

**TOWNSHIP OF PERRY, LAWRENCE COUNTY
COMMONWEALTH OF PENNSYLVANIA
STREET OPENING/DRIVEWAY PERMIT ORDINANCE
ORDINANCE NUMBER 10-9-03**

**AN ORDINANCE OF THE TOWNSHIP OF PERRY, LAWRENCE COUNTY,
COMMONWEALTH OF PENNSYLVANIA TO OPEN STREETS OR
ROADWAYS AND FOR NEW POINTS OF ACCESS; PROVIDING
APPLICATION PROCEDURES; AND DESIGNATING ENFORCEMENT
PROCEDURES AND PENALTIES FOR VIOLATIONS.**

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of the Township of Perry, that from and after the passage of this Ordinance, the regulations contained herein shall be in full force and effect and shall be held to be the minimum requirements for the protection of the health, safety, and general welfare of the residents of the Township.

SECTION 1: STREET OPENINGS AND PAVEMENT CUTS

A. Permit Required: It shall be unlawful for any person, firm, corporation or Utility to make, enlarge, or modify any opening or excavation of any kind in or under, the surface of any street within the Township of Perry, except under such conditions and regulations relating to installation and maintenance, without first securing a permit in accordance with the provisions of the Ordinance.

B. Emergency Openings/Cuts: No pipes, lines or other underground facilities shall be laid upon, or in any portion of a public roadway without a permit, provided, however, that any maintenance of such pipes, lines, or underground facilities when emergency circumstances demand the work to be done immediately, may proceed without a permit. In such cases where emergency openings are necessary, the Township shall be notified prior to such openings in one of the following manners:

1. Fax notification
2. Telephone notification

The person, firm, corporation or utility shall apply for a permit on the first regular business day on which the Township offices are open to the public and such permit shall be retroactive to the date when the work was begun.

SECTION 2 DRIVEWAYS

A. Permit Required: It shall be unlawful for any person, firm corporation or Utility to make, enlarge or modify any connection of any kind to any Township street or road within the Township of Perry without first securing a permit in accordance with the provisions of this Ordinance.

B. Access: Access to Township streets and roads shall:

1. Be designed so that the grade at the intersection with the street or road will not cause a vehicle to drag or hang-up.
2. Begin at the edge of the property line or at the edge of the Township right-of-way.
3. So that no portion of any driveway shall exceed a grade of fifteen percent (15%, approximately 1.75" slope per foot) unless approved by the Township.

4. Be reviewed by the Township Representative who will determine the installation requirements.
 5. Provide the maximum amount of site distance, in each direction, as possible. The acceptable site distance will equal the required PennDot Regulations.
 6. Be constructed so as not to impair drainage within the right of way, alter the stability of the improved area, or change the drainage of adjacent areas.
 7. Be constructed so as not to exceed the elevation of the existing roadway
 8. Be constructed so water will flow off either side of driveway in situations where the driveway is located above the road.
- C. Culvert pipe and swale:
1. The Township will determine the diameter and type of culvert pipe to be installed if one is required.
 2. The Township will supply a standard drawing to be used as a reference for installing a swale on a driveway and/or along a drainage ditch line as determined by the Township Representative. The standard drawing can only act as a reference, due to the fact that all areas may differ in size, fall, and depth.

SECTION 3 RIGHT OF WAY

The width of the right-of-way of a public road in townships shall not be less than thirty-three or more than one hundred and twenty feet, and the width of the right-of way of alleys opened by the township as public roads shall not be less than fifteen feet. The minimum required width shall be in addition to any width required for necessary slopes in cuts or fills.

SECTION 4 PERMITS

- A. Limits:
1. No work of any kind shall be performed beyond that which has been authorized by the permit
- B. Time Limitations:
1. Work for which a permit has been issued shall commence within sixty (60) days after issuance of the permit. The permit shall automatically expire on the sixty-first (61st) day unless the Permittee applies for an extension of time within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension.
 2. Permits which terminate by reason of failure to commence work within sixty (60) days, or within any extension of time granted, may be renewed only upon the payment of an additional permit fee as required.
 3. If the Township determined that failure to complete the work under the permit within the time specified was due to circumstances reasonably beyond the control of the Permittee, and not contrary to the public interest, the Permittee may be granted additional time for the completion for the work.

- C. Revocation of Permits: Any permit may be revoked by the Township, after notice to the Permittee, for:
1. Violation of any condition of the permit or of any provision of this Ordinance;
 2. Violation of any other applicable provision of the Municipal Code, or any laws relating to the work;
 3. Existence of any condition, or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
 4. Written notice of any such violation or condition shall be served upon the Permittee or his agent engaged in the work. The notice shall contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery or certified or registered mail.
 - a. The Permittee shall be granted a period of three (3) days from the date of the notice to correct the violation;
 - b. When any permit has been revoked, and the work authorized by the permit has not been completed, the Township shall do, or cause to be done, such work as may be necessary to restore the street, or part thereof, to as good a condition as before the opening was made. All expenses thereby incurred by the Township shall be recovered from the deposit or bond the Permittee has made, or filed with the Township.

SECTION 5 APPLICATIONS

The application for a permit shall be on a form prescribed by the Township. No work shall begin until the Township has approved such application and the Permittee has paid and provided all required fees, deposits, certificates and bonds.

- A. Requirements: A complete application shall include:
1. Application form.
 2. Application fee per adopted schedule of fees by the Board of Supervisors
 3. Additional requirements:
 - a. Three (3) copies of plans for street opening and/or pavement cuts which show the work to be performed, including:
 - (1) dimensions of roadway and right-of-way
 - (2) dimensions of proposed work
 - (3) location of proposed work
 - (4) construction material
 - b. Two (2) copies of plans for driveway which show:
 - (1) Proposed location of driveway, including diagram of property and property lines
 - (2) Dimensions of driveway
 - (3) Construction materials of driveway
 - (4) Approximate site distance along the Township road or street as measured ten feet (10') from the edge of the roadway

- (5) Certificate of Insurance from contractor
- (6) Name, address and phone number of contractor
- B. The Permittee shall keep one (1) copy of the approved plan, as well as the original permit, on the work site.
- C. The Permittee shall provide advanced notification to all possible owners/operators of underground facilities, which may be endangered by the proposed opening/cut.
- D. The Permittee shall notify PA One Call three business days before construction is to begin.

SECTION 6 PERFORMANCE DEPOSITS OR BONDING

- A. Labor and Materials Deposit: The applicant shall deposit with the Township Secretary prior to obtaining a permit, a sum of three hundred (\$300) dollars. The deposit shall be paid at the time the permit is received, and the deposit shall be used to reimburse the Township for the cost of any work and/or materials furnished by it in the event that the Permittee fails to restore the opening/cut properly, according to Township specifications.

The Township shall waive this requirement insofar as it pertains to a public utility company, if such company files its corporate bond with the Township, guaranteeing payment to the Township of all costs which would otherwise be covered by, and paid out of such deposit. In the event any public utility company elects to file such a bond, the Township shall bill such company monthly for such costs they accrue, or they shall be paid at the time of securing each permit.

- B. Form of Deposit: The deposit may be either in the form of a certified treasurer's or cashiers check, cash, money order or a personal check or a guarantee in a form acceptable by the Township.
- C. Insufficient Deposits: If any deposit is less than sufficient to pay all costs, the Permittee shall, upon demand, pay to the Township an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the Township may institute an action to cover the same in any court or competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such Permittee.
- D. Yearly Deposit: Whenever any public utility or municipal authority shall anticipate applying for permits for more than one street opening or excavation per calendar year, and does not elect to file a corporate bond as provided for in part A. of this section, such public utility or municipal authority may post one deposit in an amount and form as provided herein for the calendar year, or part thereof, to cover the cost of any and all work.
- E. Refund and Deposit: Upon notification by the Permittee that all work authorized by the permit has been completed, and after verification of satisfactory restoration as determined by the Township Representative of the opening has occurred, the Township Secretary shall refund to the Permittee the deposit less all costs incurred by the Township in connection with said permit. In no event shall the permit fee be refunded.

- F. In the event of any personal check being returned due to insufficient funds, an additional fee of thirty (\$30) dollars shall be charged to the permittee.

SECTION 7 LIABILITY INSURANCE

Each applicant, on behalf of his contractor shall provide the Township with acceptable "certificate of insurance" indicating that the contractor is insured against claims of damages for personal injury as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by themselves, their subcontractor, or anyone directly or indirectly employed by them. The amount of insurance shall be as prescribed by the Township, in accordance with the nature of the risk involved. Public utility companies and municipal authorities may be relieved of the obligation of submitting such a certificate if they submit satisfactory evidence that they are insured in accordance with the requirements of this Ordinance.

SECTION 8 ENFORCEMENT AND PENALTIES

- A. Enforcement of this Ordinance shall be by an action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania rules of Criminal Procedure.
- B. Upon conviction of a violation of this Ordinance, criminal fines not less than three hundred (\$300) and not to exceed one thousand (\$1,000) dollars per violation may be imposed as well as incarceration to the extent allowed by law for the punishment of summary offenses.
- C. Each day's continuance of a violation shall constitute a separate violation.
- D. This Ordinance may also be enforced through an action in equity brought in the Court of Common Pleas of Lawrence County. In addition to the fines prescribed in this Ordinance, the Court of Common Pleas may direct the defendant to pay the court costs and attorney's fees incurred by the Township.

SECTION 9 SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holdings shall not affect the validity of the remaining portions hereof.

SECTION 10 REPEALER

All Ordinances or parts of ordinances conflicting with any of the provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance, including but not limited to any prior Ordinances.

SECTION 11 EFFECTIVE DATE

This Ordinance shall become effective five (5) days after final passage and enactment by the Board of Supervisors.