

## CHAPTER 21

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**Part 1**

**Grading, Construction and Installations**

**§101. Permit Required for Construction.**

No person, firm or corporation shall grade, construct, install, pave, repave or erect a drain, culvert, footwalk, drive or driveway, or other means of ingress or egress, or perform any other construction affecting discharge or passage of drainage water, onto or along a Township road, street or alley, which shall include the full width of the legal right-of-way, unless and until the Township has granted a permit for such work.

(Ord. 1996-2, 5/8/1996, §1)

**§102. Application for Permit.**

Application for such permit shall be made by the owner or occupier, or by his contractor or agent, in writing, on forms provided by the Township and in accordance with such rules and regulations as may be established by the Township. There shall be appended to each application a drawing or plan showing the outlines of the property affected showing existing improvements thereon, existing drains, culverts, footwalks, drives and driveways and also showing the proposed drain, culvert, footwalk, drive or driveway, proposed to be added, reconstructed, paved or repaved and the relationship of the foregoing to the Township road, particularly with respect to the effect on the drainage of said road, to include a cross-section of the proposed driveway at the point of intersection of the Township right-of-way to the center of the Township's cartway.

(Ord. 1996-2, 5/8/1996, §2)

**§103. Costs.**

The costs of filing such application and permit to be issued thereon, and the cost of any inspection deemed necessary by the Supervisors, shall be determined according to a schedule of fees which will be adopted by the Supervisors by resolution and all such fees and costs shall be paid into the Township Treasury, the initial permit fee to be established in an amount from time to time by resolution of the Board of Supervisors.

(Ord. 1996-2, 5/8/1996, §3; as amended by Ord. 1997-1, 1/6/1997)

**§104. Plan Modifications Authorized.**

The Supervisors may alter plans filed with the application, and specify any changes or modification of any kind which they may deem necessary, and make its approval of the granting of any permits subject to any such alterations, changes or modifications.

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(Ord. 1996-2, 5/8/1996, §4)

### **§105. Conformity to Plans and Specifications Required.**

All grading, construction, installation and erection shall be in strict compliance with the plans and specifications upon which basis the permit is granted.

(Ord. 1996-2, 5/8/1996, §5)

### **§106. Enforcement and Remedies.**

#### 1. Enforcement Notice.

- A. If it appears to the Township that a violation of this Part has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.
- B. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
  - (1) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
  - (2) The location of the violation and, if applicable, the property in violation.
  - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Part.
  - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - (5) That the recipient of the notice has the right to appeal to the Board of Supervisors within a period of 10 days.
  - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.

2. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$1,000 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Part to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- D. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 1996-2, 5/8/1996, §6; as amended by Ord. 1997-1, 1/6/1997)



## Part 2

### Opening and Cutting

#### **§201. Permit Required.**

In accordance with the provisions of §1156 of Article XI of the Second Class Township Code, as amended, no railroad or street railway shall hereafter be constructed upon any Township 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, 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 Township road except under such conditions, restrictions and regulations relating to the installation and maintenance thereof, as may be prescribed in permits granted by the Township for such purpose.

(Ord. 1974-3, 6/3/1974, §1)

#### **§202. Application for Permit.**

The application for a permit shall be on a form prescribed by the Township and submitted to the Township in triplicate. The application shall be accompanied by a fee in accordance with the Schedule of Fees set forth by Pennsylvania 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.

(Ord. 1974-3, 6/3/1974, §2)

#### **§203. Issuance of Permit.**

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

(Ord. 1974-3, 6/3/1974, §3)

#### **§204. Written Notice Upon Completion.**

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

(Ord. 1974-3, 6/3/1974, §4)

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### **§205. Inspection Upon Completion.**

Upon completion of the work authorized by the permit, the Township 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 Township to do so, the Township may do the work and shall impose upon the applicant the cost thereof, together with an additional 20% of such cost.

(Ord. 1974-3, 6/3/1974, §5)

### **§206. Enforcement and Remedies.**

1. Enforcement Notice.
  - A. If it appears to the Township that a violation of this Part has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section.
  - B. The enforcement notice shall be sent to the violator and, if applicable, the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel and to any other person requested in writing by the owner of record.
  - C. An enforcement notice shall state at least the following:
    - (1) The name of the violator and, if applicable, the owner of record and any other person against whom the Township intends to take action.
    - (2) The location of the violation and, if applicable, the property in violation.
    - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Part.
    - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
    - (5) That the recipient of the notice has the right to appeal to the Board of Supervisors within a period of 10 days.
    - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Supervisors, constitutes a violation, with possible sanctions clearly described.



2. Enforcement Remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$1,000 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this Part to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- D. District justices shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 1974-3, 6/3/1974, §6; as amended by Ord. 1997-1, 1/6/1997)



### Part 3

#### Street Opening Restoration

##### §301. Backfill.

1. Class 1 Material. All Township roads including driveways within the right-of-way, shall utilize Class 1 Material. From one foot above the top of the pipe or utility, the trench shall be backfilled by hand or by accepted mechanical methods. Backfill in the section shall be 2A coarse aggregate or select granular material (2RC) stone free of slag, except in wet or unstable areas where the bedding may be No. 57 coarse aggregate. All materials shall conform to PENNDOT Publication 408, Section 703.3. In no case shall lift thickness placed exceed the limits specified by the manufacturer's recommendations, for the compaction equipment being used, or a minimum of two feet, whichever is smaller. Consolidation shall proceed from the center of the trench to the sides to prevent arching. Backfill material shall be compacted to a minimum density of 95% proctor (ASTM D1557).

(Ord. 2004-3, 7/14/2004)

##### §302. Restoration.

1. Drainage.
  - A. Altering drainage shall be prohibited by the following conditions:
    - (1) Unless specifically authorized by the permit, the permittee may not:
      - (a) Alter the existing drainage pattern or the existing flow of drainage water.
      - (b) Direct additional drainage of surface water toward, onto, or into or in any way affect the highway right-of-way of highway facilities.
    - (2) The permit does not authorize the permittee to direct, divert or otherwise drain surface waters over the property of another property owner.
      - (a) The permit does not relieve the permittee from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.
      - (b) The permittee is responsible for damage caused to property owners as a result of work done under the permit.

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- B. A permit will not be issued to authorize the discharge of water into the right-of-way unless the water is surface drainage.
2. Temporary Pavement Restoration.
- A. Unless otherwise directed, temporary paving shall be placed and maintained in all trenches within paved areas for a period of 90 days or as directed by the Engineer, after which permanent paving shall be installed.
  - B. Temporary restoration of a pavement or paved shoulder shall be constructed as follows:
    - (1) The base shall consist of compacted select granular material (2RC) with a surface of two-inch bituminous material. If the existing pavement structure includes a course of subbase material, it shall be replaced to a depth equal to the existing course depth with material meeting the requirements of Section 350.2 of Publication 408.
    - (2) Temporary pavement restoration shall be completed before traffic is allowed to travel on the disturbed area. The temporary pavement may be kept in place for up to six months or as specified in the permit, if it is properly maintained.
    - (3) The temporary pavement shall be removed and permanent restoration performed under §302.3.
3. Permanent Pavement Restoration.
- A. It shall be the duty of any person, firm, partnership or corporation causing an opening or excavation to be made in the cartway to saw cut the existing cartway in a straight and uniform manner 12 inches back from the edge of the trench or 12 inches from the face of the curb or structure and completely remove all existing backfill and earth and restore the cartway as follows:
    - (1) Class 1 material machine tamped and compacted in layers not to exceed six inches to within six inches of cartway grade;
    - (2) Four and one-half inches bituminous concrete base course machine tamped and compacted;
    - (3) One and one-half inches of ID-2 bituminous wearing course machine tamped and compacted; and, finally
    - (4) Sealing around edges of trench or between curb and replaced cartway with AC-20.

- B. All work shall be done in a good workmanship-like manner and shall not cause any ridges or depressions. All work and materials shall be in accordance with PennDOT Form 408 or as approved by the Township Engineer.
  - C. It shall further be the duty of the person, firm, partnership or corporation to maintain cartway for a period of two years after the work has been inspected and approved by the Township Engineer.
4. Restoration Outside Shoulder.
- A. If the disturbed area extends outside the existing shoulder, the disturbed area outside the restored shoulder shall be properly graded and a ditch line shall be constructed wherever necessary to maintain highway drainage.

(Ord. 2004-3, 7/14/2004)

**§303. Proper Repair of Surface; Collection of Costs.**

- 1. Upon the failure or neglect of any person, firm, partnership or corporation to promptly, skillfully, properly or completely open, excavate, fill or maintain the surface of any alley, street or thoroughfare as required by this Part, the Township, after notice, may cause the same to be done in a manner as it deems proper, and the Township may collect the cost thereof plus an additional 20%, together with interest and all other charges and expenses from the person, firm, partnership or corporation which made the opening or excavation, and the Township may file a municipal claim therefor or collect the same by civil action, or any other lawful means.
- 2. No permit shall be issued to any person, firm, partnership or corporation unless and until the openings or excavations already caused by he, she or it have been properly filled and the surface maintained as aforesaid, in a safe condition and at the proper grade; as determined by the Township Engineer, or other authorized representative of the Township.

(Ord. 2004-3, 7/14/2004)

**§304. Enforcement and Remedies.**

The enforcement notice and remedies shall be as set forth in §206 of Part 2 of Chapter 21 of the Conewago Township Code of Ordinances.

(Ord. 2004-3, 7/14/2004)