CHAPTER 21

STREETS AND SIDEWALKS

Part 1

**Design, Construction and Maintenance**

 **§101. Purpose.** The purpose of this Part is to regulate the design, construction and maintenance of public and private streets, roads, highways and alleys (Streets) within White Deer Township (Township), Union County, Pennsylvania, which are hereinafter constructed or reconstructed. This Part is adopted to promote the health, safety and welfare of the residents of the Township and the general public.

 **§102. Definitions**.

 CARTWAY – The stoned, paved or hard surface of a street, road or alley customarily used by vehicles in the regular course of travel.

 PERSON – Any natural person or persons, corporations, company, partnership, firm, entity or similar organization.

 PRIVATE STREET – A private right-of-way intended for use as a means of vehicular and/or pedestrian circulation which provides a means of access to 3 or more or potentially 3 or more tracts of land or lots, abutting the said private right-of-way, upon which commercial, industrial, residential or public buildings are or can be erected.

 PUBLIC STREET – A right-of-way dedicated to White Deer Township, Union County, Pennsylvania, intended for use as a means of vehicular and/or pedestrian circulation, which provides a means of access to abutting tracts of land or lots.

 RIGHT-OF-WAY (EASEMENT) – A strip of land occupied or used or intended to be occupied and used exclusively or in conjunction with other uses as a street, road, highway, alley, walkway, or for utility lines, pipes and structures, storm water drainage systems and structures or similar uses.

 SHOULDER (BERM) – The improved area immediately adjacent to a cartway.

 STRUCTURE – Anything man made constructed, placed or erected that requires location on or below the surface of the ground or attached to something having location on or below the surface of the ground and shall include poles and towers.

 UTILITY – Any enterprise that provides the following services, products or commodities to the public or a designated group of persons utilizing lines, pipes or structures: electricity, gas, water, telephone, television, oil, communications, sewage collections or similar sources, products or commodities.

 **§103. Street Construction Permit**. From and after the effective date hereof it shall be unlawful for any Person to construct, build, install or reconstruct, or rebuild a Public or Private Street or any portion or part thereof within the Township without first obtaining a permit for the same from the Township. Upon issuance, said permit shall be valid for 6 months subject to such extensions as authorized by Township.

 **§104**. **Application for Permit.** No permit required by this Part shall be issued except upon a written application for the same submitted to such person as the Township shall designate (Township Representative) by the owner of the land upon which the Street is to be constructed, built or installed or upon which the Street to be reconstructed or rebuilt is situate (Applicant). The application shall be submitted on the form provided by the Township for such purpose.

 The application shall include but not be limited to the following information:

 (1) Name, address, telephone number and fax number of the Applicant.

 (2) Name and location of street.

 (3) Date of commencement of construction or reconstruction and date of anticipated completion with typical work hours.

 (4) Name, address, telephone number, fax number and contact person for contractor doing work, if other than applicant.

 (5) Such other information as the Township shall request.

 (6) Attached to the application shall be plans and drawings for the said construction prepared to a workable scale. The same shall include a typical cross section showing subase, base, top, materials used, width of cartway and shoulders, storm water drainage system and all of its components, location of utilities, identification of utilities, width of right-of-way and a properly executed Performance Agreement and Maintenance Agreement. The drawing and plans shall be certified by a registered engineer currently licensed in Pennsylvania whose seal shall be affixed to the plans and drawings.

The application for a permit shall be reviewed by the Township Representative and acted upon within 45 days of submission. The action by the Township Representative shall be (1) approval and issuance of a permit, or (2) denial of the application for a permit. In the event the application is denied, the Township Representative shall mail written notice of the denial to the Applicant by First Class Mail setting forth the reasons for denial. Depositing the permit or written notice of denial with the United States Postal Service, First Class Mail, postage prepaid, within the said 45 days shall be sufficient for compliance with the notice requirements of this section. Failure to deposit the permit or denial with the United States Postal Service within the said 45 days shall be deemed to be approval of the application.

 **§105. Application Fee.** The application for a permit provided for in §104 hereof shall be accompanied by a fee to be determined by the Township from time to time by resolution. The purpose of the fee is to defray the Township’s costs for processing the application, issuing the permit or the denial and inspection of the site prior to issuing a permit or denial.

 In the event the Township determines that it is necessary to have the application, attachments and/or site reviewed by someone other than a Township employee, the costs of the same shall be paid by the Applicant. Upon such determination, the Township shall notify the Applicant in writing of the same and the estimated costs of the said review. Applicant shall pay the estimated costs to the Township within 3 business days of the date of the notice. Any delay in the receipt of the said payment for the estimated costs by the Township beyond the said 3 business days shall cause an automatic extension of the date for Township action on the application provided for in §104 hereof by the number of days between the said 3 business days and the day of the receipt of the said estimated costs. Should Applicant fail to pay the same within 15 days of said notice, the application shall be denied for failure to pay the fee.

 **§106. Inspection Fee.** Contemporaneous with the issuance of a permit by the Township, Applicant shall pay to Township a fee to be determined by the Township from time to time by resolution. The purpose of the fee is to defray the Township’s costs of inspecting the construction or reconstruction of the Street to assure that it is constructed or reconstructed in accordance with the application and with Township regulations and ordinances. No work shall be performed pursuant to the permit until the said fee is paid.

 In the event the Township determines that it is necessary to have someone other than Township employees conduct all or some of the inspections, perform tests or other appropriate work, the costs of the same shall be paid by the Applicant. Upon such determination, the Township shall notify the Applicant of the same and the estimated costs of such inspections, tests or work, the same to be in writing. Applicant shall, within 3 business days of the date of the notice, pay to Township the estimated costs of said inspections, test or work. Failure to pay the estimated costs within the said 3 business days shall cause an automatic suspension of the permit and all work shall cease until such time as the costs are paid.

 **§107. Performance Agreement**. If not already submitted to the Township pursuant to some other ordinance or regulation, Applicant shall submit, with the application for a permit, a properly executed Performance Agreement, in an amount equal to 110% of the estimated costs of the construction or reconstruction. The Performance Agreement shall include adequate provision for financial security in the form of (1) cash deposited with a financial institution with restrictions on disbursement, (2) an irrevocable letter of credit with a financial institution, (3) an irrevocable line of credit with a financial institution, (4) a performance bond with an insurance company authorized to do business in Pennsylvania, or (5) the pledge of some other form of financial security.

 The Performance Agreement shall provide that if Applicant shall fail to construct or reconstruct the Street in accordance with the application and Township regulations within the time provided for in the Performance Agreement or fail to maintain liability insurance, the Township may, after notice to Applicant, draw on the financial security, enter upon the land and complete the construction or reconstruction, or pay the premium for said insurance. The form, amount and financial security of the Performance Agreement shall be subject to the approval of the Township Solicitor. Applicant shall be liable for all such costs not paid by said financial security.

 **§108. Maintenance Agreement.** Applicant shall submit, with the application, a properly executed Maintenance Agreement in an amount equal to 25% of the estimated costs of construction or reconstructing the Street. Applicant shall be responsible for all defects in the construction or reconstruction occurring or discovered within 2 years of the date of the completion of the Street and the Maintenance Agreement shall provide for the same. The Maintenance Agreement shall provide for financial security in the same manner as set forth in §107 for the Performance Agreement.

 The Maintenance Agreement shall provide that if Applicant his/her/its heirs, successors and/or assigns, fails to correct any defect in the construction or reconstruction occurring or discovered within the said 2 years, or fails to maintain liability insurance, after notice of the same to Applicant, Township may draw upon the said financial security, enter upon the lands and take action to correct the defect, or pay for the said liability insurance. The form, amount and financial security of the Maintenance Agreement shall be subject to the approval of the Township Solicitor. Applicant shall be liable for all costs not paid by said financial security.

 **§109. Construction Regulations.** The Township, by resolution, shall, from time to time, establish regulations and standards for the design, construction and reconstruction of streets, the same to include, but not be limited to, width of right-of-way, cartways, and shoulders, depth of cartways, materials to be used, storm water drainage and location of utilities. All construction and reconstruction shall be done in accordance with said standards and regulations.

 **§110. Insurance.** Contemporaneous with the issuance of a permit, Applicant shall submit to Township written evidence, satisfactory to the Township, of permanent public liability insurance in an amount of not less than $1,000,000.00, the same shall remain in full force and effect until 2 years after the date the work for which the permit has been issued shall be completed. The insurance will be in such form and with such company as shall be satisfactory to the Township. The Township shall be named as a co-insured and the policies shall include a provision to defend the Township.

 In the event Applicant fails to provide written evidence of said insurance as required herein or fails to maintain the said insurance as required herein, Applicant shall cease all work and Township may exercise its rights under the Performance Agreement or Maintenance Agreement either to complete the work, take such action as is necessary to make the area of work safe, or pay for the liability insurance, as the case may be. The costs of any action taken by the Township shall be paid from the financial security under either agreement as the case may be and any amount not paid from the financial security shall be the responsibility of Applicant.

 **§111. Indemnification**. Applicant shall indemnify, keep and hold the Township free and harmless from liability on account of injury or damage to person or property arising or growing out of the Applicant’s work pursuant to the said permit. In the event a suit is brought against the Township either individually or jointly with Applicant or others on account thereof, Applicant, upon notice from the Township, shall pay the Township’s costs in defending the said suit. In the event there is a final judgment against the Township on the same, Applicant shall pay said judgment together with all costs and shall save Township harmless therefrom.

 **§112. Revocation of Permit**. The failure of Applicant to comply with the provisions of this Part or any regulations adopted pursuant hereto or comply with any other Township ordinance or regulation or any state and federal regulation shall cause an automatic revocation of the permit issued pursuant hereto and all work pursuant to said permit shall cease.

 **§113. Safety**. All work performed pursuant to a permit issued in accordance with this Part shall be done in compliance with all Pennsylvania Department of Transportation regulations and all applicable state, federal and local laws, statutes, ordinances and regulations including those dealing with the safety and protection of the public, persons performing the said work, and all others.

 **§114. Penalty.** Any Person who violates or permits the violation of any of the provisions of this Part shall, upon being found guilty of such violation in a civil enforcement proceeding, pay a judgment of not more than One Thousand and 00/100 Dollars ($1,000.00), plus all court costs, and reasonable attorney fees incurred by the Township in the enforcement of this Part and the prosecution of the violation.

 Each day that a violation shall occur shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Part shall be paid over to the Township. Nothing in this section shall be construed or interpreted to grant to any person other than the Board of Supervisors of the Township or its duly designated representative the authority to commence or prosecute any action pursuant to this section.

 In addition to the prosecution of a civil enforcement action, the Township may bring an Action in Equity to enforce the provisions of this Part. All costs of the same, including reasonable attorney fees, incurred by the Township shall be paid by the Person violating the provisions of this Part.

 **§115. Exception**. This part shall not apply to mobile home parks as that term is defined in the White Deer Township Zoning Ordinance.

 (Ordinance No. 03-04, adopted March 25, 2003)