

**NORTH ABINGTON TOWNSHIP
LACKAWANNA COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1 of 2017

AN ORDINANCE TO REGULATE THE LOCATION, CONSTRUCTION OR ERECTION OF ANY DRIVEWAY, REPAIR OF ANY DRIVEWAY INTERSECTING A NORTH ABINGTON TOWNSHIP ROAD, DRAINAGE FACILITY, UTILITY STRUCTURE, OR OTHER SUCH CONSTRUCTION WITHIN ANY TOWNSHIP ROAD AND RIGHT-OF-WAY; TO PROVIDE FOR PERMITS FOR SUCH ACTIVITIES; TO GOVERN THE REMOVAL OF BRUSH, SHRUBS AND TREES, AND ANY OTHER SUCH OBSTRUCTION OR NUISANCE; AND TO PROVIDE FOR VIOLATIONS AND PENALTIES.

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§1 Authority and Purpose

A. Authority

This Ordinance is adopted under the authority bestowed upon North Abington Township by the Commonwealth of Pennsylvania pursuant to the Second Class Township Code, Act of May 1, 1933 (P.L. 103, No. 69), reenacted and amended November 9, 1995 (P.L. 350, No. 60), as amended, and including but not limited to, §2320, §2322, §2325 and §2326, of said Act.

B. Purpose

The purposes of this Ordinance are to:

1. Require permits for access to the right-of-way of Township roads for railways, driveways, private roads, electricity, telephone and cable television poles and conduits, utilities (such as gas, water and sewer lines), and similar encroachments and obstructions, and any other structures; it being in the public interest to regulate:
 - a. The location and construction of utility facilities and other such structures on or under Township roads and within the Township's right-of-way; and

- b. The location, design, construction, maintenance and drainage of access driveways and private roads within the Township's rights-of-way to ensure the structural integrity of streets, economy of maintenance, preservation of proper drainage, and safe and convenient passage of traffic.
2. Authorize the Township to remove or permit the removal from any Township right-of-way any grass, brush, shrub, tree or other vegetation deemed to constitute a hazardous or dangerous condition to the use of the road or those which impair the use or maintenance of the road.
3. Authorize the Township to require the removal of any nuisance or obstruction on any Township road or associated drainage facility created by felling trees, making fences, turning the road, diverting water onto the road, filling, or in any other manner.
4. Describe the specifications and requirements for restoration of any Township Road or right-of-way following the installation or repair of any railways, driveways, private roads, electricity, telephone and cable television poles and conduits, utilities (such as gas, water and sewer lines), and similar encroachments and obstructions, and any other structures.
5. Preserve Township resources for the benefit of its residents.

§2 Definitions

APPLICANT - Any person who submits an application for a permit.

BUSINESS DAY - Monday through Friday, except designated holidays.

CONCRETE - Soil cement, plain cement concrete or reinforced cement concrete and material contained in the base course of some Township roads.

COST - Actual expenditures incurred by the Township for labor, equipment and materials, which includes overhead.

DISTURBANCE - Any change in the road surface that alters the preexisting conditions.

DRIVEWAY - A private access from an individual lot to the road right-of-way.

EMERGENCY - Any condition constituting a clear and present danger to life or property by reason of escaping gas, exposed wires or other breaks or defects in the user's line.

EXCAVATABLE FLOWABLE FILL - Also referred to as "controlled density fill." A low-strength flowable mixture of cement, pozzolan (fly ash), sand and water used as a backfill material, placed by pouring it into the excavation or opening, requiring no subsequent vibration or tamping to achieve consolidation.

EXCAVATION - Any activity within the right-of-way of any road, alley or cartway which involves cutting, breaking or disturbing of the surface thereof, with the exception of reconstruction of said road, alley or cartway. In this Ordinance, the term "opening" shall have essentially the same meaning as "excavation."

PENNDOT - Pennsylvania Department of Transportation

PENNDOT ROAD - Any Pennsylvania state road located within the municipal boundaries of North Abington Township, Pennsylvania.

PERMIT FEE - A fee paid by the permittee to the Township to cover the costs of issuing, processing and filing the street opening permit and all reasonable costs associated with the inspection of an excavation and restoration of road opening.

PERMITTEE - Any person who has been issued a permit and has agreed to fulfill all the provisions of this article.

PERSON - Any natural person, partnership, firm, association, corporation, public utility company, or municipal authority.

PUBLIC UTILITY - Any utility company franchised by the Public Utility Commission of the Commonwealth of Pennsylvania.

RECONSTRUCTION - the complete removal of the existing pavement structure and the construction of new subbase, base course and wearing course of a Township road or street.

RESURFACE - A process which provides a new wearing surface in a certain paved road area between curbs with the same material which was existing prior to excavation, unless the Township Engineer deems another material to be appropriate.

RIGHT-OF-WAY - Land reserved for use as a road. Right-of-way shall also include any road which is owned in fee simple title by the Township.

SQUARE YARD - Surface space that measures out to the equivalent of a square one yard (three feet) wide by one yard (three feet) long. There are nine square feet to a square yard.

STRUCTURE - A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of the land.

TOWNSHIP - North Abington Township, Lackawanna County; and in cases where the text of this Ordinance so implies, the Township Board of Supervisors or its agents.

TOWNSHIP ROAD - The entire right-of-way established for the use of vehicles, including, but not limited to any public street, avenue, road, square, alley, highway, or easement within the Township's boundary limits, excluding the designated curb and sidewalk area.

§3 Permits

A. Permits Required

No work shall be performed within the right-of-way, involving the placing or repair of utility facilities or other structures, opening of the surface for any purpose, laying out or constructing of driveways, including sluice pipe placement, repair or replacement, paving, repaving, grading, regrading of driveways or any kind of modification to an existing driveway, roads or railways, or any other means of ingress or egress, or altering of drainage **without first obtaining a permit from the Township**. Intended permittee shall apply for a permit at least thirty (30) days prior to the start of utility work. All permits issued pursuant to this Ordinance require compliance with each requirement herein, including but not limited to restoration specifications (as described more fully in §6 hereof). In addition, at least seven (7) days prior to beginning work pursuant to the permit, all contractors performing work in accordance with a permit issued pursuant to this Ordinance shall be required to provide the Township with proof of general liability insurance as per the requirements of Section 5.B. and reasonable in relation to the scope of the construction project (as determined by the Township). At least seven (7) days prior to beginning work pursuant to the permit, Permittee shall also be required to tender to the Township a deposit to be held in escrow and as provided for in Section 5.B for any Township inspection or inspection activities, in an amount determined by the Township based upon the scope of the work to be performed. All unused funds deposited in an escrow for inspection activities shall be returned following satisfactory completion of the work.

Upon completion of a road paving/resurfacing project by any entity, North Abington Township will not allow the street to be excavated for any reason for five years, except for emergency situations. (This includes any and all activities defined as upgrades, improvements and/or maintenance to utility systems.) Permits will not be issued to any entity that is desirous to conduct excavations on a road within a five-year period following a paving/resurfacing of Township roads.

Any person working in the vicinity of any Township road who in any manner disturbs such road or who in any manner causes damage to a street shall be required by this article to obtain a permit and correct this damage in accordance with the directives of the Township.

No permit shall be issued to any applicant unless the applicant has paid to the Township any and all moneys, then due to the Township, for prior excavations made or for any loss, damages or expense in any manner occasioned by or arising from the work done by the applicant under the provisions of this article.

B. Emergency Repairs

Nothing in this §3 shall be construed to require a permit in advance for emergency repairs necessary for the safety of the public or restoration or continuance of public utility service or other public service, but application for such permit and the fees **shall be submitted as herein prescribed the next business day following the start of the work**, after which time the remaining provisions, escrow monies, permit fees, North Abington Township costs of engineering and inspection of this Ordinance shall apply, including all restoration specifications.

§4 Application for Permit

Permits shall be issued only to a person or their authorized agent furnishing public utility services or the owner or owners of the real property adjoining the location where such opening or excavation is to be made.

Any person who shall desire to make any opening or excavation in any of the roads in the Township shall make application to the Township Roadmaster, in writing, for that purpose. Such application and any required accompanying documentation shall be made upon blanks to be furnished by the Township and shall set forth – at minimum - the name of the applicant, the exact location of the proposed opening or excavation and the approximate size or depth thereof, the full scope of work to be included in the project, the date or dates during which such excavation is to be permitted and the date such excavation is to be refilled and resurfaced in the manner hereinafter provided. An applicant shall furnish a drawing of the proposed opening site upon request by the Township Roadmaster.

The application shall contain an agreement on the part of the applicant that the work shall be done in full compliance with the ordinances of the Township and the laws of the commonwealth in relation thereto and that the applicant shall well and truly save, defend and keep harmless the Township from and indemnify it against any and all actions, suits, demands, payments, costs and charges for or by reason of the proposed opening or excavation and all damages to persons or property resulting in any manner therefrom or occurring in the prosecution of the work connected therewith or from any other matter, cause or thing relating thereto. In the event that the suit shall be brought against the Township either independently or jointly with the permittee, and in the event of a final judgment being obtained against the Township either independently or jointly with the permittee, the permittee shall pay such judgment with all costs, including reasonable attorney's fees, and hold the Township harmless therefrom.

The application for a permit shall be on a form prescribed by the Township and the required number of copies (as resolved by the Township Board of Supervisors, which resolution may be amended from time to time) shall be submitted to the Township Roadmaster. The application for permit shall be accompanied by the required number of copies of a plan detailing the location and pertinent dimensions of the opening, the proposed installation and related street features (width of traveled roadway, right-of-way lines, distance to the nearest intersecting street, and for driveways, distance to side property lines), detailed restoration plans, and any other information deemed necessary by the Township to confirm compliance with this Ordinance.

§5 Fees and Costs

A. Fees. Any person who desires to do any street or road opening or excavation of a road shall pay a permit application fee and inspection fees to be held in escrow for the benefit of the Township, which amounts shall be determined by the Township by Resolution from time to time and reflected on a Schedule of Fees.

B. Application. The application for permit shall be accompanied by processing fees (separate and apart from inspection costs) in accordance with the Schedule of Fees in effect

when the permit is issued, as adopted and amended from time to time by resolution of the Board of Township Supervisors. In addition, the Township may assess the applicant an additional fee to cover the cost of any engineering or other consultant services required by the Township in the administration of this Ordinance or for any necessary inspections. This engineering assessment shall be determined by the Township in its discretion, depending on the scope of the subject project.

C. Costs

1. Costs Of Inspection For Installation Or Repair Of Utilities And The Restoration Of Township Roads And Rights-Of-Way
 - a. At least seven (7) days prior to the start of construction as permitted, Permittee shall tender to the Township a deposit as per Section 5(B)3, and Resolution No. 1 of 2017 establishing inspection fees to be held in escrow for any Township inspection or inspection activities, in an amount determined by the Township based upon the scope of the work to be performed. All unused funds deposited in an escrow for inspection activities shall be returned to Permittee following satisfactory completion of the work.
 - b. All costs of inspection that exceed the amount held in escrow pursuant to this Ordinance shall be remitted to North Abington Township **within fifteen (15) days of written demand therefore.**
2. Any costs to the Township associated with completion of work or restoration not performed by the Permittee, and any interest charge assessed, shall be recoverable by the Township in any manner available in law.
3. Permit fees, inspection fees, and escrow amounts shall be as per the current North Abington Township Resolution establishing a Schedule of Fees for utility installation, rehabilitation, and repair.
4. Contractor's Insurance. Contractors shall submit proof of compliance with North Abington Township's insurance requirements as established by Resolution from time to time.

§6 Conditions of Permit

A. Drainage Control

No increase in the flow of water into drainage facilities or onto the right-of-way or onto the property of some other person is permitted without a drainage control plan designed to minimize and safely divert such flows. Such plan shall be submitted by the applicant, and if required by the Township Roadmaster, the plan shall be prepared by a Professional Engineer Registered in the Commonwealth of Pennsylvania. Drainage plans shall comply with all other ordinances of the Township which regulate drainage and storm water. No permit shall be issued until the Township Roadmaster determines that the drainage control plan is adequate. The Roadmaster may consult with the Township Engineer prior to making such determination.

B. Work Standards

All work shall be done in such a manner as is consistent with the safety of the public. Where traffic control is necessary, it shall be accomplished according to the relevant standards of the Pennsylvania Department of Transportation, including those standards detailed in PennDOT Publication 203 where applicable, and such other safety measures as determined by the Township are required to provide for the safe movement of traffic through the work site.

C. Damage to Public Facilities

The permittee shall restore all pavement and road shoulders in accordance with the specifications contained in §6 (G) of this Ordinance at the sole expense of the permittee. Permittee is solely responsible for repairing any failure of facilities, including but not limited to restoration work, within five (5) years of completion of the work. If the permittee fails to comply with this requirement, the Township shall complete the necessary repairs and collect the costs as per §5 of this Ordinance.

D. Driveway and Street Location

1. *General rule.* Driveways and roads shall be located, designed, constructed and maintained in such a manner as not to interfere or be inconsistent with the design, maintenance and drainage of the road being intersected.
2. *General location restrictions.* Access driveways and roads shall only be permitted at locations in which:
 - a. Sight distance is adequate to safely allow each permitted movement to be made into or out of the access driveway. All driveways and streets must meet minimum PennDOT sight distance requirements and standards.
 - b. The free movement of normal traffic is not impaired.
 - c. The driveway or street will not create a hazard.
 - d. The driveway or street will not create an area of undue traffic congestion on the intersecting road.
 - e. Driveways shall be located as mandated in the standards as specified by the Pennsylvania Department of Transportation, Title 67 PA Code Chapter 441.
3. The Township may restrict access to right turn only ingress and egress or to another state maintained road or local road if safe and efficient movements cannot be accommodated pursuant to the standards in this Ordinance. In order to promote and protect the public health, safety and welfare, the standards contained in this subsection (§6 (D)) are not limited to new construction.

E. Driveway and Street Design Standards

All driveways shall meet the minimum sight distance requirement as per Title 67 PA Code Chapter 441. All driveways must be constructed according to the most current standards of the Township and the Pennsylvania Department of Transportation, specifically including but not limited to those standards contained in Title 67 Pa. Code §441. Such specifications

include but are not limited to those standards included in the Township Subdivision and Land Development Ordinance and all amendments thereto.

All streets shall be constructed in accordance with Penn DOT Specifications, Form 408, and in accordance with the standards contained in the following table; provided, however, that for local access streets including service roads and marginal access streets, the Municipality will consider any alternative supported by a maintenance bond to be provided by the developer to cover a period of 3-years from the date on which the street is opened to traffic.

STREET TYPES	9.5 mm Superpave	25 mm Superpave	Aggregate Sub-base AASHTO#1 Coarse Aggregate w#10 choke (PennDOT 408)	Sub-base No. 2A	Shoulder Width
Arterial	1 ½"	8"	18"	6"	10'
Collector Street	1 ½"	7"	16"	6"	10'
Local Access Street	1 ½"	6"	12"	4"	8'
Marginal Access Street	1 ½"	4"	10"	4"	8'
Private Road	1 ½"	4"	10"	4"	8'
*Industrial Subdivisions	1 ½"	7"	14"	6"	8'
*Industrial Land Dev.	1 ½"	7"	14"	6"	8'
*Commercial Land Dev.	1 ½"	5"	10"	4"	8'
*Large Scale Dev.	1 ½"	4"	10"	4"	8'

*Subject to review by township depending upon proposed uses

Collector Street: 10-50 single-family residences

Local Access Street: 3-10 single-family residences

Marginal Access Street: 1-3 single-family residence

Private Road: up to 3 single-family residences

Industrial Subdivision & Industrial Land Development to include manufacturing, warehousing, and office complexes gaining access from same proposed roadway (not an existing public roadway).

Large Scale Developments, Condos & Townhouses: more than 10 units from same proposed roadway (not an existing public roadway).

Commercial Land Development: more than three multiple commercial facilities gaining access from same proposed roadway (not an existing public roadway).

All driveways and roads shall be constructed so as not to impair drainage within the right-of-way, alter the stability of the improved area or change the drainage of adjacent areas. Drainage shall not be permitted to flow upon the cartway of the Township road. Where a drainage ditch or swale exists, the permittee shall install adequate pipe under the driveway or private road. Drainage pipes installed shall be of a size necessary to carry the anticipated flow but not less than fifteen (15) inches in diameter and of the smooth wall type. The minimum length of the culvert shall be thirty (30) feet or as otherwise necessary to provide for access of emergency and maintenance vehicles. Driveways shall have a grade not to exceed four percent (4%) for a distance within forty (40) feet of the Township road right-of-way. Entrances shall be rounded at a minimum radius of five (5) feet or shall have a flare construction that is equivalent to this radius at the point of intersection with the cartway edge.

F. Depth of Pipes and Culverts, and Backfilling of Trench

Subject to the specifications in §6 subsection G:

1. Temporary and permanent depth of pipes and culverts, and backfilling of trenches, shall comply with the standards established by Section F & G of this Ordinance and applicable Township Resolutions, as amended from time to time.
2. The minimum cover over any pipe or culvert under the subgrade elevation shall be one (1) foot.
3. Any utility crossing a North Abington Township road within a 2.5 foot depth from the surface shall be run through a PVC pipe Schedule 40 of the appropriate diameter to accommodate said utility from road right-of-way line to road right-of-way line. Any utility crossing a North Abington Township road deeper than a 2.5 foot depth from the surface shall be ran through a PVC pipe Schedule 80 of the appropriate diameter to accommodate said utility from road right-of-way line to road right-of-way line. All backfill and re-pavement restoration requirements of this Ordinance shall apply to said installations.
4. Trenches shall be backfilled with No. 2A coarse aggregate to the surface or to the bottom of the necessary Superpave where Superpave is needed for pavement restoration. All backfill material shall be placed in eight (8) inch layers with compaction by approved vibratory compaction equipment. Each layer for its full width shall be compacted to not less than ninety-seven (97) percent of the determined dry weight density.
5. The placement of utilities underground shall be identified on the ground surface with permanent markers as required by the Township or in accord with the standard practice of the governing utility provider.

G. Road restoration following installation of construction in, along, or under Township Roads.

In all cases contractor must contact PA One Call three (3) days prior to any construction work. Permanent repairs to any and all pavement cuts should be made within ten (10) days of

completion of the work designated in the permit; permanent repairs to any and all shoulder cuts shall be made within fifteen (15) days of the work designated in the permit.

1. Utility Trench Construction greater than 6 feet outside the Edge of Pave on either side of a North Abington Township Road
 - a. At a minimum, the utility company shall be responsible to remove broken parts of the edge of pave on each side of the township road.
 - b. Fill those areas with 25 mm Superpave (PennDOT 408) either to within 1 1/2 inches of existing road surface, if no overlay is required from the inspection process, or to the surface of the existing road surface, if an overlay is required.
 - c. Provide necessary depth of 9.5 mm Superpave (Penn DOT 408) to meet the existing pavement over the 25 mm Superpave (PennDOT 408) from above.
 - d. Provide necessary work as per inspection (g) 1-7 below.
 - e. Fill all potholes with 9.5 mm Superpave (PennDOT 408) to the surface of the existing road pavement
 - f. Seal interface of patch(es) and existing pavement surface with a 12 inch width of AC-20 asphalt.
 - g. Upon completion of utility construction (either parallel with road or crossing road), utility representative shall contact North Abington Township stating all utility installation has been completed. North Abington Township representative will perform a road inspection to determine damage(s) caused by aforesaid construction installation. Depending upon the outcome of the "after construction inspection of the township road," the Township will determine what rehabilitation will be necessary. Rehabilitation could include the following:
 - (1) 1 inch depth scratch coat over either half or full width of road
 - (2) 2 inch depth scratch coat over either half or full width of road
 - (3) Mill half width of township road; repave with 1 1/2" depth of 9.5 mm depth Superpave
 - (4) Overlay of full width of the subject township road (all pavement shall be PennDOT 408 Superpave, 9.5 mm wearing, 19.5 mm or 25 mm as determined during the township inspection)
 - (5) A 2 foot width shoulder of 2A aggregate may be necessary.
 - (6) Trench restoration may include 12 inch depth of AASHTO #1 stone; 4 inch depth of 2A aggregate; 6 inch depth of 25 mm BCBC Superpave, and depending upon proximity to or within the township road, a 1 1/2" depth of 9.5 mm Superpave shall be constructed.
 - (7) Trench restoration may include milling an 8 inch depth, 2-4 foot width as determined by the township site inspector's inspection and placement of 8" depth of 25 mm BCBC Superpave, and depending upon the proximity to or within the township road, 1 1/2" depth of 9.5 mm Superpave shall be constructed.

2. Utility Trench Construction within 6 feet of the Edge of Pave of a North Abington Township Road shall mill and overlay half of the width of the township road. If any portion of the pavement is broken or undercut, mill and pave full width of the township road and as provided below.
- a. At a minimum, the utility company shall be responsible to remove broken parts of the edge of pave on each side of the township road.
 - b. Fill those areas with 25 mm Superpave (PennDOT 408) either to within 1 1/2 inches of existing road surface, if no overlay is required from the inspection process, or to the surface of the existing road surface, if an overlay is required.
 - c. Provide necessary depth of 9.5 mm Superpave (PennDOT 408) to meet the existing pavement over the 25mm Superpave (PennDOT 408) from above.
 - d. Fill all pot holes with 9.5 mm Superpave (PennDOT 408) to the surface of the existing road pavement.
 - e. Provide work as per inspection in (g) 1-7 below.
 - f. Seal all pavement interface(s) of pothole patch(es), longitudinal joints, traverse joints etc. with AC-20 asphalt.
 - g. Upon completion of utility construction (either parallel with road or crossing road), utility representative shall contact North Abington Township stating all utility installation has been completed. North Abington Township representative will perform a road inspection to determine damage(s) caused by aforesaid construction installation. Depending upon the outcome of the "after construction inspection of the township road," the Township will determine what rehabilitation will be necessary. Rehabilitation could include the following:
 - (1) 1 inch depth scratch coat over either half or full width of road
 - (2) 2 inch depth scratch coat over either half or full width of road
 - (3) Mill half width of township road; repave with 1 1/2 inch depth of 9.5 mm depth Superpave
 - (4) Overlay of full width of the subject township road (all pavement shall be PennDOT 408 Superpave, 9.5 mm wearing, 19.5 mm or 25 mm as determined during the township inspection)
 - (5) A 2 foot width shoulder of 2A aggregate may be necessary.
 - (6) Trench restoration may include 12 inch depth of AASHTO #1 stone; 4 inch depth of 2A aggregate; 6 inch depth of 25 mm BCBC Superpave, and depending upon proximity to or within the township road, a 1 1/2" depth of 9.5 mm Superpave shall be constructed.
 - (7) Trench restoration may include milling an 8 inch depth, 2-4 foot width as determined by the township site inspector's inspection and placement of 8" depth of 25 mm BCBC Superpave, and depending upon the proximity to or within the township road, 1 1/2" depth of 9.5 mm Superpave shall be constructed.

3. Utility Construction within or on the Pavement of a North Abington Township Road either Longitudinally or Transversely or Diagonally
- a. Saw-cut existing pavement to a width of at least 2 feet outside the diameter of the proposed underground utility line.
 - b. Provide necessary work as per inspection (d) 1-5 below.
 - c. After utility line placement, including the bedding material, the trench shall include:
 - i. From the top of the bedding material the utility trench shall be backfilled with #57 (Penn DOT 408) (depth will vary) to within 22 inches of the surface of the existing pave.
 - ii. After completion of the above AASHTO#57, construct a 12 inch (compacted) depth of AASHTO #1 stone (Penn DOT 408).
 - iii. After completion of the above AASHTO#1, construct a 4 inch depth(compacted) of AASHTO #57 (Penn DOT 408).
 - iv. After completion of the above AASHTO#57, construct a 6 inch depth of 25 mm Superpave (PennDOT 408) to the surface of the existing Township road pavement.
 - v. Fill all potholes, broken pieces of the edge of pavements (both sides of road pavement) with 25 mm Superave (PennDOT 408).
 - vi. Construct 1 ½ inch 9.5 mm Superpave (PennDOT 408) overlay of the Township Road, full width of the existing pavement, this paving shall be accomplished in one pass.
 - vii. Utility contractor shall be responsible for the lifting of all valve boxes, manhole lids and or shut offs.
 - viii. Provide a 12 inch seal of AC-20 asphalt at each joint with existing roadway pavement at the joint of the new pave with driveways at and around each valve box and manhole.
 - ix. Where township roads consist of gravel surface, the permanent restoration must consist of PennDOT 2A coarse aggregate, placed and compacted to the surface for the entire trench width and length.
 - x. Temporary restoration must be placed during the months of December, January, February, March and must remain in place for a minimum of 20 days. The temporary restoration must consist of a minimum 6 inch depth of 19 mm Superpave material. After the minimum 20 day period (after April 20) but prior to May 1, the temporary restoration must be removed and the area saw-cut back one foot prior to the permanent restoration s per the permanent restoration detail. If plants are closed in December, January, February, and March, and no hot mix is available, the Township could authorize

the use of cold patch with a minimum depth of 10 inches. Should cold patch be used, the Township Roadmaster or Township Engineer's weekly inspection of said utility cuts may require the utility's representative to rehabilitate the "cut" as necessary as determined by North Abington Township representatives. Fees for such inspections shall be as per Section 5 of this Ordinance.

- xi. Utilities to be constructed in, along, or across subdivision roads constructed as per Ordinance No. 1-2005 shall have the respective utility trench, road cut, edge of pave, etc., excavated area backfilled as per Section 6 of this Ordinance and aggregate sub-base, sub-base, BCBC and wearing course specified in Ordinance No. 1-2005.
- xii. Temporary utility trench backfill shall be as specified in Section G.
- xiii. Section 7.A.7 shall apply when applicable (multiple transverse road cuts or diagonal road cuts)

- d. Upon completion of utility construction (either parallel with road or crossing road), utility representative shall contact North Abington Township stating all utility installation has been completed. North Abington Township representative will perform a road inspection to determine damage(s) caused by aforesaid construction installation. Depending upon the outcome of the "after construction inspection of the township road," the Township will determine what rehabilitation will be necessary.

Rehabilitation could include the following:

- (1) 1 inch depth scratch coat over either half or full width of road
- (2) 2 inch depth scratch coat over either half or full width of road
- (3) Mill half width of township road; repave with 1 ½ inch depth of 9.5 mm depth Superpave.
- (4) Overlay of full width of the subject township road (all pavement shall be PennDOT 408 Superpave, 9.5 mm wearing, 19.5 mm or 25 mm as determined during the township inspection).
- (5) A 2 foot width shoulder of 2A aggregate may be necessary.

4. Small Road Cuts

- a. Small road cuts having a maximum size of 4 feet X 4 feet can be backfilled with 2A aggregate and tamped according to the above specifications to within 8 inches of the pavement surface.
- b. The remaining 8 inch depth to the surface of the existing pavement shall be filled with 19mm Superpave in two lifts compacted and the surface sealed with driveway sealer.

5. Driveways for Single Family House Construction

- a. During the process of obtaining a highway occupancy permit, a site meeting inspection shall be performed with the owner and a representative of North Abington Township. A pre-construction video may be compiled for road conditions prior to construction.

- b. An escrow amount shall be set forth by township resolution establishing fees for such account to cover cost of any road repair of the township road post driveway construction.
- c. The homeowner requesting the Highway Occupancy Permit and building permit shall sign the Highway Occupancy Permit application and acknowledge his understanding of the escrow amount and conditions of the permit.
- d. Should damage occur to a township road from the construction activities by heavy trucks, heavy equipment, or carelessness by contractors or owner, the signatory on the Highway Occupancy Permit and building permit shall be responsible to North Abington Township for restoration.
- e. Restoration shall be as described in Section G 1,2,3. The particular section and remedy to fix the township road shall be determined by North Abington Township.

H. Work Schedule

All work involving cuts into the traveled portion of the road must be started within ninety (90) days of permit issuance. All such work must be completed within thirty (30) days of work commencement. Temporary repairs to any and all pavement and shoulder cuts shall be made immediately after completion of the work designated in the permit. Restoration: permanent repairs to any and all pavement cuts shall be made within ten (10) days of completion of the work designated in the permit; permanent repairs to any and all shoulder cuts shall be made within fifteen (15) days of completion of the work designated in the permit.

I. Prohibited Structures

No permit shall be issued for the construction, erection or placement in any road, whether such road is defined by right-of-way or such road is owned in fee simple title by the Township, of any building, fence, sign, mailboxes, columns, or other structure the Township determines constitutes or will constitute a hazardous or dangerous condition to the use of the road or those which impair the safe or efficient use or maintenance of the road.

J. Indemnification

The permittee shall fully indemnify, save and hold harmless and defend the Township, its agents, representatives and employees, of and from all liability or claims of liability for damages or injury occurring to any person or persons or property through or as a consequence of any act or omission of or by permittee, 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 this Ordinance; and, for a period of five (5) years after completion of the permitted work, from the failure of the Township road, right-of-way, ditch or trench in the immediate area of, or impacted as a result of, the work performed under the permit where there is no similar failure of the road, right-of-way, ditch or trench beyond the area adjacent to the area of the permitted work.

K. Permit Validity

Permits are valid for a period of six (6) months.

L. Installation and Costs

For new construction, the applicant shall install and pay the costs of any and all drainage pipes and other required improvements, and any and all restoration costs.

M. Permit

A copy of the valid, issued, permit with the ordinance specifications shall be carried on site by the utility contractor performing the utility work. Permit shall be available for review by North Abington Township representatives inspecting ongoing utility construction.

N. Leaks

Leaks detected in a utility line reported to the utility by e-mail or registered letter including the location of the leak, road name, local physical property address etc. shall be addressed (leak fixed, trench excavation restored, pavement restored etc.) within seven days. If leak (area) is not repaired, the utility shall be responsible for whatever additional road restoration is necessary as per Ordinance #1 of 2017.

§7 Work Completion, Inspection

A. Notice

1. Thirty (30) days prior to the start of construction as permitted, the Utility Contractor or Permittee shall provide the construction schedule of Contractor the Township, in writing, which schedule shall include the anticipated number of linear feet of construction per day to be accomplished.
2. Permittee shall give written notice to the Township within three (3) business days following completion of the work authorized by permit.
3. Permittee shall provide written notice to the Township within three (3) business days following completion of any required restoration of Township Roads and/or rights-of-way.
4. The Township shall give timely notice to all persons owning property abutting on any road within the Township about to be paved or improved and to all public utility companies operating in the Township, and all such persons and utility companies shall make all water, gas or sewer connections, as well as any repairs thereto, which would necessitate excavation of said street within 30 days from the giving of such notice, unless such time is extended, in writing, for cause shown by the Township. New paving shall not be opened or excavated for a period of five years after the completion thereof, except in the case of an emergency, the existence of which emergency and the necessity for the opening or excavation of such paving to be determined by the Township. Any person who desires to excavate a street for a utility within five years after completion of the paving shall make written

application to the Township, and a permit for such opening shall be issued only after express approval of the Township.

5. Any street or court that has received bituminous resurfacing (paving) within a five-year period shall be milled to a depth of 1.5 inches and resurfaced with appropriate material with (scratch leveling course) and (wearing course 1 1/2 inches) depth curb to curb and 10 feet beyond the farthest point of the pave cut edge in any direction by any person who shall open or excavate any street or court for any purposes; this includes emergency-related work. All restoration work shall be completed within and no later than 30 days from the day recorded for the excavation.
6. Trenching excavations in lengths equal to the road surface width and in parallel or otherwise to the road surface shall have the same restoration requirements as for pave cuts above for the manner of completion.
7. If two pave cuts are made less than 500 feet apart, the entire area between the two pave cuts, including the two pave cuts and 100 feet to each side of the pave cuts shall be milled and resurfaced as described above for a full width of the entire length of the work area.
8. If, within five years after the restoration of the surface as herein provided, defects shall appear, the applicant shall reimburse the Township for the cost of all necessary repairs to the permanent paving or, as directed by the Township, may be required to reconstruct the road surface of the pave cut area to meet compliance.
9. Pavement markings. Any person who shall open or excavate any street/court in the Township shall thoroughly and completely replace all pavement markings to their preexisting condition within five days following the resurfacing of the street/court.

B. Inspection

The Township, through its designated representative, shall cause the work and, separately, all restoration to be inspected and when necessary, enforce compliance with conditions prescribed by the permit and this Ordinance employing, where necessary, professional expertise at the Permittee's expense for said purpose. The Township may reinspect the work authorized by the permit not more than five (5) years after its completion, and if any settlement of the road surface or other defect shall appear in or caused by the work, contrary to the conditions, restrictions, standards and regulations of the Township (or PennDOT, where applicable) or the permit, the Township may enforce compliance herewith. If the Permittee fails to rectify any defect which presents an immediate or imminent safety or health problem within forty-eight (48) hours and/or any other defect within ten (10) days of written notice from the Township to do so, the Township may cause the work to be performed and impose upon the Permittee the cost thereof together plus an additional twenty percent (20%) of such cost to offset administrative costs. Moreover, the Township may seek any and all remedies available to it under law or equity for any violation of this Ordinance.

§8 Maintenance

The maintenance and repair of all work authorized by a permit shall remain the responsibility of the Permittee. However, any drainage pipe or other required improvements installed in the Township right-of-way shall become a part of the Township infrastructure and shall thereafter be maintained by the Township, provided such pipe and other improvements have been permitted, inspected and approved under the terms of this Ordinance.

§9 Vegetation and Refuse

A. Shrubs and Trees

The Township is hereby authorized to remove from any Township road right-of-way any grass, brush, shrub, tree or other vegetation deemed to constitute a hazardous or dangerous condition to the use of the road or those which impair the use or maintenance of the road. No tree having a trunk diameter in excess of six (6) inches shall be removed without notice of the proposed removal having first been given to the abutting property owner. Such notice shall be in a form prescribed by resolution of the Board of Supervisors.

B. Wood

All logs, cordwood, branch wood or other forms of wood derived from the destruction or removal of any trees growing along any road shall be surrendered to and remain the property of the abutting property owners.

C. Brush and Refuse

The Township may clear out brush and other refuse along the sides of any road to the width of the right-of-way. All clearing and removal of brush and refuse shall be confined to growth that is within the right-of-way and to the removal of branches that in any way interfere with public travel.

D. Dangerous Conditions

Nothing in this §9 shall prevent the Township from removing roadside trees which may be thrown down by wind or lodged in a position as to become a nuisance to public travel or which, by reason of any other cause, may become a source of danger to the public.

§10 Obstructions and Nuisances

A. General Restriction

No person shall obstruct any road or commit any nuisance thereon by felling trees, making fences, turning the road, diverting water onto the road, filling, or in any other manner. Any such person who does not, upon notice by the Township, immediately remove the obstruction or nuisance and repair the damage done to the road in accordance with Township standards and requirements is in violation of this Ordinance.

B. Mailboxes

Nothing in this Ordinance shall prohibit the placement of mailboxes in any Township road right-of-way so long as the installation and specifications of said mailbox comply in all respects with PennDOT standards and requirements. In such cases:

1. A permit shall not be required.
2. The mailbox and/or its support shall not create a public safety hazard or public nuisance, and the Township shall have the authority to require the relocation or redesign of the mailbox and/or support to minimize hazards and nuisances.
3. The Township shall not be responsible for any damage to or created by any mailbox and/or support.

§11 Drains and Ditches

A. Maintenance

The Township is hereby authorized to enter any lands or enclosures and cut, open, maintain and repair drains or ditches through the property when necessary to carry the water from the roads.

B. Damage

Any person who damages, diverts or fills any drain or ditch without the authority of the Board of Supervisors is in violation of this Ordinance and is liable for the costs of restoring the drain or ditch.

§12 Violations and Penalties

A. Fine

Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than six hundred dollars (\$600.00) 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 be 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 governing law and the applicable rules of civil procedure. Each day that a violation continues unabated shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township. No person, partnership or corporation who fails to pay a fine imposed for not obtaining a permit shall receive a permit until such time as all fines are paid up to date.

B. Court of Common Pleas

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. Other Remedies

In addition to any penalty therein provided, any person, persons, firm, partnership or corporation who or which violates any provision of this Ordinance or who refuses to pay the costs of repair or removal as required by this Ordinance is subject to any and all applicable law or laws of the Commonwealth of Pennsylvania that afford(s) a remedy for such violation or recovery of costs in any court of the Commonwealth, including but not limited to, monetary damages, equitable or injunctive relief and attorney's fees.

§13 Township Roadmaster

The Board of Supervisors may appoint one or more Roadmasters, who may be an individual, firm or agency of the Township, to conduct inspections, make reports and administer other parts of this Ordinance as determined by the Board of Supervisors.

§14 Notice to Violators

A. Service of Notice

Whenever the Township Board of Supervisors or the Township Roadmaster determines that a violation of this Ordinance exists, the Board or the Roadmaster shall prepare a written notice to be served upon the owner and/or tenant of the premises on which the violation is located or originates, or the violator if other than a property owner or tenant. The written notice shall be served by one or more of the following methods:

1. Personal delivery.
2. Fixing a copy to the door of the building on the premises of the violation.
3. Certified mail to the last known address of the violator.
4. Publishing in the Township's official newspaper once each week for two (2) consecutive weeks.

B. Content of Notice

1. The notice shall enumerate the conditions which constitute the violation and what action is required to abate the violation.
2. The notice shall include a time frame for the abatement of the violation, with such time frame established by the Board (or the Roadmaster, at the Board's direction), based upon the nature of the violation and providing a reasonable period for the owner to take the required action. However, in no case shall the period for abatement of the violation exceed sixty (60) days from the time notice is served upon the owner; and, in certain cases, immediate correction may be required.

§15 Waivers and Modifications

A. Intent

The provisions of this Ordinance are intended as minimum standards for the protection of the public health, safety, and welfare. If literal compliance with any mandatory provision of these regulations is demonstrated by the applicant to be patently unreasonable or to cause undue hardship as it applies to a particular property, or if the applicant shows that an alternative

proposal will allow for equal or better results, the Township may grant a waiver from any such mandatory provision(s) so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of property. The granting of any waiver or modification pursuant to this section shall not have the effect of making null and void the intent and purpose of this Ordinance.

B. Conditions

In granting waivers/modifications the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

C. Procedure

All requests for waivers/modifications shall be in writing, shall accompany and be a part of the development application, and shall include:

1. The specific Section(s) of this Ordinance in question.
2. Provisions for the minimum modification necessary as an alternate to the requirements.
3. Justification for the waiver/modification including the full grounds and facts of unreasonableness or hardship.

D. Action

If the Board of Supervisors denies the request, the applicant shall be notified, in writing, of the reasons for denial. If the Township grants the request, the permit shall include a note which identifies the waiver/modification as granted. In any case, the Township shall keep written records of all actions on all requests for waivers/modifications as required by law.

§16 Severability

Should any section, subsection, clause, provision or other portion of this Ordinance be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance; the Board of Supervisors having adopted this Ordinance as if such portions had not been included therein.

§17 Repealer

All other existing ordinances or parts thereof inconsistent with this Ordinance are hereby expressly repealed to the extent necessary to give this Ordinance full force and effect.

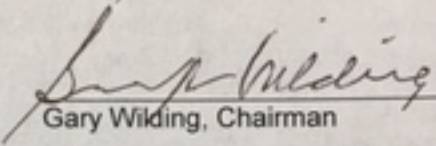
§18 Conflicts

Should any provision of this Ordinance be in conflict with any other section, provision, regulation or standard of any other Township ordinance, the more restrictive shall apply.

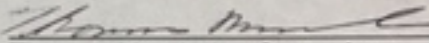
§19 Effective Date

This Ordinance, as amended, shall become effective five (5) days after its adoption.

ENACTED AND ORDAINED into law by the Board of Supervisors of North Abington Township, Lackawanna County, Pennsylvania, this 4th day of April,
~~2016.~~ 2017.



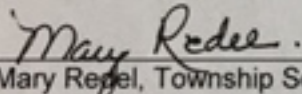
Gary Wilding, Chairman



Thomas Mundrake, Supervisor

Ernest D'Agata, Supervisor

ATTEST:



Mary Redel, Township Secretary