

ORDINANCE NO: 2019- 1114

**COOPER TOWNSHIP  
MONTOUR COUNTY, PENNSYLVANIA**

**AN ORDINANCE TO ESTABLISH STREET OPENING, EXCAVATION, AND RESTORATIVE REQUIREMENTS WITHIN THE TOWNSHIP'S ROADWAYS**

**WHEREAS**, The Township of Cooper ("Township") has the ability to make regulations as may be necessary for the health, safety, and general welfare of the Township and its residents; and

**WHEREAS**, the Township finds that it is in the best interest of residents to establish an Ordinance pertaining to the permitting requirements for excavation, repairs or obstruction of roadways in the Township.

**NOW THEREFORE**, this 14th day of November, 2019, it is hereby Enacted and Ordained by the Board of Supervisors of the Township of Cooper, Montour County, Pennsylvania, as follows:

**Section 1.**

**Article 1      Definitions**

- A. The following words, when used in this Part, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

**APPLICANT**

Any person who makes application for a permit.

**CALENDAR YEAR**

January 1 through December 31, inclusive.

**CONCRETE**

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

**COST**

Actual expenditures incurred by the Township for labor, equipment and materials, which include all fringe benefits and overhead.

**DEPARTMENT**

The Street and Infrastructure Department of Mahoning Township, which provides Zoning support for Cooper Township.

**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.

**INSPECTION FEE**

A fee paid by the permittee to the Township to defray street excavation inspection costs.

**PERMIT FEE**

A fee paid by the permittee to the Township to cover the costs of issuing, processing and filing the street excavation permit. The fee paid by the permittee to the Township to defray a percentage of the costs for resurfacing and reconstruction of Township streets resulting from depreciation of streets associated with street excavations.

**PERMITTEE**

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

**PERSON**

Any natural person, partnership, firm, association, corporation, utility or municipal authority.

**PUBLIC UTILITY**

Any utility company, excluding corporate authorities of the Township, franchised by the Public Utility Commission of the Commonwealth of Pennsylvania.

**RESURFACE**

A process which provides a new wearing surface in a certain paved street area between curbs with the same material that was existing prior to excavation.

**SIDEWALK AREA**

That portion of the street right-of-way reserved for sidewalks or that area defined on the Township Plan.

**STREET**

The entire right-of-way of a public street, public highway, public alley, public avenue, public road or public easement within the Township limits, excluding the designated curb and sidewalk area.

**TOWNSHIP**

The Township of Cooper.

**TOWNSHIP STREET MAINTENANCE FUND**

A fund established and regulated by the Township, the moneys therein being explicitly designated for the resurfacing, repair and reconstruction of Township streets. This fund shall be included as part of the General Fund.

**USER**

The public utility, municipal corporation, municipal authority or other person who, or which, uses a line to provide service to one or more consumers.

**WORK DAY**

Normal business day for the Township government including Monday through Friday, except designated holidays.

B. In this Part, the singular shall include the plural, and the plural shall include the singular, and the masculine shall include the feminine and the neuter.

**Article 2 Permit Required and Emergency Excavations.**

- A. The excavation of the surface of any Township street or right of way is prohibited unless a permit is obtained for that purpose in the manner hereinafter described, except in situations which require the placement of utility poles. Such permit shall be granted through the Zoning Office when the person applying for such permit files an application with the Zoning Office in compliance with the provisions of this section and pays into the Township treasury the amounts hereinafter stated.
- B. Any person working in the vicinity of a Township street who in any manner disturbs such street or who in any manner causes damage to a street shall be required by this section to obtain a permit and correct this damage in accordance with the standards of the Construction and Materials Specifications.
- C. The requirement of obtaining a street excavation permit shall be waived when work to be performed is completed by the Township's own personnel or a contractor of the Township.
- D. If street excavations are necessitated by emergencies, street excavation permits shall be obtained on the first regular business day on which the office of the Township is open for business and such permit shall be retroactive to the date when the work was begun.
- E. A person performing street excavations for an emergency shall verify the emergency nature of the circumstance in writing to the Zoning Office within three (3) days after such emergency on the street excavation permit application.
- F. All traffic in a work area shall be controlled in accordance with present Pennsylvania Department of Transportation requirements for control of work areas.



- G. The permittee shall be responsible for notifying the East Central Management Agency and the Township's responding Police Officers of any street, alley, and/or road closings.
- H. All construction and materials shall be completed and provided in accordance with the Township's Construction and Materials Specifications standards as last revised.

**Article 3 Street Excavations Prior to Reconstruction or Resurfacing.**

This Section shall not forbid the installation of new pipes, conduits or other services or structures or the repair or replacement of those already existing, in or under the portions of such highways improved as aforesaid, by penetrating the subsurface beneath paving in accordance with Township ordinances and the directions of the Zoning Office or the Pennsylvania Department of Transportation, upon obtaining a permit therefore from the Zoning Office, and upon payment to the Township of the same fees as prescribed by the provisions of this Part except for the permit fee for making a surfacing.

**Article 4 Prerequisites to Obtaining Permit.**

Street excavation permits shall only be granted upon compliance with the following express provisions:

- A. A written application shall be filed with the Zoning Office for making all street excavations and signed by the person desiring such permit. Such application shall set forth the purpose for which such excavation is to be made, the size and location of the same, the full scope of work to be included in the project, the date or dates during which such excavation is to be permitted, the date such excavation is to be refilled and resurfaced in the manner hereinafter provided in accordance with every provision contained in this Part. An applicant shall furnish a drawing of the proposed excavation site upon request. Items required on the drawing shall be specified at the time of request.
- B. Prior to the issuing of such permit, every such applicant shall pay the Township the amount hereinafter required for the purposes specified and shall exhibit to the Zoning Office a receipt for the amount paid.
- C. No permit shall be granted to any applicant unless the applicant has paid to the Township any and all moneys, including inspection fees, 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 Part.

- D. Every applicant shall agree to indemnify and to save and hold harmless the Township, its officers, employees, consultants, and agents from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of such work to be done by the applicant under provisions of this section. The acceptance of any permit under this section shall constitute such an agreement by the applicant whether the same is expressed or not.
- E. Proof of insurance shall be filed with the Zoning Office, verifying that the applicant is insured against claims for personal injury as well as against claims for property damages which may arise from or out of the performance of the excavation work, whether such performance be by the applicant or anyone directly or indirectly employed by him. Insurance certification shall list the Township and its inspection consultant as additional insureds. Such insurance shall include protection against liability arising from completed operations, underground utility damage and collapse of any property. The maximum required liability insurance limit for bodily injury shall be set by resolution of the Cooper Township Supervisors. Failure of an applicant to file proper proof of insurance shall be a sufficient reason for denying a permit. The applicant shall indemnify and shall save and hold harmless the Township from any and all damages and liability by reason of personal injury or property damage arising from work done by the applicant under the provisions of this section.

Article 5      **Bond.**

- A. All persons desiring to excavate a street shall furnish a properly executed corporate surety bond. Such bond shall be issued by a reputable surety company licensed to do business in the Commonwealth of Pennsylvania.
- B. The bond shall be in effect for an eighteen-month period following completion of the work, in accordance with **Article 15**. The amount of the surety bond shall be set, based on an approved cost estimate prepared by the applicant and approved by the Township or their Consultant.

Article 6      **Fees.**

- A. The permit fee and inspection fee to accompany the application shall be established by resolution of the Cooper Township Supervisors. The Township Secretary shall place collected permit fees into the Township Street Maintenance Fund of the General Fund.



1. When the longitudinal excavation longer than 100 linear feet has been made in the pavement, the applicant shall:
  - (i) Restore the excavated trench in accordance with the Cooper Township Construction and Material Specifications; and
  - (ii) Mill and overlay the cartway and any other improved areas (per the approved permit) in which the excavation was made, for the entire length of street and/or alley that was excavated.
2. When four (4) or more transverse excavations have been made within 100 linear feet of pavement, the applicant shall restore the roadway pursuant to **Article 6.A.1.**
3. The Applicant shall establish an escrow account with the Township to cover inspection fees. The escrow shall be submitted at 5% of the cost estimate provided in **Article 5.B.** The inspection fee will be held by the Township Treasurer in escrow. Upon satisfactory release of surety bond, any remaining escrow funds will be returned to the applicant. The degradation fee may be waived for restoration completion in accordance with **Article 6.A.1.**
4. Any applicant who wishes to excavate a street shall obtain a street excavation permit to excavate a street for nonemergency purposes, provided that a street degradation fee is paid in full prior to the acquisition of the street excavation permit. The degradation fee is defined as a fee paid by the permittee to the Township to defray a percentage of the costs for repairs to streets resulting from the depreciation of streets associated with street excavations.

**Article 7 Cancellation of Permit.**

In all cases where a permit has been issued and the work set forth in such permit has not been completed, the permit shall be canceled with respect to the amount of work not completed and a portion of the permit fee along with the inspection fee paid for the uncompleted work shall be refunded without interest by the Township Treasurer, upon warrant properly drawn. The permit fee shall not be refunded upon permit cancellation.

**Article 8      Revocation of Permit.**

- A. All street excavation permits are subject to revocation at any time by the Township after written notice for:
  - 1. Violation of any condition of the permit.
  - 2. Violation of any provision of this section or any other applicable ordinance or law relating to the work.
  - 3. The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
- B. Written notice of such violation shall be served upon the person to whom the permit was granted, or his agent or employee engaged in the work. Such notice shall also contain a brief statement of the reasons for revoking such permit. Notice may be given either by personal delivery thereof to the person to be notified or by United States mail, addressed to such person to be notified.
- C. Upon revocation of the permit, a portion of the permit and inspection fees will be refunded to the permittee for that portion of the project not completed.

**Article 9      Completion of Street Excavation; Time Extension and Fee.**

- A. Construction must commence within one month of the issuance date of the street excavation permit; otherwise a new street excavation permit must be obtained. Final pavement restoration must be completed within one month of street opening.
- B. If any permittee is unable to complete the street excavation work on or before the date specified in the permit, the permittee shall file a written application for an extension of time with the Zoning Office. The written application shall be in letter form and shall thoroughly explain the reasons for the extension of time plus the additional length of time required. A fee to be established, from time to time, by resolution of the Cooper Township Supervisors, shall accompany the application. This fee shall defray the costs of processing and filing the application.

**Article 10      Backfilling and Paving; Backfilling and Replacing Surface by Township.**

A. The permittee shall be responsible for backfilling and paving the excavation and restoring the street surface to its original condition prior to the street cut. The Township shall have the full authority to establish standards for paving the backfilling materials and associated procedures. Details specifying paving and backfilling procedures and materials shall be in accordance with the latest edition of the Township's Construction and Materials Specification, which it may publish and update from time-to-time by resolution.

B. In case the work has not been completed before the date of expiration as shown on the permit, which time shall be fixed when the permit and/or time extension is granted, the Street and Infrastructure Department may take steps to backfill the trench and replace the street surface over the excavation for which the permit has been issued upon proper notification from the Street and Infrastructure Department to the applicant. The Township shall invoice the permittee for all costs incurred by the Township in the performance of this work. Payment not made within thirty (30) days will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.

**Article 11 Responsibility; Extra Inspectors and Other Rules.**

A. The Township is authorized to make such other rules and regulations for the excavation of streets which it may deem necessary for the proper maintenance of the street surface due to excavations.

**Article 12 Test Holes.**

A street excavation permit shall be obtained for any test hole work. No test holes shall be made in or upon a greater surface of the highway than as specified in such permit, and no excavation or test holes shall interfere with any of the water pipes, sewers or drains of the Township or any other underground utility service. Test holes shall be backfilled in accordance with the provisions set by the Township's Construction and Materials Specifications.

**Article 13 Gutters, Lights and Identification.**

A. All gutters shall be left open so as not to obstruct the free passage of water and the sidewalks and foot ways must be kept in a safe and passable condition. All excavations or material from them shall have placed upon them sufficient lights and barricades to identify them from all directions during the day and after dark.



- B. If, for safety purposes, the Street and Infrastructure Department deems it necessary to install additional warning devices such as lights, barricades or signs, the permittee shall be notified of the decision and shall receive instructions on the installation. In case of emergencies, the Township may install all additional warning devices deemed necessary. The Township shall invoice the permittee for rental and installation costs incurred from the date of installation until the permittee installs warning devices.
- C. If the permittee fails to install such devices, the Township shall invoice the permittee for rental and installation costs incurred from the date of installation until the date of removal. Payment not made by the permittee within thirty (30) days of the invoice date will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.

**Article 14 Additional Work.**

In no case shall a permittee excavate or remove a greater area of street surface than specified in the original application. The permittee shall not excavate any street at any location not specified in the original street excavation permit. If the permittee determines during construction that an additional area of the street will have to be excavated, he shall notify and secure permission from the Township for the additional excavation. Upon receipt of permission, the permittee shall file a supplementary application for the work no later than the next work day. Fee amounts specified in this section shall be followed for any subsequent fees associated with supplementary applications.

**Article 15 Guarantee of Work, Corresponding Penalties, and Repair of Work.**

- A. The permittee shall guarantee and maintain his work for eighteen (18) months from the completion of the restoration and replacement work. Within this eighteen (18) month period, upon notification from the Township of necessary correction work required, the permittee shall correct or cause to be corrected all restoration work required within thirty (30) working days of receipt of the notification. The Street and Infrastructure Department shall determine the extent of restoration required and the method of correction. Any and all work not completed within this thirty-day period may be completed by the Township at the discretion of the Lead of Street and Infrastructure Department. The Township shall invoice the permittee for all costs incurred by the Township in performance of this work. Payment not made within thirty (30) days of the invoice date will be chargeable against the posted bond including all fees and costs involved in the collection of this payment.