

ARTICLE II
Street Openings
[Adopted 7-3-2000 by Ord. No. 165]

§ 258-9. Title.

This article shall be known and may be cited as the "Perkiomen Township Highway Occupancy Permit Ordinance."

§ 258-10. Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

APPLICANT — The person or entity filing an application under this article for a permit. Once a permit has been issued, the applicant, or his assignee if the assignment of the permit shall have been approved by the Township Engineer, shall be deemed the "permittee."

EMERGENCY — An unforeseen occurrence or combination of circumstances which calls for immediate action or remedy.

NEW STREET — A Township street having a new, continuous and unbroken wearing surface consisting of mechanically placed bituminous hot mix or cement concrete material, whether placed over newly constructed base and subbase or over a modified or unmodified previously existing street surface.

PERMIT — A street occupancy permit issued by the Township pursuant to this article.

PERSON — Any natural person, firm, copartnership, association, corporation or political subdivision.

PENNDOT — Pennsylvania Department of Transportation.

PUBLICATION 203 — A PennDOT publication containing requirements for work area traffic control during highway maintenance operations and utility work, including any amendment thereto and any substitution or replacement thereof.

PUBLICATION 408 — A PennDOT publication containing PennDOT's highway construction specifications, including any amendment thereto and any substitution or replacement thereof.

RIGHT-OF-WAY — The area between the right-of-way lines of a street.

STREET — A strip of land, including the entire right-of-way, open to vehicular use by the public. The term "street" shall include street,

avenue, boulevard, road, highway, freeway, parkway, lane, alley or viaduct.

TOWNSHIP — The Township of Perkiomen, Montgomery County, Pennsylvania.

TOWNSHIP SUPERVISORS — The Board of Supervisors of the Township of Perkiomen, Montgomery County, Pennsylvania.

TOWNSHIP ENGINEER — The person so designated by the Board of Supervisors, or his representative so designated either by the Board of Supervisors or by the Township Engineer.

TOWNSHIP STREET — A street under the jurisdiction of the Township.

§ 258-11. Permit required.

It shall be unlawful for any person, including any municipal authority or utility company other than the Perkiomen Township Municipal Authority, to perform any work involving the opening of or the excavation in or under any Township street unless and until a permit therefor has been secured from the Township. All work performed within the right-of-way shall conform to the provisions of PennDOT Publication 203, PennDOT Publication 408, 67 Pa. Code Chapters 441 and 459, PennDOT RC Standards and any other related PennDOT publications that involve regulations for work within public rights-of-way, and the latest amendments to those PennDOT publications, unless superseded by more restrictive specifications that may be issued and made available by the Township.

§ 258-12. Openings and new streets.

- A. Notice of improvements. When the Township shall improve or pave any street, the Township may give notice to all persons owning property abutting on the street about to be paved or improved, and to all public utilities and municipal authorities operating in the Township, and all such persons, public utilities and municipal authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within 45 days from the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Township.¹
- B. Restrictions upon opening new streets. No permit shall be issued by the Township which would allow an excavation or opening in a

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

paved and improved street surface less than five years old unless the applicant can clearly demonstrate that public health or safety required that the proposed work be permitted or unless an emergency condition exists.

- C. Penalty for opening new streets. If by special action of the Township a permit is issued to open any paved and improved street surface less than five years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to 3% of the cost of restoring the opening for each month or fraction thereof of the five-year restricted period.

§ 258-13. Administrative requirements.²

- A. Application for permit. An application for a permit required by this article shall be submitted to the Township in duplicate. The application shall be accompanied by a fee and an escrow as established by a Township fee schedule adopted by resolution of the Board of Supervisors.
- B. Conditions of a permit. A permit shall only be issued upon condition that the applicant enter into an agreement with the Township in the form of the agreement that is attached to this article³ requiring a cash deposit in an amount determined by the Township Engineer to ensure proper completion of the work and compliance with the requirements of this article for the performance, construction and maintenance of the road opening. Any expenses incurred by the Township to correct a violation of the requirements of this article shall be deducted from the cash deposit. Upon completion of the work authorized by the permit, the Township may release so much of the cash deposit as in the opinion of the Township Engineer is sufficient to reimburse the cost of the work performed to the date of completion. At the expiration of one year from the date of completion, the balance of the deposit shall be released upon approval of the Township Engineer that the street repair has been performed and maintained as required by the provisions of this article.
- C. Duration of the permit. A permit shall be valid until the completion date specified on the permit. If the permittee has not completed all authorized work by the completion date specified

2. **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).**

3. **Editor's Note: The agreement form is on file in the Township office.**

on the permit, an application shall be submitted requesting a time extension. If approved, a supplement will be issued by the Township.

- D. Additional inspection fees. If the Township Engineer determines that the permitted work is of sufficient magnitude or importance to warrant assignment of one or more inspectors to inspect the permitted work on a more than spot inspection basis, the salary, overhead and expenses incurred by each assigned inspector and by the Township Engineer shall be included in the amount of the cash deposit required by Subsection B of this section.
- E. Authorization to begin work. A permit issued in accordance with the requirements of this article will be the applicant's authority to proceed with the work and will serve as a receipt for the fees accompanying the application.
- F. Work completion notification. When all permitted work has been completed, the permittee shall notify the Township Engineer in writing within 48 hours of the completion of all work. Upon receipt of this notification, the Township Engineer shall inspect the work and submit, in writing, its opinion whether or not the work has been completed satisfactorily. All work not completed to the satisfaction of the Township Engineer shall then be repaired within 48 hours. The one-year maintenance period shall begin either upon receipt of the written notification that all work was found to be satisfactory to the Township Engineer or after the repairs are made as required by the written report of the Township Engineer.
- G. The Township reserves the right to reinspect the work at the end of the one-year maintenance period. During this one-year period, any settlement of the road or defect in the work shall be repaired within 48 hours if the settlement or defect presents an immediate or imminent safety or health problem. Otherwise, any settlement or other defect shall be made within 30 days following receipt of written notification from the Township Engineer. If the applicant fails to rectify the defect(s) within the time allowed, the Township may do the work and deduct the cost from the escrow.
- H. Additional deposits and fees. Should the costs of restoration and/or inspections exceed the amount of the cash deposit required by Subsection B of this section, the applicant shall, upon written notification from the Township Engineer, immediately reimburse the Township for any portion of the cost associated with making

the inspections and/or restorations not covered by the cash deposit.

§ 258-14. Violations and penalties.⁴

Any person who violates or permits a violation of this article shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township before a Magisterial District Judge, pay a fine of not more than \$600 plus all court costs, including reasonable attorneys' fees, incurred by the Township in the enforcement of this article. 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 a violation exists shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).