

## BERWICK TOWNSHIP

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### DRIVEWAY AND STREET EXCAVATION ORDINANCE

#### ORDINANCE NO. 2016-3

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AN ORDINANCE OF BERWICK TOWNSHIP, ADAMS COUNTY, COMMONWEALTH OF PENNSYLVANIA REQUIRING ALL PERSONS TO OBTAIN PERMITS PRIOR TO CONNECTING OR PAVING DRIVEWAYS TO PUBLIC ROADS OR PERFORMING EXCAVATING OR OTHER WORK IN PUBLIC ROADS; REQUIRING THE SUBMISSION OF PLANS IN COMPLIANCE WITH PENNDOT AND TOWNSHIP DESIGN REQUIREMENTS PRIOR TO THE ISSUANCE OF PERMITS; PROVIDING FOR THE DISAPPROVAL OF PLANS WHERE CONNECTION OR WORK WOULD RESULT IN IMPROPER DRAINAGE OR NONCOMPLIANCE WITH PENNDOT AND TOWNSHIP DESIGN AND CONSTRUCTION REQUIREMENTS; PROVIDING FOR THE PAYMENT OF PERMIT FEES; AND PROVIDING PENALTIES FOR VIOLATIONS.

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors in and for Berwick Township, Adams County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

#### **SECTION 1: SHORT TITLE**

This Ordinance shall be known as the "Berwick Township Driveway and Street Excavation Ordinance".

#### **SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY**

The background of this Ordinance and the legislative intention of the Board of Supervisors ("Board") in enacting it are as follows:

- A. Berwick Township is a Municipal Township of the Second Class.
- B. The Township has suffered damage to its roads as a result of improper connection of driveways to Township roads and faulty drainage.
- C. Improper connections and faulty drainage have resulted in hazardous conditions.
- D. The Township deems it necessary for the proper management, maintenance and control of its public road system to regulate the connection of driveways to Township roads.

E. Roadway excavations have resulted in damage, improper drainage and uneven riding surfaces on Township roadways, all to the danger and hazard of vehicular traffic.

F. Roadway excavations have resulted in increased costs of repairs and maintenance of public roads.

G. The Township desires to require proper connection of driveways and repair of roadway excavations to minimize damage to Township roads and to eliminate hazards to the public.

### **SECTION 3: DEFINITIONS**

For the purposes of this Ordinance, the following terms shall be defined as:

**ADT Volume** — The total number of motor vehicles traveling on a public road during an average weekday, other than Friday, Saturday or Sunday.

**Board** — The Board of Supervisors of Berwick Township, Adams County, Pennsylvania.

**Contractor** -The person who installs a driveway or excavates in a Township roadway, including all agents, subcontractors, officers or employees of that person or business entity.

**Cross Access Drive** — A service driveway providing vehicular access between two or more contiguous sites so that the driver need not re-enter the public road system.

**Driveway** - Every entrance or exit used by vehicular traffic to or from properties abutting a public road. The term includes proposed streets, lanes, alleys, courts and ways.

**Owner** - The owner of the land upon which the driveway is located and his successors or assigns.

**Person** - Any natural person, firm, partnership, corporation, entity, association or other group of persons. The singular shall include the plural and the masculine shall include the feminine and the neuter.

**Permit** - A highway occupancy permit issued by the Board pursuant to this

Ordinance. **Permittee** - The holder of a duly issued permit.

**Public Road** - Any road, street, alley, bridge or public thoroughfare, including the entire area between right-of-way lines, either presently maintained by Berwick Township, or shown on a subdivision or land development plan and intended to be dedicated to Berwick Township in the future.

**PENNDOT** - Pennsylvania Department of Transportation.

**Right-of-way** - The area which has been acquired by the Township for highway purposes.

**Township** - Berwick Township, Adams County, Pennsylvania, or its duty appointed representative.

#### **SECTION 4: REQUIREMENT OF PERMIT**

A. Permit required. No person shall hereafter install or alter an existing driveway or allow any work incident to the alteration or installation of a driveway including the alteration of existing drainage characteristics without first obtaining a permit from the Township. No person shall hereafter perform excavation or other work within a Township public road without first obtaining a permit from the Township.

B. No combined permits. Each driveway, whether or not serving the same premises, shall require an individual permit. Each excavation or other work site within a public road shall require an individual permit.

#### **SECTION 5: APPLICATION PROCEDURES**

Any owner shall, prior to obtaining a permit for a driveway connection, file an application with the Board, on a form furnished by the Board. Every person intending to perform excavation or other work within a public road shall, prior to obtaining a permit, file an application with the Board on a form furnished by the Board. The application shall be accompanied by such permit issuance fees and general inspection fees as determined by resolution from time to time by the Board. Issuance fees are used to defray costs incurred by the Township in reviewing and processing the application and plan(s), including the preliminary review of the site location identified in the application, and issuing and processing the permit. General inspection fees are used to defray costs incurred by the Township in spot inspection(s) during the progress of the work and after it has been completed to ensure compliance with the permit and these regulations.

#### **SECTION 6: REQUIREMENTS FOR A DRIVEWAY CONNECTION**

A. Required information. The application shall be accompanied by a sketch of the proposed driveway which at a minimum shall indicate:

1. Geometric information such as width, radius, dimensions and location of the public road, right of way, slope and grades, length of driveway to residence or building, and distance to property lines and nearest driveway(s) and intersection(s). In

conjunction with submission of the application, the applicant shall place a stake at the desired location which shall coincide with the submitted sketch.

2. Safe sight distances shall be indicated on the sketch as obtained from actual field measurement. Measurement of sight distance shall be measured in accordance with the requirements of PENNDOT. Minimum sight distances shall be required to meet those provided in the attached table or as may be amended by PENNDOT. Signature of the application by the owner shall be an admission that the indicated sight distance is the result of actual field measurement.

3. Drainage culvert (if applicable) or swale including related grades as may be required. The determination for installation of a culvert pipe or swale shall be made by the Township following initial review by the Township representative. The application must also include a long-term drainage and erosion control plan which shall specify provisions for road side drainage and control and mitigation of surface water runoff created by installation or improvement of the driveway.

4. When determined by the Township, a storm water management plan shall be filed in accordance with the requirements of the Township Storm Water Management Ordinance, in which case approval of the Storm Water Management Plan shall precede issuance of a driveway permit.

B. Review criteria. The application and accompanying sketch and drainage plan shall be reviewed by the Board or its duly appointed representative. Driveway design shall conform to the requirements and standards and specifications of this Ordinance, PENNDOT, the Berwick Township Subdivision Land Development Ordinance, the Berwick Township Storm Water Management Ordinance, and all related standards and specifications which may be adopted from time to time by Resolution which are incorporated herein by reference. In no event shall a permit be issued for a proposed residential driveway unless the application conforms with the following criteria:

1. Minimum Residential Driveway Requirements
  - a. Within ten (10) feet of a street right-of-way line, an access drive may not exceed twenty (20) feet in width.
  - b. The number of access drives on a street frontage, may not exceed one (1) per lot unless circumstances prove that a second access is justified. Additional access points must be approved by the Township.
  - c. An access drive may not cross a street right-of-way line:

- (1) Within fifty (50) feet of the right-of-way line of an intersecting street when entrance is from an arterial street.
- (2) Within thirty-five (35) feet of the right-of-way line of an intersecting street when entrance is from a collector street.
- (3) Within twenty-five (25) feet of the right-of-way line of an intersecting street when entrance is from a minor street.
- (4) Within fifteen (15) feet of a fire hydrant.
- (5) Within five (5) feet of a catch basin.

d. The drive may not exceed a slope of seven percent (7%) within twenty-five (25) feet of the street right-of-way lines.

e. Where a drive enters a bank through a cut, the shoulders of the cut may not exceed fifty percent (50%) in slope within twenty-five (25) feet of the point at which the drive intersects the street right-of-way.

f. All driveways shall have a minimum safe sight distance in accordance with the Pennsylvania Department of Transportation Rules and Regulations. Plans shall indicate the following information:

- (1) Minimum (limiting) site distances along each proposed lot, where applicable.
- (2) The location of proposed driveways.
- (3) Field run grades along the Township road in both directions from each lot.
- (4) Speed limit of existing road in each direction.
- (5) Location of trees and other visual obstructions which affect sight distances.

g. Width, turning radius, and slope requirements shall conform to chapter 441 of the Pennsylvania Department of Transportation rules and regulations.

h. The minimum angle between the centerline of the driveway and the street shall not be less than 65 degrees.

- i. A clear sight triangle of seventy-five (75) feet measured along the street and 10 feet into the driveway shall be maintained. Permanent obstructions other than mail boxes and utility poles shall be prohibited.
- J All accesses shall be provided with a drainage culvert or gutter/swale as directed by the Township. The minimum size of the pipe, unless otherwise approved, shall be fifteen (15) inches in diameter or equivalent open area arch pipe. The stormwater management plan for a proposed development where required by the Township shall include calculation for and sizing of access driveway culverts.
- k. To prevent drainage and erosion problem and to minimize future maintenance, access driveways shall be surfaced with a stabilized material within the public street (for fifty (50) feet from the edge of the road) right-of-way. Where access is to a paved roadway, driveways shall be surfaced with bituminous or concrete material within the legal right-of-way.
- 1. In the event that an access drive will serve more than one residence, more stringent standards may be applied pending review and recommendation of the Township Engineer.
- m. Driveways shall be constructed so that motorists are not required to back on to the roadway.
- n. Driveways must be a minimum of five (5) feet measured from the end of the radius or closest point to any property line.

2. Multi-family, Commercial, and Industrial Driveways shall follow criteria for low, medium or high-volume driveways in accordance with PennDOT Publication 441 and the standards contained in the Berwick Township SALDO.

C. Damage to public roads. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route or used at the work site.

D. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 900 and PennDOT Chapter 212 adopting the Manual on Uniform Traffic Control Devices (MUTCD).

- 1. The Permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the district office. A traffic control plan shall be

submitted to and approved by the Township Engineer before detouring any traffic.

2. Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
3. Designated employees shall be assigned by the Permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 900.

E. Drainage. All driveways which are installed on any public road will be required to install either a drainage pipe (culvert) or construct a drainage swale as directed by the Township representative.

F. Paving to limits. All driveways which are constructed and have access onto a paved public road will be required to be paved from the edge of the existing public road to the right-of-way limit or the end of the radius whichever extends further from the Township road.

G. PENNDOT Requirements. When a driveway accesses a state road, the owner shall comply with all PENNDOT requirements, including the requirement to obtain a permit from PENNDOT.

H. Re-inspections. The Township may re-inspect the work not more than two years after its completion, and if there is settlement of the connection or any other defects appear in the work contrary to the conditions, restrictions and regulations of this Ordinance, the Township may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight (48) hours after written notice from the Township, or any other defect within sixty (60) days after written notice from the Board of Supervisors to do so, the Township may do the work and impose upon the owner the cost thereof, together with an additional twenty (20%) percent of the costs, which may be recovered by the Township.

I. Owner's responsibility. As part of obtaining a driveway permit, all property owners shall be responsible for long term maintenance of the driveway and related drainage or stormwater management plan. In the event that excess stormwater runoff or sediment is diverted onto public roads the owner will be given notice and required to make necessary corrections to bring the driveway and drainage into compliance. In the event that a driveway culvert pipe becomes crushed or blocked it may be replaced at the owner's expense. The Township reserves the right to require the owner to make repairs, to make the repair at the owner's expense or to contract with a third party at owner's expense to perform the needed repairs. All property owners

shall be responsible for any and all costs for maintenance to public roadways resulting from water runoff caused by improperly maintained driveway pipes.

J. Overnight parking. Where construction permitted by this Ordinance requires equipment to park at the site overnight, it shall be located a minimum of four (4) feet from the edge of the cart way of the Township road.

K. Sight distance. Measurement of sight distance from a vehicle turning from a driveway shall be such that the position of the driver is taken to be 10 feet from the edge of the traveled roadway at the centerline of such driveway; the driver eye height is to be 3.5 feet; the vehicle height on traveled roadway is to be 4.25 feet. Adequate sight distance is to be provided to the right and to the left of the driveway.

L. Permit issuance. If the plans meet the criteria above, the Township shall issue the permit. If the application is found to be deficient, or if in the opinion of the Township the plan should be revised in order to meet the criteria above, the Township shall notify the owner of the changes to be made, whereupon the applicant shall make such changes and return the revised plans to the Township. When the application is acceptable to the Township, the permit shall be issued.

## **SECTION 7: REQUIREMENTS FOR EXCAVATIONS AND OTHER WORK IN PUBLIC ROADS**

Design, construction and restoration shall conform to the requirements of this Ordinance, PENNDOT regulations and specifications as may be adopted by the Township from time to time.

A. Permit application.

1. Any person desiring to open, excavate, or bore in or under any street in the Township, shall file an application with the Township on forms provided by the Township. Such application shall contain the following information:
  - (a) The name and address of applicant.
  - (b) The exact location of the proposed opening, excavation, or boring.
  - (c) The approximate size and depth of the proposed opening, excavation, or boring.
  - (d) The proposed dates and times of commencing and completing the work.



- (e) The method and progression for performing the work.
- (f) The purpose of the proposed opening, excavation, or boring.
- (g) Such other information as the Township may deem pertinent.

2. Such application shall contain a statement, which shall be subscribed to by the applicant, to the effect that the applicant will comply with all relevant ordinances of the Township (including this Ordinance) and laws of the Commonwealth of Pennsylvania and that the applicant will defend, protect and save harmless the Township and its officers, agents, and employees from all loss and liability in accordance with the provisions of this Ordinance.

B. Issuance of permit; applicability. Upon being satisfied that the application is in proper form and upon receipt from the applicant of the fee prescribed by this Ordinance, the performance bond prescribed by this Ordinance and the certificates of insurance prescribed by this Ordinance, the Township shall issue a permit. Such permit shall apply only to the specific work described in the application, shall expire on the date and time when the work is proposed to be completed and may contain such conditions or limitations as the Township deems necessary for the protection of persons and property.

C. Emergency situations. In the case of any leak, explosion or other accident in any subsurface pipe, line, conduit, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, conduit, construction or apparatus to commence an opening or 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 Ordinance 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, conduit, construction or apparatus, the Township, after such notice, or attempt of notice, as it shall deem necessary under the circumstances of the particular case, may proceed to have the work necessary and required by such emergency performed and charge the cost thereof to such owner or person.

D. Open lane of travel. No opening, excavation or construction in any public road shall extend from the right-of-way line into the road past the center line, before being restored to a condition safe and convenient for travel.

E. Allowable limits of excavation. No more than one hundred (100) feet longitudinally shall be opened in any street at any one time, except in the case of the installation of gas or water lines by public or private bodies, or of sanitary or storm sewers by the Township or a duly constituted Township municipal authority.

F. Special conditions for subsurface operations.

1. Drilling, boring, driving or tunneling across improved area.
  - (a) When crossing under any improved area, the opening for a utility facility shall be drilled, bored or driven on a horizontal plane at a minimum depth of three (3) feet below the surface of the highway and its swale ditches.
    - (i) The facility may be placed otherwise by tunneling when specified in the permit. When tunneling, after the facility is placed, the hole shall be backfilled with one-to-three-to six concrete of dry consistency and tamped.
    - (ii) Wet boring is prohibited.
2. No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling shall be made closer than three (3) feet to the edge of the roadway unless the permit authorizes less clearance.
3. Facilities and other structures crossing under the improved area shall be constructed so as to assure the safety of the traveling public and to preclude the necessity of entering upon the improved area to affect future maintenance or replacement.

G. Trenching across improved area.

1. No trenching shall be permitted across the improved area unless authorized by the permit.
2. Trenching across the improved area may be authorized by the permit where drilling, boring, driving or tunneling are not feasible because:
  - (a) The subsurface is solid rock.
  - (b) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.
  - (c) Adjacent development in a very congested area makes the construction of a tunneling or boring shaft impossible.

3. When trenching is specified in the permit, the trenching operation shall be performed by one of the following two (2) methods:
  - (a) Utility facility placed in one (1) piece across highway.
    - (i) Traffic shall be routed over one-half (1/2) of the pavement width.
    - (ii) The closed half of the pavement shall be opened to the required depth and bridged with steel plates.
    - (iii) Traffic shall be shifted to the bridged half of the pavement.
    - (iv) The remaining half of the pavement shall be opened to the required depth.
    - (v) The facility shall be placed full width.
    - (vi) The open trench shall be backfilled and restored half-width in accordance with this section (relating to special conditions for subsurface operations).
    - (vii) Traffic shall be shifted to the restored half of the pavement.
    - (viii) The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section (relating to special conditions for subsurface operations).
  - b. Utility facility placed in more than one (1) piece across highway.
    - (i) Traffic shall be routed over one-half (1/2) of the pavement width.
    - (ii) The closed half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section (relating to special conditions for subsurface operations).
    - (iii) Traffic shall be shifted to the restored half of the pavement.
    - (iv) The remaining half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled

and restored in accordance with this section (relating to special conditions for subsurface operations).

H. Open trenches. If work is stopped on any road project, and any ditch or trench remains open for an unreasonable period, in the opinion of the Township, the owner and/or contractor, if so directed, shall refill the ditch or trench and work shall not be resumed until such time as the owner and/or contractor is ready to proceed. In the event that the owner and/or contractor fail to fill in the ditch or trench upon notification by the Township, the Township may perform the necessary and required work and charge the cost thereof to the owner.

I. Consent of abutting owners. The owner and/or contractor is not relieved from obtaining consent required from the owners of abutting properties and does not have the right to remove or destroy trees or shrubbery within the legal limits of the highway except under such conditions as the Township may prescribe.

J. Restoration. Trenches shall be restored to meet Township specifications as directed by the Township Representative.

1. Temporary surface. On improved public roads, a minimum two-inch, temporary paving of hot mix thoroughly bound and compacted shall be installed flush with the surface of the adjoining paving.

2. Permanent Paving must be completed within sixty (60) days of excavation or following completion of site work related to the driveway.

3. Additional paving/surfacing may be required by the permit in accordance with standards contained in PennDOT Chapter 459, utilities, pending extent of roadway opening.

K. Non-disturbance of utility connections. The work of excavation shall be so conducted so as not to interfere with the water mains, gas lines, sewers or their connections with the houses or any other sub-surface pipes or structures until permission of the owners of such lines or structures shall have been obtained. The contractor is responsible for locating and protecting underground utilities and coordination with respective utility company.

L. Township may correct work. In the event that any work performed by the owner and/or contractor, shall, in the opinion of the Township, be unsatisfactory and the same shall not be corrected in accordance with these instructions within the time so fixed, or in the event that the work for which the permit was granted is not completed within the time fixed by the Township, the Township may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof to the owner.

M. Permits non-transferable. Permits may not be transferred without the approval of the Township.

N. Damages to public road. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route or used at the work site and shall restore damaged areas to like in kind or better condition.

0. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 900 and the Manual of Uniform Traffic Control Devices "MUTCD".

1. The Permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the district office. A traffic control plan shall be submitted to and approved by the Township Engineer before detouring any traffic.
2. Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
3. Designated employees shall be assigned by the Permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 900.

P. PENNDOT requirements. When an excavation or other work is proposed in a state road, the owner shall comply with all PENNDOT requirements, including the requirement to obtain a permit from PENNDOT.

Q. Overnight parking. Where construction permitted by this Ordinance requires equipment to park at the site overnight, it shall be located a minimum of four (4) feet from the edge of the cart way of the Township road.

R. Permittee responsibilities.

1. The Permittee shall pay all costs and expenses incident to or arising from the project, including the prescribed fees for same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration. The Permittee shall reimburse the Township for any and all inspection costs, which the Township may deem necessary to incur, within thirty (30) days after receipt of the Township's invoice.

2. In the event of failure or neglect by Permittee to perform and comply with the permit or these regulations, the Township may immediately revoke and annul the permit and order and direct the Permittee to remove any or all structures, equipment or property belonging to the Permittee and/or its contractors from the legal limits of the right-of-way and to restore the right-of-way to its former condition. In the event the Township determines that such structures, equipment or property pose a threat to the public safety and the Permittee fails to remove the same after notice from the Township to do so, the Township's attorneys or any attorney of any court of record shall be authorized to appear for the Permittee and to enter an amicable action of ejectment and confess judgment against the Permittee; and the attorney shall be authorized to issue forthwith a writ of possession with a clause for costs, without leave of court.
3. If work is stopped on a project for any reason, other than at the end of any normal workday, and any ditch or trench remains open for an unreasonable period, in the opinion of the Township, the Permittee, if so directed, shall refill the ditch or trench and work shall not be resumed until the Permittee is prepared to proceed immediately with the work to its completion. In the event the Permittee fails to refill the ditch or trench or proceed until completion of the work, upon notice from the Township to do so, the Township may perform the necessary and required work and shall be reimbursed for the costs by the Permittee within thirty (30) days after receipt of the Township's invoice.
4. If the Permittee, after making an opening in the surface to place or repair a facility or for any other purpose, fails to restore any portion of the right-of way to conform to this section upon notice from the Township to do so, the Township reserves the right to do the work and the Permittee shall reimburse the Township for the costs within thirty (30) days after receipt of the Township's invoice.

S. Altering vegetation prohibited.

T. Altering drainage prohibited.

1. Unless specifically authorized by the permit, the Permittee shall not:
  - (a) Alter the existing drainage pattern or the existing flow of drainage water.

(b) Direct the additional drainage of surface water toward, onto or into or in any way affect the highway right-of-way or highway facilities.

2. The permit does not authorize the Permittee to direct, divert or otherwise drain surface waters over the property of any other property owner.

(a) The permit does not in any way relieve the Permittee from acquiring the consent, permission or other authorization from any property owner which the Township determines may be adversely affected by drainage alterations.

(b) The Permittee is responsible for any damage caused to any property owners as a result of work done under the permit.

U. Equipment damaging roadway.

1. To protect the pavement and shoulders, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

2. In the event that other than rubber-equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four (4) inches, unless the permit requires the Permittee to repave the roadway full width.

3. If the equipment damages the pavement or shoulders, the Permittee shall restore the pavement or shoulders to their former condition at the Permittee's expense.

V. Indemnification. The Permittee shall fully indemnify and save harmless and defend the Township of and from all liability for damages or injury occurring to any person or persons or property through or in consequence of any act or omission of any contractor, agent, servant, employee or person engaged or employed in, about or upon the work by, at the instance or with the approval or consent of the Permittee; from any failure of the Permittee or any such person to comply with the permit or these regulations; and, for a period of two (2) years after completion of the permitted work, from the failure of the highway in the immediate area of the work performed under the permit where there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work.

W. Insurance. The Permittee shall, upon request, submit to the Township office a certificate or certificates of insurance for public liability and property damage, in form and amount satisfactory to the Township, to cover any loss that may be incurred for or on account of any matter, cause or thing arising out of the construction, reconstruction, repair, relocation or installation of the permitted structures or facilities.

X. Maintenance of disturbed area; bonding requirements. The applicant shall maintain the portion of the street disturbed by the opening or excavation for a period of eighteen (18) months from the date the backfilling is completed at a proper grade and condition free from ridges and depressions. Such maintenance work shall be done as often as may be necessary. To guarantee proper restoration of the surface and proper maintenance of the disturbed area, the applicant must deposit with the Township, prior to issuance of the permit, a bond in an amount set by the Township, with corporate surety guaranteeing the proper performance of the work, roadway restoration, and the proper maintenance of the disturbed area for the period of time required above. Utilities and other persons who open or excavate in streets on a regular basis may, with the permission of the Township, keep on deposit a single bond in an amount set by the Township and applying to the work included in all of the permits at any time outstanding.

Y. Notification and correction of defects; failure to correct. If, within a period of eighteen (18) months from the date the backfilling is completed, the Township determines that the backfilling, surface restoration or maintenance of the disturbed area is defective, it shall notify the applicant, in writing, to that effect. Promptly upon receipt of such written notice the applicant shall take immediate steps to correct such defects. If the applicant fails to take immediate corrective action, the Township may perform the work itself or cause the same to be performed by another person. The applicant and the surety on its bond shall be liable for all costs and expenses incurred by the Township in correcting such defects and for any penalty assessed as a result of the applicant's failure to take immediate corrective action.

Z. Blasting. No pre-drilling or blasting shall be permitted within the right-of-way unless authorized by the permit.

1. If the Permittee proposes to blast, the Permittee shall make, execute and deliver a bond to the Township in an amount determined by the Township with surety by a company duly registered and authorized to do business in the Commonwealth, conditioned that the Township will be saved harmless from any damages whatsoever to the improved area for a period of one (1) year from the date of the completion of the last work covered by the penult.
2. When blasting is anticipated within one hundred (100) feet of any bridge, box or culvert, a detailed plan of excavating, shoring, blasting and backfilling procedures shall be submitted, with the application, to the Township Office for review and approval.



3. No blasting shall be permitted if within twenty-five (25) feet of the nearest part of a bridge, box or culvert.
4. Only controlled blasting, as specified in PENNDOT Pub. 408, shall be permitted within the improved area.

AA. Maintaining structure or facility. As long as the Permittee operates and leaves in place any structures or facilities in, upon or along the right-of-way, the Permittee shall maintain and keep them in good order and repair.

BB. Damaged structure or facility to be repaired. If at any time the structure or facility shall become damaged from any cause whatsoever, the Permittee shall have it removed, repaired or otherwise made safe immediately upon notification from the Township.

CC. Approval by Permit Officer. Approval by the Township's Permit Officer of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval by the Permit Officer act as a release of the Permittee or waiver by the Township of its right to seek performance or restitution from the Permittee.

DD. When plates or bridging required. Except for emergency repairs of utility facilities, work shall be stopped prior to peak traffic hours that exist on a particular highway on a particular day. Steel plates or bridging shall be placed over all openings made within the improved area which are less than six (6) feet in either length or width when work is stopped. The plates or bridging shall be extended a minimum of eighteen (18) inches from each edge of the opening and shall be secured in a safe manner.

EE. Desposition of materials.

1. The Permittee shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the roadway during the performance of work authorized by the permit.
2. The Permittee shall be responsible for controlling dust conditions created by its own operations.
3. All excess material and material that is not suitable for backfill shall be removed and disposed of outside the right-of-way as the work progresses.
4. All retained suitable material shall be placed or stored on the side of the operation farthest from traffic, unless otherwise authorized by the permit,

and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch or waterway.

FF. General rule. Permits will not be issued to install aboveground facilities at locations which the Township determines to have a high accident potential.

GG. Location of above ground facilities.

1. New poles, guys and other aboveground facilities shall be installed outside the shoulder of the public road as near the right-of-way as practicable.
2. Installation of poles, guys and other aboveground facilities in locations where highway curb exists shall be placed off the roadway but as close to curb as possible.

HH. Location of wires, cables or conductors. All wires, cables or conductors which overhang any portion of the right-of-way shall be placed so as to provide a minimum vertical clearance of eighteen (18) feet over the roadway except where the National Electrical Safety Code requires vertical clearances in excess of eighteen (18) feet due to voltage and/or span lengths.

II. Guys.

1. Guys shall be placed so as to avoid interference with vehicular or pedestrian traffic.
2. Guys shall be insulated or grounded in compliance with the National Electrical Safety Code.

JJ. Identification of poles. Each pole shall bear the name or initials of the facility owner and the pole number(s) assigned by the facility owner.

KK. Availability of records for examination. All permit records, restoration records and emergency work records shall be made available for examination by the Township upon request.

## **SECTION 8: NON-CONFORMING DRIVEWAYS**

A. Driveways that do not conform to this section and have been constructed before the adoption of these standards shall be considered legal nonconforming driveways. However, nonconforming driveway(s) shall be reconstructed to comply with this Ordinance if there is a change in use or intensity of the land use, such that the use of the access increases peak hour or ADT Volume by ten (10%) percent or more and by one hundred (100) daily trips, based on the

latest edition of Trip Generation published by the Institute of Transportation Engineers or upon other data approved by the Township. The existing and proposed number of daily trips must be included on the site plan.

B. Berwick Township may require the closure of an existing non-conforming driveway if the parcel has access to another street or can gain access from a shared access driveway or cross-access drive.

C. Any existing farm/field driveway may be continued provided it is to be used for and limited to agricultural purposes. Any modification to this use shall require the driveway to conform to the standards of Berwick Township.

### **SECTION 9: ADDITIONAL SPECIFICATIONS BY RESOLUTION**

From time to time, the Board of Supervisors may adopt, by resolution, such additional driveway and/or excavation specifications and requirements and may supplement or modify the driveway and excavation specifications set forth in this Ordinance. Any violation of the additional requirements or specifications, modifications and supplements, as duly adopted, shall be subject to the penalties set forth in Section 11 of this Ordinance.

### **SECTION 10: INSPECTION**

A. Inspections. It shall be the duty of the Township to inspect all work for conformity with all of the ordinances of the Township. Notice must be given by the owner and/or contractor to the Township when the work is sufficiently advanced for inspection, when it shall be the duty of the proper officer to inspect the same after receipt of said notification.

B. Re-inspections. The Township may re-inspect the work not more than two years after its completion, and if there is settlement of the connection, or any other defects appear in the work contrary to the conditions, restrictions and regulations of this Ordinance, the Township may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight (48) hours after written notice from the Township, or any other defect within sixty (60) days after written notice from the Board of Supervisors to do so, the Township may do the work and impose upon the owner the cost thereof, together with an additional twenty (20%) percent of the costs, which may be recovered by the Township.

### **SECTION 11. PENALTIES**

A. Any person or contractor who violates or permits the violation of this Ordinance, shall, upon being found liable therefore in 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, pay the fine set by the Board of Supervisors, plus all costs. The municipal

solicitor may assume charge of the prosecution without the consent of the District Attorney as required under PA R. Crim. P. No. 83(c) (relating to trial in summary cases). Violations of this ordinance shall be punishable by a fine of not less than \$100.00 or more than \$1,000.00. A separate offense shall arise for each day or portion thereof in which a violation is found to exist and/or for each section of the Ordinance.

B. In addition to any other remedies provided in this Ordinance, any violation thereof shall constitute a nuisance and may be abated or addressed by the Township by either seeking mitigation of the nuisance, by institution of a suit or suits in equity to restrain or prevent violations of the Ordinance or by seeking a mandatory preliminary injunction or by seeking other legal relief from a court of competent jurisdiction.

**SECTION 12: SEVERABILITY**

If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance.

It is hereby declared as the intention of the Board of Supervisors of this Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

**SECTION 13: REPEALER**

Berwick Township Ordinance No. 96-37 and any other Ordinance or parts thereof inconsistent with this Ordinance are hereby expressly repealed.

**SECTION 14: EFFECTIVE DATE**

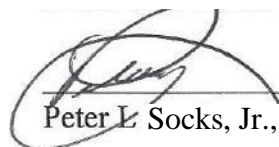
This Ordinance shall become effective five (5) days after adoption.

**ENACTED AND ORDAINED** this 10<sup>th</sup> day of October, 2016.

**ATTEST:**



**BERWICK TOWNSHIP  
BOARD SUPERVISORS**

  
Peter L. Socks, Jr., Chairman

**BERWICK TOWNSHIP, ADAMS COUNTY, PENNSYLVANIA  
TOWNSHIP ROAD OCCUPANCY PERMIT APPLICATION**

Permit No. \_\_\_\_\_ Date \_\_\_\_\_

1) \_\_\_\_\_ Phone No. \_\_\_\_\_  
Name of Applicant

2) \_\_\_\_\_  
Address of Applicant

3) \_\_\_\_\_  
Address of property to be improved

4) \_\_\_\_\_  
Contractor

5) Application is made to:  
\_\_\_\_\_ Construct a New Driveway \_\_\_\_\_ Alter an Existing Driveway \_\_\_\_\_ Utility Installation  
\_\_\_\_\_ Other (describe): \_\_\_\_\_  
Date Work Scheduled to Begin \_\_\_\_\_  
Date Work Scheduled to be Completed \_\_\_\_\_

INTENDED USE  
\_\_\_\_\_ Residential \_\_\_\_\_ Commercial \_\_\_\_\_ Industrial \_\_\_\_\_ Other

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**For Driveways (6-9): Applicant to place a stake at the center line of the proposed driveway**

6) Location of proposed driveway  
Road Name and No. \_\_\_\_\_  
Name of Nearest Intersection \_\_\_\_\_  
Distance to Nearest Intersection in Feet \_\_\_\_\_

For the purpose of measuring sight distance, the drivers' eye height shall be 3.50 feet above the proposed access surface and highway pavement surface and the vehicles' height shall be 4.25 feet above the proposed access surface and highway payment surface.

7) Posted Speed Limit \_\_\_\_\_

8) Roadway Sight Distance \_\_\_ ft. Right      Roadway Sight Distance \_\_\_ ft. Left

9) Driveway Radius \_\_\_ ft. Right      Driveway Radius \_\_\_ ft. Left  
Radius (R) of both driveway curves must be at least five feet for cars.

10) \_\_\_\_\_ Completed Sketch (if required)

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**For Utility Installation (11-14):**

11) \_\_\_\_\_ Length of Excavation

12) \_\_\_\_\_ Depth of Excavation

13) Location (distance to nearest intersection)

From Begin \_\_\_\_\_

From End \_\_\_\_\_

14) \_\_\_\_\_ Sketch or  
Engineering Plan (if required) \_\_\_\_\_

15) Bond (if required) \_\_\_\_\_

16) Certificate of Insurance \_\_\_\_\_

17) Total Fees \_\_\_\_\_

a. Issuing Permit \_\_\_\_\_

b. Township Inspection Fee \_\_\_\_\_

18) Applicant shall place a stake at the desired location which shall coincide with submitted sketch.

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Permission is hereby granted to construct driveway or utility station from the township road stated in number three (3) as per specifications of Township Roadmaster hereon.

**(Description of Work)**

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Under and subject to all the conditions, restrictions, and regulations prescribed by the Township Supervisors on the reverse, a true copy is attached and made a part of, with the same force and effect as if written or printed herein and subject to the special conditions, restrictions, and regulations hereinafter forth.

The Applicant hereby agrees to comply with all relevant Ordinances of the Township (including this Ordinance) and statutes of the Commonwealth of Pennsylvania, together with all relevant resolutions and regulations promulgated under either.

The Applicant agrees to defend, protect and save harmless the Township and its officers, agents and employees from any and all loss and liability rising out of any work to be performed pursuant to this permit, and shall fully indemnify the Township, its officers, agents and employees.

**This application shall be considered as an application only** — it may be considered a township road occupancy permit only at the time the specification of the Township Roadmaster is entered hereon and a complete copy(s) furnished to the applicant.

All work under this permit is to be completed on or before six (6) months from the date of permit issuance. The Township Supervisors, may at any time revoke and annul this permit for nonperformance of, or non-compliance with any of the conditions, restrictions, and regulations hereof.

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Accepted by: \_\_\_\_\_ Date: \_\_\_\_\_

Inspected by: \_\_\_\_\_ Date: \_\_\_\_\_

Issued by: \_\_\_\_\_ Date: \_\_\_\_\_

**THIS APPLICATION IS FOR TOWNSHIP USE ONLY**