

**TOWNSHIP OF EAST COCALICO
LANCASTER COUNTY, PENNSYLVANIA**

ORDINANCE 2024-02

**AN ORDINANCE OF THE TOWNSHIP OF EAST COCALICO TO
ESTABLISH ROADWAY RESTORATION REQUIREMENTS**

WHEREAS, from time to time, revisions to the Code of the Township of East Cocalico are required so to aid the Township in its planning efforts and to advance the overall public health, safety, and welfare of the community;

NOW, THEREFORE, the Board of Supervisors of East Cocalico Township, Lancaster County, Pennsylvania, hereby ordains and enacts as follows:

SECTION I

Regulations in the Code of the Township of East Cocalico, Chapter 189, Article I, Excavations and Openings, are hereby deleted in its entirety, and in its place the below adopted:

§ 189-1 – Regulations and Definitions.

- A. No person, firm, corporation, partnership or other entity (hereinafter "person") shall occupy or excavate or make any tunnel or opening of any kind in, under or adjacent to the surface of any street within the Township without first securing a permit from the Township for each separate undertaking. Nor shall any person install, erect or relocate any pole or other obstruction upon, in or immediately adjacent to any portion of any street within the Township except under such conditions, restrictions and regulations as prescribed in permits granted by the Township for such purpose. In no event shall any person seeking a permit deviate from the provisions of this article or from the terms of any subsequently issued permit. Nothing in this article shall be construed to require a permit in advance of emergency repairs necessary for the safety of the public or the restoration or continuance of a public utility or other public service. Application for a permit under such circumstances is still required, with fees and application due within five working days after commencement of the work. Notwithstanding the above, East Cocalico Township is exempt from all requirements of this Article.
- B. In all cases in which emergency repairs are necessary, the Director of Public Works or his or her designee will be notified prior to excavation of any kind.
- C. As used in this article, the following terms shall have the meanings indicated:

ADJACENT AREA The area surrounding the immediate area of the permitted work which can reasonable be assumed to have been affected by the permitted work.

BACKFILL Material used to replace or the act of replacing material removed during construction.

EMERGENCY An unforeseen occurrence or combination of circumstances which calls for immediate action or remedy.

EMERGENCY REPAIR Repair to a utility facility undertaken to repair damage resulting from a vehicle accident or collision with the facility, a failed component or storm damage. The term does not include service connections or disconnections unrelated to vehicle accident, a failed component or storm damage.

INSPECTOR The Township's authorized representative assigned to inspect permit operations.

PERMIT A highway and/or road occupancy permit issued by the Township.

PERSON A natural person, firm, partnership, association, corporation, trust or any entity with legal responsibilities. Whenever used in any clause prescribing or imposing a fine or imprisonment or both, "person" shall mean, as applied to associations, the partners or members thereof and, as applied to corporations, the officers thereof.

PLANS Drawings which show the location, character and dimensions of the proposed occupancy and related highway features, including layouts, profiles, cross sections and other details.

RIGHT-OF-WAY An area or strip of land acquired by the Township and intended to be occupied by a street, crosswalk, stormwater or sanitary sewer pipes and other similar uses.

ROAD See "street."

STREET An open way, generally paved and usually publicly owned, serving as a means of vehicular and/or pedestrian passage and furnishing access to abutting properties.

UTILITY A person owning a utility facility, including any wholly owned or controlled subsidiary.

UTILITY FACILITY OR FACILITY Privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communication, power, electricity, light, heat, gas, oil, crude products, coal, water, steam, waste, stormwater not connected to Township drainage facilities and other similar commodities, including fire and police signal systems and streetlighting systems, which directly or indirectly serve the public or any part thereof.

VEHICLE Every device which is or may be moved or drawn upon a highway.

§ 189-2 – Permits.

- A. Application for a permit. Application for a permit shall be on a form prescribed or approved by the Township, and shall be submitted to the Township in duplicate. The application shall be accompanied by the fee and/or escrow for highway and/or road permits and restoration charges as listed on the fee schedule most currently adopted by the Board of Supervisors. In addition, the applicant shall submit three copies of a sketch plan showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines, a dimension to the nearest intersecting street and the nature of the surface in which the opening is to be made, and any other pertinent information required by the Township to be included on the plan.
- B. Persons eligible for permit. No street opening permit will be issued by the Director of Public Works, except to a municipal corporation, a public utility corporation or an owner of property assessed in the Township's assessment roll on an application, signed by the owner or on behalf of the owner by an authorized (sworn) agent.
- C. The Director of Public Works is authorized to issue highway and/or road permits for the excavating/digging or opening of a street or right-of-way.

§ 189-3 – Conditions of permit.

- A. Transferability. Every permit shall apply only to the person to whom it is issued and shall not be transferable. Permits issued to utilities shall show the identity of the utility.
- B. Commencement of work. Work under a permit shall commence within 90 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended, in writing, by the Director of Public Works.
- C. Possession of permit. A copy of the permit must be kept in possession of the person actually performing the work and shall be exhibited on demand to any duly authorized employee of East Cocalico Township.
- D. Continuance of permit. A permit shall continue in effect during the time required for the settling of backfill and restoration of permanent pavement, but in no event shall the permit continue in effect later than nine months after the date of issuance unless the Township Manager shall further extend the time for good cause.
- E. Revocation of permit.
 - (1) Any permit may be revoked by the Township Manager if any of the following occurs as a result of the work undertaken pursuant to the permit or the actions of the permittee, the permittee's agents or employees:
 - (a) Violation of any condition of the permit or of any provisions of this article.
 - (b) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (c) Existence of any condition or the doing of any act creating a nuisance or endangering general health, safety and welfare.

- (2) When any permit has been revoked and the work authorized by the permit has not been completed, the Township shall perform such work as may be necessary to restore the street or part thereof to its preexisting condition. Expenses thereby incurred by the Township shall be recovered from the permittee by any method permitted by law.

§ 189-4 – Insurance.

No permit will be issued unless the applicant submits with his application a certificate of insurance issued by an insurance company authorized to do business in the State of Pennsylvania, that names the Township as an additional insured, and that is in a form acceptable to the Township.

§ 189-5 – Regulations for construction.

- A. Every permittee will place around the project such barriers, barricades, warning lights, warning flags and danger signs as shall be sufficient for the safety of the public. Barricading shall be in compliance with all regulations promulgated by the Commonwealth of Pennsylvania and the Pennsylvania Department of Transportation. 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 article.
- B. All work will be done in such manner as to cause a minimum of interference with travel on the street (right-of-way) affected. No street shall be closed to traffic unless the closing is approved by the Director of Public Works or his/her designee and the Police Department. Public Works shall be informed of all proposed street closings at least five working days in advance when practical.
- C. Pipe drains, pipe culverts, and any other structures or facilities encountered shall be protected by the permittee. If any structure or facility is damaged by the permittee, the damage will be repaired by the permittee to the satisfaction of the owner of the facility.
- D. When work performed by the permittee interferes with the established drainage system of any street, provisions will be made by the permittee to provide proper drainage to the satisfaction of the Director of Public Works.
- E. When any earth, gravel or other excavated material is caused to roll, flow, wash or otherwise lay upon the street, the permittee will remove the debris from the street at the end of the working day. If the debris is not removed by the permittee, the Township will remove the debris and all cost incurred by the Township will be reimbursed by the permittee.
- F. Access to private driveways shall be provided except during working hours when construction operations prohibit provisions for such access. If construction operations prohibit access to a private driveway, notice of such shall be hand-delivered to the

- property owner at least 48 hours in advance of the work. Unrestricted access must be provided to fire hydrants at all times.
- G. Excavated materials shall be hauled away. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Director of Public Works may require the permittee to provide toe boards or bins; and if the excavated area is muddy or causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed. If the street is not wide enough to hold the excavated material without using part of an adjacent sidewalk, the permittee shall keep open a clean and unobstructed passageway on at least 1/2 of the affected sidewalk.
 - H. Work authorized by a permit will be performed between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday, unless the permittee obtains written consent from the Township Manager to do the work at other times. Such permission will be granted only in case of an emergency or in the event that the work authorized by the permit is to be performed in traffic congested areas.
 - I. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.
 - J. All work will be done in accordance with the East Cocalico Township standard details and specifications.

§ 189-6 – Regulation for restoration.

- A. All pavement cuts, openings and excavations shall be properly made, backfilled, and restored by the permittee to their preconstruction condition and in accordance with the following specifications:
 - (1) All areas of road required to be restored per the terms of this section shall be milled to a depth of at least 1.5 inches and then repaved with 9.5 millimeters of hot asphalt or as otherwise required by the permit issued by the Township for such pavement cut, opening, or excavation.
 - (2) Any project affecting at least (a) one-third of a travel lane, and/or (b) 15 linear feet of roadway, will require milling and paving of the entire surface area defined by the length of the area affected and the width measured from the exterior boundary of the road to its center line.
 - (3) Any project that affects area on both sides of the center line of a road will require milling and paving of the entire width of the roadway for the entire length of the area so affected.
 - (4) Any project that requires more than one cut, opening or excavation per 1,000 feet will require milling and paving of the entire area measured by:
 - (a) A minimum length equal to the distance between the cuts, openings or excavations; and,
 - (b) A minimum width measuring from the exterior boundary of the road to its center line.

- (5) Any project requiring an opening, cut, or excavation within a cul-de-sac will require milling and repaving of at least the area consisting of the half of the cul-de-sac containing the area affected. If the areas opened, cut, or excavated affect both halves of the cul-de-sac, the entire area comprising the cul-de-sac will be milled and paved.
 - (6) Any project requiring an opening, cut, or excavation within an intersection of one or more roads will require milling and repaving of a minimum area consisting of:
 - (a) The entire area of the intersection of the roads; and,
 - (b) An additional area on each boundary of the intersection calculated as: (x) 10 linear feet extending away from each intersection boundary and (y) the entire width of such roads.
 - (7) Any project that requires opening, cut, or excavation that crosses the center line of a road in more than one location will require milling and paving of the entire width of the road for the length of the area opened, cut or excavated.
 - (8) Notwithstanding any other provision of this section, if any project requires opening, cut, or excavation within a roadway that has been paved within four years of the proposed commencement of work, restoration will require milling and paving of the entire area of the roadway that was paved within such four-year period.
 - (9) All trenches dug in connection with pavement cuts, openings, and excavations shall require:
 - (a) That the area to be saw-cut and restored for such trench be two feet wider than otherwise necessary for the project (i.e., one additional foot on each side); and,
 - (b) All temporary trenches shall be refilled with stone or other substance acceptable to the Township Director of Public Works and topped with a minimum of two inches of a hot asphalt material that shall be level with the grade of the roadway, and shall be maintained in such condition until the final milling and paving overlay is completed.
 - (10) The Township Director of Public Works, in his or her sole discretion and following a review of the permittee's plan, shall have the authority to impose such additional specifications that are necessary to ensure the safety and proper functionality of Township roads, intersections, and infrastructure located thereunder.
 - (11) In the event of a project undertaken on an emergency basis requiring opening, cut or excavation of Township roads, all required permits must be applied for and submitted to the Township within 72 hours of the commencement of work.
- B. The Director of Public Works, at any time, may inspect the work authorized by a permit. The Director is authorized to provide a full-time inspector if necessary to ensure compliance with this article, at a cost to be paid by the permittee.

- C. If any settlement or other defect occurs in a restored area within a period of two years from the date of completion of the permit restoration, any expense incurred by the Township in correcting such settlement shall be paid by the permittee.
- D. In no case shall any opening or excavation made by a permittee be considered in the charge or care of the Township or any of its agents, officers or employees, and no such agent, officer or employee is authorized in any way to take or assume any jurisdiction over any such opening or excavation, except in the exercise of the police power, when it is necessary to protect life and property; provided, however, that the Township shall assume charge if and when it makes the final restoration.
- E. The permittee will notify the Township, in writing, upon completion of all work accomplished under the provisions of the permit. All restoration work shall proceed in a timely fashion. Work for which a permit is issued shall be fully completed within 60 days after the completion date slated in the application. In the event that such work is not so completed, the Director of Public Works may revoke such permit and effect the final completion of the work. Exceptions may be made to extend above time limits for a reasonable period due to season of year and/or weather conditions.
- F. The permittee shall post security, in an amount acceptable to the Public Works Director and in a form acceptable to the Township Solicitor, to correct any settlement or other defect that occurs in a restored area within a period of two years from the date of completion of the permit restoration.

§ 189-7 – Violations and penalties.

Any person who willfully violates or permits a violation of this article, upon being found liable therefor in a civil enforcement proceeding, shall pay a fine of not less than \$500 nor more than \$1,000, plus all court costs, including reasonable attorney's fees, incurred by the Township in the enforcement of this article. No judgment shall be imposed until the date of the determination of the violation by the District Justice and/or court. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation is permitted to exist after written notice shall have been served on the violator by the Township shall constitute a separate offense. Further, the appropriate officers or agents of the Township are hereby authorized to seek equitable relief, including injunction, to enforce compliance herewith.

SECTION II

- A. In the event that any section, subsection or portion of this Ordinance shall be declared by any competent court to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or portion of this Ordinance. The invalidity of section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts. It is hereby declared to be the intention of the Township that this Ordinance would have been adopted had such invalid section, clause, sentence, or provision not been included therein.
- B. To the extent this Ordinance is inconsistent with the Code of the Township of East Cocalico, the provisions of this Ordinance shall take precedence. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
- C. The failure of the Township to enforce any provision of this ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.
- D. This Ordinance shall become effective immediately upon enactment.

ENACTED AND ORDAINED by the Supervisors of East Cocalico Township, Lancaster County, Pennsylvania on this 21st day of March, 2024.

FOR EAST COCALICO TOWNSHIP

By: 

Lorenzo Bonura, Chair
Board of Supervisors

Attest: 

Daniel Burton, Jr., Secretary