

ORDINANCE NO. 3-97

AN ORDINANCE BY THE BOARD OF TOWNSHIP SUPERVISORS IN AND FOR THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA, REGULATING THE CUTTING OF TOWNSHIP ROADS BY REQUIRING PERMITS, ESTABLISHING REGULATIONS AND SPECIFICATIONS, AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

BE IT HEREBY ENACTED AND ORDAINED and it is hereby enacted by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania:

SECTION 1: PREAMBLE.

The Township of Middlesex has an extensive public road system which it intends to protect against destruction by persons seeking to cut or open existing roads. This ordinance is intended to control and regulate the cutting or opening of any public road under the jurisdiction of the Township of Middlesex.

SECTION 2: DEFINITIONS.

For the purposes of this Ordinance, the following terms shall have the meanings ascribed thereto as follows:

- A. Board - the Board of Township Supervisors of Middlesex Township, Cumberland County, Pennsylvania.
- B. Person - the party, person, firm, partnership, corporation or other entity who or which physically cuts or opens a Township Road.
- C. Permit - the permit issued by the Board to signify the approval of the work to be done.
- D. Permittee - the Person to whom a Permit is issued and identified therein.

E. Township - the Township of Middlesex,
Cumberland County, Pennsylvania.

F. Township Road - any street, road, alley,
highway or other thoroughfare intended for vehicular
traffic and being under the control of Township or any
part thereof within the legal right-of-way thereof.

SECTION 3: PERMIT REQUIRED.

No Person shall hereafter lay, construct or install any
pipe, wire, conduit or any other object for any purpose upon, in
and within a Township Road or in any way cut or open any portion
of a Township Road without first obtaining a Permit therefor as
issued by the Board.

SECTION 4: APPLICATION FOR PERMIT.

Any Person shall, prior to obtaining a road occupancy
Permit, file an application on an application form supplied by
the Board, reflecting and showing the location and dimensions of
any road cut or opening, the location, course, grade, structure,
materials and purpose of any pipe, wire, conduit or any other
object to be installed upon, in, or over any Public Road, and the
materials, method and schedule for restoring said Public Road.
The application shall be reviewed by the Engineer or Road
Superintendent of the Township. The Engineer or Road
Superintendent shall determine if the proposed method and
materials intended to be used as reflected on the application,
are such that they will meet the specifications of this Township
and not create or increase hazardous driving conditions for those
persons using the Public Road in which the work is to be

performed. If found satisfactory by the Engineer or Road Superintendent, he shall so advise the Board, and the Board will issue, or cause to be issued, the Permit. If the plan is found deficient, or if in the opinion of the Township Engineer or Road Superintendent the plan could be improved so as to comply with Township specifications or lessen hazardous driving conditions on the Public Road in which the work is to be performed, the Engineer or Road Superintendent shall, by written communication to the owner, notify him of the changes to be made. The applicant shall immediately make such changes and return the revised plan to the Township. When such plan is in acceptable form, the Board shall approve or cause the same to be approved and the permit issued.

SECTION 5: SECURITY.

The Board may, in its sole discretion, require an applicant for a Permit to execute an agreement or provide security, or both, as a prerequisite to issuance of the Permit. If security is required, it shall be delivered to the Township in a form and amount acceptable to the Board and shall guarantee restoration and maintenance of the highway for a period of at least two (2) years after the acknowledged completion of the permitted work. The following are acceptable forms of security: (a) an irrevocable letter of credit from a reputable bank and naming the Township as sole beneficiary to be honored on presentment, (b) cash, (c) commercial surety bond as approved by the Board.

SECTION 6: SPECIFICATIONS.

All work to be done pursuant to a Permit shall be in strict conformance with the following standards, rules, regulations and specifications:

A. GENERAL STANDARDS

All materials and work to be performed within the limits of a Township Road shall be done in accordance with Pennsylvania Department of Transportation form 408 and Title 67, Pa. Code, Chapter 459.

B. RESPONSIBILITY

The Permittee shall be responsible for failure of the highway surface during a period of two years following acceptance of the permanent resurfacing work on a Township Road. Any defects which become evident within the two-year period, such as settlement, cracks, deterioration of the surface, etc., must be repaired by removing the entire defective area and replacing it with new material in accordance with the appropriate following methods.

C. 90-DAY TEMPORARY RESTORATION METHOD

(1) Temporary Resurfacing

Where it is necessary to disturb the permanent surface of a Township Road, the trench shall be backfilled with 2-A modified stone a minimum of two inches below the surface of the existing roadway. The final two inches shall be filled with an asphaltic hot mix. This temporary resurfacing shall be well compacted with a ten-ton roller and must be started

within 24 hours after the trench has been filled.

Cold patch may be used during the winter months when asphaltic hot mix is not available at the batch plant, or as determined by the Board.

The Permittee shall continuously maintain the temporary paving to the satisfaction of the Engineer and the Township.

(2) Settlement Period

For a period of not less than 90 days nor more than 210 days, unless otherwise directed by the Board, the Permittee shall maintain the temporary resurfacing in a condition adequate for traffic and replace any settlement of the trench with additional resurfacing.

The Permittee shall pay any claims for damages arising from his neglect to properly maintain the backfilled and resurfaced trench.

D. EXISTING BITUMINOUS PAVEMENT

Restoration of existing bituminous pavements shall be done by the following method.

Prior to resurfacing, the existing pavement shall be sawed or cut, in a neat straight line, at a distance of one foot (1') from the edge of the trench, to the bottom elevation of the existing base course. Drilling shall not be permitted. All loose material from the cutting shall be removed from the site.

At the expiration of the 90 day settlement period mentioned above, unless otherwise directed by the Board, the

temporary resurfacing and the compacted trench fill shall be removed to a depth below the roadway surface sufficient to allow construction of the specified pavement courses. A bituminous concrete base course with a depth of 4" of ID2 binder and 1 1/2" of ID2 wearing. All replaced areas shall be compacted by the use of a ten-ton roller or vibrating compacting equipment giving the equivalent compaction of a ten-ton roller.

E. PAVED SHOULDER RESTORATION

At the expiration of three months after installation, unless otherwise directed by the Board, the temporary restoration and the compacted trench fill shall be removed to a minimum depth of five inches (5") below the surface of the roadway. A bituminous concrete base course with a minimum depth of 4" shall be constructed and shall be topped with 1" minimum of bituminous wearing course ID-2.

All Paved Shoulder Restoration shall be in accordance with the Pennsylvania Department of Transportation, Form 408.

All edges of the existing roadway surface disturbed during the construction shall be cut in a straight line. Cutting of edges shall be done prior to placing of the wearing surface and shall be as directed by the Board.

SECTION 7: PERMIT FEES

The Board shall prescribe by resolution from time to time such fee or fees for the Permits required pursuant to this

Ordinance, which fees shall not exceed the approximate reasonable cost of processing and reviewing the application for the permit and making any necessary inspections to assure compliance with the terms of the Permit.

SECTION 8: PENALTIES

Any Person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof by summary proceeding before a District Justice having jurisdiction, be sentenced to pay a fine of not more than Five Hundred and No/100 (\$500.00) Dollars. All fines collected for the violation of this Ordinance shall be paid to the Treasurer of the Township for the general use of the Township.

SECTION 9: CONSTRUCTION AND INTERPRETATION; SEVERABILITY

If any section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this Ordinance is declared by any reason to be illegal, unconstitutional or invalid by any Court of competent jurisdiction, such decision shall not affect or impair the validity of the Ordinance as a whole, or any other section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase, word or remaining portion of the Ordinance. The Board hereby declares that it would have adopted this Ordinance and each section, sub-section, provision, regulation, limitation, restriction, sentence, clause, phrase and word thereof, irrespective of the fact that any one or more of

the sections, sub-sections, provisions, regulations, limitations, restrictions, sentences, clauses, phrases or words may be declared illegal, unconstitutional or invalid.

SECTION 10: REPEALER

This Ordinance shall repeal any inconsistent Ordinances.

SECTION 11: EFFECTIVE DATE

This Ordinance shall become effective on the tenth calendar day after its enactment.

ORDAINED AND ENACTED this 5th day of March A.D., 1997.

TOWNSHIP OF MIDDLESEX

By Robert M. Egan
Chairman, Board of Supervisors

ATTEST:

Gail W. Jensen
Township Secretary

(TOWNSHIP SEAL)