

**EAST FALLOWFIELD TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2009-07

AN ORDINANCE PURSUANT TO SECTION 2322 OF THE SECOND CLASS TOWNSHIP CODE, AS AMENDED, PROVIDING FOR THE REGULATION OF STREET OPENINGS AND INSTALLATIONS AND PROVIDING FOR THE REGULATION OF DRIVEWAYS WITHIN EAST FALLOWFIELD TOWNSHIP. EFFECTIVE FIVE DAYS FROM ENACTMENT.

AND NOW this 24th day of November, 2009, the Board of Supervisors of East Fallowfield Township ("Township") hereby **ENACTS** and **ORDAINS** as follows:

Section 1. **Title.** This ordinance shall be cited to as the "East Fallowfield Township Street Opening Ordinance".

Section 2. **Permit Required.** No opening, cutting, excavating, grading, boring, crossing, installation or disturbance of any kind shall be allowed upon, in, under, or across any portion of a Township road or any Township road right of way without a permit granted by the Township.

Section 3. **Application for Permit; Fee.** The application for a permit shall be on a form provided by the Township and submitted to the Township in triplicate. The Township Engineer shall be responsible for review and administration of the permit. The application shall be accompanied by a fee for processing the application in accordance with the Schedule of Fees set forth by the Department of Transportation for highway occupancy permits and restoration charges, and another fee for review by the Township Engineer and for making the inspection. In addition, the applicant shall submit three copies of a sketch showing the location of the intended work, width of the traveled roadway, right-of-way lines, an address, and a dimension to the nearest intersecting road or other nearby landmark, so as to ascertain the location of the work.

Section 4. **Decision on the Permit.** The permit application shall be approved or denied within 30 calendar days of submission of a complete application to the Township. If the application and required documents do not conform to the requirements of this Ordinance and applicable ordinances, rules, and regulations, the Township Engineer shall deny the application in writing, stating the reasons. If the Township Engineer is satisfied that the proposed work conforms to the aforesaid requirements, the Township Engineer shall issue a permit.

Section 5. **PA One-Call.** At least 3 working days prior to the proposed start of work, the applicant or his representative shall contact the PA One-Call system at 1-800-242-1776, report the proposed work, and obtain a serial number, and provide such serial number to the Township. No work shall begin until such date and time as authorized by PA One-Call.

Section 6. **Maintenance of Traffic.** At least one lane of traffic shall be maintained at all times. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

Section 7. **Detours.** Under extremely unusual circumstances, the Township may allow a road to be closed and traffic to be detoured. No road shall be closed without giving the Township at least 72 hours prior notice, to allow time to notify 911, police, fire departments, emergency services and school districts. No road shall be closed without the applicant submitting a detour plan to the Township and having it approved by the Township. No road shall be closed without proper detour signs, as approved by the Township, having been installed by the applicant. All detour signs shall be maintained for the entire work period.

Section 8. **Erosion Control.** All proper erosion control measures shall be taken to ensure compliance with applicable laws. If necessary, the applicant shall obtain erosion and sedimentation control plan approval from the County Conservation District prior to starting work.

Section 9. **OSHA Requirements.** The applicant shall comply with all OSHA safety requirements and procedures, including without limitation all enclosed space requirements. All trenches over five (5) feet in depth shall be shored or protected with a trench box.

Section 10. **Notification.** The applicant shall notify the Township 24 hours in advance of starting work and upon completion of temporary restoration and permanent restoration.

Section 11. **Backfill.** All backfill within the Township right-of-way shall be 2A crushed stone of optimum moisture content. There shall be a minimum two (2) inches of bedding under the pipe or utility line. Crushed stone backfill shall be mechanically compacted in maximum six (6) inch lifts. Where work is done outside the paved cartway or shoulder, the last six (6) inches of backfill shall be topsoil.

Section 12. **Overnight Requirements.** If the work cannot be completed in one work-day, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Township until the next workday. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

Section 13. **Clean-up.** The work area shall be swept clean, cleaned of debris and otherwise policed at the end of each workday and at the end of the project. Mud shall not be tracked onto the streets at any time. All mud shall be cleaned up within one (1) hour of verbal or written notice from the Township or its agents. All loads shall be tarped.

Section 14. **Installation.** Conduits and pipes shall be installed with a minimum of eighteen (18") inches of cover. In no case shall conduits or pipes be allowed to be placed in or bond to the bottom of the paving, especially in the case of concrete paving. Separation shall be

obtained by at least three (3) inches of screenings, to allow paving to be milled in the future without damage to utilities.

Section 15. Temporary Restoration. The last two (2) inches of the excavation shall be backfilled with compacted “cold patch” or similar permeable asphalt material to allow percolation of water into the excavation while preventing dust and stone chip nuisances. All excavations shall be temporarily restored prior to allowing traffic on them. All settlement shall be brought back to grade within four (4) hours of verbal or written notice from the Township or its agents. The temporary restoration shall remain in place for a minimum of two (2) months to allow for final settlement to occur through the actions of rain and traffic, but in no case shall it remain in place more than four (4) months. The person issued the permit shall send a postcard to the Township indicating the date of completion of the temporary restoration.

Section 16. Permanent Restoration. All ragged or broken edges and undermined areas shall be saw-cut straight; the minimum cutback shall be one (1) foot and the minimum depth shall be six and one half (6½) inches. Permanent restoration shall match existing thicknesses and materials, except in the case of asphalt paving where the minimum requirements shall be five (5) inches of BCBC and one and one half (1½) inches of ID-2, or equivalent Superpave. All edges shall be sealed a minimum of twelve (12) inches wide with GP64-22 liquid asphalt. All non-paved areas shall be restored with six (6) inches of topsoil, seeded and strawed. The person issued the permit shall send a postcard to the Township indicating the date of completion of the permanent restoration.

Section 17. Identification. All excavations shall be marked after both temporary and permanent restoration. The following information shall be spray-painted on the existing road surface (not on the patch where it will quickly soak in): name of applicant, complete, exact date of restoration, and emergency telephone number to be called in case of problems day or night. This information shall be painted in six (6) inch letters in the direction of travel, prior to the excavation, and in the proper APWA color (yellow for gas, green for sanitary sewers, etc.). The dates of temporary restoration and permanent restoration shall both appear. If the markings become worn prior to the end of the 1-year guarantee period, they shall be re-painted by the applicant.

Section 18. Guarantee. All work shall be guaranteed for a period of one (1) year from the date of final inspection and certification by the Township Engineer that the work has been completed in accordance with the permit. All defects shall be corrected by the applicant within four (4) hours of verbal or written notice from the Township or its agents.

Section 19. Security Deposit. At the time of permit application, the applicant shall deposit with the Township financial security in an amount equal to 110% of the cost of completion of the work required to comply with this ordinance estimated as of 90 days following the date scheduled for completion provided that the cost exceeds \$25,000.00. The form, amount and administration of the financial security shall be in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10509. The financial security shall be held by the Township until the end of the 1-year guarantee period and shall be used by the Township as liquidated damages in case of default or non-performance by the applicant.

Section 20. Prohibited Locations. No utilities, except for transverse laterals, shall be placed in the planting area between the face of curb and the sidewalk, or within five (5) feet of the edge of cartway or paved shoulders. This area is reserved for Township use for storm sewers, traffic signs, streetlights, etc.

Section 21. Recently-Paved Streets. Except for emergencies, excavations will not be permitted in streets that have been built or overlaid within the previous three (3) years, unless the applicant agrees to overlay the full width of the excavated section with one and one half (1½) inches of ID-2 or similar Superpave. In the case of transverse crossings, the overlay shall extend a distance of 100 feet on either side of the excavation. Overlays shall be placed within one (1) week of permanent restoration of the excavation.

Section 22. Driveway Permits. Permits shall be required for all new or widened driveways within the Township. Driveway permits for Township roads shall be obtained from the Township. The application shall be accompanied by a fee in accordance with the Township Schedule of Fees adopted from time to time by the Board of Supervisors. Driveway permits for State roads shall be obtained from PennDOT. The provisions of Section 19, security deposit, and Section 32, insurance, shall not apply to an applicant for a driveway permit serving an existing single family residence.

Section 23. Driveway Dimensions. The minimum width of a driveway shall be ten (10) feet. In areas where a driveway is approved for access to multiple lots or uses, the minimum width of the driveway shall be sixteen (16) feet. The maximum width of residential driveways shall be twenty (20) feet. The maximum width of commercial and industrial driveways shall be determined by engineering analysis.

Section 24. Driveway Locations. The centerline of driveways shall be located at least fifty (50) feet from the continuation of the right-of-way line of the closest intersection, or directly across from 3-way intersections.

Section 25. Number of Driveways. Not more than two (2) driveways shall be permitted to any single property, tract or business establishment. Residential lots and lots with frontages of one hundred (100) feet or less shall be limited to one driveway.

Section 26. Visibility. All driveways shall meet the visibility requirements of PennDOT Chapter 201. The clear-sight triangle shall be maintained clear of all obstructions at all times.

Section 27. Drainage. Driveways shall be depressed to match the existing roadside swale or shoulder so as to allow above-ground drainage over the driveway and to direct driveway runoff into said swale or shoulder. Pipes shall not be installed under driveways, except under unusual circumstances and with prior Township approval.

Section 28. Grades. The portion of a driveway within the street right-of-way shall not exceed four (4) percent grade. The remainder of the driveway shall not exceed fifteen (15)

percent grade. Driveways shall be paved from the cartway to a minimum of twenty-five (25) feet back from the right-of-way line. Paving shall consist of six (6) inches of 2A crushed stone and two (2) inches of ID-2 per PennDOT Publication 408, latest edition.

Section 29. Erosion. Driveways shall be designed to avoid erosion and excessive runoff by grading, interception swales and/or drainage systems. If erosion products are deposited on the cartway, shoulders or swales, the property owner shall remove them within four (4) hours of verbal or written notice from the Township or its agents. In addition, the property owner shall take necessary measures to avoid reoccurrence of the problem.

Section 30. Private Streets. Driveways serving as private streets shall not be dedicated to the Township nor does the Township assume any responsibility for their maintenance.

Section 31. Flag Lots. When flag lots abut each other at a common street line, or in other situations considered appropriate by the Board of Supervisors, a common driveway shall be utilized for access to the lots.

Section 32. Unnatural Water Sources. Discharge from any roof drains, downspouts, sump pumps, foundation drains, disposal fields, etc., shall not be permitted onto a right-of-way or onto a driveway or driveway drainage system that directs runoff toward a street. Such discharge may be connected to underground drainage systems in the street if available, preferably into an inlet for accessibility.

Section 33. Insurance. As part of the permit application, the applicant shall provide the Township with insurance certificates for the following policies of insurance in full force and effect with an insurance company(ies) admitted by the Pennsylvania Insurance Commissioner to do business in the Commonwealth of Pennsylvania and rated not less than A in Best Insurance Key rating Guide:

1. Commercial general liability insurance, including property damage liability and personal injury liability of not less than \$1,000,000 for each occurrence and a \$2,000,000 minimum aggregate amount.
2. Automobile bodily injury liability insurance of not less than \$500,000 each person; \$500,000 each occurrence.
3. Statutory Workman's Compensation and employer's liability insurance.

All policies of commercial general liability insurance required hereunder shall name Township, its supervisors, engineer and employees as additional insureds. Specifically, commercial general liability insurance policy shall name the Township, its officers, agents, supervisors, elected officials and employees as an additional insured under ISO endorsement CG 20 26 07 04 or non ISO equivalent. Any policy or policies of insurance shall be primary and non-contributory to insurance coverage maintained by the Township. Certificates of insurance shall state that coverage shall not be cancelled by either party except after thirty (30) days' prior to written

notice by U.S. certified mail, return receipt requested, has been given to the Township. In addition, the applicant shall indemnify and hold harmless the Township and shall assume the defense and all costs of lawsuits and awards.

Section 34. **Emergencies.** In the case of emergencies threatening property or lives, the applicant may proceed with the work after notifying the Township and 911. The applicant shall still be responsible for applying and obtaining the permit and satisfying all requirements. The application shall be made within twenty-four (24) hours of the verbal or written notice to the Township and 911. If the emergency occurs over a holiday, a weekend, or at night, the application shall be filed the morning of the next working day.

Section 35. **Other Regulations.** In addition to the requirements of this Ordinance, all work is subject to all applicable federal, state and local laws, ordinances and regulations.

Section 36. **Violations and Penalties.** Any person or utility which shall violate or permit the violation of the provisions of this ordinance shall, upon being found liable therefore in a criminal enforcement proceeding, pay a fine of not more than \$1,000 nor less than \$25, together with court costs and reasonable attorney fees, and may be incarcerated for a period not exceeding 90 days. Such fines, costs, attorney fees and incarceration, after being reduced to a final, unappealed judgment, shall be enforced by the Township pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.

Section 37. **Definitions.** As used in this ordinance, the following terms shall have the meanings indicated:

PERSON -- Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

Section 38. **Severability.** If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

Section 39. **Effective date.** This ordinance shall be effective five (5) days from the date of enactment.

ENACTED and **ORDAINED** this 24th day of November, 2009

**BOARD OF SUPERVISORS OF
EAST FALLOWFIELD TOWNSHIP**

George Broadbent, Chairman

Chris Makely, Vice Chairman

Chris Amentas, Member

Gary Barach, Member

Garth Monaghan, Member

ATTEST:

Denise Miller, Secretary