

RESOLUTION No. (12-12-13-01)

AN RESOLUTION OF THE COLLIER TOWNSHIP MUNICIPAL AUTHORITY TO ADD A NEW REGULATIONS AN REQUIREMENTS PROHIBITING ENCROACHMENT ON SANITARY SEWER RIGHT OF WAYS OR EASEMENTS CONTAINING SANITARY SEWERS LINES OR MANHOLES CONNECTED TO THE COLLIER TOWNSHIP MUNICIPAL AUTHORITY SEWER SYSTEM OR LINES OWNED OR MAINTAINED BY THE MUNICIPAL AUTHORITY WITH THE MUCICIPAL AUTHORITY SERVICE AREA AND IMPOSING PENALTIES FOR VIOLATION

WHEREAS, the Municipality Authorities Act provides that municipal authorities may adopt rules and regulations applicable to sewer lines on property owned or leased by a customer and refer violations of such rules for prosecution; and

WHEREAS, the First Class Township Code provides that the Township Board of Commissioners may regulate sewers and drainage systems; and

WHEREAS, Collier Township (“Township”) and Collier Township Municipal Authority (“Authority”) may have easements for their utility lines, including sanitary sewer lines, stormwater lines, stormwater BMP’s and related facilities on private property; and

WHEREAS, the Township and the Authority require unhindered access to said easements for necessary maintenance and replacement of sanitary sewer or stormwater lines and related facilities, equipment and appurtenances.

NOW THEREFORE, IT IS ORDAINED and ENACTED by the Collier Township Municipal Authority of the Township of Collier, Allegheny County, as follows:

1. Prohibition of Encroachment on Utility and Sanitary Sewer Easements, Lines and Manholes

Definitions

Encroachment- an activity or condition, whether below grade, at grade or above grade, which results in interference with the ability of the Township or Authority to access, maintain, repair or replace their sanitary sewer lines, stormwater lines, stormwater BMP’s or related equipment, facilities or appurtenances.

Municipal Utility – Sanitary sewer lines, stormwater lines, stormwater BMP's and related facilities, equipment and appurtenances of the Township or Authority.

2. Access on Demand

- A. For the purpose of exercising their easement rights and their responsibilities to maintain and operate their various municipal utilities the Township and Authority shall be afforded the right of ingress and egress to, from, along, on, in, above and below the surface of the land encompassed by their municipal utility easement.
- B. The Township and Authority have the right to access any municipal utility easement upon demand. Such demand may be made in person or by first class mail or other reasonable means of notification and will advise that access to the easement must be provided and maintained at all reasonably and necessary times as required by this section. In emergency situations, little or no notice may be afforded, as circumstances demand.
- C. Upon demand, unauthorized encroachments shall be removed by the property owner and/or occupant within the time limit set by the Township or Authority when demand is made, and shall not be restored without approval of the Township or Authority. If the encroachment has not been removed within the time limit set by the Township or Authority, the Township or Authority may remove the encroachment itself, but the removal costs, court costs, attorney's fees, engineering fees and administrative costs incurred in connection with such removal shall be charged back to the property owner and/or occupant and, provided further, that to collect such costs and fees, the Township or Authority may, in addition to any other remedy available at law or in equity, institute appropriate action against the owner or occupant of the property on which the encroachment is located and may file a municipal claim for such costs and fees pursuant to 53 P.S. § 7107, et seq., and for interest of 6 percent per annum plus a penalty of 5 percent of the amount due plus attorney's fees in connection with filing of the municipal claim.
- D. Notice may be provided by certified mail or regular mail by first class or posting of the property or by telephone at the option of the Authority. Unless there is, in the opinion of the Authority, an emergency need for access a minimum of ten (10) days notice shall be provided to the property owner and/or occupant to remove the encroachment. Should the Authority determine that there is an emergency need for access to the sewer system the Authority representatives are authorized to remove the encroachment at the expense of the property owner.**

3. Unlawful Acts. It shall be unlawful for any person, firm, or corporation to:

- A. Cause or permit an unauthorized encroachment on a Township or Authority municipal utility easement; or

- B. Cause any Municipal easement to not be readily accessible due to the conditions on the premises or actions of the person, firm, or corporation, or others, such as locked gates, fences, animals, shrubbery, construction, structure additions or modifications, storage of materials or debris, parking or storage of vehicle, boats, or trailers, deposit of soil or fill or any other obstruction which shall in any way prevent or deny, access to such easement to the Township or Authority; or
- C. After demand, fail to abate or otherwise remove or discontinue any action or condition which results in an unauthorized encroachment.

4. Encroachment Authorization

The Township or Authority, at its discretion, may authorize an encroachment by way of a revocable license agreement upon application for the same from the property owner. Such license shall only be issued if it is determined that the encroachment can be removed in a timely fashion as to allow the Township or Authority immediate access to the easement. The revocable license shall be in the form of a recordable license agreement.

5. Enforcement

- A. Any person violating any provision of this Subpart, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000, plus costs and, in default of payment of said fines and costs, to a term of imprisonment not to exceed 30 days. Each day of violation shall constitute a separate offense.
- B. The provisions of this Subpart may be enforced by Collier Township, Collier Township Municipal Authority, the Collier Township Police Department, or any authorized representative of the Township or Township Municipal Authority.
- C. This Subpart shall be incorporated into the Rules and Regulations of the Authority, any violation therefore being referable by the Authority for prosecution as a summary offense pursuant to 53 Pa. C. S. §5607(17).

6. Severability

The provisions of this Resolution are severable. If any section, clause or portion of this Resolution shall be held to be invalid, illegal or unconstitutional, the remaining provisions shall not be affected or impaired.

7. Repeal

Any resolution conflicting or inconsistent with this Resolution is hereby repealed to the extent of such conflict.


8. Effective Date

This Resolution is effective upon adoption by the Collier Township Board of Commissioners of Ordinance 668, adopted the 11th day of November, 2013 which also regulated encroachments on and over utility easements.

DULY ORDAINED AND ENACTED at a duly assembled public meeting of the Collier Township Municipal Authority of the Township of Collier, this 12th day of December, 2013.

ATTEST:

COLLIER TOWNSHIP MUNICIPAL AUTHORITY


Secretary

By: 
Daniel Oberleitner, Chairman