

UNION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

ORDINANCE NO. 2024-01

AN ORDINANCE OF THE TOWNSHIP OF UNION AMENDING THE CODE OF THE TOWNSHIP OF UNION, CHAPTER 168 ENTITLED “STREETS AND SIDEWALKS”, ARTICLE III ENTITLED “OPENINGS AND EXCAVATIONS” TO AMEND SECTION 168-7 ENTITLED “DEFINITIONS” TO DELETE THE DEFINITION OF TOWNSHIP ROADMASTER AND ADD THE DEFINITION OF AUTHORIZED TOWNSHIP REPRESENTATIVE; TO AMEND ARTICLE III TO DELETE THE PHRASE “TOWNSHIP ROADMASTER” WHEREVER IT APPEARS AND REPLACE IT WITH “AUTHORIZED TOWNSHIP REPRESENTATIVE”; TO AMEND SECTION 168-9 ENTITLED “ADMINISTRATIVE REQUIREMENTS” TO AMEND OR ADD CERTAIN SUBSECTIONS; TO AMEND SECTION 168-11 ENTITLED “PERMIT CONDITIONS” TO AMEND OR ADD CERTAIN SUBSECTIONS; AND TO AMEND SECTION 168-12 ENTITLED “CONDITIONS FOR SUBSURFACE OPERATIONS” TO AMEND OR ADD CERTAIN SUBSECTIONS.

WHEREAS, the Township of Union, Berks County, is organized as a Second Class Township in the Commonwealth of Pennsylvania; and

WHEREAS, as a Second Class Township in the Commonwealth of Pennsylvania, the Township is governed by the Second Class Township Code of Pennsylvania; and

WHEREAS, Section 2322 of the Second Class Township Code, 53 P.S. § 67322, provides that no driveway connection, utility pipe or conduit, utility pole or any other obstruction may be constructed or erected upon any township road except under conditions, restrictions and regulations specified in permits granted by the township for that purpose; and

WHEREAS, by Ordinance 98-3 enacted December 21, 1998, the Board of Supervisors of Union Township enacted the “Union Township Street Cut and Occupancy Ordinance”, which established requirements for applications and permits to perform street excavation, including notices and traffic control requirements; and

WHEREAS, Ordinance 98-3 was codified within the Code of the Township of Union at Chapter 168, entitled “Streets and Sidewalks”, Article III entitled “Openings and Excavations”; and

WHEREAS, the Board of Supervisors has determined that it is in the best interest of Union Township to enact an ordinance amending certain sections of the Code of the Township of Union, Chapter 168 entitled “Streets and Sidewalks”, Article III entitled “Openings and Excavations”.

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Union, Berks County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1. The Code of the Township of Union, Chapter 168 entitled "Streets and Sidewalks", Article III entitled "Openings and Excavations", Section 168-7 entitled "Definitions" is amended to delete the definition of "Township Roadmaster" in its entirety, and to add the following definition:

AUTHORIZED TOWNSHIP REPRESENTATIVE

Any individual appointed by the Township who shall be responsible for enforcement of the provisions of this Ordinance.

SECTION 2. The Code of the Township of Union, Chapter 168 entitled "Streets and Sidewalks", Article III entitled "Openings and Excavations", is amended to delete the phrase "Township Roadmaster" wherever it appears and replace it with "Authorized Township Representative".

SECTION 3. The Code of the Township of Union, Chapter 168 entitled "Streets and Sidewalks", Article III entitled "Openings and Excavations", Section 168-9 entitled "Administrative Requirements" to amend or add certain subsections, which shall read in their entirety as follows:

168-9.C. Time extension. A permit is valid for a one-year period as specified on the permit. If the permittee has not completed all authorized work by the completion date specified on the permit, an application shall be submitted requesting a time extension on the permit. If approved, a supplemental permit will be issued by the Township. A fee is required for the supplemental permit as established from time to time by the appropriate resolution duly adopted by the Board of Supervisors.

168-9.D. Extension of permit scope. Whenever the excavation, opening or trench exceeds the size set forth in the application, an amendment to the permit must be secured within 48 hours to cover such extra excavation, opening or trench. Additional fees are required to cover the extra items in accordance with the adopted fee schedule and shall be submitted with the supplemental permit.

168-9.E. Application including filing fee and certificates of insurance. The application shall be accompanied by a filing fee as established from time to time by appropriate resolution duly adopted by the Township Board of Supervisors. In addition, Certificate(s) of Issuance covering the utility and any subcontractor of the utility who will be making the excavation opening or trench shall also be submitted as set forth in this article before the permit is issued. The applicant shall be responsible for the legal and engineering fees associated with the review of the permit application and certificate of insurance.

168-9.F. Deposit and bonding.

- (1) For all applicants except Public Utilities (PUC), the applications shall be accompanied by a deposit or bond with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania. The minimum deposit or bond shall be in the amount of \$5,000.00 or as may be otherwise established by Union Township, which bond shall be renewed annually, covering the cost of temporary and permanent restoration within the improved area of the right-of-

way of the street resulting from the permitted work in the event that the Township shall make such restoration. The Township may, at its option, permit the applicant to make said restorations, but a deposit or bond shall nevertheless accompany the application as a guarantee that the said restoration will be made. In either event, the amount of the deposit or bond shall be established by the fee schedule, approved or disapproved by the Township Solicitor and Authorized Township Representative, and filed with the Township. The bond shall then be filed with the Township.

- (2) Bonding of public utilities. Public utility corporations operating under a franchise covering an area located in whole or in part within the Township shall have on file with the Township a bond in the amount of \$5,000 or as may be otherwise established by Union Township with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania, which bond shall be renewed annually, covering the cost of temporary and permanent restoration within the improved area of the right-of-way of the street resulting from the permitted work in the event that the Township shall make such restoration. The Township may at its option, permit the applicant to make said restorations, but a deposit or bond shall nevertheless accompany the application as a guarantee that the said restoration will be made.

168-9.G. Change to Inspection Fee.

- (1) For all applicants except Public Utilities (PUC), the application shall be accompanied by a check or cash in the amount to cover the Township's Inspections of the proposed utility work. Depending on the method used to install the new underground utility/replacement utility, the Inspection Costs will differ. The boring/directional drilling method will require less intensive inspection services, where open cutting will require more intensive inspection needs. If the application requires opening, excavation, and/or boring to occur at more than one street, a separate permit shall be required for each street. The inspection fees will be calculated for each permit in accordance with the fee schedule established from time to time by the appropriate resolution duly adopted by the Board of Supervisors. This fee is non-refundable.
- (2) For the Public Utilities (PUC), the application shall be accompanied by a check or cash in the amount to cover the Township's Inspections of the proposed utility work. Depending on the method used to install the new underground utility/replacement utility, the Inspection Costs will differ. The boring/directional drilling method will require less intensive inspection services, where open cutting will require more intensive inspection needs. If the application requires opening, excavation, and/or boring to occur at more than one street, a separate permit shall be required for each street. The inspection fees will be calculated for each permit in accordance with the fee schedule established from time to time by the appropriate resolution duly adopted by the Board of Supervisors. This fee is non-refundable.

168-9.M. Additional deposits and fees. If the Township is required to perform the temporary and permanent restoration within the improved area of the right-of-way of the street resulting from the permitted work, the Township shall utilize the deposit or bond to cover the cost of said restorations. Should the costs of restoration completed by the Township exceed the amount of the deposit or bond, the applicant upon written notification by the Township shall immediately reimburse the Township for any portion of the costs associated with the making of the restoration not covered by the deposit or bond.

168-9.N. Return of deposit or bond. When the Township permits the applicant to make the restoration in accordance with the requirements of this article, the Township shall, within 18 months of written notification of completion of final restoration, return the portion of the deposit or bond, other than the bond of a public utility corporation set forth in Subsection F. above, which was being held as a guarantee for the performance of said restorations.

SECTION 4. The Code of the Township of Union, Chapter 168 entitled "Streets and Sidewalks", Article III entitled "Openings and Excavations", Section 168-11 entitled "Permit Conditions" is amended to amend or add certain subsections, which shall read in their entirety as follows:

168-11.D.(1). The permittee shall be responsible for all costs and expenses incident to or arising from the permitted work, including the prescribed fees for same, the costs of making and maintaining the temporary restoration of the disturbed areas and making the permanent restoration. The permittee shall reimburse the Township for any additional inspection costs related to the permitted work, which the Township may deem it necessary to incur, within 30 days after receipt of the Township's invoice.

168-11.D.(2). In the event of failure or neglect by the permittee to perform and comply with the permit or the regulations set forth in this article, the Township may immediately revoke and annul the permit and order and direct the permittee to remove any or all structures, equipment or property belonging to the permittee and/or its contractors from the legal limits of the right-of-way and to restore the right-of-way to its former condition. In the event the Township determines that such structures, equipment or property pose a threat to the public safety and the permittee fails to remove the same after notice from the Township to do so, the prothonotary or any attorney of any court of record shall be authorized to appear for the permittee and to enter an amicable action of ejectment and confess judgment against the permittee; the prothonotary or any attorney of any court of record shall be authorized to issue forthwith a writ of possession with costs, without leave of court. To provide for the aforesaid action of ejectment and confession of judgment, the Township may, in addition to requiring a deposit or bonding, also require the permittee to execute a confession of judgment waiver, as well as such other documentation as may be deemed necessary by the Township.

168-11.H.(1). The permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the authorized representative of the Township. A traffic control plan shall be submitted

to the authorized representative of the Township and any and all parties that will be affected by the traffic control plan, including but not limited to emergency services, school districts, and USPS, and approved by the authorized representative and Police Department before detouring any traffic.

168-11.H.(3). Designated employees of the permittee shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with the current requirements of PennDOT.

SECTION 5. The Code of the Township of Union, Chapter 168 entitled “Streets and Sidewalks”, Article III entitled “Openings and Excavations”, Section 168-12 entitled “Special Conditions for Subsurface Operations” is amended to amend or add certain subsections, which shall read in their entirety as follows:

168-12.G.(2). Ninety-day temporary and permanent restoration all materials, installation, and mix designs shall be in accordance with the current PennDOT regulations including Publication 408 method (to be used when temporary restoration is made followed by a minimum ninety-day settlement period).

168-12.G.(2)(a). Temporary restoration shall be made and kept in place for a minimum of 90 days after backfilling the trench. The 2RC aggregate backfill material shall be placed in accordance with the applicable sections of this article with a surface of a two-inch compacted cold patch, or other approved temporary bituminous material in accordance with the Township’s authorized representative.

168-12.G.(2)(b)[3]. The permanent base course shall consist of bituminous concrete meeting the requirements of Section 316 Flexible Base Replacement, PennDOT Publication 408, Superpave Asphalt Mixture Design Base Course 25.0 mm or 37.5 mm, PG 64S-22, and having a minimum depth of five inches or a depth equal to the existing base course, whichever is greater.

168-12.G.(2)(b)[4]. The permanent surface course shall be placed in accordance with the depths of the existing bituminous surface, but in no case shall the wearing course be less than 1 1/2 inch. Depending on the road classification and traffic characteristics, the ESALS for the wearing course will be as determined by the Township’s Authorized Representative for the PennDOT, Section 410, Superpave Asphalt Mixture Design Wearing Course 9.5 mm, PG 64S-22 with a minimum compaction of 1.5 inches.

168-12.G.(2)(b)[5]. If the existing roadway has what is determined to include a base course, a binder course, and a wearing course, the Superpave Binder Course shall be Superpave Asphalt Mixture Design Binder Course 19.0 mm, PG 64S-22 with a minimum compaction of 3.0 inches.

168-12.G.(2)(b)[6]. The edge of the repair shall be sealed with the type and class of material designated for the surface course for a width of 12 inches centered on the repair joint in accordance with PennDOT Form 408.

168-12.I.(2). Unpaved shoulders. All unpaved shoulder shall be graded, rolled, compacted and restored in accordance with the requirements specified by the Authorized Township Representative.

168-12.K.(3). Regardless of the age of the wearing course, when both longitudinal and transverse trench openings are made in the street pavement, the Township shall require the permittee to overlay the full width of all traffic lanes in which such openings were made for the entire length of the street opening, if the Township authorized representative determines that the present serviceability of the street has been impaired by the openings, with the overlay being more fully depicted in Appendix A, found at 168 Attachment 1, incorporated herein by reference.

SECTION 6. Repeal of Ordinances and Resolutions.

Any ordinance or resolution or part of ordinances or resolutions conflicting with the provisions of this Ordinance are hereby repealed insofar as they are inconsistent with this Ordinance.

SECTION 7. Severability.

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance, is, for any reason declared to be illegal, unconstitutional or invalid, by any Court of competent jurisdiction, this decision shall not affect or impair the validity of the Ordinance as a whole, or any other article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the within Ordinance. The Board of Supervisors of Union Township, Berks County, Pennsylvania, hereby declares that it would have adopted the within Ordinance and each article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the limitations, restrictions, sentences, clauses, phrases, or word that may be declared illegal, unconstitutional or invalid.

SECTION 8. Effective Date.


This Ordinance shall become effective five (5) days after enactment, as provided by law.

SECTION 9. Code of Ordinances.

The Code of Ordinances of Union Township shall be and remain unchanged and in full force and effect except as amended, supplemented, and modified by this Ordinance. This Ordinance shall become a part of the Code of the Township of Union, Chapter 168 entitled "Streets and Sidewalks" upon enactment.

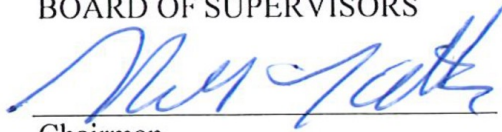
ORDAINED AND ENACTED into law by the Township of Union Board of Supervisors this 20th day of March, 2024.

ATTEST:



Deborah Olivieri
Secretary of Union Township

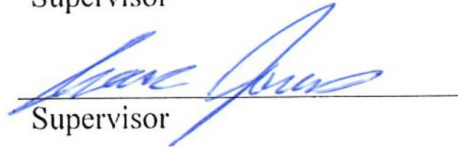
TOWNSHIP OF UNION
BOARD OF SUPERVISORS



Chairman



Supervisor




Supervisor

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2024-01 adopted by the Board of Supervisors of Union Township, Berks County, Pennsylvania, at a public meeting held on March 30, 2024, pursuant to notice as required by law.

Dated: 3/21/24



Township Secretary

