thereof and shall terminate upon written notice from the Township or 24 months from the date of completion of all such work covered by such bond.
- C. In the case of a public utility company, its corporate bond in a form satisfactory to the Township solicitor may be accepted in lieu of the corporate surety bond required by this subsection.
- D. Whenever the Township shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the permittee and to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Township to be reasonably necessary for the completion of such work.

- E. Completion of work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed, or failing therein, indemnify the Township for the cost of doing the work as set forth in the notice.

§ 106. Reconstruction or Resurfacing of Streets.

A. Reconstruction or Resurfacing of Streets.

1. When the Township shall propose to reconstruct or resurface any street, the Township may give written notice of such improvement to all public utility companies and municipal authorities operating in the Township.
 - a. All notified persons shall complete or cause to be completed all necessary repairs and replacement of utility mains, service under the street and designated curb and sidewalk areas within 90 calendar days from receipt of such notice.
 - b. Notified persons shall also complete any new installation under the street and designated curb and sidewalk required for use within a five-year period thereafter. All repairs, replacement and new installations shall be in first-class condition so that the same cannot reasonably be expected to require repairs or renewal within a period of at least five years thereafter.
 - c. Upon failure of any notified person or persons to comply with the notice from the Township to place the same in first-class condition as hereinbefore provided, the Township shall cause existing utility mains, service connections and/or laterals to be placed in first-class condition as aforesaid or to be entirely removed if not used or necessary for public convenience, whereupon the Township shall be entitled to collect the cost of such renewals, repairs, removal or other work from the aforesaid responsible person or persons, either by invoicing the person or persons or, in case of water or sewer house connections, by filing municipal liens therefor against the abutting properties benefited by such connections.
 - d. This section shall not forbid, however, the installation by tunneling, after successful petition to the Board of Supervisors, of new pipes, conduits or other services or structures or the repair, replacement or removal of those already existing in or under the portions of such streets improved as aforesaid, in accordance with applicable rules and regulations, upon obtaining a permit and payment to the Township of the same fees as prescribed by the provisions of this Ordinance for making a surface excavation in the street.

- e. Following the reconstruction or resurfacing of any street, no street shall be open cut for a period of five (5) years unless an emergency utility failure warrants open cutting of the street for a repair. In the event the street must be open cut for an emergency repair, the permittee shall, following subbase and subgrade restoration, mill the full width of each travel lane open cut for a minimum longitudinal distance of twenty-five (25) feet from the limits of the open cut and apply the wearing course.

§ 107. Limitation on Above-Ground Facilities.

- A. For reasons of public safety, the installation of above-ground facilities in the rights-of-way within three feet of the road surface is prohibited.
- B. A utility may seek a waiver from the prohibition set forth in Subsection A if it is able to establish to the Township that no other reasonable alternative locations are available for the placement of the facilities and that the location does not create a public safety hazard. The sole discretion to determine whether reasonable alternative locations are available and whether the location creates a public safety hazard is with the Township.

§ 108. Violations and Penalties.

- A. Revocation of permits.
 - 1. Any permit may be revoked by the Township after written notice to the permittee for:
 - a. Violation of any condition of the permit or of any provision of this Ordinance;
 - b. Violation of any other applicable provision of any other applicable ordinances or any law relating to the work;
 - c. Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
 - 2. Written notice of any such violation or condition shall be served upon the permittee and/or his agent engaged in the work. The notice shall contain a statement of the reasons for revoking the permit. Notice may be given either by hand delivery to the person to be notified or by certified or registered United States mail addressed to the person to be notified.
 - 3. A permittee shall be granted a period of three (3) days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before the permit is revoked.

4. When any permit has been revoked and the work authorized by the permit has not been completed, the Township shall do or cause to be done such work as may be necessary to restore the street or part thereof. All expenses incurred by the Township shall be recovered from the deposit or bond the permittee has made or filed with the municipality.
- B. Penalties. If the Board of Supervisors determines that a person has committed or permitted the commission of a violation of this Ordinance, the Board of Supervisors shall inform such person in writing of the violation, shall notify such person to cease the violation of this Ordinance and shall inform such person that he/she or she must pay a civil penalty to the Township within the range of the amounts set forth below to settle the violation. The penalty for a first offense shall be not less than \$100 and not more than \$600; the penalty for a second offense shall be not less than \$200 and not more than \$600; and the penalty for a third or greater offense shall be not less than \$300 and not more than \$600. If such person fails or refuses to remit the penalty to the Township within 10 days from the date of the written notice of the violation of this Ordinance, the Township may commence a civil enforcement proceeding seeking penalties and costs for the violation of this Ordinance and/or may commence an action in equity. The Township shall seek a judgment for the penalty previously imposed together with additional daily penalties for continuing violations plus all court costs, including the reasonable attorneys' fees incurred by the Township in the enforcement proceedings. Each day that a violation continues shall constitute a separate violation, and each section of this Ordinance which is violated shall constitute a separate violation. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.
- C. In addition to the other remedies set forth above, the Township shall have the right to file an action in equity to restrain or abate any violation of this Ordinance.

Section 2. Other than the repeal of Ordinance No. 21, this Ordinance shall not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances; provided, however, that where this Ordinance imposes a greater restriction than is imposed or required by such existing provisions of law or ordinance, the provisions of this Ordinance shall control.

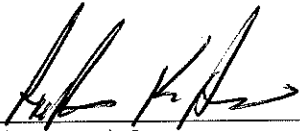
Section 3. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such invalidity, illegality or unconstitutionality shall not affect or impair the remaining provisions, sections, sentences, clauses or parts of this Ordinance, it being the intent of the Board of Supervisors that the remainder of the Ordinance shall be and shall remain in full force and effect.

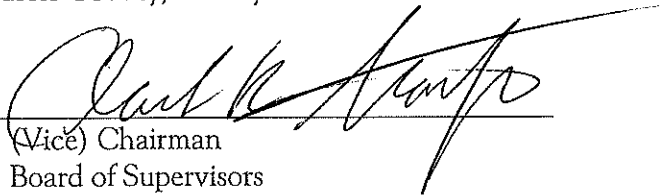
Section 4. This Ordinance shall become effective five (5) days after enactment by the

Board of Supervisors of the Township of Ephrata as provided by law.

DULY ORDAINED AND ENACTED this 5th day of November, 2019, by Board of Supervisors of the Township of Ephrata, Lancaster County, Pennsylvania, in lawful session duly assembled.

TOWNSHIP OF EPHRATA
Lancaster County, Pennsylvania

Attest: 
(Assistant) Secretary

By: 
(Vice) Chairman
Board of Supervisors

[TOWNSHIP SEAL]

CERTIFICATE

I, the undersigned, (Assistant) Secretary of the Township of Ephrata, Lancaster County, Pennsylvania (the "Township") certify that: The foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which duly was enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township of Ephrata at a meeting duly held on the 5th day of November, 2019; that such Ordinance has been duly recorded in the Ordinance Book of the Township; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township of Ephrata met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. §701 et seq., as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting, by posting prominently a notice of said meeting at the principal office of the Township of Ephrata or at the public building in which said meeting was held, and providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township of Ephrata, this 5th day of November, 2019.

Date: November 5, 2019



(Assistant) Secretary

(TOWNSHIP SEAL)