

Ordinance No. 11-01 of 2010

**AN ORDINANCE REGULATING ALL EXCAVATIONS IN AND/OR UNDER ALL
TOWNSHIP-OWNED ROADS, STREETS AND ALLEYS**

WHEREAS, the Board of Supervisors of Pittston Township is committed to protecting and maintaining the surface of all Township-owned streets, roads and alleys in a good and traversable condition.

WHEREAS, the Board of Supervisors of Pittston Township recognizes that it is often necessary for property owners, utility companies and/or contractors to excavate in and/or under Township-owned streets, roads and alleys in order to install, repair and/or maintain various utility services.

WHEREAS, the Board of Supervisors of Pittston Township is committed to insuring that: (1) the Township does not assume any cost to repair any excavations made in and/or under any Township-owned street, road and/or alley by any person(s) (other than at the Township's request), and (2) the person(s) who perform(s) any such excavation work restores the surface of any Township-owned street, road or alley to the condition it was in prior to performance of the excavation work.

WHEREAS, the Board of Supervisors of Pittston Township is committed to insuring that any excavation made in and/or under any Township-owned street, road and/or alley is performed in a safe manner by only competent and experienced persons.

It is hereby ordained by the Board of Supervisors of Pittston Township as follows:

Section 1: It shall be unlawful for any person, firm, corporation or other entity to make any opening in the surface of and/or perform any excavation in and/or under any Township-owned road, street or alley within the limits of Pittston Township without first having secured a permit from the Township Zoning Officer. The person, firm, corporation or other entity who will be performing the work is responsible for obtaining the permit.

Section 2: The charge for obtaining a permit to make any opening in the surface of and/or perform any excavation in and/or under any Township-owned road, street, or alley within Pittston Township shall be Two Hundred Fifty (\$250.00) Dollars. A separate permit must be obtained and an additional Two Hundred Fifty (\$250) Dollar permit fee must be obtained for each separate surface opening and/or excavation sought to be made by the permit applicant. The application for the permit and every permit shall specify a time when said opening or excavation may remain open and the place where said opening or excavation may be made together with the probable length, width, and depth thereof, and such further information as the Zoning Officer may require to insure that the work will be done safely and the surface of the road promptly repaired and restored.

Section 3. Any permit holder who makes an opening in the surface of a Township-owned road, street or alley and/or performs any excavation that deviates in any manner from the work specified in the permit, including but not limited to the time specified in which it could remain open, and/or the size and/or location of the opening/excavation, shall be deemed to be in violation of this Ordinance.

Section 4: It shall be the responsibility of the person, firm, corporation or other entity performing any excavation work described in this Ordinance to abide by PA ACT 187 of 1996, otherwise known as the Underground Utility Line Protection Act, which requires notification by any excavators, designers, or any other persons preparing to disturb the earths surface anywhere in the Commonwealth to utilize and notify the Pennsylvania One Call System, Inc. as per regulation.

Section 5: It shall be the duty of every person, firm, corporation or other entity to whom any permit is issued pursuant to this Ordinance to provide and maintain proper and adequate guards, barriers, lights and any other equipment and/or devices necessary to prevent any safety hazards and/or accidents associated with the work. The permit holder assumes all risks associated with the work contemplated and agrees to be liable for all injuries and damages caused by: (1) any open excavation, (2) any failure to utilize proper and/or adequate safety equipment and/or devices, (3) any failure to properly fill any opening and/or

excavation, and/or (4) any failure to maintain and/or restore the surface that was disturbed to a safe condition. By issuing a permit pursuant to this Ordinance, the Township is not agreeing to assume any responsibility for the permit holder's work. The permit holder agrees to defend, indemnify and hold harmless Pittston Township from and against any and all claims for any and all injuries and/or damages made by any person(s) arising out of any work performed by the permit holder, even if Pittston Township is alleged to have been and/or is determined to have been negligent and/or careless in whole or in part in causing the person's injuries and/or damages.

Section 6: As a condition of the issuance of a permit under this Ordinance, the permit applicant must produce a certificate of insurance evidencing liability coverage in an amount of at least \$1,000,000 and property damage in an amount of at least \$500,000. In addition, each permit applicant must produce a certificate of insurance evidencing that Pittston Township has been added as an additional named insured under the permit applicant's insurance policy.

Section 7: It shall be the duty of every person, firm, corporation or other entity to whom any permit is issued pursuant to this Ordinance to thoroughly and completely fill any and all openings and/or excavations in a manner so as to prevent any settling thereafter and to repair the surface to the condition it was in before the opening was made and/or the excavation work was performed, and at the proper grade and with the same surface covering as the road, street and/or alley surface adjoining the opening/excavation without any ridges or depressions. The permit holder is responsible for hauling away all excavated material, backfilling with a 2A modified stone, tamped every foot and topped with four inches of BC and two inches of blacktop (or other surface material similar to the adjoining surface materials). The permit holder shall be responsible for any settling for a period of one (1) year after completion of the work and upon notice from the Township, the permit holder must correct any deficiency in the surface of the road, street or alley in the area of the excavation within thirty (30) days.

Section 8: Any person, firm, corporation or other entity violating any of the provisions of this Ordinance shall upon conviction thereof be fined not less than (\$300.00) Dollars or more than One Thousand (\$1000.00) Dollars for each offense, to be collected as fines and penalties are by law collectible pursuant to the Second

Class Township Code, and specifically 53 P.S. 66601. Each day a violation exists shall be deemed to constitute a separate offense and shall be punishable as such.

Section 9: All ordinances and/or resolutions and or parts of any ordinances and/or resolutions which are inconsistent with and/or in conflict with any of the provisions of this Ordinance are hereby repealed.

ENACTED and ORDAINED this 15th day November, 2010.

Ronald Marcellini

Ronald Marcellini

Joseph Adams

Joseph Adams

Steve Rinaldi

Steve Rinaldi

Attest:

John Bonita

John Bonita, Township Secretary