

## STREET OPENING MODEL ORDINANCE

Note: This free-standing ordinance is intended to be enacted as part of a township's Code of Ordinances. It could also be incorporated into a Township's Subdivision/ Land Development Ordinance. While not directly related to pipeline infrastructure, this ordinance is intended to regulate any street openings or road crossings on municipal roads, including those commonly attributable to pipeline crossings.

### **AN ORDINANCE PURSUANT TO SECTION 2322 OF THE SECOND CLASS TOWNSHIP CODE, AS AMENDED, PROVIDING FOR THE REGULATION OF STREET OPENINGS AND INSTALLATIONS AND PROVIDING FOR THE REGULATION OF DRIVEWAYS WITHIN \_\_\_\_\_ TOWNSHIP. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** **Title.** This ordinance shall be cited to as the “\_\_\_\_\_ Township Street Opening Ordinance”.

**Section 2.** **Permit Required.** No opening, cutting, excavating, grading, boring, crossing, installation or disturbance of any kind shall be allowed upon, in, under, or across any portion of a Township road or any Township road right of way without a Road Occupancy permit granted by the Township for each separate undertaking. A permit shall not be immediately required for emergencies provided the applicant adheres to the requirements of Section 36. Permit applications are not required for accessing utility facilities through a manhole.

**Section 3.** **Application for Permit; Fee.** The application for a permit shall be on a form provided by the Township and submitted to the Township in triplicate. The Township Public Works Director or his designee shall be responsible for review and administration of the permit. The application shall be accompanied by a fee for processing the application in accordance with the Township Schedule of Fees adopted from time to time by the Board of Supervisors for street occupancy permits and restoration charges, and another fee for review by the Township Engineer and for making inspections, if needed. In addition, the applicant shall submit three copies of a sketch showing the location of the intended work, width of the traveled roadway (cartway), right-of-way lines, an address, and a dimension to the nearest intersecting road or other nearby landmark, so as to ascertain the location of the work. Permits will only be issued to public utility companies or contractors registered to do business in the Township.

Applicants shall be responsible for all costs and expenses incident to or arising from the permitted work, including the prescribed fees for the same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration.

**Section 4.** **Decision on the Permit.** The permit application shall be approved or denied within 30 calendar days of submission of a complete application to the Township. If the application and required documents do not conform to the requirements of this Ordinance and applicable ordinances, rules, and regulations, the Township Engineer shall either issue a correction notice listing the deficiencies that must be corrected, or deny the application in

writing, stating the reasons. If the Township Engineer is satisfied that the proposed work conforms to the aforesaid requirements, the Township Engineer shall issue a permit.

**Section 5. PA One-Call.** At least 3 working days prior to the proposed start of work, the applicant or his representative shall contact the PA One-Call system at 1-800-242-1776, report the proposed work, and obtain a serial number, and provide such serial number to the Township. No work shall begin until such date and time as authorized by PA One-Call.

**Section 6. Maintenance of Traffic.** At least one lane of traffic shall be maintained at all times. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

**Section 7. Detours.** Under extremely unusual circumstances, the Township may allow a road to be closed and traffic to be detoured. No road shall be closed without giving the Township at least 72 hours prior notice, to allow time to notify 911, police, fire departments, emergency services and school districts. No road shall be closed without the applicant submitting a detour plan to the Township and having it approved by the Township. No road shall be closed without proper detour signs, as approved by the Township, having been provided and installed by the applicant. All detour signs shall be maintained for the entire work period.

**Section 8. Erosion Control.** All proper erosion control measures shall be taken to ensure compliance with applicable laws. If necessary, the applicant shall obtain erosion and sedimentation control plan approval from the County Conservation District prior to starting work.

Unless specifically authorized by the permit, applicants shall not alter the existing drainage pattern or the existing flow of drainage water. In addition, applicants are not permitted to direct, divert or otherwise drain surface waters onto any property without the consent, permission or other authorization from the property owners. Applicants are responsible for any damage caused to public or private property as a result of the work undertaken by the permit.

Unless specifically authorized by the permit, applicants shall not cut, remove or destroy trees or shrubbery within the right-of-way.

**Section 9. Trenching.** In situations where drilling, dry boring, driving or tunneling are not feasible, applicants may be authorized under their permit to trench across improved areas.

Trenching may be authorized across improved areas under the following conditions:

1. Subsurface material is solid rock;
2. Other facilities are located longitudinally under the improved area and the location of such precludes methods other than trenching;
3. Adjacent development in very congested urban settings makes tunneling or boring impracticable;

4. The Public Works Director or his designee determines that the disruption to traffic and length of exposure will be minimal.

When utility facilities are to be placed across a street in one piece, the following method shall be used:

1. Traffic shall be routed over one-half (1/2) the pavement width;
2. The closed half of the pavement shall be opened to the required depth and bridged with steel plates;
3. Traffic shall be shifted to the bridged half of the pavement;
4. The remaining half of the pavement shall be opened to the required depth;
5. The facility shall be placed full width;
6. The open trench shall be backfilled and restored half-width in accordance with this chapter;
7. Traffic shall be shifted to the restored half of the pavement;
8. The bridging shall be removed and the remaining half of the trench shall be restored in accordance with this chapter.

**Section 10. OSHA Requirements.** The applicant shall comply with all OSHA safety requirements and procedures, including without limitation all enclosed space requirements. All excavation or trenching shall comply with the most recent Federal, State and local regulations regarding safety at a construction site.

**Section 11. Notification.** The applicant shall notify the Township 24 hours in advance of starting work and upon completion of temporary restoration and permanent restoration for a field inspection of the work.

**Section 12. Backfill.** All backfill within the Township right-of-way shall be 2A Modified crushed stone of optimum moisture content. There shall be a minimum two (2) inches of bedding under the pipe or utility line. Crushed stone backfill shall be mechanically compacted in maximum six (6) inch lifts. Where work is done outside the paved cartway or shoulder, the last six (6) inches of backfill shall be topsoil.

**Section 13. Overnight Requirements.** If the work cannot be completed in one work-day, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Township until the next workday. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

**Section 14. Clean-up.** The work area shall be swept clean, cleaned of debris and otherwise policed at the end of each workday and at the end of the project. Mud shall not be tracked onto the streets at any time. All mud shall be cleaned up within one (1) hour of verbal or written notice from the Township or its agents. All loads shall be tarped.

**Section 15. Installation.** Conduits and pipes shall be installed with a minimum of eighteen (18”) inches of cover. In no case shall conduits or pipes be allowed to be placed within six (6) inches of the bottom of the roadway or driveway paving cross-section, which includes all courses of screenings, base stone, binder and bituminous or concrete wearing surface. Separation shall be obtained by at least six (6) inches of screenings, to allow paving to be milled in the future without damage to utilities.

**Section 16. Temporary Restoration.** The last two (2) inches of the excavation shall be backfilled with compacted “cold patch” or similar asphalt material to prevent dust and stone chip nuisances. All excavations shall be temporarily restored prior to allowing traffic on them. All settlement shall be brought back to grade within twenty-four (24) hours of verbal or written notice from the Township or its agents. The temporary restoration shall remain in place for a minimum of two (2) months to allow for final settlement to occur through the actions of rain and traffic, but in no case shall it remain in place more than four (4) months. The person issued the permit shall send a postcard to the Township indicating the date of completion of the temporary restoration.

**Section 17. Permanent Restoration.** All ragged or broken edges and undermined areas shall be saw-cut straight; the minimum cutback shall be one (1) foot and the minimum depth shall be six and one half (6½) inches. Permanent restoration shall match existing thicknesses and materials, except in the case of asphalt paving where the minimum requirements shall be five (5) inches of 25-mil Superpave and two (2) inches of 9.5-mil Superpave. All edges shall be sealed a minimum of six (6) inches wide with PG64-22 liquid asphalt. All non-paved areas shall be restored with six (6) inches of topsoil, seed and straw mulch cover, but with curlex blanket applied to all disturbed roadside swale areas in accordance with Chester County Conservation District practices. Permanent restoration shall be scheduled to occur during the spring, summer or fall seasons when proper bituminous paving can be completed. The person issued the permit shall send a postcard to the Township indicating the date of completion of the permanent restoration.

**Section 18. Additional Restoration.**

1. All disturbed portions of a street, including all appurtenances and structures, such as but not limited to guardrail or drain pipes, shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.
2. When both longitudinal and traverse trench openings are made in the street pavement, regardless of the age of the wearing course, the Township may require the applicant to overlay all traffic lanes in which such openings were made, for the entire length of the street that was opened, if the Public Works Director or his designee determines that the serviceability of the street has been impaired by the openings.

3. Any lawn area disturbed as part of the work shall be restored to the condition that existed prior to the start of work. At a minimum, the following standards shall be met:
  - a. A minimum of six (6) inches of screened topsoil shall be placed at all locations of lawn restoration.
  - b. Disturbed areas shall be permanently stabilized with a quality seed mixture and straw mulch. The seed mixture used shall match the existing grass type.
  - c. Erosion control blanket shall be placed on all slopes that are 3:1 or greater. Blankets must be placed on all areas where erosion occurs or as specified by the Public Works Director or his designee.
  - d. All wheel ruts or other construction damage created by the applicant shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.

**Section 19. Identification.** All excavations shall be marked after both temporary and permanent restoration. Where a pipeline crosses a public road, the location of the pipeline shall be marked by appropriate posts over the center of each pipeline. The posts shall be placed on both sides of the roadway on or one-foot inside the right-of-way line and shall contain all information required by federal regulations with, as a minimum, the name and local address of the pipeline company offices and a phone number to call that will provide immediate response in the event of an emergency.

**Section 20. Guarantee.** All work shall be guaranteed for a period of one (1) year from the date of final inspection and certification by the Township Engineer that the work has been completed in accordance with the permit. All defects shall be corrected by the applicant within twenty-four (24) hours of verbal or written notice from the Township or its agents.

**Section 21. Security Deposit and/or Bonding.** Except for public utility corporations operating under a franchise covering an area in whole or in part within the Township, projects in excess of \$25,000 shall deposit with the Township financial security in an amount equal to 110% of the cost of completion of the work required to comply with this chapter, estimated as of 90 days following the date scheduled for completion, provided the cost exceeds \$25,000. The form, amount and administration of the financial security shall be in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10509. The financial security shall be held by the Township until the end of a 1-year guarantee period and shall be used by the Township as liquidated damages in case of default or non-performance by the applicant.

Public utility corporations operating under a franchise covering an area in whole or in part within the Township shall have on file with the Township a bond in the amount of \$5,000 or as may be established by resolution of the Board of Supervisors with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania, which bond shall be renewed annually, covering the cost of all inspections made by the Public Works Director or his designee pertaining

to all openings or excavations made or to be made in a calendar year or shall furnish a bond in the amount determined by the Public Works Director or his designee covering the aforesaid costs pertaining to proposed openings or excavations set out in the application. The aforesaid bonds shall have either corporate surety or other surety approved by the Township Solicitor and shall be conditioned to indemnify the Township in the event of any loss, liability or damage that may result or accrue from or be due to the making, existence or manner of guarding or constructing any opening or excavation during the term of said bond.

**Section 22. Prohibited Locations.** No utilities, except for transverse laterals, shall be placed in the planting area between the face of curb and the sidewalk, or within five (5) feet of the edge of cartway or paved shoulders. This area is reserved for Township use for storm sewers, traffic signs, streetlights, etc.

**Section 23. Recently-Paved Streets.** Except for emergencies, excavations will not be permitted in streets that have been built or overlaid within the previous three (3) years, unless the applicant agrees to overlay the full width of the street with one and one half (1½) inches of 9.5 mm Superpave for a distance of ten (10) feet on either side of the extreme edges of the disturbed paving measured along the length of the road. Overlays shall be placed within one (1) week of permanent restoration of the excavation.

**Section 24. Driveway Permits.** Permits shall be required for all new or widened driveways within the Township. Driveway permits for Township roads shall be obtained from the Township. The application shall be accompanied by a fee in accordance with the Township Schedule of Fees adopted from time to time by the Board of Supervisors. Driveway permits for State roads shall be obtained from PennDOT. The provisions of Section 19, security deposit, and Section 33, insurance, shall not apply to an applicant for a driveway permit serving an existing single family residence.

**Section 25. Driveway Dimensions.** The minimum width of a driveway shall be nine (9) feet. In areas where a driveway is approved for access to multiple lots or uses, the minimum width of the driveway shall be sixteen (16) feet; where it can be shown to the satisfaction of the Township that sufficient pull-offs are provided for access to multiple lots or uses, the minimum width may be reduced to nine (9) feet. The maximum width of residential driveways shall be twenty (20) feet. The maximum width of commercial and industrial driveways shall be determined by engineering analysis. Driveways shall provide four (4) foot paved radius tapers (turning widths) where the driveway meets the cartway edge of a Township road; regardless of width, should turning movements onto or off of driveways result in damage to the cartway edge of a Township road, property owners shall be liable for repairs to the Township road.

**Section 26. Driveway Locations.** The centerline of driveways shall be located at least fifty (50) feet from the continuation of the right-of-way line of the closest intersection, or directly across from 3-way intersections.

**Section 27. Number of Driveways.** Not more than two (2) driveways shall be permitted to any single property, tract or business establishment. Residential lots and lots with frontages of one hundred (100) feet or less shall be limited to one driveway.

**Section 28.** **Visibility.** All driveways shall meet the visibility requirements of PennDOT Chapter 201. The clear-sight triangle shall be maintained clear of all obstructions at all times.

**Section 29.** **Drainage.** Driveways shall be depressed to match the existing roadside swale or shoulder so as to allow above-ground drainage over the driveway and to direct driveway runoff into said swale or shoulder. Pipes shall not be installed under driveways, except under unusual circumstances and with prior Township approval.

**Section 30.** **Grades.** The portion of a driveway within the street right-of-way shall not exceed four (4) percent grade. The remainder of the driveway shall not exceed fifteen (15) percent grade. Driveways shall be paved from the cartway to a minimum of twenty-five (25) feet back from the right-of-way line. Paving shall consist of six (6) inches of 2A crushed stone and two (2) inches of ID-2 per PennDOT Publication 408, latest edition. The remainder of the driveway may be constructed of any suitable stone, paver or paved surface.

**Section 31.** **Erosion.** Driveways shall be designed to avoid erosion and excessive runoff by grading, interception swales and/or drainage systems. If erosion products are deposited on the cartway, shoulders or swales, the property owner shall remove them within four (4) hours of verbal or written notice from the Township or its agents. In addition, the property owner shall take necessary measures to avoid reoccurrence of the problem.

**Section 32.** **Private Streets.** Driveways serving as private streets shall not be dedicated to the Township nor does the Township assume any responsibility for their maintenance.

**Section 33.** **Flag Lots.** When flag lots abut each other at a common street line, or in other situations considered appropriate by the Board of Supervisors, a common driveway shall be utilized for access to the lots.

**Section 34.** **Unnatural Water Sources.** Discharge from any roof drains, downspouts, sump pumps, foundation drains, disposal fields, etc., shall not be permitted onto a right-of-way or onto a driveway or driveway drainage system that directs runoff toward a street. Such discharge may be connected to underground drainage systems in the street if available, preferably into an inlet for accessibility.

**Section 35.** **Insurance.** As part of the permit application, the applicant shall provide the Township with insurance certificates for the following policies of insurance in full force and effect with an insurance company(ies) admitted by the Pennsylvania Insurance Commissioner to do business in the Commonwealth of Pennsylvania and rated not less than A in Best Insurance Key rating Guide:

1. Commercial general liability insurance, including property damage liability and personal injury liability of not less than \$1,000,000 for each occurrence and a \$2,000,000 minimum aggregate amount.

2. Automobile bodily injury liability insurance of not less than \$500,000 each person; \$500,000 each occurrence.

3. Statutory Workman's Compensation and employer's liability insurance.

All policies of commercial general liability insurance required hereunder shall name the Township, its supervisors, engineer and employees as additional insureds. Specifically, commercial general liability insurance policy shall name the Township, its officers, agents, supervisors, elected officials and employees as an additional insured under ISO endorsement CG 20 26 07 04 or non ISO equivalent. Any policy or policies of insurance shall be primary and non-contributory to insurance coverage maintained by the Township. Certificates of insurance shall state that coverage shall not be cancelled by either party except after thirty (30) days' prior to written notice by U.S. certified mail, return receipt requested, has been given to the Township. In addition, the applicant shall indemnify and hold harmless the Township and shall assume the defense and all costs of lawsuits and awards.

**Section 36. Emergencies.** In the case of emergencies threatening property or lives, the applicant may proceed with the work after notifying the Township and 911. The applicant shall still be responsible for applying and obtaining the permit and satisfying all requirements. The application shall be made within twenty-four (24) hours of the verbal or written notice to the Township and 911. If the Township Administrative Office is closed, the applicant shall notify the Township Police Department. Information communicated shall include: 1. the date and time the emergency work is started; 2. the location of the emergency work site; and 3. a description of the emergency work.

**Section 37. Equipment Damage to Streets or Sidewalks.** 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. Where other than rubber-equipped machinery is authorized, pavement, sidewalks and shoulders shall be protected by the use of matting wood, or other suitable protective material having s thickness of four (4) inches (unless the permit indicates that the applicant plans to repave the full width of the roadway). Should damages occur, pavement, shoulders and sidewalks shall be restored to their formal condition at the applicant's expense.

**Section 38. Other Regulations.** In addition to the requirements of this Ordinance, all work is subject to all applicable federal, state and local laws, ordinances and regulations.

**Section 39. Violations and Penalties.** Any person or utility which shall violate or permit the violation of the provisions of this ordinance shall, upon being found liable therefore in a criminal enforcement proceeding, pay a fine of not more than \$1,000 nor less than \$25, together with court costs and reasonable attorney fees, and may be incarcerated for a period not exceeding 90 days. Such fines, costs, attorney fees and incarceration, after being reduced to a final, unappealed judgment, shall be enforced by the Township pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.



**Section 40.** **Definitions.** As used in this ordinance, the following terms shall have the meanings indicated:

**CARTWAY** -- The portion of a street or alley, right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

**PERSON** -- Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

**RIGHT-OF-WAY** -- The total width of any land reserved or dedicated as a street, alley or crosswalk, or for any other public or private purpose.

**Section 41.** **Severability.** If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**Section 42.** **Effective date.** This ordinance shall be effective five (5) days from the date of enactment.