

ROAD OPENING ORDINANCE
Damascus Township, Wayne Co., PA.

Mission Statement: Legislative intent.

It is the intent of the Supervisors of Damascus Township that, in order to protect the health, safety, and welfare of the general community, the opening of streets be regulated by permit.

Section 1:

Definitions

A. Any word, term, or phrase used in this Ordinance, but not specifically defined herein, shall be defined as set forth in the Damascus Township Subdivision and Land Development Ordinance, as last amended.

B. Word usage. The word "shall" is construed as mandatory.

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

1. **BUILDING** - any structure having enclosed walls and roof, intended for support or sheltering a use or occupancy, and attached to the land. Included shall be all mobile homes and trailers used for human habitation.

2. **CODE ENFORCEMENT OFFICER**- the Code Enforcement Officer or Alternate Code Enforcement Officer of the Township or their authorized representative.

3. **ENGINEER**- the duly appointed Township Engineer of the Township or his authorized representative.

4. **PERSON** - any natural person, partnership, firm, association, limited liability company, corporation, or municipal authority.

5. **STREET** - any public street, avenue, road, square, alley, highway, driveway, or other Township real estate located in the Township and established for the use of vehicles, but shall not include State highways.

6. **STREET OPENING** - Any ditch, excavation, tunnel or opening in or under the surface of any street, municipal land, or within street right-of-way; except, however, work performed by any property owner or his agent or contractor within that portion of the street right-of-way abutting his property and lying beyond the traveled and shoulder portion of the street in case of construction or repair of sluice pipes, stormbasins, or such other stormwater improvements.

7. TOWNSHIP - Damascus Township, Wayne County, Pennsylvania.

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

8. PERMITTEE – Upon the issuance of a permit upon proper application, the person to whom the permit is issued shall be known as the Permittee, which shall include any co-applicants to which a permit is issued.

Section 2: Permit required.

It shall be unlawful for any person to make any street opening without first securing a permit therefore from the Township of Damascus; provided, however, that any person maintaining pipes, lines or underground conduits in or under the surface of any street by virtue of any law, ordinance or franchise may proceed with an excavation or opening without a permit when emergency circumstances demand the work be done immediately for the preservation of the public health, safety or welfare, provided that the permit could not reasonably and practically have been obtained beforehand. Such person, however, shall thereafter apply for a permit on the first regular business day on which the office of the Township is open for business, and the permit shall be retroactive to the date when work was begun. Any work done in accordance with this section on an emergency basis shall still comply with all of the specifications and standards as set forth hereinafter in this Ordinance. Any and all applications for permits shall be submitted by certified mail or hand-delivered to the Secretary for the Township during Township business hours and shall be date stamped upon receipt.

Section 3: Application.

Any person intending to make a street opening shall make written application therefore to the Township on a form provided for that purpose, not less than ten (10) working days prior to the commencement of work. No work shall be commenced until the township has approved the application and issued a permit, except emergency work as provided under Section 2 hereof. Each application shall be accompanied by an accurate drawing clearly showing the extent of the proposed street opening and the location and depth of the subsurface facilities to be installed and, when required by the Township, the location and depth of all other surface facilities in the vicinity of the work.

Section 4: Fee and deposit.

The applicant shall pay a fee or fees and may be required to make a deposit in accordance with provisions set forth at the time of the issuance of the street opening permit and in accordance with the fees set forth in the then current fee schedule which shall have been adopted by resolution by the Board of Supervisors.

The Township engineer shall determine the amount of the deposit to be made by the permittee, basing the amount upon the current prices for similar street restoration work to which amount shall be added the cost of any additional work which might be necessary to restore the street to acceptable condition, plus the estimated costs of inspection and the estimated costs of any other services which the Township might have to perform during the course of the work.

The deposit may be in the form of certified treasurer's check or cashier's check payable to the Township, or a Letter of Credit or Performance Bond addressed to and/or naming the Township as the payee.

Upon completion and final inspection of the work, the Township shall make an accounting to the permittee of all costs incurred by the Township in connection with the permit, to which the Township may add a sum to be determined by the Township engineer as he or she can reasonably calculate to cover anticipated costs of future maintenance. The Township shall thereupon refund to the permittee any amount of deposit in excess of that computed as aforesaid, or if the deposit is found to be insufficient, the permittee shall immediately pay to the Township any amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency upon demand, the Township may recover the same by action in any court of competent jurisdiction. Until such deficiency is paid in full, additional permits may be denied such permittee.

Section 5: Certificate of Insurance.

Prior to the issuance of a permit under this Section, the Applicant shall be required to furnish Certificates of insurance, including workman's compensation insurance on all employees, as required by the Township. The certificate of insurance required of the applicant shall indicate that he is insured against claims for damages for personal injury as well as against claims for property damages which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations. Such insurance shall provide complete third party coverage for the Township of Damascus. The amount of such insurance shall be prescribed by the Engineer in accordance with the nature of the risks involved; provided, however, that the liability insurance for bodily injury in effect shall be in an amount not less than three hundred thousand dollars (\$300,000) for each person and one million dollars (\$1,000,000) for each accident and for property damage an amount not less than two hundred fifty thousand dollars (\$250,000). Failure of applicant to file such certificate shall be grounds for denying a permit.

Section 6: Conditions for the grant of permit.

The granting of any street opening permit shall confer a right upon the permittee, subject to the terms and conditions of the permit, to temporarily occupy and use the street surface during the course of construction work covered by the permit and to thereafter occupy the space within which the work is to be located, subject in every case to the temporary relocation or removal of any of the Permittee's equipment or facilities which pose a hazard or imminent threat to the health, safety and public welfare. In such cases, the Permittee shall relocate or remove such hazards at the request of the Township at the Permittee's expense.

In granting any permit, the Township may attach such special conditions thereto as may be reasonably necessary to protect the municipal land, private property and also the

general health, safety and welfare of the community, particularly for pedestrian and vehicular traffic.

Section 7: Acceptance of permit.

By accepting the permit, the applicant agrees to perform the work in accordance with the terms and conditions of the permit and of any special conditions which may be attached thereto and to save the Township, its Supervisors, employees and agents from any costs, damages and liabilities which may accrue by reason of the work.

Section 8: Expiration of permit.

Every permit issued hereunder shall expire at the end of six (6) months from the date of issuance. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the Township a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the Township, such an extension is necessary, the permittee may be granted additional time for the completion of the work, not to exceed ninety (90) days.

Section 9: Revocation of permit.

Any permit issued hereunder may be revoked by the Township after notice for violation of any condition of the permit or any ordinance of the Township including, but not limited to, completing the work as set forth in the time constraints contained in the permit or performing the work in accordance with the specifications as set forth hereinafter.

Section 10: Inspections.

The work shall be subject at all times to inspection by the Township or its agents, and the permittee shall pay the costs of such inspection as the Township may require. Notwithstanding anything contained herein, the permittee shall be required to notify the Township Engineer, before commencing the work, of the time and date the work will commence and shall immediately notify the Township Engineer when said work is completed.

Section 11: General standards.

Unless specifically permitted by the Township:

- A. No street opening shall be made within three hundred sixty-five (365) days of construction, reconstruction, reconditioning or newly applied asphalt pavement surface.
- B. No street opening shall extend across more than one-half (1/2) of the street at one (1) time, so as to allow or provide two (2) way traffic at all times.
- C. If the street must be closed, the permittee must submit, in writing, why it must be closed. A detailed detour map, including signs to be installed, shall be submitted and approved by the Township prior to the commencement of the project.
- D. Access to driveways and/or buildings abutting the street shall be maintained, where possible. Where maintained access is not possible, the permittee shall provide

temporary alternative access to the affected abutting buildings or driveway. If an alternate is deemed necessary by the Township and requested by the affected property owner.

E. Not more than five hundred (500) linear feet of any street shall be opened at any one (1) time.

Section 12: Special standards.

A. The permittee shall conform to all applicable Pennsylvania laws, as amended from time to time, and shall take all precautions necessary to avoid damage to other utility lines and to public and private property. In the event that damage does occur to property of others, the permittee shall promptly and satisfactorily repair all damage and restore the property to a satisfactory condition.

B. Provisions shall be made to accommodate the flow of storm drainage, and no excavated material or trench shall be permitted to interfere with the normal flow of surface water, unless such interference is determined and shown to be of a net benefit in terms of stormwater management.

C. Traffic control shall be maintained in accordance with Pennsylvania Department of Transportation Regulations, as amended from time to time, and the permittee shall furnish and maintain upon the work such signs, barricades, lights and flagmen as may be necessary to properly protect the public and workers.

D. If blasting is performed, such operations shall be under the charge of state certified persons only and shall be carried out in strict accordance with federal, state, county or municipal laws or regulations governing the same.

E. The permittee shall be responsible to notify the State Police, Volunteer Fire and Ambulance units servicing the Township, and other public utility companies of the proposed work, stating the nature and location of the work to be done, and shall keep all said parties informed of the progress of the work. When access to abutting properties is to be denied, the permittee shall notify the affected parties in advance.

Section 13: Pavement cuts, excavation and backfill.

A. Cuts through bituminous wearing surfaces shall be scored on a neat, straight line to the full trench width, using either a pneumatic spade or a concrete saw. Cuts through portland cement concrete shall be sawed to a sufficient depth to enable removal of concrete with a clean, straight break.

B. Excavated material shall be laid compactly alongside the trench and kept trimmed up to cause as little inconvenience as possible to public travel. Pedestrian crosswalks shall be kept clean and free of obstructions, and where necessary, temporary bridging or plank walkways shall be provided. Excavating material not suitable for backfill shall be

immediately loaded into trucks and removed as the excavation is in progress. Construction materials shall not be stored in the public street except immediately in advance of installation. Loose earth and stone shall be promptly cleaned from the streets and sidewalks, and dust shall be regularly swept up and removed.

C. Backfilling shall follow immediately after installation of the facilities, and only clean, sand and/or modified stone shall be used as approved by the Township Engineer. Backfill shall be compacted by vibrating or mechanical tampers only and in layers of proper depth to ensure ninety-five percent (95%) compaction. No rolling or puddling will be acceptable as a means of compaction. Excess material shall be promptly removed, and the street hand-swept prior to paving repairs.

Section 14: Restoration required.

Whenever final paving repairs are not completed to the satisfaction of the Township or in accordance with the time constraints or the specification in this Article, the Township reserves the right, after notice to the permittee, to complete final paving and any other necessary work, and the permittee shall be required to reimburse the Township the actual cost thereof. In the event of a reimburse cost, the Township shall bill the Permittee. Payment is due in thirty (30) days. In the event payment is not received within thirty (30) days, the Township may deduct from or proceed to collect said fee from any deposit, letter of credit or performance bond. As a condition for said permit, the Permittee does hereby consent to said deduction or collection.

Section 15: Restoration standards.

A. Temporary pavement repairs shall consist of not less than eight (8) inches of modified stone laid on the properly compacted and evenly graded trench, mounded over the center of the trench one (1) inch and thoroughly compacted by rolling or vibrating. The Township may require as a special condition the placing of a one and one half (1-1/2) inch thick bituminous concrete wearing surface or cold mix bituminous patch over temporary paving. In all cases, the permittee is responsible to maintain temporary pavement repairs in good condition, free of chuck holes and soft spots, and to clean the street surface of any stone or earth which may be carried over the street.

B. All openings or excavations shall be backfilled with a crushed aggregate of a size and composition approved by the Engineer. The materials shall be placed, rammed or compacted in layers, each of which shall not exceed 6 inches in depth. On improved streets, the backfilling shall be placed to within 10 inches of the surface. The trench shall then be enlarged 1 foot on each side to a depth of 10 inches. An 8 inch layer of high early strength concrete, whose composition conforms to PennDot (g), shall be placed and protected from traffic for at least 24 hours. A 2 inch layer of ID-2 conforming to the Township engineering specifications shall then be used to dose the excavation or opening. A bead of asphalt cement shall be placed around the perimeter of the opening to seal the joint between new and old materials. Backfilling of tunnels shall be done in a manner designated by the Engineer.

C. Final pavement repair shall consist of the following:

1. An eight (8) inch thick plain bituminous concrete base course, a two (2) inch thick binder course and one and one half (1-1/2) inch (minimum) ID2 bituminous concrete wearing surface.
2. Said work shall be done in accordance with the detail as attached hereto, made a part hereof and marked Exhibit A and described as "Road Restoration Detail Prepared for Damascus Township."

Requirements for permanent repairs to surfaces other than bituminous macadam will be determined by the Township in each specific case. In general, final restoration shall be equal to the original surface.

Wherever unusual conditions exist or arise during construction, the Township may change the permanent restoration requirements from those given herein. In all cases, marks of construction beyond the area of actual trench shall be satisfactorily restored. In cases where a substantial portion of the original street paving is removed or damaged, the Township may require the permittee to resurface the entire street area, in addition to constructing the final paving repairs over trench areas. The Township may also elect to accept payment from the permittee to the Township for final paving repairs, in a sum to be determined by the Township based upon the then current costs for such work plus fifteen percent (15%), and to apply the sum so paid toward the cost of reconstruction of the entire street.

Section 16: Future maintenance.

The permittee shall be responsible to correct any trench settlement or deterioration in the final paving work. Such responsibility is without limitation during the first two (2) years after the date of the final completion certificate. Thereafter, settlement for the trench area shall remain the general responsibility of the permittee to repair, unless specific release is given by the Township.

Section 17: Final completion certificate.

After final inspection and acceptance of the work and after payment of any refund or collection of any insufficiency due, the Township shall issue a final completion certificate. The date of such final completion certificate shall fix the one (1) year time period during which the permittee is absolutely responsible for maintenance of permanent pavement repairs and trenches.

Section 18: Violations and penalties.

Any person violating any of the provisions of this chapter shall be liable, upon conviction thereof, to a penalty not exceeding Six Hundred Dollars (\$600) and costs of prosecution for each and every offense or, upon default in payment of the fine and costs, to imprisonment in the Wayne County Prison for not more than thirty (30) days, and whenever such person shall have been notified by the Township Code Enforcement Officer or by service of a summons in a prosecution or other written notice that he is committing such violation of this chapter, each day that he shall continue such violation after such notification shall constitute a separate offense, punishable by a like fine or

penalty. Such fines or penalties shall be collected as like fines and penalties are now by law collected.

EXHIBIT "A"

Road Restoration Detail Prepared for Damascus Township

1. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street is temporarily restored.
2. No more than five hundred (500) feet measured longitudinally shall be opened in any street at any one time, except by special permission of the Township.
3. All utility facilities shall be located sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
4. Pipe drains, pipe culverts, or other facilities encountered shall be protected by the Permittee.
5. Survey markers or monuments set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey benchmark within the Township shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Township. Permission shall be granted only upon condition that the Permittee shall pay all expenses incident to the proper replacement of the monument. Any existing survey markers, which are removed or displaced by any construction operation shall be reset by a surveyor licensed to practice in the Commonwealth of Pennsylvania, with such work being completed at the Permittee's expense.
6. When work performed by the Permittee interferes with the established drainage system of any street, provisions shall be made by the Permittee to provide proper drainage to the satisfaction of the Township.
7. When any earth, gravel, or other excavated material is caused to roll, flow, or wash upon any street, the Permittee shall cause the same to be removed from the street within four (4) hours after deposit of such materials, or upon notice from Township to remove such materials. In the event the earth, gravel or other excavated material so deposited is not removed, the Township shall cause such removal, and the cost incurred by the Township shall be recovered from the bond the Permittee filed with the Township.
8. Every Permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as necessary for the protection of the public. Barricading shall be in compliance with the regulations as set forth by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Traffic Engineering, for maintaining and protection of traffic on construction projects and handbook for work area traffic control and any future revisions thereto.

All trenching and excavation shall conform to the requirements of the Pennsylvania Department of Labor and Industry standards for such work. Additional safety requirements may be prescribed by the Township.

Whenever any person fails to provide or maintain the safety devices required by the Township, such devices may be installed and maintained by the Township. The amount or cost incurred shall be paid by the Permittee.

No person shall willfully move, remove, injure, destroy, or extinguish any barrier,

warning light, sign or notice erected, placed or posted in accordance with the provisions of this Ordinance.

9. Access to private driveways shall be provided except during working hours when construction operations prohibit provisions of such access. Permittee must notify property owners in advance whenever a driveway is to be blocked. Free access must be provided at all times to fire hydrants.
10. The excavation shall be in two (2) classes, that portion in the area outside the street and that portion within the street.

A. For excavation outside the street, excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Township may require the Permittee to provide toe boards or binds, and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the Permittee as directed by the Township. If the street is not wide enough to hold the excavated material without using part of an adjacent sidewalk, the Permittee shall keep a passageway at least one-half (1/2) the sidewalk width open along such sidewalk line.

B. For excavation within the street, all excavating material shall be wasted and removed from the site. This shall be done at the time of excavation or after excavation backfill has been completed. If excavation material is left at the site or until after completion of the work, all conditions stated in Paragraph 10. A. above shall be adhered to.

11. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the Permittee obtains written consent from the Township to do the work at other hours. Such permission shall be granted only in case of an emergency or in the event the work authorized by the permit is to be performed in traffic-congested areas.
12. In granting any permit, the Township may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property, or in a manner likely to create a nuisance. Such conditions may include, but shall not be limited to: (1) Limitations on the period of time of the year in which the work may be performed; (2) Restrictions as to the size and type of equipment; (3) Designation of routes upon which materials may be transported; (4) The place and manner of disposal of excavated materials; (5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noise, and other results offensive or injurious to the neighborhood, the general public, or any portion thereof, and (6) Regulations as to the use of streets in the course of work.
13. During the progress of the work, gutters and waterways must be kept open or other provisions made for the removal of storm water. Street intersections may be blocked one-half (1/2) at a time, and the Permittee shall lay and maintain

temporary driveways, bridges and crossings as, in the opinion of the Township, are necessary to reasonably accommodate the traveling public.

14. The Township, as well as the company or corporation owning any municipal or utility company pipes, poles, or conduits, must be notified by the Permittee before any such facilities are removed or altered. In case any water or sewer lines, or any utility company gas or electric facilities including service connections and/or appurtenances are damaged, they shall be repaired by the Authorities having control of same, and the expense of said repairs shall be paid by Permittee directly.

It shall be the responsibility of the Permittee to ascertain and verify actual location and elevation of existing pipelines or buried conduits in the path of the work before commencing excavation.

15. All excavations which are five (5) feet or more in depth or which exceed any State or Federal regulatory agency's stipulated maximum depth for unshored excavations, or where excavations are in unstable material, excavations shall be shored. All shoring shall meet or exceed OSHA or State Labor Department requirements.
16. The trench shall be excavated along the lines proposed by the permit holder and approved by the Township. All trenches shall have vertical sides, no tapering of said shall be permitted unless approved in writing. The width of the trench, unless otherwise approved, shall be six (6) inches minimum and eighteen (18) inches maximum on each side of the utility pipe. The bottom of the trench shall be hollowed out so as to allow the body of the pipe to have a bearing throughout on the trench bottom. Ground adjacent to all excavations shall be graded to prevent water running in. Any accumulated water in the excavation shall be removed by pumping or other means approved by the Township prior to the placement of pipes or utilities and before backfill is begun.
17. Following all excavations, the excavated area shall be restored in accordance with the specifications set forth in Section 15. In addition, all restoration activities shall be performed and materials shall be replaced so that the replaced excavated surface does not deviate from its original height. (The Township may permit deviation on a case-by-case basis.)
18. Excavation involving the removal of bituminous or concrete paving in streets, private drives, and parking area trenching situations shall be accomplished by sawing or cutting the improved surface at the edges of the proposed trench at points one (1) foot on either side of the trench opening at ground surface. Sawing or cutting shall extend to full depth of existing surface. Where existing surfaces are damaged, taken up, undercut, or unraveled by construction excavation operations which extend beyond the original saw or cut marks for removal, the Permittee in restoring such bituminous or concrete surfaces to original condition shall re-saw or cut the surface to a straight and even line six (6) inches beyond the furthest point of damage from the trench centerline.
19. When temperatures fall below 33 degrees F., all grouting and concrete materials entering into the construction are to be preheated and used while warm. When any mortar or cement concrete work is carried out under freezing conditions, the

heated area must be maintained for at least twenty-four (24) hours or the installation shall be protected from frost by covering with hay, straw, or similar substance to a depth of at least two (2) feet before auxiliary heat is removed. Where areas cannot be appropriately protected by covering with hay or straw and where it is impractical to completely cover the work area with an enclosure and heat the work area to at least 40 degrees F., the work shall be suspended.

THIS ORDINANCE shall become effective five (5) days after its adoption.

ORDAINED AND ENACTED this 21ST day of DECEMBER, 2009

(signed)

TOWNSHIP SUPERVISORS

ATTEST: (seal)