

ORDINANCE NO. 1974-5-28

AN ORDINANCE OF THE TOWNSHIP
OF MARION, Berks
COUNTY, PENNSYLVANIA, PROVIDING THAT
NO PUBLIC STREETS OF THE TOWNSHIP
OF MARION BE OPENED OR
CUT BY ANY PERSON; FIRM, CORPORATION
OR UTILITY WITHOUT FIRST SECURING A
PERMIT IN ACCORDANCE WITH THE TOWN-
SHIP CODE, AND PROVIDING PENALTIES
FOR THE VIOLATION THEREOF.

BE IT ORDAINED by the Township of MARION
BERKS County, Pennsylvania, as follows:

SECTION ONE. In accordance with the provisions of Section 1156 of Article XI of the Second Class Township Code, as amended, no railroad or street railway shall hereafter be constructed upon any township road, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits, or other piping, be laid upon or in, nor shall any telephone, telegraph, or electric light or power poles, or any coal tipples or any other obstructions be erected upon or in, any portion of a township road except under such conditions, restrictions and regulations relating to the installation and maintenance thereof, as may be prescribed in permits granted by the Township for such purpose.

SECTION TWO. The application for a permit shall be on a form prescribed by the Township and submitted to the Township in triplicate. The application shall be accompanied by a fee in accordance with the Schedule of Fees set forth by the Department of Transportation, for Highway Occupancy Permits and Restoration Charges. In addition, the applicant shall submit three (3) copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

SECTION THREE. A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

SECTION FOUR. Upon completion of the the work, the applicant shall give written notice thereof to the Township.

SECTION FIVE. Upon completion of the work authorized by the permit, the Township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. Where any settlement or defect in the work occurs, if the applicant shall fail to rectify any such settlement or other defect, within sixty (60) days after written notice from the Township to do so, the Township may do the work and shall impose upon the applicant the cost thereof, together with an additional twenty percentum (20%) of such cost.

SECTION SIX. Any person, firm, corporation or utility which shall violate any of the provisions of this Ordinance shall be subject, upon conviction before a District Justice, to pay a fine of not more than \$100. Dollars and cost of prosecution, and in default of the payment of such fine and costs to imprisonment in the County jail for not more than five (5) days.

SECTION SEVEN. Any ordinance or part of Ordinance inconsistent herewith is hereby repealed insofar as it is inconsistent herewith.

ENACTED INTO AN ORDINANCE this 28th day of MAY, 1974.

BOARD OF SUPERVISORS OF MARION Twp.

By Paul H. Kuntz
Chairman

William J. Stamm
Vice Chairman

Richard G. Decker
Supervisor

APPLICATION FOR TOWNSHIP ROAD OCCUPANCY PERMIT

TOWNSHIP _____ CO. _____

Date _____ 19____

USE MAILING ADDRESS OF TOWNSHIP

Issuing Permit Fee \$ _____

Township Inspection Fee \$ _____

Total \$ _____

Route No., Road or Street Name (Where work is to be done)

Application is hereby made by _____
NAME OF APPLICANT

of _____, Pennsylvania for permission to _____
(POST OFFICE ADDRESS)

(DESCRIPTION AND PURPOSE OF WORK)

Under and subject to all the conditions, restrictions, and regulations prescribed by the Township on the reverse hereof and on the general provisions and specifications, a true copy whereof is attached and made a part hereof, with the same force and effect as if written or printed herein and under, and subject to the special conditions, restrictions, and regulations hereinafter set forth.

Data Applicable To This Application

General. Approximate date when work will be started: _____. Approximate date when work will be completed: _____. The road surface is improved to a width of _____ feet. Distance from center of line to roadway to gutter or ditch: _____ feet. Distance from center line of road to Right-of-Way line: _____ feet.

Poles and Tower. Number of poles to be erected: _____. Nearest distance from center of road to structure: _____ feet. Distance of proposed work along the road: _____ feet.

Pipe Lines and Conduits. The improved surface of the road (will) (will not) be opened. Approximate area of openings in improved surface: _____ sq. yds. Approximate area of openings on unimproved part: _____ sq. yds. Length of trench along the road: _____ feet. Depth of trench below surface: _____ inches.

TO BE COMPLETED BY TOWNSHIP

Schedule Item No.						
Unit Fee						
Number of Units						
Total Fee						

The applicant is (an individual) (a partnership) (a corporation incorporated under the law of _____)

(Corporate Seal)

(NAME OF APPLICANT)

BY _____
(EXECUTIVE OFFICER OR AUTHORIZED REPRESENTATIVE)

GENERAL INSTRUCTIONS

Any work performed within the right-of-way of a township road, requires submission of three (3) copies of this form along with three (3) copies of a sketch showing location and details of proposed work.

Any work performed on a township road over, under, or within, the limits of a limited access state highway, requires a state permit.

The prescribed permit fee shall accompany the application and sketch. Schedules of fees are furnished on request.

THE FEE SHALL BE PAID BY CHECKS OR MONEY ORDERS, AND SHALL BE MADE PAYABLE TO THE TOWNSHIP AFFECTED.

TOWNSHIP ROAD OCCUPANCY PERMIT

All work under this permit to be completed
on or before: _____

Date Issued _____

Total Fees _____

** Permit void after this date. Immediately upon completion
of the work, permittee should notify the Township.*

Permission is hereby granted to

PERMITTEE

ADDRESS

POST OFFICE

ZIP CODE

Township Route No., Road or Street (Where work is to be done)

Township

Co.

Under and subject to all the conditions, restrictions, and regulations prescribed by the Township on the reverse hereof and on the general provisions and specifications, a true copy whereof is attached and made a part hereof, with the same force and effect as if written or printed herein and under and subject to the special conditions, restrictions, and regulations hereinafter set forth.

(DESCRIPTION AND PURPOSE OF WORK)

The Township Board of Supervisors, may at any time revoke and annul this permit for non-performance of, or non-compliance with any of the conditions, restrictions, and regulations hereof.

APPROVED _____

Day

Month

Year

Township Signature or Seal

IMPORTANT

The terms and conditions embodied in this permit require the permittee to complete this work by the date specified in the permit. Where permittee fails to comply with the condition as to completion of work by the time specified, the following rules will govern:

(a) **Failure to start work by date specified for completion.** Permit will be cancelled unless permittee desires an extension of time, in which case a supplemental permit may be issued.

(b) **Work started and not completed by specified date.** Permittee will notify Township, prior to expiration of allotted time, of inability to complete the work on or before the date specified and request an extension of time. Such request shall be accompanied by the prescribed fee.

(c) **Permittee not desirous of carrying out proposed work on account of change in conditions affecting it.** Permittee will notify the Township prior to the date specified for completion that work will not be carried forward, returning the permit with such notice. The fee for inspection of the work will be refunded by the Township, provided that they have been notified of cancellation prior to the expiration date.

The fees to be paid under the conditions in (a), (b), and (c) apply only to permits for which fees are collected in accordance with the fixed schedule.

All notices relative to time extensions or cancellations shall be forwarded to the Township which issued the original permit.

GENERAL PROVISIONS AND SPECIFICATIONS
Regulating Occupancy of Township Highway Right-of-Way

GENERAL PROVISIONS

1. The work authorized by this permit shall be done at such time and in such a manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the township, designated herein as the township. If any time it shall be found by the township that the work is not being done or has not been properly performed the permittee and/or its contractor upon being notified in writing by the township, shall immediately take the necessary steps, at its own expense, toward placing the work in condition to conform to said requirements or standards.

2. In the event of willful failure or neglect by said permittee and/or its contractor or their employes to perform and comply with the conditions, restrictions and provisions of this permit, the township may revoke and annul this permit and order and direct said permittee and/or its contractor to remove all structures or property belonging to said permittee and/or its contractor from the legal limits of the highway right-of-way and to restore the highway right-of-way to its former condition.

3. If work is stopped on a project for any reason, and any ditch or trench, in the opinion of the Township, remains open for an unreasonable period, the permittee and/or its contractor, if so directed, shall refill the ditch or trench and work shall not be resumed thereon until the permittee and/or its contractor is prepared to proceed with the work until completion. In the event that the permittee and/or its contractor fails to refill the ditch or trench or proceed until completion of the work upon notice from the township to do so, the township may perform the necessary and required work subject to reimbursement by the permittee and/or its contractor.

4. The permittee shall pay all costs and expenses incident to or growing out of the project including the prescribed fees for the same, the cost of making and maintaining the temporary restoration of the disturbed areas and making permanent restoration, and further shall reimburse the township for any inspection costs which the township may deem it necessary to incur, and the permittee shall reimburse the township for said costs within thirty (30) days after receipt of the statement setting forth sums expended therefor by the township.

5. If the permittee and/or its contractor, after making an opening in the highway to place or repair pipe or for any other purpose, fails to restore any portion of highway right-of-way to conform with specifications of the township, the township reserves the right to do the work and bill the permittee for the cost of the restoration.

6. The permittee will submit to the township, certificate or certificates of insurance for public liability and property damage, in sufficient amounts to cover any loss, that may be incurred for or on account of any matter, cause or thing arising out of the construction, reconstruction, repair, relocation or installation of the permitted facilities, except in those instances where the township by prior arrangement has authorized the permittee to provide other means of protecting the township and its employes.

7. The permission herein granted does not relieve the permittee and/or its contractor from obtaining any consent otherwise required from the owner or owners of the abutting property and does not confer upon the permittee and/or its contractor the right to cut, remove or destroy trees or shrubbery within the legal limits of the highway except under such conditions, restrictions and regulations as the township may prescribe.

8. If at any time the structure or facility shall become a hazard from any cause whatsoever, the permittee and/or its contractor shall have the same removed or repaired within 48 hours after receipt of written notification, except at times of extraordinary happenings when extension of such time limit may be given by the township.

9. After each and every excavation made by the permittee and/or its contractor in any road or highway right-of-way covered by this permit incident to the erection, repair, resetting or removal of any poles, manholes, conduits, water, steam, oil, gas pipes, sewers or any other obstructions or construction, said permittee and/or its contractor shall, under the supervision and direction of the township, restore the road to a condition conforming to requirements and/or specifications of the township. So long as said permittee and/or its contractor operates and leaves in place such structures and appliances, in, upon or along said highway right-of-way, the permittee and/or its contractor shall maintain and keep in good order and repair the said structures and appliances. The permittee covenants and agrees to fully indemnify and save harmless the township of and from all liability for damages or injury occurring to any person or persons or property at or on said roads through or in consequence of any act or omission of any contractor, agent, servant, employee or person engaged or employed in, about, or upon the said work, by, at the instance, or with the approval or consent of the permittee, or from the failure of the permittee and/or its contractor to comply with the provisions set forth herein.

10. If at any time in the future the highway is widened or the alignment or grades are changed, the permittee further agrees to change or relocate, any part of the structures covered by this permit which interferes with the improvement of the highway, at its own expense, to the extent now or hereafter required by law.

11. During the time when the highway right-of-way covered by this permit is under process of construction and/or until said road or highway is accepted by the township, no permittee and/or its contractor will be authorized to enter upon said highway right-of-way for the purpose of erecting poles, laying conduits, water, steam, oil or gas pipes or sewers, or doing any other work whatsoever which might interfere with the construction of the road or highway, unless said permittee and/or its contractor shall first file with the township a duly attested certificate, signed by the contractor or other authority constructing said road or highway, containing the full consent to such proposed work of said permittee and/or its contractor within the lines of the said highway right-of-way, together with a satisfactory waiver, release and quit-claim to the township, of all damages and all defenses whatsoever for delays by reason of such work and occupation of said roadway by said permittee and/or its contractor, or from any cause whatsoever resulting by reason of such work and occupation, provided that the provisions of this paragraph shall not apply in case of emergency; in such case the permittee and/or its contractor shall procure the written consent of the township to do such work as may be deemed necessary to correct the existing emergency conditions.

12. Any work done under this permit shall be subject to the conditions, restrictions, and provisions of this permit which shall govern all excavations, openings and trenches for the purpose of making repairs to any poles, conduits, water, steam, oil, gas pipes or sewers, or other structures, or property and appurtenances thereto belonging, erected on or in the highway right-of-way.

13. This permit is issued subject to any additional rights which the township in which the work is to be done may have in such matters.

14. After a permit is granted by the township it shall not be assigned nor transferred without prior written approval from the township.

15. To protect the highway surface or pavement on said projects, all equipment used by the permittee and/or its contractor shall be approved by the township. Such equipment shall have rubber runners or wheels. In the event that other than rubber equipped machinery is used, the pavement shall be protected by the use of heavy rubber or similar matting which shall be a minimum of four (4) inches wider on each side than the tracks or wheels of the equipment used.

16. Information as to the date and character of construction or reconstruction of the township road or street may be obtained by contacting the township.

17. If, in the construction work the permittee will be required to use certain blasting operations in the excavation the permittee agrees to make, execute and deliver to the township, a bond in the sum stipulated by the township with surety in the form of a surety company, duly registered and authorized to do business in Pennsylvania, conditioned that the permittee will save harmless the township, from any damages whatsoever to its subgrade, subbase, modified subbase, drainage facilities, road metal, and any other installations or matters in, under or upon the highway right-of-way for a period of two (2) years from the date of the completion of the last work covered by this permit.

18. Maintenance and protection of traffic for work authorized by this occupancy permit must be carried out in accordance with the requirements of the township. In this connection, the permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property from operations covered by this permit. A traffic control plan may be required as directed by the township.

(a) Warning signs shall be placed beyond each end of the actual operation in such a manner as to be visible to the traveling public and meet the requirements of the township. These signs shall display the name of the permittee and/or its contractor on the back of the sign. Special employees shall be assigned by the permittee and/or its contractor to direct traffic when it becomes necessary to limit it to one way. Advance permission must be obtained from township, or its authorized representative before directing traffic through one lane. Substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the highway right-of-way in a manner approved by the township.

(b) Flagman will be provided as specified and in accordance with the requirements of PennDOT.