ORDINANCE

AN ORDINANCE AMENDING CHAPTER 193 GOVERNING "STREETS AND SIDEWALKS" AND IN PARTICULAR, ARTICLE I THEREOF GOVERNING "OPENINGS AND EXCAVATIONS" TO PROVIDE A DETAILED PROCEDURE TO ASSURE THAT ROAD SURFACES ARE RESTORED ACCORDING TO SPECIFIC REQUIREMENTS AND SUBJECT TO FEES ADOPTED BY RESOLUTION AND ALSO AMENDING THAT PORTION OF THE FEE ORDINANCE AT SECTION 108-1.M (2) TO PROVIDE THAT THE FEES WILL BE PURSUANT TO A FEE SCHEDULE ADOPTED BY RESOLUTION OF CITY COUNCIL

WHEREAS, the City of Coatesville (hereinafter the "City" is a Third Class City and Home Rule Municipality located in Chester County, Pennsylvania; and

WHEREAS, the City under the Third Class City Code, there is authorization for the City to regulation paving, repaving or repairing of utility connections in the City Street System as set forth (by way of description and not limitation) Article XXXIX of the Third Class City Code, 53 P.S. §§ 37915 – 37990; and,

WHEREAS, the City has reviewed its current Ordinance and needs to update the Ordinance in accordance with suggestions of the City Engineer to better provide a consistent procedure for regulating openings and excavations in the City Streets to avoid "patchwork repairs" and reduction in the quality of the City Street System.

NOW THEREFORE, in consideration of the foregoing authorities and the City of Coatesville does hereby amend Article I of Chapter 193 of the City Code governing "Openings and Excavations" and Chapter 108 Governing "Fees" are amended as follows:

Section 193- 1. "Definitions" is amended by the inclusion of the following new definitions:

"MUNICIPAL AUTHORITY - Any governmental corporation created pursuant to the Commonwealth of Pennsylvania Authorities Act of 1945 (See 53 Pa.C.S.A. § 5601 et seq.), as amended.

PERMITTEE - Any person who has been issued a permit and has agreed to fulfill all the provisions of this article.

PUBLIC UTILITY - Any utility company, excluding municipal authorities, licensed by the Public Utility Commission of the Commonwealth of Pennsylvania. "

Section 193- 5. "Fees" is Deleted in its entirety and replaced with the following:

"Before any permit shall be issued to open or excavate any street, the applicant shall pay the fee as provided in Chapter 108, Fees, Section 108.1-2 (M) as identified in a fee schedule adopted by Resolution of City Council".

Section 193-10 is Deleted and replaced with Section 193-10 identified and numbered as follows:

"193-10. Road Specifications, Street Excavations and Utility Installations in Highways

193-10. A. Road Specifications

193-10. A. 1 Approval of Plans required.

No person shall construct, open or dedicate street or drainage facilities in connection therewith, for public use or travel in the City, except in strict accordance with plans which have been submitted to and approved by the City Council.

193-10.A. 2. Contents of Plans.

Such plans shall show:

(A) Profiles of proposed roads, showing grades, cuts and fills.

(B) Course, structure and capacity of all drainage facilities, indicating the method of drainage of the adjacent or contiguous territory.

(C) Cross sections of paving, indicating depth and type of each course.

(D) Names of all roads.

(E) Road widths.

(F) Locations of all existing or proposed gas, water, electric and other mains, pipes and conduits.

(G) The size of lots, which shall conform to requirements of the Zoning Ordinance of this City.

(H) All other improvements and utilities to be installed or erected thereon.

(I) Any other details that may be required by any rules and regulations adopted by the City Council s.

193-10. A. 3 Improvement standards and specifications.

All roads and streets shall be improved in accordance with the standards and specifications of the Subdivision of Land Ordinance of the City of Coatesville.

Section 193-10.A. 4 Application for approval of plans.

All plans, together with an application for the approval thereof, shall be filed in duplicate with the City Secretary at least 30 days prior to the regular meeting of the City Council s at which it is desired that such plans be considered.

193-10. A. 5 Action on plans.

The City Council s reserves the right to specify such alterations, changes or modifications of plans as it eems necessary and may make approval of such plans subject to such alterations, changes or modifications. Prior to taking action on any plans, the City Council s may hold a public hearing thereon after giving such notice as it deems advisable in each case. No approval of plans by the City Council s shall obligate or require the City to construct, reconstruct, maintain, repair or grade roads indicated thereon.

193-10. A. 6 Filing of approved plans.

All plans and specifications when approved shall be signed on behalf of the City by the City Council s and an approved copy shall be filed with the City Secretary, who shall make such copy available for public inspection.

193-10. A. 7 Appeals.

Where the City Council s shall refuse to approve any plans submitted to it in accordance with this article, any person aggrieved by the action of the City Council may, within 30 days after such action, appeal therefrom by petition to the Court of Common Pleas of Chester County. Such appeal shall be heard de novo, and after hearing, the Court may enter a decree affirming, reversing or modifying the action of the City Council. The Court shall designate the manner in which notices of the hearing of any such appeal shall be given to all parties interested. The decision of the Court shall be final.

193-10.A. 8 Recording of approved plans.

All plans approved by the City Council or by the Court on appeal shall be recorded by the person applying for such approval in the office of the Recorder of Deeds of Chester County.

193-10.A. 9 Performance contract.

Before the applicant shall undertake the construction of any improvements subject to the provisions of this article, he shall enter into a contract, in writing, with the City, in which he shall agree to perform the work described in the plans in strict accordance with the plans as finally approved by the City Council. In addition, the applicant shall furnish a bond, in such amount and with such surety as shall be approved by the City Council, to guarantee the performance of the contract. In lieu of a bond, the applicant

may deposit cash to guarantee performance of said contract, upon an escrow agreement and with an escrow agent approved by the City Council.

193-10 A. 10 Waiver of City responsibility.

If any road or any drainage facilities in connection therewith shall be opened, constructed or dedicated for public use or travel except in strict accordance with plans approved and recorded in accordance with the provisions of this article, neither the City Council nor any public authorities shall place, construct or operate any sewer, drain water pipe or other facilities or do any work of any kind in or upon such road, and neither the City Council nor any other public authorities shall have any responsibility of any kind with respect to any such road or drainage facilities, notwithstanding any use of the same by the public; provided, however, that nothing herein contained shall prevent the laying of trunk sewers, drains or water or gas mains if required by engineering necessity for the accommodation of other territory.

193-10 A. 11 Fees.

Fees to defray the costs of inspection shall be paid by the applicant at the time application for approval of plans is made. The amount of such fee shall be determined according to a general fee schedule adopted by resolution of the City Council, and all such fees shall be paid into the City Finance Department with a copy provided to the City Codes Department.

193-10 A. 12: State and county roads.

Nothing contained in this article shall be held to restrict or limit the State Department of Highways or the County of Chester in the exercise of its duties, powers and functions.

193-10. B. Street Excavations

193-10. B. 1 Permit required.

It shall be unlawful for any person to open or to make any excavation of any kind in any of the streets in the City of Coatesville without first securing a permit therefor as hereinafter provided.

193-10. B. 2 Application for permit.

(A) Any person, public utility or municipal authority who shall desire to make any opening or excavation in any of the streets in the City shall file an application with the City's Engineer. Such application shall be made upon forms to be furnished by the City which shall include the name of the applicant, the exact location of the proposed opening or excavation, and the approximate size or depth thereof. The forms shall also contain the applicant's agreement that the work shall be done in full compliance with the ordinances of the City and the laws of the commonwealth in relation thereto and that the applicant shall defend and indemnify the City from and

against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation and all damages to persons or property resulting in any manner therefrom or occurring in the prosecution of the work connected therewith, or from any other matter, cause or thing related thereto.

(B) The City's Streets Department and the City of Coatesville municipal authority shall not be required to obtain a permit under this article for routine repair and/or replacement work associated with the existing infrastructure unless required by the City Council. Further, any person or contractor performing work under contact with the City and/or the City of Coatesville municipal authority shall obtain a permit if required by the City Council.

(C) The City reserves the right to revoke any permit issued hereunder for any violations of the provisions of this article.

(D) The permit application shall be accompanied by the required Pennsylvania One Call System notification serial number for the desired work. Failure to provide said serial number will result in permit denial.

(E) The permit application shall be accompanied by a traffic control plan applicable to the work zone necessary for the excavation. The traffic control plan shall indicate the necessary signage required for the excavation and shall be developed in accordance with the current version of the Manual on Uniform Traffic Control Devices (MUTCD), PennDOT Publication 213, PennDOT Publication 408, and other applicable laws.

193-10. B. 3. Permit fees.

Before any permit shall be issued to open or excavate any street in the City, the applicant shall pay a permit fee to the City, which fee shall be as established or amended from time to time by resolution of the City Council.

193-10. B. 4. Refilling; reimbursement for repairs to defective work.

Any person who shall open or excavate any street in the City shall thoroughly and completely refill the opening or excavation and attain proper compaction so as to prevent any settling thereafter, in the manner provided in Section 193-10. B. 6 of this Article. If, within 18 months after the restoration of the surface as herein provided, defects shall appear therein resulting from defective backfilling, concrete and blacktop placement by the applicant, the applicant shall reimburse the City for the costs of all necessary repairs to the permanent paving.

193-10. B. 5. Fiscal responsibility; supervision and approval.

All work in connection with openings in any street, including excavation, protection, refilling and temporary paving, shall be done by the applicant at his expense and all such work shall be subject to the provisions of this article and to the supervision and approval of the City's Engineer or his designee.

193-10 B. 6. Conduct of work.

(A) The City Engineer, or his designee, shall inspect all excavations conducted on any street within the City. When the reasonable safety and convenience of the public is in jeopardy, the City Engineer shall have the authority to change the requirements of this section at will.

(B) The applicant shall provide notice to the City Engineer at least 24 hours prior to starting any work under a right-of-way permit. In the event timely notice is not given to the City Engineer, the person performing the work shall re-excavate the repair at his own cost for the necessary inspections.

(C) No opening or excavation in any street shall extend from the curb line into the highway a distance greater than one foot beyond the center line of the street before being refilled and the surface of the highway restored to a condition safe and convenient for traveling. No more than 200 feet longitudinally shall be opened in any street at any one time, and during excavation, at least one lane of the road must be open to vehicle traffic at all times unless the City Engineer officially closes said roadway to through traffic. Access to private properties adjacent to the excavation shall be maintained for emergency vehicle traffic at all times.

(D) All openings and excavations shall be properly backfilled at the end of each workday. In the event conditions warrant the use of steel plates as a temporary measure, the City Engineer may permit the use of steel plates for a limited time period.

(E) The work of excavation shall be conducted so as not to interfere with the water mains, sewers or their connections until permission of the proper authorities in connection with such subsurface lines or constructions shall have been obtained. The applicant shall be responsible for any and all damages which may be incurred by the failure to protect any and all underground facilities.

(F) No tunneling shall be allowed without the express approval of the City Engineer, whose permission must be endorsed upon a right-of-way permit. The backfilling of a tunnel excavation shall be made only in the presence of the City Engineer, or his designee, and shall be done only in a manner approved by him. Prior to excavation, proper warnings signs must be installed in accordance with Pennsylvania Department of Transportation Publication 408 and Publication 213.

(G) All road openings or excavations shall be backfilled using 2A modified stone compacted in six-inch lifts for the entire trench up to a distance of six inches from finished grade. The remaining six inches shall consist of 4 112 inches of superpave HMA base course, PG 64-22, less than 0.3 million ESALS, 25 mm mix and 1 112 inches of superpave HMA wearing course, PG 64-22, less than 0.3 million ESALS, 9.5 mm mix, unless otherwise directed by the City Engineer. All joints must be sealed in accordance with the latest version of Publication 408.

(H) During the making of any excavation in any street, every necessary and reasonable precaution shall be taken by the permittee and the parties making the same to keep the street in a safe and passable condition both day and night by guards, barriers, lanterns and other devices. All excavating permits are granted under and subject to the express condition that the person to whom the same is issued shall indemnify, save and keep harmless the City from any loss in damages or otherwise whatsoever which mayor shall be occasioned at any time by said excavation or by any leak, explosion or other injury from any pipe apparatus, conduit or any other matter in or placed in the said excavation.

(I) The permittee and/or his contractor shall remove all excavated materials from the site and dispose of such materials at the permittee's sole expense. At no time shall the permittee and/or his contractor deposit excavated material within the City rights-of-way.

(J) In the event that any work performed by or for a permit holder shall, in the opinion of the City Engineer, or his designee, be unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him, or in the event that the work for which the permit was granted is not completed within the time fixed, the City may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof plus 20% to the applicant.

(K) In the event the applicant's work may interrupt and/or hinder the Fire Department's ability to provide adequate fire protection in the vicinity of the excavation, the applicant must notify the County of Chester's Fire Board at least 24 hours prior to an opening of a street that will cause said interruption.

(L) No permit to open or break the surface of any street, alley or highway shall be issued between December I and March I except in cases of emergency. The final determination of an emergency situation shall be made by the City.

(M) For openings on state highways the applicant shall coordinate all work with the City of Coatesville and PennDOT prior to proceeding with said work.

(N) The use of dynamite or other explosives is prohibited.

(O) No attachments or openings shall be made on any bridge or culvert.

(P) Mats or protective pads must be used to protect the pavement from steel traveling pads of equipment and any other piece of the equipment (i.e. bucket, outrigger, etc.). Damages to pavement or curbs will be the responsibility of the applicant, and repair of said damage shall be assessed and assigned by the City Engineer to the permittee.

(Q) The trench perimeter must be shouldered a minimum of 12 inches to offer proper support for newly installed fill. All irregular road openings must be properly squared.

(R) Prior to making the final restoration, the permittee shall saw cut one foot from each edge of the trench, in a neat, straight line, to the bottom elevation of the existing base course, and the detached material shall be removed and properly disposed.

(S) When traffic lanes of a street are overlayed, the edge of the overlayed traffic lane shall be milled to a depth of 1 112 inches for the entire length of the overlayed area in order to ensure a smooth joint with proper elevation and cross section. Traffic lane or pavement markings that are covered, removed, or destroyed by any opening or overlay shall be restored by the permittee.

(T) All areas of the street which are excavated shall be restored according to the following requirements:

(1) Perpendicular excavation: a perpendicular street excavation for installation of a utility service line to a new or existing residence or business from a new or existing main utility line.

(a) Restoration requirements: The excavation area shall be milled and overlay applied to a width of three feet beyond the trench edge. If the excavation is (within three feet of the center line of the road, the entire lane shall be paved.

(2) Longitudinal excavation: a longitudinal street excavation for installation of a water main, sewer main or other longitudinally located utilities.

(a) Restoration requirements: The excavation area shall be lnilled and overlay applied to a full lane· width. If excavation is within three feet of the center line of the road, full roadway width paving is required.

(3) Miscellaneous surface penetrations: any single core borings, bore holes, or other small excavations.

(a) Restoration requirements: Full depth paving restoration is required for a minimum of two feet beyond the boring or excavation. If the boring or excavation penetrates below the existing pavement, the area below the paving shall be filled with Type A or Type B flowable backfill or an alternative fill material approved by the City Engineer. Excavation shall be milled and overlay applied to three feet beyond excavation. If excavation is within three feet of the center line of the road, full width paving is required.

(4) Miscellaneous surface penetrations: two or more core borings, bore holes or other small excavations within a one-hundred foot road segment:

(a) Restoration requirements: full lane width restoration. If excavation is within three feet of the center line of the road, full roadway width paving is required.

193-10.B. 7 Emergency conditions; remedies; costs.

In the case of any leak, explosion or other accident in any subsurface pipe, line, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, construction or apparatus to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this article are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, construction or apparatus, the City Engineer, or his designee, after such notice as he shall deem necessary under the circumstances of the particular case, shall direct City personnel and/or a third-party contractor to do the work necessary and required by such emergency and charge the same on the basis of cost plus 20% to such owner, person and/or permittee.

193-10. B. 8 Notice of proposed work; opening new paving restricted.

The City Secretary shall give timely notice to all public utility companies operating in the City, and all such persons and utility companies shall make all water, gas and/or sewer connections as well as any repairs thereto which would necessitate excavation of said street within 30 days from the giving of such notice unless such time is extended, in writing, for cause shown by the City Engineer. The method of said notification is to be determined by the City.

193-10. B. 9 Approval of utility mains

No new utility line, including but not limited to water, sewer and gas mains, shall hereafter be laid or constructed, and no existing water, sewer or gas main shall be extended in any of the streets of the City until the exact location thereof and the plan therefor shall have been first approved by the City Engineer. In the event a permittee desires to relocate and/or replace an existing utility, the existing utility shall be removed from the right-of-way unless otherwise directed by the City Engineer.

193-10. B. 10 Collection of charges due City.

Payments for all work done by the City under the provisions hereof shall be made by the person liable therefor under the provisions hereof within 30 days after a bill therefor is sent to such person by the City. Upon failure to pay such charges within such time, the same shall be collectible by the City in the manner provided by law for the collection of municipal claims or liens.

103-10. B. 11 Exceptions.

The provisions of this article shall not apply to the laying of sidewalk or curbs nor to the planting of poles.

193-10. C. UTILITY INSTALLATIONS IN HIGHWAYSons

193-10.C. 1. Permit required.

In accordance with the provisions of Article XXXIX of the Third Class City Code, as amended, amended (See 53 P.S. § 27915 - 370990), no railroad or street railway shall hereafter be constructed upon any City road, nor shall any railroad or street railway crossings nor any gas pipe, water pipe, electric conduits or other piping be laid upon or in any portion of a City road, 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 City road, except under such conditions, restrictions and regulations relating to the installation and maintenance thereof as may be prescribed in permits granted by the City for such purpose. The erection or removal of any utility is specifically made subject to the provision of this Article as amended and set forth hereinabove.

193-10. C. 2. Application for permit; fee.

The application for a permit shall be on a form prescribed by the City and submitted to the City in triplicate. An application for the erection or removal of any utility pole shall be accompanied by a fee of $10, or such fee as shall be established from time to time by resolution of the City Council. The fee which shall accompany any other application in accordance with this article shall be in accordance with the schedule of fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit three copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

193-10 C. 3. Issuance of permit.

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

193-10.C. 4. Notice of completion of work.

Upon completion of the work, the applicant shall give written notice thereof to the City.

193-10.C. 5. Inspection of work; defective work.

Upon completion of the work authorized by the permit, the City 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 60 days after written notice from the City to do so, the City may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost."

Chapter 108 "Fees" is amended at Section 108-1 M (2) which is deleted and in its place is inserted the following:

"Permit for opening or excavating any street shall be based upon a fee schedule adopted by Resolution of City Council and as amended from time to time by Resolution of City Council."

All other terms of the City Code governing opening and excavating of City Streets, including, without limitation, the procedures addressing violations and enforcement, shall remain in full force and effect.

If any portion of the Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable, shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

This Ordinance shall be effective thirty (30) days after publication following final adoption in accordance with the City Charter and the Third-Class City Code.

ENACTED AND ORDAINED this 13th day of August, 2012.

Joseph Hamrick, Council Vice President
City Council

ATTEST:

Kirby A. Hudson, City Manager

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 25th day of June 2012, and was duly enacted by the Council of the City of Coatesville, Chester County, Pennsylvania on the 13th day of August, 2012, that the vote upon the said Ordinance has been recorded in the Minutes of the City Council and that the Ordinance has been fully recorded.

Kirby A. Hudson, City Manager