

(Note:
amended by
Ord. #105)

TOWNSHIP OF RUSH
Schuylkill County, Pennsylvania

ORDINANCE NO. 103

AN ORDINANCE

OF THE BOARD OF SUPERVISORS OF THE TOWNSHIP OF RUSH,
SCHUYLKILL COUNTY, PENNSYLVANIA, GOVERNING THE
EXCAVATION AND PAVING OF TOWNSHIP STREETS. THIS
ORDINANCE SETS FORTH THE RULES, REGULATIONS, PROCEDURES,
COSTS AND FEES RELATING TO THE EXCAVATION, BACKFILLING
AND RESURFACING OF TOWNSHIP STREETS INCLUDING, BUT NOT
LIMITED TO, PERMIT REQUIREMENTS, PROCEDURES AND FEES;
APPLICANT REQUIREMENTS: SAFETY MEASURES TO BE USED;
INSPECTION AND INSPECTION FEES; RESURFACING FEES; PAYMENT
AND/OR WAIVER OF FEES; PERFORMANCE BONDS; AND VIOLATIONS
AND PENALTIES.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is enacted and
ordained by the Board of Supervisors of the Township of Rush, Schuylkill
County, Pennsylvania, as follows:

SECTION 1. Permit Required

It shall be unlawful for any person or persons, firm or firms,
association or associations, or corporation or corporations to make or cause
to be made any excavation of any nature whatsoever in any street, avenue,
alley or lane within the Township limits without first securing a permit
granting authority therefore as hereinafter provided.

SECTION 2. Definitions

As used in this Ordinance the following terms shall have the
meanings indicated:

APPLICANT - Any person or persons, firm or firms, association or associations, or corporation or corporations applying for and to whom a permit may be issued.

CURB HEIGHT - That portion of the curb which extends above the road surface.

EXCAVATION and EXCAVATIONS - The digging of any trench or excavation through or under the roadway or sidewalk or the cutting into or opening and removal of any of the pavement surfaces of any street, avenue, alley or lane within the Township limits.

STREET SECTION - That portion of a street between two (2) intersecting streets in a built up area of the Township such as the Villages of Hometown or Quakake, or in rural areas a 500 linear foot length of Township roadway.

SUBSTANTIAL AREA OF DISTURBED ROADWAY - Any area of disturbed roadway greater than or equal to thirty-five percent (35%) of the total roadway area within a street section.

SECTION 3. Application for Permit; Requirements of Applicant

A. An application for the issuance of a permit shall be filed in the office of the Secretary of the Township upon forms furnished by the Township for that purpose and shall be signed by the applicant. Said application shall set forth the location and purpose of the proposed excavation, the dates between which said excavation is to be open, 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. Said application shall be reviewed by Road Foreman and Code Enforcement Officer who shall issue approval or denial unless the Supervisors designate other personnel.

B. The applicant shall agree to protect and defend and indemnify

and save harmless the Township or officers or agents thereof from all claims, suits, actions and proceedings of every nature and description which may be brought against the Township or officers or agents thereof for or on account of any injuries or damages 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 on account of any accident or any other act, negligence or omissions of said applicant, or his agents, servants or employees, and the Township shall not in any way be liable therefor.

C. The applicant shall agree to pay the entire cost and expense incurred in the replacement of the excavations, and the Township shall at all times have the right and authority to correct any and all omissions in the conduct of the work and have the power to take possession of and to do all the work and charge the expense thereof to the applicant. The expense so charged shall be deducted and paid by said Township out of such moneys as may have been deposited with the Township and in case such expense shall exceed the sum of deposit with the Township, then the applicant shall pay the amount of the excess to said Township.

D. The applicant shall also agree to safeguard and maintain in good order the excavation, and to maintain all existing drainage patterns, and to assume all cost and expense due to defective backfilling for the period of one (1) year after the date of the completion of the excavation, provided that said date does not lie between November 15 and May 1, otherwise to date from the latter date.

E. The applicant shall further agree to abide by all the terms and conditions of the ordinances under which the permit is granted whether specifically mentioned in the application or not.

F. No permit shall be granted to any applicant unless said applicant shall have paid to the Township any and all moneys when due to the Township for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from the excavation of streets, alleys or highways of the Township under prior permit.

SECTION 4. Safety Measures; Warning Sign

A. Said applicant, during the progress of the work, shall provide and maintain such fences, barriers, "street closed" or "danger" signs, red lights and watchmen in accordance with Pennsylvania Department of Transportation Publication 203 and as may be necessary to prevent avoidable accidents to the public and adjoining tenants. The convenience of the public and temporary approaches to and crossings of intersecting streets shall be provided for and kept in good condition where 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 the stormwater sewers shall at all times be kept clean and unobstructed.

B. Whenever an improvement project, either public or private, is in progress which involves streets of one-half (1/2) block or more, it shall be the duty of the sponsor of said project to post at conspicuous points a billboard at least six (6) feet wide and eight (8) feet high, to be illuminated all night, captioned "Public or Private Project, Travel Street or Streets at Your Own Risk" and signed by the sponsor.

SECTION 5. Excavation; Backfilling; Restoration by Township

A. Excavation shall be by open cut from the surface, and no tunneling or drifting will be permitted except by permission and so noted on

the permit. The amount of trench opened and also the amount unfilled shall at all times be subject to the decision of the Township. No trench or excavation shall be undercut or have a greater width at the bottom than at the top. In case of slips or slides of the sides of the excavation the same shall be trimmed to solid earth and the top surface cut back to the limit of the same before any backfilling is commenced. When necessary or required, the sides of a trench shall be sheathed and braced and rendered secure until the construction has been laid therein and the trench refilled. Care shall be taken not to move or disturb other subsurface structures, and in crossing these or running parallel with or near them, they shall be completed. The applicant shall maintain their respective services and shall repair all damage done to any of said structures. In rock excavation, all drilling and blasting shall be conducted with the greatest possible care and all possible precautions taken to guard against accidents.

B. All excavations shall be commenced and completed by the use of a reasonable work force working around the clock, or in the alternative, all excavated material shall be removed and at the cessation of work suitable steel or wooden plates shall be placed over the excavation in order that traffic can continue over the excavation while it is not being worked.

C. In backfilling, only approved crushed-stone screenings such as are recommended by the Roadmaster of the Township shall be used. The method of backfilling shall be such as to ensure that the fill is thoroughly compacted. The method or methods used to compact shall be subject to the approval of the Township which shall have the power to issue regulations as to such method. In all unimproved streets, the surface of the trenches after being filled and settled shall be finished in a most workmanlike

manner without needless delay and shall in every respect be equal in quality, character and materials to the street surface existing previous to making the excavation. In all improved streets the crown of the surface must conform to the adjacent street surface until sufficient time has elapsed to warrant the restoration either temporarily or permanently of the pavement surface. All such restorations of pavement surfaces will be made by the Township under existing contracts or by its own forces and the cost thereof charged to the applicant.

D. In the replacement or restoration of permanent roadway surfaces, the Township shall have the right and authority to cut back the surfaces and supporting base as far as may be deemed necessary to afford a good support upon firm earth or to remove any part of the surface and base which may have become injured by reason of said excavation.

E. The Township may, at its option, immediately upon the completion by the applicant of the backfilling of a trench, proceed to permanently replace the base of the base and wearing surface or may, within five (5) days from the date of the completion of the backfilling by the applicant, or at any time thereafter, temporarily close up or repair the openings in the pavement surface by laying a brick, stone block or other form of pavement until such time as the pavement surface may be permanently restored by the Township, the expense of such temporary restoration of the surface, as well as the correction of any omissions in the backfilling, to be at the expense of the applicant.

SECTION 6. Additional Excavation

In no case shall an applicant open or remove a greater area of surface and at no other location then specified in the original application;

provided, however, that if at the time of actually doing the work it should be necessary to open or remove a greater area of surface than originally applied for, the applicant shall first notify and secure, by telephone or otherwise, the consent of the Township to do so, upon the express condition that said applicant shall and will before 12:00 noon of the following business day file a supplementary application for the making of an additional excavation.

SECTION 7. Deposit; Inspection Fee

A deposit shall be made by the applicant with the Secretary of the Township to cover the cost of street restoration in the event that the work performed by the applicant is unsatisfactory. This deposit shall be based upon a rate per square foot as affixed by Rush Township as set forth subsequently in this section, and said deposit shall be retained by the Township for twelve (12) months from the completion of the work of restoration and replacement. A fee will be paid by the applicant to cover the cost of issuing the permit and inspections of the surface restoration. Said fee is also to be established by the Secretary of the Township in accordance with procedures subsequently established in this Ordinance. In all cases where a permit has been issued and the work set forth in such permit has not been done, the same shall be canceled and the deposit fee paid for the same shall be repaid by the Township. Any fee for issuance of the permit shall not be returnable.

SECTION 8. Restoration by Township; Refund to Applicant

A. In the event that the Township chooses to restore the pavement surfaces itself, the Township shall, as soon as may be practicable to do so,

permanently replace and restore the pavement surfaces in such manner and with like material existing in the roadway previous to the making of said excavations and shall estimate and charge the cost of making said restorations and the maintenance thereof.

B. The Township shall by proper voucher refund to said applicant the difference in cost of the replacement of said excavations and the amount deposited, and in case the cost of replacement shall exceed the amounts so deposited, then the excess shall be charged to the applicant. The sums due the Township shall be paid within thirty (30) days from the date of rendering a statement to said applicant, and no permit shall be issued to any applicant until all accounts due the Township on previous permits granted to him and owing shall have been paid.

SECTION 9. Permit Fees

All applicants for permits required by this Ordinance shall pay to Rush Township a fee of one hundred fifty dollars (\$150.00) per street section.

SECTION 10. Utilities

A. When utilities require a permit for a street opening they shall complete the permit as required.

B. The utility shall notify the Secretary of the Township twenty-four (24) hours in advance of the street opening unless said opening is deemed an emergency. In this event, the utility shall so inform the Secretary of the Township.

C. The Secretary is authorized to secure a booklet of permits for any such utility.

SECTION 11. Resurfacing Fees

A. Every applicant shall deposit with the Secretary of the

Township the following sums for making excavations as herein provided:

(1) Earth or blacktop street: three dollars (\$3.00) per square foot of opening.

(2) Concrete paving or concrete base with amesite surface: six dollars (\$6.00) per square foot of opening.

(3) Drill hole (maximum six-inch diameter): one dollar (\$1.00) per hole.

(4) When the street surface is unimproved, the sum of five dollars (\$5.00) will be charged for each one hundred (100) lineal feet excavated.

(5) For all other excavations in roadway and sidewalk not included in the above-named pavement surfaces, the least amount to be paid hereunder shall be the sum of three dollars (\$3.00).

B. In computing the area for the purpose of determining the amounts to be deposited, the size of the opening shall include the total area within the pavement cut, including the one-foot perimeter.

C. Fifteen percent (15%) of the total cost for all street excavations shall be charged and retained by the Township for all inspection and supervision. All sidewalk and unimproved deposits are retained by the Township.

SECTION 12. Payment of Fees; Waiver

Every applicant prior to commencing excavations shall deposit with the Secretary of the Township the fees required unless a waiver in full or in part is granted by the Secretary of the Township. In the event a waiver is granted for payment prior to excavation, the applicant shall pay the Township all fees by the tenth of the month following the month in which the

excavations were made. It shall be the responsibility of each applicant who receives a waiver to tabulate the size of the opening and forward the moneys to the Township. These moneys should include permit fees and resurfacing fees.

SECTION 13. Performance Bond

In the event an applicant requests a waiver from payments required prior to the excavation, a performance bond in the amount of two thousand dollars (\$2,000.00) shall be filed with the Secretary of the Township.

SECTION 14. Method of Opening; Damage to Underground Utility Lines

A. When an opening is made in an existing paved street, the pavement shall be cut one (1) foot wider around the entire perimeter of the intended excavation.

B. All lines shall be neat and not irregular.

C. Prior to the excavating of any opening, the applicant shall contact all utilities having underground installations in the Township in accordance with Pennsylvania Act 287, Prevention of Damage to Underground Utility Lines by Excavation or Demolition. Any person obtaining a permit for a street opening shall accept full responsibility for any damage caused in any way whatsoever to underground installations other than their own and shall make complete restitution for their repair or replacement.

SECTION 15. Backfilling and Resurfacing.

A. All openings or excavations shall be backfilled immediately upon completion of work and in no case shall remain open for a period exceeding twenty-four (24) hours from the completion of repair work, unless otherwise approved by the Township Roadmaster.

B. Material excavated from a street opening shall not be used for backfill.

C. The excavation shall be backfilled with 2A Modified aggregate

conforming to the Pennsylvania Department of Transportation specifications and compacted with pneumatic or mechanical tampers in eight-inch lifts to within six (6) inches of the existing surface. The last six (6) inches shall be completed with four-inches of bituminous concrete base course and two (2) inches of ID-2 wearing course. All openings shall be sealed in accordance with Pennsylvania Department of Transportation specifications.

D. All sidewalks shall be restored with concrete surface approved by the Road Foreman or Roadmaster.

E. In the event that bituminous material is not available, temporary cold patch conforming to the Pennsylvania Department of Transportation specifications shall be used as a temporary surface only, and it shall be the responsibility of the holder of the permit to maintain the street surface until permanent repairs can be made. If the holder of the permit fails at any time to place sufficient bituminous material as a temporary surface or maintain such temporary bituminous material to a level of the adjacent street surface unaffected by the opening, the Township reserves the right to immediately take over maintenance of such opening and charge the cost thereof in addition to the cost of permanent paving restoration. The Township reserves the right to require a permit holder to post a bond guaranteeing performance of all permanent repairs.

SECTION 16. Inspection

Every opening or excavation made in any public street or alley of the Township shall be inspected by an authorized representative of the Township. It shall be the responsibility of the applicant to inform the Secretary of the Township of its excavating and backfilling schedule in order for the Township to properly inspect said opening.

SECTION 17. Public-Service Corporation

All public-service corporations desiring to disturb the paving on any Township street shall adhere to all the foregoing provisions in the previous sections with the exception that final street restoration work will not be done by the Township. All restoration work, including application of a wearing surface, shall be accomplished by the public-service corporation. In the event that the Roadmaster determines that a substantial area of a street or highway will be disturbed by excavation to be performed by the public-service corporation, the Township may require that the public-service corporation place a one-and-one-half-inch ID-2 overlay to cover the entire width of the street which will be disturbed. Any public-service corporation desiring to disturb the paving on any Township street may furnish a properly executed and approved surety company bond conditioned for the faithful compliance with the ordinances of Rush Township relating to the making of excavations in the streets and highways and regulations made in pursuance thereof, in place of the cash deposit required under Section 7. However, the public-service corporation shall be required to pay to Rush Township an amount equal to fifteen percent (15%) of the applicable resurfacing fees for payment of supervision and inspection by the Township. In the event any public-service corporation makes a number of openings each year, the amount of the bond shall be forty percent (40%) of the previous year's permit fees, but in no case shall it be less than the particular project. When an ID-2 overlay is required, the following conditions shall apply:

A. Potholes less than or equal to two (2) square feet in size shall be repaired by the public-service corporation at no cost to the Township.

B. Potholes greater than two (2) square feet in size shall be repaired by the Township prior to construction of the overlay at the

Township's expense.

C. In areas where the curb height is less than or equal to four (4) inches, the overlay shall be tapered to a depth of three-fourths (3/4) of an inch at the curbline.

D. In areas where the curb height is greater than four (4) inches or no curb currently exists, the full depth overlay shall extend to the curbline.

E. Existing drainage patterns shall be maintained.

SECTION 18. Violations and Penalties

Any person, firm or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance or of any regulation or requirement pursuant hereto and authorized hereby shall, upon conviction thereof, be ordered to pay a fine of not more than three hundred dollars (\$300.00) and, in default of payment of a fine and cost, imprisoned for no more than ninety (90) days. Each day's violation shall constitute a separate offense.

DULY ENACTED AND ORDAINED this 9th day of December, 1993, by the Board of Supervisors of the Township of Rush, Schuylkill County, Pennsylvania, in lawful session duly assembled. This Ordinance shall become effective January 1, 1994.

TOWNSHIP OF RUSH,
Schuylkill County, Pennsylvania

By: Donald T. Ulsman
Chairman of Board of Supervisors

ATTEST:

Carol Ann Gout
Secretary

(SEAL)