

**TOWNSHIP OF BART
LANCASTER COUNTY, PENNSYLVANIA**

Ordinance No. 01-07-2019

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
TOWNSHIP OF BART, LANCASTER COUNTY, PENNSYLVANIA,
ESTABLISHING REQUIREMENTS FOR OPENING OR INSTALLING
FACILITIES WITHIN PUBLIC ROADS IN THE TOWNSHIP;
REQUIRING A PERMIT FOR
ROAD OPENINGS, EXCAVATIONS, AND PAVEMENTS
CUTS AND REGULATING SUCH ACTIVITIES, IMPOSING
FEES IN CONNECTION THEREWITH, AND IMPOSING
PENALTIES FOR VIOLATIONS THEREOF.**

WHEREAS, the Board of Supervisors of Bart Township, Lancaster County, Pennsylvania, has previously adopted an Ordinance No. 2-1-95 which enacted rules and procedures to follow for road opening requests within the Township; and

WHEREAS, the Board of Supervisors has determined that a more comprehensive road opening Ordinance should be enacted to further advance the health, safety and welfare of the Township) (Section 2322, 53 P.S. 67322) and it is therefore;

WHEREAS, the Board of Supervisors has determined that the best way to accomplish this objective is to repeal Ordinance No. 2-1-95 in its entirety, and enact this Ordinance as a replacement; and

WHEREAS, this Ordinance is authorized by "The Second Class Township Code," Act of May 1, 1933, P.L. 103; Act of July 10, 1947, P.L. 1481 (53 P.S. 65101, et seq.); it is therefore enacted and ordained by the Board of Supervisors as follows:

SECTION 1: SHORT TITLE

This ordinance shall be cited to as the "Bart Township Road Opening Ordinance".

SECTION 2: DEFINITIONS

ROAD OR PUBLIC ROAD – The entire width between the boundary lines of every way, street, lane, alley, court or public square maintained by the Township which is open to the use of the public for purposes of vehicular travel.

PA ONE-CALL – Pennsylvania's Underground Utility Line Protection Law, as updated and amended by Act 160 of 2016 and subsequent amendments.

PERSON – Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type. The singular shall include the plural and the masculine shall include the feminine and the neuter.

RIGHT-OF-WAY – The entire area which has been dedicated to the Township for a road or an area which the Township has been legislatively given jurisdiction for a road.

TOWNSHIP - Bart Township, a Township of the Second Class

SECTION 3: 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 27 herein. Permit applications are not required for accessing utility facilities through a manhole.

SECTION 4: 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 Roadmaster or designee appointed by the Board of Supervisors shall be responsible for 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 road occupancy permits and restoration charges, and another fee for review by the Township Engineer and for making inspections, if necessary. In addition, the applicant shall submit three (3) copies of a sketch showing the location of the intended work, width of the traveled roadway, 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 5: DECISION ON THE PERMIT

The permit application shall be approved or denied within thirty (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 Roadmaster or his/her designee shall issue a permit.

SECTION 6: UNDERGROUND UTILITY LINE PROTECTION LAW/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 7: MAINTENANCE OF TRAFFIC

At least one lane of traffic shall be maintained at all times through the work zone. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control" or any subsequent PennDOT Publications or regulations applicable.

SECTION 8: DETOURS

Under extremely unusual circumstances, the Township may allow a road to be closed and traffic to be detoured. In no event will the Township allow a road to be closed unless it receives 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 9: 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 Lancaster 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 as well as adjacent and downstream property owners, pursuant to Township, County or Commonwealth standards. 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 10: 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 upon approval by the Township Roadmaster or his designee.

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 Township Roadmaster 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 11: BACKFILL

In the absence of Township specifications that exceed this standard, 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 roadway or shoulder, the last six (6) inches of backfill shall be topsoil.

SECTION 12: 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 13: NOTIFICATION

The applicant shall notify the Township twenty-four (24) hours in advance of starting work and upon completion of temporary restoration and permanent restoration for a field inspection of the work.

SECTION 14: 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" or any subsequent PennDOT Publications or regulations applicable.

SECTION 15: 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 16: INSTALLATION

In the absence of Township specifications that exceed this standard, 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 17: 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 18: PERMANENT RESTORATION

In the absence of Township specifications that exceed this standard, 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 PA DEP Chapter 102 requirements. 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 19: ADDITIONAL RESTORATION

All disturbed portions of a road, 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.

1. When both longitudinal and traverse trench openings are made in the roadway 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 roadway that was opened, if the Township Roadmaster or his designee determines that the serviceability of the roadway has been impaired by the openings.
2. 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 Township Roadmaster 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 20: 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 21: 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 22: SECURITY DEPOSIT; BONDING

Except for public utility corporations operating under a franchise covering an area in whole or in part within the Township, any person performing road opening 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. 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. The provisions of this section shall be waived for road opening projects which total one hundred (100) square feet or less.

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 an amount 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 Township Engineer, or 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 Township Engineer or 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 23: PROHIBITED LOCATIONS

No utilities, including but not limited to utility poles and guy wires, 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 the traveled portion of the roadway or paved shoulders. This area is reserved for Township use for storm sewers, traffic signs, streetlights, etc.

SECTION 24: RECENTLY-PAVED STREETS

Except for emergencies, excavations will not be permitted in roadways 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 25: UNNATURAL WATER SOURCES

Discharge from any roof drains, downspouts, sump pumps, foundation drains, disposal fields, etc., (excluding wastewater discharges) 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. Any discharge must comply with federal, state, and local regulations.

SECTION 26: INSURANCE

As part of the permit application, the applicant shall provide the Township with insurance certificates for the following polices 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 Worker'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. 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 27: 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 Municipal Office is closed, the applicant shall contact Lancaster County Wide Communications who will provide notification to the Township Roadmaster.

SECTION 28: EQUIPMENT DAMAGE TO ROADS 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 a 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 29: 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 30: VIOLATIONS AND PENALTIES

Any person or utility which shall violate or permit the violation of the provisions of this ordinance shall upon summary conviction thereof before a Magisterial District Judge be sentenced to pay a fine of not more than \$1,000 nor less than \$250, together with court costs. Each day of violation shall constitute a separate violation.

This ordinance may also be enforced by an action in equity in the Court of Common Pleas, together with the collection of Attorney's fees.

SECTION 31: 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 32: REPEALER

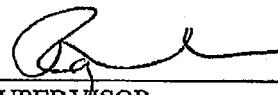
Ordinance No. 2-1-95 known as the "Bart Township Highway Occupancy Permit Ordinance" is hereby repealed in its entirety. Any other Ordinance or parts thereof inconsistent with this Ordinance be and are also hereby expressly repealed.

SECTION 33: EFFECTIVE DATE

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

ENACTED AND ORDAINED this 7 day
of JANUARY, 2019 by the Board of Supervisors of the Township of Bart,
Lancaster County, Pennsylvania, in lawful session duly assembled.

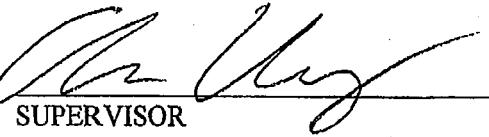
BOARD OF SUPERVISORS
BART TOWNSHIP



SUPERVISOR
CHAIRMAN



SUPERVISOR
VICE CHAIRMAN

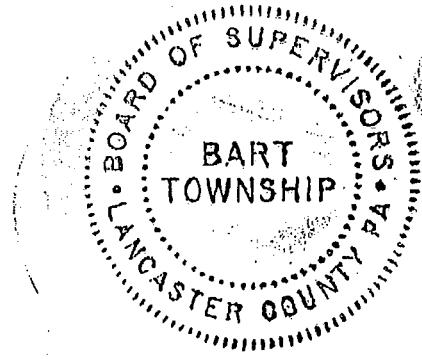


SUPERVISOR

Attest:



MUNICIPAL SECRETARY



I, CATHY SNYDER, Secretary of the Board of Supervisors of Bart Township, Lancaster County, Pennsylvania, certify that the foregoing is a true and correct copy of an ordinance duly adopted at a legally constituted meeting of the Board of Supervisors of Bart Township held on JANUARY 7, 2019 at which a quorum was present and voted in favor thereof.

Cathy Snyder
Municipal Secretary

