

ORDINANCE NO 153

AN ORDINANCE OF WESTFALL TOWNSHIP, PIKE COUNTY, PENNSYLVANIA DEFINING AND REGULATING STREET EXCAVATIONS AND OPENINGS; SETTING FORTH REQUIREMENTS FOR PERMIT APPLICATIONS, FORMS AND FEES AND THE APPROVAL AND ISSUANCE OR DISAPPROVAL THEREOF; REQUIRING NOTIFICATION OF UTILITIES; FIXING RESPONSIBILITY FOR RESTORATION OF OPENINGS AND SURFACES AND DEFECTS THEREFROM; ESTABLISHING REQUIREMENTS AND SPECIFICATIONS FOR WORK UNDER PERMIT; AUTHORIZING EMERGENCY WORK; PROHIBITING REMOVAL OR DESTRUCTION OF TREES AND SHRUBBERY; ESTABLISHING LIMITATIONS UPON EXCAVATIONS AFTER STREET IMPROVEMENTS AND CONDITIONS FOR LAYING AND EXTENDING UTILITY LINES; AUTHORIZING WESTFALL TOWNSHIP TO DO WORK AND COLLECT COSTS; REQUIRING POSTING OF BONDS; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Westfall Township Supervisors hereby enact and ordain the following Ordinance:

Section 1. Definitions and Interpretation. 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:

EXCAVATION - any activity within the right-of-way of any street, alley, or cartway which involves cutting, breaking, or disturbing the surface thereof. In this ordinance, the term **OPENING** shall have essentially the same meaning as excavation.

STREET - any public street, avenue, road, square, alley, highway, or other public place located in the Township of Westfall and established for the use of vehicles, but shall not include State highways.

PERSON - any natural person, partnership, firm, association, corporation or municipal authority.

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. It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the Township of Westfall without first securing a permit therefor, as hereinafter provided.

Section 3. Application for Permit. Any person who shall desire to make any opening or excavation in any of the streets in the Township of Westfall shall make application to the Road Master in writing for that purpose. Such application shall be made upon

blanks to be furnished by the Township of Westfall and shall set forth the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof, and shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Township of Westfall and the laws of the Commonwealth in relation thereto, and that the applicant shall well and truly save, defend and keep harmless the Township of Westfall from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation, and all damages to persons or property resulting in any manner therefrom, or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing relating thereto,

Section 4. Permit Fee. Before any permit shall be issued to open or excavate any street in the Township of Westfall the applicant shall pay a permit fee in the amount fixed according to a schedule established pursuant to Resolution. When application shall be made to open or excavate any longitudinal opening or excavation in excess of ten feet (10'), before any permit shall be issued so to open or excavate, the applicant shall pay in addition to such minimum fee, an additional fee at the rate, for each one hundred feet (100') or fraction thereof to be opened or excavated upon such street, pursuant to the fee schedule.

Section 5. Issuance of Permits Restricted. Permits shall be issued 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. Information Contained on Permit Any permit issued hereunder shall specify the exact location where the opening or excavation is to be made, the approximate permitted size or depth thereof and the time within which the work for which the permit is granted to be completed.

Section 7. Permit Approval/Disapproval. A permit may be issued to the applicant after all the requirements therefor have been filed. If the application is disapproved, written notice of disapproval together with reasons therefor shall be given to the applicant.

Section 8. Responsibility to Contact Utilities. The work authorized by the permit is subject to all the provisions of the 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 permittee'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 of Westfall and their office addresses may be obtained from the Pike County Recorder of Deeds.

Section 9. Refilling of Opening or Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years. Any person who shall open or excavate any street in the Township of Westfall shall thoroughly and completely refill the opening or excavation in such a manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before the opening or excavation, and such restoration shall be in accordance with the specifications of the Department of

Transportation of the Commonwealth of Pennsylvania which are hereby adopted as specifications of the Township of Westfall for restoration of surfaces of streets in the Township of Westfall, as restored; the surface shall conform to the proper grade and be of the same surface covering as the part of the thoroughfare immediately adjoining the opening. If within two (2) years after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling by the applicant, the applicant shall reimburse the Township of Westfall for the cost of all necessary repairs to the permanent paving.

Section 10. Responsibility of Permit Holder for Certain Work; Right of Township of Westfall to Do Certain Work; Charges Therefore. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this ordinance and to the supervision and approval of the designated official, provided that the Road Master may if he deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling of all excavations therein shall be done by the Township of Westfall, in which event the applicant shall pay the actual cost of the work performed by the Township of Westfall.

Section 11. Requirements for Work; Correction of Unsatisfactory Work; Completion of Incomplete Work.

1. No opening or excavation in any street shall extend from the curb line into The highway a distance greater than one foot (1') beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for travel.
2. No more than five hundred feet (500') longitudinally shall be opened in any street at anyone time.
3. The work of excavation shall be so conducted as not to interfere with the water mains, sewers or their connections with the houses, or any other subsurface lines or constructions, until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained.
4. No tunneling shall be allowed without the express approval of the Road Master and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Road Master or an inspector designated by him, and shall be done only in a method approved by him.
5. All openings or excavations shall be backfilled promptly with modified 2A stones and thoroughly compacted in layers, each of which layers shall not exceed eight inches (8") in depth. Backfilling shall be placed to within ten inches (10") of the surface.

6. A temporary paving of coldpatch premix, thoroughly bound and compacted, shall be installed flush with the surface of the adjoining paving and maintained for a period of ninety (90) days

7. On concrete base streets, such base shall be replaced with concrete and the minimum size of the opening or excavation shall be sixteen (16) square feet.

8. During the making of any excavation in the street, every necessary and reasonable precaution shall be taken by the applicant and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices, and all excavating permits granted hereunder are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the Township of Westfall from any loss in damages, or otherwise whatsoever, which may or shall be occasioned at any time by the said excavation, or by any leak, explosion or other injury from any pipe, apparatus, conduit, or any other matter placed in the said excavation.

9. The applicant shall notify the Road Master when the opening or excavation is ready for backfilling before any backfilling is done, when backfill work is completed, when the temporary paving has been installed and when the street has been permanently restored so that inspections may be made.

10. In the event that any work performed by or for a permit holder shall, in the opinion of the Road Master be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed by the Road Master, the Township of Westfall may proceed to correct such unsatisfactory work or complete any such work not completed, and charge the cost thereof, plus twenty percent (20%) to the applicant.

SECTION 12. Emergency Openings. In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus, to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter, and that all other provisions of this 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 Road Master, after such notice as he shall deem necessary under the circumstances of the particular case, shall proceed to do the work necessary and required by such emergency and charge the same on the basis of cost plus twenty percent (20%) to such owner or person.

Section 13. Restrictions Regarding Trees and Shrubberty. The permission herein

granted does not confer upon the permittee or its contractors the right to cut, remove or destroy trees or shrubbery within the legal right-of-way except under specifications, regulations and conditions as the Township of Westfall may prescribe.

Section 14. Work Necessitating Opening or Excavation to be Done Prior to Street Improvement and Not Until 5 Years Thereafter; Exception. The Road Master shall give timely notice to all persons owning property abutting on any street within the Township of Westfall about to be paved or improved, and to all public utility companies operating in the Township of Westfall, 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 Road Master. New paving shall not be opened or excavated for a period of five (5) years after the completion thereof, except in case of emergency, the existence of which emergency and the necessity for the opening or excavating of such paving to be determined by the Road Master. If it is sought to excavate upon or open a sewer within five (5) years after the completion of the paving applicant shall make written application to the Westfall Township Supervisors and a permit for such opening shall be issued only after express approval of the Westfall Township Supervisors.

Section 15. Permittee Responsibilities for Future Relocation of Work. If at any time in the future the roadway is widened, reconstructed or the alignment or grades are changed, the permittee further agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

Section 16. Conditions for Laying and Extending Utility Lines. No new water, sewer, steam or gas main or electric, telephone or other utility line shall hereafter be laid or constructed, and no such existing main or line shall be extended, in any of the streets of the Township of Westfall until the plan therefor shall have been first filed with the Road Master and such plan, and the exact location of such main or line, approved by him. The Road Master shall not approve the locating of any such main or line at a depth of less than thirty inches (30") from the surface of the street unless he shall be convinced that locating the same at a depth of more than thirty inches (30") from the surface is impossible or impractical.

Section 17. Bond Required. No company, corporation or association shall dig up any street or alley without first giving to the Township of Westfall a bond with some acceptable trust or surety company as surety in the sum determined by the schedule of fees, conditioned for the faithful performance of these provisions and also for any and all damages, claims, demands, suits, costs and counsel fees occasioned or arising from the digging up, opening or closing of said streets and alleys.

Section 18. Payment for Work Done by the Township of Westfall. Payment for all work done by the Township of Westfall under the provisions hereof shall be made by the person made liable therefor under the provisions hereof within thirty (30) days after a bill

therefor is sent to such person by the Township of Westfall. Upon failure to pay such charges within such time, the same shall be collectible by the Township of Westfall by an action in assumpsit or in the manner provided by law for the collection of municipal claims.

Section 19. Penalties. Any person, firm or corporation who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00); and in default of payment, to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

Section 20. Applicability. The provisions of this ordinance shall not apply to laying sidewalks or curbs.

Section 21. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

Section 22. Severability. 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 Westfall Township Supervisors that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 23. Effective Date. This ordinance shall become effective on 10/6/10

ORDAINED and ENACTED this 5th day of October, 2010.

James Muir
JAMES MUIR, Chairman

Lester J. Buchanan
LESTER J. BUCHANAN, Vice-Chairman

Robert Ewbank
ROBERT EW BANK, Supervisor

Paul C. Fischer
PAUL C. FISCHER, Supervisor

Raymond Banach
RAYMOND BANACH, Supervisor

ATTEST:

Lisa R. Green
LISA GREEN, SECRETARY