

**ORDINANCE NO. 2017-15**

**AN ORDINANCE OF THE TOWNSHIP OF RADNOR, COUNTY OF DELAWARE, COMMONWEALTH OF PENNSYLVANIA, ESTABLISHING RULES AND REGULATIONS FOR THE MANAGEMENT OF ITS RIGHTS-OF-WAY; REQUIRING A PERMIT APPLICATION FEE AND PLAN FOR ANY STREET, DRIVEWAY, OR UTILITY INSTALLATION UPON ANY PORTION OF A TOWNSHIP ROAD OR OTHER PUBLIC ROAD OR RIGHT-OF-WAY**

*WHEREAS*, Radnor Township is authorized to regulate its streets, rights-of-way and public areas with respect to construction activities, and to grant rights therein for the installation of public and private utilities; and

*WHEREAS*, the Township has determined that the establishment of new utility or telecommunication facilities in Township or State rights-of-way create traffic hazards; and

*WHEREAS*, the Township deems it necessary to determine and regulate all encroachments within the Township's right-of-way to insure traffic safety, appropriate stormwater management, and other health, safety and welfare concerns with respect to right-of-way construction.

*NOW, THEREFORE*, be it hereby *ORDAINED* that the Board of Commissioners of Radnor Township does hereby *ENACT* an amendment to the Radnor Township Code of Ordinances, repealing Article VI, Street Excavations, Sections 250-17 through 250-34, and replacing it with a new Article VI, **Right of Way Management**, as follows:

**SECTION I.**

**§ 250-17. Right-of-way construction and facilities.**

- A. No person, firm, corporation or other entity within the Township shall construct a driveway or install a utility or telecommunication facility within a street right-of-way, except as permitted by this section.
- B. Permit procedures.
  - (1) A permit must be acquired from Radnor Township for any work within a Township right-of-way and from the Pennsylvania Department of Transportation (PennDOT) for any work within a State right-of-way where such work involves construction or alteration of a driveway or the installation of a utility, telecommunication facility or other structure.
  - (2) An application for a driveway permit shall be submitted in the name of the owner or equitable owner of the property.

- (3) An application for a road opening permit or right-of-way construction for a utility or telecommunication facility must be submitted in the name of the owner or operator of the facility.
- (4) Forms, plans and fees shall be submitted in accordance with regulations and procedures adopted by either Radnor Township or PennDOT for work in Township or State rights-of-way, respectively. The application fees for work within Township rights-of-way shall be specified in the schedule of fees by resolution by the Board of Commissioners.
- (5) The Township Engineer may modify the requirements of this ordinance for residential property owners doing normal maintenance, repair or construction in the right of way.

C. Regulations and standards.

- (1) This section represents minimum requirements of certain types of activities within Township or State rights-of-way. Activities associated with approved subdivision or land developments shall be subject to any additional requirements of the final plans as approved by Radnor Township and/or PennDOT. Any activity not regulated by the Subdivision and Land Development Ordinance of Radnor Township shall be regulated by the requirements of this Ordinance.
- (2) A drainage control plan and analysis shall be submitted whenever an increase in flow of water into a street or into existing drainage facilities will result from the proposed activity. The design of all drainage facilities shall be based on the Rational Method as determined by the PennDOT Design Manual, Part 2, as amended, and the U.S. Department of Commerce, Hydraulic Design Series No. 5, Hydraulic Design of Highway Culverts, as amended.
- (3) All construction work, structures, paving and facilities shall conform to the design standards of PennDOT Publications 408 and 72 (Road Construction Standards), as amended. Work shall be done at such time and in such a manner as shall be consistent with the safety of the public. Any work within Township or State rights-of-way shall conform to all requirements and standards of PennDOT, except as otherwise supplemented or modified by this Ordinance. In the event regulations conflict, the most stringent regulations shall apply. If at any time it is found the work is not being done or has not been properly performed, the permittee, upon being notified in writing by either the Township or PennDOT, must immediately take the necessary steps, at its own expense, to replace the work in a condition to conform to such requirements or standards. In case any dispute arises between the permittee and the representative of the owner of the right-of-way, the owner's representative shall have the authority to suspend work until the question at issue can be decided by the Township and/or State.

- (4) The following PennDOT provisions shall regulate the occupancy of all Township and State rights-of-way, unless otherwise required by an approved subdivision or land development plan, this Ordinance, or the Township Engineer:
  - (a) Pennsylvania Code, Title 67 Transportation, Chapter 441 Access and Occupancy of Highways by Driveways and Local Roads, as amended.
  - (b) Pennsylvania Code, Title 67 Transportation, Chapter 459 Occupancy of Highways by Utilities, as amended.
- (5) A traffic control plan must be submitted to either close any portion of a travel lane during construction, during the hours of darkness when no active work is in progress or to detour traffic in order to perform the permitted work. All plans shall conform with § 6123 of the Motor Vehicle Code, as amended, and the applicable provisions of the Pennsylvania Code, Title 67 Transportation, Chapter 203, as amended.

D. Driveway construction requirements.

- (1) Driveways shall be located at least 40 feet from street intersections, measured from the centerline of the driveway to the point of intersection of the street ultimate right-of-way lines (extended). When streets of different classifications are involved, driveways shall provide access to the street of lesser classification.
- (2) Driveways shall be provided with a stopping area of 20 feet, at a maximum grade of 3%, measured from the edge of cartway. In order to provide access for emergency vehicles, the maximum centerline grade for any portion of the driveway shall not exceed 8% and the maximum change in grade shall not exceed 6%.
- (3) Driveways shall be paved for a minimum of 50 feet from the edge of the street or to the ultimate right-of-way, whichever is greater. The pavement construction shall be in accordance with Township-approved construction details.<sup>1</sup> In the event additional width or a supplemental thickness is required by other rules and regulations of the Township or PennDOT, or as may be necessitated by site conditions, these minimum requirements shall be increased appropriately.
- (4) Driveways shall have a minimum radius of curvature at the street intersection of 10 feet.
- (5) A minimum distance of five feet shall be maintained between the driveway and the side lot lines.
- (6) Driveways shall have a minimum turnaround area of 10 feet by 20 feet.

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<sup>1</sup> Construction detail is on file and may be seen at the Township office.

- (7) A 50-foot clear sight triangle must be provided for all driveways, measured from the point of intersection of the street right-of-way line and edge of the driveway. The site plan shall contain a notation that states that the applicant is required to maintain the area of the clear sight triangle and the Township has the right to enter and perform required maintenance in the area if deemed critical to public welfare.
  - (8) Sight distances for all driveways shall comply with Pennsylvania Code, Title 67 Transportation, Chapter 441 Access and Occupancy of Highways by Driveways and Local Roads, as amended.
  - (9) When a sidewalk is proposed across a driveway, a concrete apron shall be installed in accordance with Township-approved construction details.<sup>2</sup> When a curb is proposed along a driveway, depressed curb shall be installed in accordance with the attached construction detail.
  - (10) A 15-inch RCP culvert, or equivalent size, shall be provided for all driveways. The minimum culvert length shall be 24 feet with flared end sections and end walls. Where an existing roadside drainage swale is too shallow to permit installation of a driveway culvert, a concrete trench box with grate may be utilized upon approval of the Township.
  - (11) Any associated grading, curb or sidewalk installation located within the street right-of-way shall be in accordance with the design standards of the Township's Subdivision and Land Development Ordinance (Chapter 180), as amended.
- E. Telecommunication facilities. All proposed telecommunication facilities within Township or State rights-of-way, shall meet the requirements of the Zoning Code, Chapter 28, of the Township. All new telecommunication facilities shall utilize existing poles, streetlights or other structures within the right-of-way or acquire additional areas adjacent to and outside of the right-of-way, or shall be placed underground.
- F. Maintenance period. 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 Township. In addition to such inspection, the Township may re-inspect the work not more than two years after its completion and if any settlement of any road surface trench or other defects shall appear in the work contrary to the conditions, restrictions and regulations of the Township, it may enforce compliance therewith. If the applicant shall fail to rectify a defect which presents an immediate or imminent safety or health problem in 48 hours, or any other defect within 30 days after written notice from the Township Engineer to do so, the Township, or its agents, may do the work and impose upon the applicant the costs thereof, together with an additional 20% of the costs, which may be recovered by a civil action in the Court of Common Pleas of Delaware County.

**§ 250-18. Standards of service for right-of-way construction.**

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<sup>2</sup> Construction detail is on file and may be seen at the Township office.

- A. Conditions of street occupancy. Facilities and equipment installed or erected by the permittee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public rights-of-way and with the rights and reasonable convenience of property owners who own property that adjoins any of said public rights-of-way.
- B. Restoration of public rights-of-way. If during the course of permittee's construction, operation, and/or maintenance of its facilities and equipment there occurs a disturbance of any public rights-of-way by permittee, permittee shall, at its expense, replace and restore such public rights-of-way to a condition which existed immediately prior to such disturbance. If permittee excavates the surface of any public rights-of-way, permittee shall be responsible for restoration of the public rights-of-way and its surface within the area affected by the excavation. The Township reserves the right, after providing notice to permittee, to remove and/or repair any work done by permittee which is inadequate. The reasonable cost thereof, including the cost of inspection and supervision, shall be paid by the permittee. All excavations made by permittee in the public rights-of-way shall be properly safeguarded for the prevention of accidents.
- C. Trees and shrubbery. The permittee shall notify Township and all affected property owners regarding permittee's need to trim trees or other natural growth upon and overhanging public rights-of-way so as to prevent the branches of such trees from coming in contact with its facilities or equipment. Trimming shall be limited to the area required to clear its facilities or equipment.
- D. Safety requirements. All such work in the public rights-of-way shall be performed in accordance with applicable safety codes and technical requirements.
- E. Maps. Prior to beginning any construction of facilities, permittee shall provide the Township with a construction schedule for work in the public rights-of-way which schedule shall be updated as changed. Upon completion of initial construction and upon completion of construction of any modification to its facilities, permittee shall provide the Township with a map showing the location of its installed facilities in the public rights-of-way. Such maps shall be provided in both paper form, as well as in an electronic format for placement on the Township's GIS system. Annually thereafter, permittee shall provide a map to the Township showing the location of permittee's facilities in the public rights-of-way on a scale of 150 feet per inch or whatever standard scale the Township adopts for general use.
- F. Excavations. Permittee may make excavations in public rights-of-way for any facility subject to obtaining excavation permits from the Township. Prior to doing such work, permittee must apply for, and obtain, appropriate permits from the Township, and give appropriate notices to any other licensees and/or permittees of the Township, and/or other units of government owning or maintaining facilities which may be affected by the proposed excavation.
- G. Reservation of the Township public rights-of-way. Nothing in this section shall be construed to prevent the Township or other agency of government or municipal authority

from constructing sewers, grading, paving, repairing and/or altering any street and/or laying down, repairing and/or removing water mains and/or constructing and/or establishing any other public work or improvement. If any of the permittee's facilities or equipment interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the permittee's facilities or equipment shall be removed or replaced in the manner the respective Township or other agency of government or municipal authority shall direct. Any and all such removal or replacement shall be at the expense of the permittee. Should permittee fail to remove, adjust or relocate its facilities by the date established by the Township or other agency of government or municipal authority, the Township or other agency of government or municipal authority may cause and/or effect such removal, adjustment or relocation, and the expense thereof shall be paid by permittee, including all reasonable costs and expenses incurred by the Township or other agency of government or municipal authority due to permittee's delay.

**§ 250-19. Insurance, indemnification and bonds or other surety for right-of-way construction.**

- A. Permittee shall save the Township, its agents, employees and elected and appointed officials, harmless from and against all claims, damages, losses and expenses, including reasonable attorney's fees, sustained on account of any suit, judgment, execution, claim or demand whatsoever arising out of the construction, leasing, operation or maintenance of the permittee's equipment, facilities, and services specified by this section, whether or not any act or omission complained of is authorized, allowed and/or prohibited by this section and the rights granted hereunder.
- B. Permittee shall obtain and maintain in full force and effect insurance with an insurance company licensed to do business and doing business in the Commonwealth of Pennsylvania and acceptable to the Township. All companies will be required to be rated A-VH or better by A.M. Best or A better by Standard and Poors. permittee shall provide Township with proof of such insurance so required.
- C. Permittee shall obtain and maintain in full force and effect, at permittee's sole expense, insurance coverage in the following types and minimum amounts:

<u>Type</u>	<u>Amount</u>
Workers' Compensation and Statutory Employers Liability	\$ 100,000/\$500,000/\$100,000

Commercial General (public) Liability to include coverage for the following where exposure exists:

Premises operations	Combined single limit for bodily
Independent contractors	injury and property damages
Products/completed operations	\$2,000,000 per occurrence or its
Personal Injury	equivalent
Contractual liability	
Explosion, collapse and underground	
property damage	

Comprehensive Vehicle insurance coverage for loading and unloading hazards, for:

Owned/leased vehicles	Combined single limit of bodily
Non-owned vehicles	injury and property damage
Hired vehicles	\$1,000,000 per occurrence or its
	equivalent

- D. The Township shall receive without expense copies of certificates of insurance evidencing coverage stated above.
- E. Permittee agrees that with respect to the above-required insurance, all insurance certificates will contain the following required provisions:
- (1) Name the Township and its officers as additional insureds.
  - (2) Provide for 60 days written notice to the Township for cancellation, non-renewal, or material change.
  - (3) Provide that all provisions of this section concerning liability, duty, and standard of care, including the indemnity provisions, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies, subject to policy terms and conditions.
- F. Companies issuing the insurance policies shall have no recourse against the Township for payment of any premiums or assessments which all are set at the sole risk of the permittee. Insurance policies obtained by permittee shall provide that the issuing company waives all right of recovery by way of subrogation against the Township in connection with any damage covered by these policies.
- G. Permittee shall obtain and maintain, at its sole cost and expense, and file with the Township, a corporate surety bond with a surety company authorized to do business in the Commonwealth of Pennsylvania in the amount of 15% of permittee's estimated costs to secure permittee's performance of its obligations and faithful adherence to all requirements of this section.

(1) No action, proceeding or exercise of a right with respect to such bond shall affect the Township's rights to demand full and faithful performance under this section or limit permittee's liability for damages.

(2) The bond shall contain the following endorsement:

It is hereby understood and agreed that this bond may not be cancelled by the surety nor any intention not to renew be exercised by the surety until 60 days after receipt by the Township of Radnor, by registered mail, of written notice of such intent.

H. All expenses of the above-noted insurance and bond shall be paid by the permittee.

I. The insurance policies mentioned herein shall contain an endorsement stating the following:

Should any policies of insurance be cancelled or coverages be reduced, before the expiration date of said policies of insurance, the issuer shall deliver 60 days advance written notice to the Township.

J. Neither the provisions of this section nor any insurance accepted by the Township pursuant hereto, nor any damages recovered by the Township thereunder, shall be construed to excuse faithful performance by the permittee and/or limit the liability of the permittee under this section issued hereunder and/or for damages, either to the full amount of the bond or otherwise.

K. Any person violating any provision of this Article shall upon conviction, be fined not less than fine hundred dollars nor more than one thousand dollars, for each day of violation plus court costs and reasonable attorney's fees incurred by the Township.

## **SECTION II.**

Sections 250-17 through 250-34. of Chapter 250, Article VI, of the Radnor Township Code of Ordinances are hereby repealed. Section 250-16. Definitions is saved from repeal.

## **SECTION III.**

Severability. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

## **SECTION IV.**




Effective Date. This Ordinance shall become effective five (5) days after final enactment.

**ENACTED** and **ORDAINED** this 13 day of November, 2017.

RADNOR TOWNSHIP  
BOARD OF COMMISSIONERS

Attest:



Name: Robert Zienkowski  
Title: Township Secretary

By:



Name:  
Title: