

SOUTH MIDDLETON TOWNSHIP
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 02 OF 2006

AN ORDINANCE OF THE TOWNSHIP OF SOUTH MIDDLETON, CUMBERLAND COUNTY, PENNSYLVANIA, PROVIDING THAT NO PUBLIC ROADS OF THE TOWNSHIP OF SOUTH MIDDLETON BE OPENED OR CUT BY ANY PERSON, FIRM, CORPORATION, OR UTILITY WITHOUT FIRST SECURING A PERMIT IN ACCORDANCE WITH ORDINANCE AND REGULATIONS PURSUANT THERETO; PROVIDING FOR CONSTRUCTION OF AND MODIFICATION OF DRIVEWAYS ENTERING TOWNSHIP ROADS; PROVIDING PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED BY THE TOWNSHIP OF SOUTH MIDDLETON, Cumberland County, as follows:

SECTION 1. DEFINITIONS

- a) Person: Individual, partnership, corporation, municipal corporation, or authority, or any utility public or private.
- b) Road or Roadways: Any road, street, alley or way accepted by Township.
- c) Driveway: Any private road or means of entry or exit adjacent to or abutting a township Road intended or available for access to township Road.
- d) Work: Work required or performed in opening, construction, tunneling, excavating, disturbing, altering, or modifying township Road.
- e) Plan: Plan of sketch of Work showing dimensions such as location of facility or intended facility requiring opening or disturbing Road, width of traveled Roadway, right-of-way lines, and dimension to nearest intersecting Road; and where required for purposes of this Ordinance, profile of grades, depths of materials, utility poles, cuts and fills, and obstacles and structures inhibiting observation.
- f) Township: Township of South Middleton, in Cumberland County, Pennsylvania.

SECTION 2. OPENING TOWNSHIP ROAD

- a) In accordance with the provisions of Section 2322 of Article XI of the Second Class Township Code, as amended, no railroad or street railway shall hereafter be constructed upon any township Road, nor shall any railroad or street railway crossing, nor any gas pipe, water pipe, electric conduits, cable TV or other piping, be laid upon or in nor shall any telephone, telegraph, or electric light or power poles, or any coal tipples or any other obstructions be erected upon or in any portion of a township Road except under such conditions, restrictions, and regulations relating to the installation and

maintenance thereof, as may be prescribed in Road Occupancy Permits granted by the Township for such purpose.

- b) The application for a Permit shall be on a form prescribed by the Township in triplicate, and shall be accompanied by:
 - 1) A fee in accordance with the Schedule of Fees for Road Occupancy Permits;
 - 2) Three (3) copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled Roadway, right-of-way lines and the distance to the nearest intersecting public street, road or highway; and
 - 3) The Restoration and Maintenance Security required under Section 3 herein below.
- c) A Permit shall be issued to the applicant after all the aforementioned requirements have been filed and reviewed by Township Roadmaster, Codes Officer and the Municipal Authority.
- d) Upon completion of the Work, the applicant shall give written notice thereof to the Township.
- e) Upon completion of the Work authorized by the Permit, the Township (Roadmaster, Codes Officer, Township Engineer, etc.) shall inspect the Work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the Permit. Where any settlement or defect in the Work occurs, if the applicant shall fail to rectify any such settlement or other defect within thirty (30) days after written notice from the Township to do so, the Township may do the work and shall impose upon the applicant the costs thereof, together with an additional twenty (20%) per centum of such costs for administrative fees.

SECTION 3. RESTORATION AND MAINTENANCE SECURITY

Any person seeking a Permit to do Work on a Road shall provide Restoration and Maintenance Security pursuant to the following standards and rules:

- a) The amount of security shall be determined by the Township Engineer to assure restoration of the Road and maintenance of the restored area for a period of 6 months in the event of permittee's default to so restore or maintain the Work area as required in this Ordinance.
- b) The security shall be submitted in the name of the Township in the form of cash, letter of credit issued by a bank maintaining an office in the Commonwealth of Pennsylvania, or surety bond issued by a corporation duly registered as a surety company in good standing with the Pennsylvania Insurance Department, all such instruments to be in form and substance acceptable to Township.

- c) Cash security shall be held by the Township in a non-interest-bearing escrow bank account, and shall be returned to the permittee upon successful fulfillment of all restoration and maintenance obligations without interest.
- d) The Board of Township Supervisors shall have the power to forfeit or otherwise seize and use the Restoration and Maintenance Security upon satisfactory proof of the permittee's default to be supplied by the Township Engineer. Said Board shall also have authority to reduce the amount of security upon successful completion of initial restoration on the recommendation of the Township Engineer.
- e) The Board of Township Supervisors shall have the authority to waive the posting of Restoration and Maintenance Security hereunder where adequate provisions have been made otherwise for restoration and maintenance of the Work area, such as, but without limitation, Work performed under a public works contract with the South Middleton Township Municipal Authority which requires such security as part of the contract.

SECTION 4. TRENCHING ACROSS IMPROVED AREA

- a) Trenching shall not be permitted across the improved area of a Road unless authorized by the Permit.
- b) Trenching across the improved area of a Road may be authorized by the Permit where drilling, boring, driving or tunneling are not feasible because:
 - (1) The subsurface is solid rock.
 - (2) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.
 - (3) Adjacent development in a very congested urban area makes the construction of a tunneling or boring shaft impossible.

SECTION 5. TEMPORARY RESTORATION

- a) Cold or hot (SuperPave, ID-2, or other as approved) mix shall be installed immediately after work is performed in Roadway and berm. Compacted thickness shall be minimum two (2) inches.
- b) Maintain temporary paving in a condition satisfactory to the Township Engineer.
- c) Thirty (30) days after issuance of substantial completion, permanent restoration must be completed.

SECTION 6.

PERMANENT RESTORATION

- a) Any person opening or disturbing any Road shall comply with the requirements of this Section.
- b) Where macadam is disturbed, the excavation or opening shall be made by a clean cut with a diamond wheel or similar instrument. Openings shall be saw cut back twelve (12) inches from the limit of the trench.
- c) Any person opening or disturbing any Road shall backfill any resulting excavation with Type 2A aggregate as specified in the Pennsylvania Department of Transportation Publication 408, Section 703 (2) (c) – Table C. Backfill shall be limestone or shall demonstrate a dry weight in pounds per cubic feet equivalent to or greater than limestone. Compaction of the aggregate shall be in lifts of no more than six (6) inches. Backfill shall be placed and compacted to within six and one-half (6 ½) inches of the existing road grade.
- d) Five (5) inches of SuperPave asphalt mixture Base Course shall be placed over the backfill in accordance with the Pennsylvania Department of Transportation Publication 408, Section 305, and shall conform to the most recent calculation methodology available from PennDOT. Unless otherwise directed, the design shall be HMA Base Course, PG 64-22, 0.3 to <3.0 million ESALS, 25 mm mix, SRL-G.
- e) One and one-half (1 ½) inches of SuperPave asphalt mixture Wearing Course shall be placed over the Base Course (see b above) in accordance with the Pennsylvania Department of Transportation Publication 408, Section 421, and shall conform to the most recent calculation methodology available from PennDOT. Unless otherwise directed, the design shall be HMA Wearing Course, PG 64-22, 0.3 to <3.0 million ESALS, 9.5 mm mix, SRL-G.
- f) The joints at all Road openings shall be cleaned and sealed in accordance with the Pennsylvania Department of Transportation Publication 408, Section 469. Joint sealer shall be PG 64-22, or approved equal.

SECTION 7.

MULTIPLE ROAD CUTS

If more than two (2) cross cuts are made in a Road within one (1) block or less than 300 feet, contractor must overlay entire section, curb to curb or full Roadway width.

SECTION 8.

EQUIPMENT DAMAGING ROADWAY

- a) To protect the pavement and shoulders of existing Road surface, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

- b) In the event that other than rubber-equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four (4) inches, unless the permit requires the permittee to repave the roadway full width.
- c) If the equipment damages the pavement or shoulders of the Roadway, the permittee shall restore the pavement or shoulders to their former condition, at the permittee's expense.

SECTION 9. TRAFFIC PROTECTION AND MAINTENANCE

- a) Maintenance and protection of traffic during Road Work shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.
- b) 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 PA DOT District Office. A traffic control plan shall be submitted to and approved by the Township Engineer before detouring any traffic.
- c) Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area. Blinking lights and/or barricades shall be used for overnight protection of area.
- d) Designated employees shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 43 and Publication No. 90.

SECTION 10. APPROVAL BY INSPECTOR

Approval by the Township's inspector(s) of all or part of any permitted Work shall not constitute acknowledgment that the Work was performed in accordance with the Permit, nor shall such approval of the inspector act as a release of the permittee or waiver by the Township of its right to seek performance or restitution from the permittee.

SECTION 11. TOWNSHIP STANDARDS

Work is to conform to Township standards. 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. If at any time it shall be found by the Township that the Work is not being done or has not been performed properly, the permittee, upon being notified in writing by the Township, shall immediately take the necessary steps, at its own expense, to place the Work in condition to conform to such requirements or standards. In case any dispute arises between the permittee and the Township's inspector, the Township's inspector shall

have the authority to suspend Work until the question at issue can be referred to and be decided by the Township Engineer.

SECTION 12. TEMPORARY DRIVEWAYS

Whenever a construction or demolition operation requires the movement of a vehicle from the property during the construction period, it shall be the responsibility of the permittee to install and maintain a stone-based driveway on the premises so as to prevent the tracking of mud and other debris onto the public Roadway. In the event that mud or other debris is transmitted onto the Roadway, it shall be the responsibility of the permittee to remove said mud and debris immediately from said Roadway.

SECTION 13. DRIVEWAYS

- a) No person shall construct, improve, modify or alter in any way a driveway, in the area where said driveway enters a Township Road, without first obtaining a Road Occupancy Permit and complying with this Ordinance and regulations issued hereunder.
- b) Any driveway presently constructed or constructed hereunder shall be maintained in compliance with this Ordinance and regulations issued hereunder.
- c) Application for Road Occupancy Permit for driveway work shall be by owner or person with legal interest in property and authority to so apply, to Township accompanied by plans and fees as set forth by the Schedule of Fees for Road Occupancy Permits.
- d) At point of entry of driveway into Road right-of-way and paved or improved portion thereof, the surface and grade of Road shall not be altered; no material of any kind, temporary or permanent, shall be placed within the improved portion of the Road or gutter where the paved or improved area meets the berm; and the work shall not interfere with maintenance, snowplowing and drainage.
- e) Within twenty (20) days after submission of an application for Road Occupancy Permit for driveway, the Township shall approve or disapprove with reasons and send by certified mail notice of action to applicant. Upon approval, notice shall be given by applicant as set forth above and Roadmaster or other agent of the Township shall inspect work to ensure compliance with approved application, entering approval of work on both Township's copy and applicant's copy, if available.

SECTION 14.

All Roads, driveways or streets, whether public or private, shall comply with all standards imposed by Section 706 of the Subdivision/Land Development Ordinance. The standards imposed on Roads, streets and driveways by the Subdivision/Land Development Ordinance shall prevail over any inconsistent standards imposed by this Ordinance.

SECTION 15.

Any persons aggrieved with the literal enforcement of this ordinance, due to unreasonable hardship because of peculiar conditions pertaining to the land in questions, shall submit in writing grounds for such unreasonableness or hardship on which the waiver request is based. Any such waiver requests shall not be contrary to public interest and the spirit of these regulations and shall afford the minimum modification necessary. Such requests shall be acted upon by the Board of Supervisors at a regularly scheduled meeting of the Board. All waiver requests shall be accompanied by an automatic thirty (30) day extension of time for Township action in order that sufficient time is allowed for Board of Supervisor's action.

SECTION 16.

- a) Any person who shall violate any provision of this Ordinance shall be liable, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine not exceeding \$300.00 for each violation, together with costs of prosecution in each case. Upon judgment against any person by summary conviction or proceedings by summons, on default of payment of fine or penalty imposed and costs, defendant may be sentenced and committed to the County Prison for a period not exceeding thirty (30) days.
- b) Any Ordinance or part of Ordinance inconsistent herewith is hereby repealed insofar as it is inconsistent herewith.

TO BE ENACTED AND ORDAINED by the Board of Supervisors of South Middleton Township, Cumberland County, Pennsylvania, on the 10th day of August, 2006.

BOARD OF SUPERVISORS
SOUTH MIDDLETON TOWNSHIP

BRYAN A. GEMBUSIA, Chairman

THOMAS E. FALEY, Vice Chairman

JAMES N. BAKER

RONALD L. REEDER

WALTER G. REIGHARD

ATTEST:

SANDRA A. QUICKEL, SECRETARY