

ORDINANCE NO. 36 OF  
THE TOWNSHIP OF BUFFALO  
WASHINGTON COUNTY, PENNSYLVANIA

DRAFT

ORDINANCE OF THE TOWNSHIP OF BUFFALO, COUNTY OF WASHINGTON, COMMONWEALTH OF PENNSYLVANIA, RELATING TO AND REGULATING THE MAKING OF EXCAVATIONS IN STREETS OF THE TOWNSHIP OF BUFFALO; REQUIRING THAT PERMITS BE OBTAINED; PRESCRIBING THE DUTIES AND RESPONSIBILITIES OF THE PERMIT HOLDER; PRESCRIBING PENALTY FOR VIOLATION.

**SECTION 1 - DEFINITIONS**

The following words and terms, when used in this ordinance, have the following meanings, unless the context clearly indicates otherwise.

Acknowledgement of completion - The date on which the Township records that permitted work appears to be completed under the permit.

Adjacent area - The area surrounding the immediate area of the permitted work which can reasonably be assumed to have been affected by the permitted work.

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

Base course - The layer or layers of specified or selected material or designed thickness placed on a subbase or a subgrade to support a surface course.

Township - Township Of Buffalo

Bridge - A structure including supports, erected over a depression or an obstruction, as water, street or railway, which has a track or passageway for carrying traffic or other moving loads and having an opening measured along the center of the pavement of more than 20 feet between supports.

Central permit office - The office, which administers this ordinance, located the Buffalo Township Municipal Building, 400 Buffalo Center Lane, Washington, PA. 15301.

Clear zone - The portion of right - of - way beyond the pavement edge.

Culvert – A structure under the pavement with an opening of 20 feet or less measured along the center of the pavement.

Department – The Township of Buffalo or its representative.

Detour – To send traffic by a circuitous route around a portion of a street that has been closed.

Engineer – Township of Buffalo engineer.

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

Emergency Permit Card – Township Form used relating to emergency work.

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 disconnection's unrelated to vehicle accident, a failed component, or storm damage.

Equipment – Machinery and equipment, together with the necessary supplies for upkeep and maintenance, and tools and apparatus necessary for the proper construction and completion of the work.

Flexible base pavement – A pavement structure which maintains intimate contact with and distributes loads to the subgrade and depends on aggregate interlock, particle friction and cohesion for stability.

Grout – A mixture of cement, water and sand

Improved area – The area within the right – of – way which has been constructed for street purposes, including roadbed, pavement, shoulders, slopes, sidewalks, drainage facilities and other appurtenances.

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

Pavement – The combination of subbase, base course and surface course placed on a subgrade to support the traffic load or distribute it to the roadbed, or both. The term normally includes the traveled portion of the street and extends to the face of the curb in a curbed section. The term does not include shoulders.

Permit –

- (1) A street occupancy permit form issued by Buffalo Township under this Ordinance.
- (2) An authorization to occupy street right-of-way when a utility facility relocation is required by a street construction project, granted either by written agreement or by a street occupancy permit.

Person – A natural person, firm, co-partnership, association, corporation, authority, or legal entity.

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

Plowing – Direct burial of a utility line by means of a plow – type mechanism which breaks the ground, places the utility line and closes the break in the ground in a single operation.

Publication 408 – A Pennsylvania Department of Transportation publication containing the street construction specifications, as supplemented.

Right – of – way – The area which has been acquired by the Township for street purposes.

Rigid base pavement – A pavement structure which distributes loads to the subgrade having as one course a portland cement concrete slab of relatively high bending resistance.

Roadbed – The graded portion of a street within top and side slopes, prepared as a foundation for the pavement and shoulder.

Seal coat – A thin treatment consisting of bituminous or other approved material, usually with cover aggregate, applied to a surface course.

Select granular material or 2 RC – A material meeting specifications in section 703.3 of Department of Transportation Publication 408.

Shoulder – The existing improved or graded portion of the street, contiguous to the traffic lanes, for accommodation of stopped vehicles, for emergency use, or for lateral support of base and surface courses of pavements.

Street – Any Township street, alley or other Township thoroughfare located in the Township of Buffalo, and established for the use of vehicles and pedestrians

Subbase – The layers of specified or selected material of designed thickness placed on a subgrade to support a base course.

Subgrade – The top surface of a roadbed upon which the pavement structure and shoulders including curbs are constructed.

Suitable material – Soil, granular material or shale meeting specifications in section 206.2 of Publication 408.

Supplement – An amendment to a street occupancy permit.

Surface course – One or more layers of a pavement structure designed to accommodate the traffic load, the top layer of which resists skidding, traffic abrasion, and the disintegrating effects of climate. The top layer is sometimes called the “Wearing Course”.

Tack coat – An application of bituminous material to an existing surface to provide bond with a superimposed course.

Test hole – An exploratory opening of less than 100 square inches.

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 communications, power, electricity, light, heat, gas, oil, crude products, coal, water, steam, waste, storm water not connected to the Township drainage facilities, and other similar commodities including fire and police signal systems and street lighting 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 street.

## **SECTION 2 – PURPOSE**

It is in the public interest to regulate the location and construction of facilities and other structures within Buffalo Township streets and right-of-ways for the purpose of insuring the structural integrity of the street, economy of maintenance, preservation of proper drainage and safe and convenient passage of traffic. Nothing contained herein is intended to relax existing safety requirements under Local, State and or Federal Law.

## **SECTION 3 – APPLICATION PROCEDURE**

It shall be unlawful except as provided in paragraphs (1) – (3) that no work may be performed within the right-of-way involving the placing of utility facilities or other structures or opening of the surface without first obtaining a permit from Buffalo Township.

- (1) A permit application is not required for modifying parts of existing permitted facilities, such as cable within conduit, cross arms or transformers on poles, or manhole riser rings prior to roadway resurfacing, if no surface opening is required.
- (2) Permit applications are not required for stringing overhead utility lines.
- (3) Permit applications are not required for accessing an existing utility facility through a manhole.
- (4) All applications shall be submitted in the name of, and executed by the owner or a legal representative in case of a corporation. An application may not be submitted in the name of contractors of the owner or operator.
- (5) An applicant under this ordinance shall provide satisfactory evidence to the Township of ability to completely discharge construction, maintenance and financial duties imposed by this ordinance. An applicant shall provide satisfactory evidence that the proposed application will not be inconsistent with the structural integrity of the right-of-way, the Township's maintenance responsibilities, or the safe and convenient passage of traffic. The Township may require security, including, but not limited to:
  - (a) Executing indemnity agreements satisfactory to the Township.

- (c) Obtaining insurance in a form and amount acceptable to the Township.
- (c) Obtaining surety bonds in a form and amount acceptable to the Township to guarantee restoration of the permitted area in a manner satisfactory to the Township for a period of at least two (2) years after the acknowledged completion of the permitted work.
- (d) Depositing sufficient currency in an escrow account acceptable to the Township to fully secure the obligations in clause (3) as an alternative to the obtaining of the surety bonds.
- (e) The use of bonded contractors as well as consultants and engineers having professional liability insurance.
- (f) An applicant shall submit a detailed traffic control plan for permitted work.
- (g) The permit is nontransferable.
- (h) Payment of all required fees.

#### **SECTION 4- WHERE TO SUBMIT APPLICATION**

A permit application shall be submitted to the Township of Buffalo at the Township Municipal Building located at 400 Buffalo Center Lane, Washington, PA 15301 during normal working hours. The permit application shall be submitted at least 30 days prior to the anticipated start of work.

#### **SECTION 5 – REQUIRED PERMIT APPLICATION INFORMATION**

- (1) Shall be submitted in person or by mail on a properly completed Township of Buffalo Street Opening Permit form.
- (2) Shall be signed by the applicant.
- (3) Shall include at least two (2) sets of plans, detailing the location and pertinent horizontal and vertical dimensions of the opening, the proposed installation and related street features, including specific street location, center line, edges of pavement, outside edges of shoulders, curbing, street drainage structures and right-of-way lines.

(4) Shall be accompanied by a check or money order, payable to the Buffalo Township, in the appropriate amount, as set forth in the schedule of fees for street opening permits.

(5) Shall identify consulting engineers performing work related to the application. The consulting engineer shall also sign the application.

(6) Plans depicting occupancy of more than 200 feet of pavement or shoulder, or both, shall have a horizontal scale of one (1) inch equal to fifty- (50) feet. Plans depicting other occupancy of the pavement or shoulder shall specify dimensions from the near edge of the pavement.

(7) Plans depicting installation or replacements of a facility involving more than 100 feet of pavement or shoulder opening shall identify utilities and other structures within the right-of-way that will be affected by the proposed occupancy, and shall include typical cross sections at each significant change in street cross section features.

(8) Verification that the Pennsylvania "One Call" System has been contacted.

#### **SECTION 6 – TRAFFIC CONTROL**

A traffic control plan shall be submitted with the application in the following manner:

(1) The applicant shall submit a traffic control plan for the Township approval whenever it will be necessary to close a portion of a travel lane during active work in progress, or during hours of darkness without work in progress and or whenever it will be necessary to completely close a street to perform the permitted work.

(2) A traffic control plan shall clearly indicate how the work area, vehicular and pedestrian traffic will be protected, maintained and controlled. Two (2) copies of a detailed drawing, showing actual site conditions and the necessary traffic control requirements for the specific project.

#### **SECTION 7 – ACCURACY OF APPLICATION AND PENALTY**

(1) The applicant is responsible for the accuracy of the information submitted to the Township, including the application, plans, drawings, reports and correspondence

(a) Penalty for falsifying application. Information provided in applications shall be accurate. Section 4904 of the Crimes Code (relating to unsworn falsification to authorities), makes it a misdemeanor of the second degree for a person to mislead a public servant in performing an official function by making a written false statement which the person does not believe to be true. The Township will examine and determine the genuineness, regularity and legality of every application, and may reject an application if not satisfied as to its genuineness, regularity or legality, or the truth of a statement contained in the application. The Township may also make investigations and require additional information as it deems necessary.

(b) Debarred persons. The Township may debar a person, including permittees, consultants, contractors, and their employees, agents, successors and assigns, from placing a facility, working within any street or right-of-way under permit, directing work, or having involvement in a permit issued or an application submitted under this ordinance, for one or more of the following

(i) Unsatisfactory past performance, as documented by records, reports or performance ratings.

(ii) Failure to complete permitted work under the permit and this ordinance, as documented by records, reports or performance ratings.

(iii) Bribing, attempting to bribe or giving gratuities to a Township employee or a permit inspector.

#### **SECTION 8 – PERMIT FEES:**

Application fees charged to defray costs incurred by the Township in reviewing and processing the applications and plans, including the preliminary review of the site location identified in the application, whether or not a permit is issued and processed shall be as follows:

(1) Application Fee - \$55.

(2) Supplement fee (each 6- month time extension) (each submitted change) - \$25.



(3) Emergency permit card (each card) - \$5.

(4) General permit inspection fees. General inspection fees charged to defray costs incurred by the Township in spot inspections of permitted work or subsequent inspections after the permitted work has been completed and to monitor compliance with the permit and this ordinance shall be as follows:

(a) Surface openings. This fee is calculated on the total linear feet of the opening being permitted with different areas of the right-of way.

(i) Total linear feet of opening (each 100 feet increment or fraction thereof):

(A) Opening in pavement \$55

(B) Opening outside pavement and shoulder \$20

(ii) If a longitudinal opening simultaneously occupies two or more street areas identified in subparagraph (i), only the higher fee will be charged. Linear distances shall be measured to the nearest foot.

(b) Surface opening of less than 36 square feet – for example service connections performed independently of underground facility installation, pipe line repairs –(each opening)

(i) Opening in pavement - \$40.

(ii) Opening in shoulder- \$25

(iii) Opening outside pavement and shoulder- \$20

(iv) If an opening simultaneously occupies two or more street areas identified in subparagraph (i) – (iii), only the higher fee will be charged.

(c) Aboveground facilities (for example, poles, or guys or anchors if installed independently of poles).

- (i) Up to ten physical connected above ground facilities (each continuous group). \$30
- (ii) Additional above ground physically connected facilities (each pole with appurtenances) -\$4

(d) Crossings (for example, overhead tipples, conveyors or pedestrian walk-ways, and undergrade subways or mines) - \$85

5. Exemptions. Permit application fees and general permit inspection fees are not required from the following:

- (a) The Commonwealth
- (b) The installation or maintenance of street lighting at the request of the Township.
- (c) The replacement or renewal of utility facilities prior to Township maintenance project after notice from the Township.
- (d) The removal of poles and attached appurtenances.
- (e) Facilities moved at the request of the Township.

(6) Additional application fee. If the Township anticipates that the cost of reviewing the required application information or inspecting the permitted work will exceed the application or inspection fees listed in this section by a significant amount, the following additional fees will be assessed:

- (a) Additional application fee. The Township will estimate the additional amount of salary, overhead and expenses and prepare a reimbursement agreement for execution by the applicant. Township review of the permit application will commence on the effective date of the agreement.
- (b) Additional inspection fees. If the Township determines that the permitted work is of sufficient magnitude or importance to warrant assignment of one or more persons to inspect the permitted work on a more than spot inspection basis, the permit will so indicate and the permittee shall be charged for additional salary, overhead and expenses incurred by the Township for inspection.

(c) Charge calculation. The charges will be calculated either on an actual cost basis or a standard unit cost basis.

(d) Invoices. The Township will provide an itemized invoice for additional fees owed to the Township.

(7) Refunds. The Township will refund the general permit inspection fees on unused permits. To be eligible to receive a refund, the permittee shall deliver the request with the permittee's copy of the permit to the issuing officer on or before the permit expiration date.

(a) A refund processing fee of \$25 shall be deducted from the general permit inspection fees.

(b) The permit application fee is not refundable.

(8) Miscellaneous fees. The applicant shall pay for notary and recording costs if it is determined by the Township that the permit shall be recorded in the county office or Recorder of deeds.

(9) Any and all fees may be amended or adjusted by Resolution of the Township Supervisors.

## **SECTION 9 ISSUANCE OF PERMITS**

(1) General rule. Upon approval of an application submitted under this ordinance, a permit will be issued by the appropriate office, subject to this ordinance and the conditions contained in the permit and its attachments and supplements. The permit shall be the applicant's authority to proceed with the work specified in the permit. A copy of the permit and relevant plans shall be available at the work site for review.

(2) Permit requiring agreement/security. If the permittee will be authorized to perform a substantial amount of work within the right-of-way, the Township may, at its discretion, require the applicant to execute an agreement or provide security, or both, as a prerequisite to issuance of the permit. If security is required, it shall be delivered to the Township in a form and amount acceptable to the Township and shall guarantee restoration and maintenance of the street for a period of at least 2 years after the acknowledged completion of the permitted work. If the security is executed by a company registered and authorized to do the business in the Commonwealth, the following documents are acceptable forms of security:

- (a) An individual or blanket bond executed by the permittee and naming the Township as obligee.
  - (b) An irrevocable letter of credit signed by a bank officer and naming the Township as sole beneficiary, to be honored on presentment.
  - (c) An escrow account in a form acceptable to the Township.
- (3) Permit issued only to applicant. A permit will only be issued to the applicant as described in section 3 (relating to permit application procedure).
- (4) Permit supplements. The permittee may request a supplement to the permit in writing, to amend a permit condition, such as revising the traffic control plan or extending the permit expiration date. A permit is valid for a 6 month period, or multiples thereof as specified on the permit, subject to the following conditions:
- (a) If the permittee has not completed authorized work by the completion date specified on the permit; an application shall be submitted requesting a time extension on the permit.
  - (b) If approved, a supplement to the permit authorizing a new completion date will be issued by the Township.
  - (c) No extension of the permit will be authorized unless the permittee obtains an extension on the duration of a bond, insurance or other security required under this ordinance, which extension of the bond, insurance or other security corresponds with the permit time extension. The permittee shall provide evidence of the extension to the Township.
  - (d) No work may be performed on an expired permit until a time extension supplement or new permit is obtained.
  - (e) No time extension supplement will be issued for a request received more than 30 days after the expiration of the permit. In that case, an application for a new permit may be submitted to the district office.
  - (f) Work completion notification. When permitted work has been completed, the permittee shall notify, in writing, the Township office.

## **SECTION 10 EMERGENCY WORK**

(A) General Rule. Emergency repairs involving the placing of facilities or opening of the surface within the right-of-way may be performed prior to obtaining a permit if the following procedure is adhered to:

(1) Utility owners or operators may obtain emergency permit cards by submitting an application, on company stationary, to the Township. The application shall be accompanied by a check or money order, in the amount specified in Section 8 (relating to permit fees). The utility facility owner or operator shall promptly notify the Township office by telephone, when the necessity for an emergency repair occurs during the hours of 7am to 3pm, Monday through Friday. Emergency work occurring at other times shall be reported to the Township office on the following workday.

(2) Prior to opening the surface or placing utility facilities within right-of-way, the utility work crew shall enter the following information on the emergency permit card in legible handwriting, using indelible ink:

- (a) Date emergency work is started.
- (b) Time emergency work is started
- (c) Location of emergency work site
- (d) Description of emergency work

(3) The completed, original emergency permit card shall be located at the work site and shall be available for the inspection by any police officer or representative of the Township. Reproduced copies of the original card shall not be valid.

(4) A permit shall be applied for within 15 days to confirm and set forth, in detail any work performed. The applicant shall then enter the application number on the emergency permit card.

(5) Work performed under authority of an emergency permit card shall conform to this ordinance.

(B) Use of card. An emergency permit card shall be valid for 1 year or 25 emergency repairs, whichever occurs first.

(1) Emergency permits cards may be obtained by submitting an application to the Township Office listing thereon the number of emergency permit cards desired.

(2) The utility shall be responsible for assigning the proper emergency permit cards to its work crews.

(3) An emergency permit card shall be returned to the Township office with in 15 days after either the 25th repair authorized by the card or one year from the card issuance date, whichever occurs first.

#### **SECTION 11 GENERAL CONDITIONS**

The following conditions apply to permits issued under this ordinance:

(1) Scope of permit. The permit is binding upon the permittee, its agents, contractors, successors and assigns.

(a) The permittee is responsible for causing compliance with the terms and conditions of the permit by its employees, agents and contractors.

(b) The permit shall be located at the work site and be available for inspection by a police officer or a representative of the Township.

(c) The permit shall be maintained by the permittee as a permanent record and remain in effect, subject to the permit conditions and this ordinance, as long as the permittee's facilities authorized by the permit occupy the right-of-way.

(d) Responsibility for compliance with the terms of the permit may not be assigned or transferred by the permittee without first obtaining approval from the Township. If a permit is assigned or transferred without first obtaining approval from the Township, the assignment or transfer is void. The permit assigned or transferred also becomes void. A facility installed under the authority of the permit shall be subject to removal at the expense of the applicant to which the permit was issued or its assignees, or both.

(e) The permittee is liable to the Township for failure to comply with the permit and this ordinance. The liability of the permittee to the Township does not preclude the permittee or the Township from bringing an action against the permittee's contractor, subcontractor, engineer, architect, assignee, agent, workers, employees or other persons.

(2) Additional restrictions. Work authorized by the permit is subject to:

(a) Applicable laws, rules and regulations, including but not limited to:

(i) The Act of October 26, 1972, concerning environmental control measures related to pollution and the preservation of public natural resources.

(ii) The Act of December 10, 1974, concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utility facilities.

(iii) The Clean Streams Law

(iv) O.S.H.A. construction safety and health regulations.

(v) Civil Rights Act of 1964

(vi) The rights of any person

(vii) The conditions, restrictions and provisions of the permit.

(3) Work to conform to the Township Standards. Work shall conform to the Township standards, including the following:

(a) The work shall be done at a time and manner consistent with the safety of the public and conform to the requirements and standards of the Township, including, but not limited to, Department of Transportation Publication 408.

(b) Street materials shall be obtained from the Department of transportation approved sources, which are identified in the current Penn Dot publication numbers 34, 35, 41, and 42. Upon request, the

permittee shall make available for review certifications for backfill and restoration materials placed within the improved area.

(c) If it is found by the Township that the work is not being done or has not been properly performed, the permittee shall promptly take the necessary steps, at its own expense, to place the work in condition to conform to the requirements or standards.

(d) If a dispute arises between the permittee and the Township's inspector, the Township inspector has the authority to suspend work until the question at issue may be referred to and decided by the Township office.

(e) Work not specifically regulated by this ordinance shall be performed as authorized by the Township.

(4) Permittee responsibilities. Permittee responsibilities include the following:

(a) The permittee shall pay the costs and expenses incident to or arising from the project, including the prescribed fees for the project, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration. The permittee shall reimburse the Township for inspection costs, which the Township deems necessary to incur, within 30 days after receipt of the Township's invoice.

(b) In the event of failure or neglect by the permittee to perform and comply with the permit or this ordinance, the Township may invoke any or all of the following remedies which are not mutually exclusive and may invoke such other remedies as are otherwise available or provided for in this Ordinance, as well as such other remedies and/or sanctions as are available at law or in equity; immediately revoke and annul the permit and order and direct the permittee to remove structures, equipment or property belonging to the permittee or its contractors, or both, from the legal limits of the right-of-way and to restore the right-of way to its former condition; if the Township determines that the structures, equipment or property poses a threat to the public safety and the permittee fails to remove it after notice from the Township to do so, the Secretary or its Solicitor, or any attorney of a court of record is authorized to appear for the permittee, and to enter an amicable action of ejectment and confess



judgment against the permittee; additionally, the attorney or Solicitor is authorized to issue, forthwith, a Writ of Possession with a clause of Fieri Fascias for costs and expenses, without leave of court.

(c) At the end of a workday, an opening in the right-of-way shall be covered, backfilled or protected. If work is stopped on a project, other than at the end of a normal workday, the permittee shall promptly backfill the opening and restore the surface, and work may not be resumed until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the opening or proceed until completion of the work, the Township reserves the right to do the work upon notice to the permittee, where practicable, and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Township's invoice.

(d) If the permittee, after making an opening in the surface to place or repair a facility or for another purpose, fails to restore a portion of the right-of-way to conform with this section the Township reserves the right to do the work upon notice to the permittee, if practicable, and the permittee shall reimburse the Township for the costs within 30 days after receipt of the Township's invoice.

(e) If backfill or restoration work will be performed for the permittee by a contractor, the permittee shall identify to the Township both its contractor and its inspector-in charge who shall be assigned to monitor backfill and restoration work performed within the improved area. The permittee's inspector-in-charge, as well as the permittee, is responsible for ensuring work is performed in compliance with the permit, this ordinance and publication 408.

(f) The permittee shall notify the Township at least 3 full work days prior to the start of work when the permit identifies that the permitted work will be inspected on a more than spot inspection basis.

(5) Altering drainage prohibited. Altering drainage shall be prohibited by the following conditions:

(a) Unless specifically authorized by the permit, the permittee may not:

(i) Alter the existing drainage pattern or the existing flow of drainage water.

(ii) Direct additional drainage of surface water toward, onto, or into or in any way affects the street right-of-way or street facilities.

(b) The permit does not authorize the permittee to direct, divert or otherwise drain surface waters over property of another property owner.

(i) The permit does not relieve the permittee from acquiring the consent, permission or other authorization from a property owner who may be adversely affected by drainage alterations.

(ii) The permittee is responsible for damage caused to property owners as a result of work done under the permit.

(c) A permit will not be issued to authorize the discharge of water into the right-of-way unless the water is surface drainage.

(6) Equipment damaging Streets. A street shall be protected in accordance with the following:

(a) Work not specifically regulated by this ordinance shall be performed as authorized by the Township.

(b) Permittee responsibilities. Permittee responsibilities include the following:

(i) To protect the pavement and shoulders, equipment shall have rubber wheels or runners and have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.

(ii) If other than rubber equipped machinery or equipment is used, the pavement and shoulders shall be protected from equipment damage by the use of matting or other suitable protective material, unless the permittee requests, in writing, a waiver from the use of protective material, thereby acknowledging its obligation and commitment to repair or reconstruct the pavement and shoulder, if damaged, to its former condition.

(iii) If the equipment damages the pavement or shoulders, the permittee shall restore the damaged pavement or shoulder, or both, to its former condition, in a manner authorized by the Township office.

(iv) The Township office may authorize the permittee to restore the pavement or shoulder from superficial surface damage with a seal coat or surface treatment.

(7) Work Zone Traffic Control. Maintenance and protection of traffic shall be carried out by the permittee under 75 Pa.C.S., 6123(relating to erection of traffic-control devices while working), the approved traffic control plan and the applicable provisions of ordinance 203 (relating to work zone traffic control).

(8) Streets Under Construction. No permit application will be approved for occupancy of a section of right-of-way within which a street or reconstruction project is underway, or if a contract for such a project has been let, until the project is completed and accepted by the Township, unless the application is accompanied by an attested certificate signed by the contractor or other authority constructing the project, consenting to the proposed work of the applicant within the right-of-way, together with a waiver, release and quitclaim to the Township of damages and defenses for delays by reason of that work and occupation of the right-of-way by the permittee, or from a cause resulting by reason of that work and occupation. This paragraph does not apply:

(a) To an emergency. In an emergency, the permittee shall procure the consent of the Township to do the work as deemed necessary to correct the existing emergency condition.

(b) If the permittee has been authorized by the Township to relocate or adjust its facilities simultaneously with street construction.

(9) Indemnification. Indemnification of the Township for property and personal injury will be governed as follows:

(a) The permittee shall fully indemnify and save harmless and, if requested, defend the Township, its officers, agents and employees, of and from liability for damages or injury to persons or property in a claim or suit seeking to impose liability on the Township, its officers, agents or employees, arising out of an act or omission of a contractor, agent, servant, employee or person engaged or employed in, about or

upon the work, by, at the instance of or with the approval or consent of the permittee, including a failure of the permittee or a person to comply with the permit or this ordinance.

(b) The permittee shall have the Township added as an additional insured to its or its contractor's insurance policy to secure the permittee's indemnification of the Township for property damage and personal injury under this paragraph. The coverage of the Township as an additional insured shall be limited to the acts or omissions of the permittee or its contractor, as described in subparagraph (i). The amount of insurance shall be at least \$250,000 per person and at least \$1,000,000 per occurrence, or other statutory limitations on damages as the Township Council may establish. The policy shall be of a duration satisfactory to the Township.

(c) Upon request, the permittee shall deliver to the Township office certificates in insurance evidencing that the coverage required under subparagraph (ii) has been obtained. The Township may accept a formalized plan of self-insurance as a substitute for the insurance described in this subparagraph.

(10) Insurance. - The permittee shall obtain, prior to the start of work, a policy of insurance, issued by an insurer having a certificate of authority and a licensed agent authorized to transact the business of insurance in this Township, in accordance with the following conditions:

(a) The permittee or its contractor shall obtain insurance for public liability and property damage, in form, amount and duration satisfactory to the Township to cover a loss that may be incurred for construction, reconstruction, repair, relocation or installation of the permitted structure or facilities.

(b) Upon request, the permittee shall deliver to the Township office certificates of insurance evidencing that the insurance coverage required under subparagraph (i) has been obtained. The Township may accept a formalized plan of self-insurance as a substitute for the insurance described in this subparagraph.

(c) The permittee's obligations to indemnify the Township and obtain insurance to secure indemnification under paragraph (9) and its obligation to restore the streets and obtain a bond relating to restoration under paragraph (13) are separate obligations from

obtaining insurance for the purposes required under this paragraph. Obtaining insurance under this paragraph does not relieve the permittee of its obligations under paragraphs (9) and (13).

(11) Maintaining structure or facility. As long as the permittee operates and leaves in place structures or facilities, in, upon or along the right-of-way, the permittee shall maintain and keep them in good order and repair.

(12) Damaged structure or facility to be repaired. If a structure or facility becomes damaged, the permittee shall promptly have it removed, repaired or otherwise made safe. The permittee is responsible for repair or restoration of the portion of the street damaged by a structure or facility. The permittee's obligation to repair or restore the street necessitated by a damaged structure or facility under this paragraph is separate from the obligations to restore the street and obtain a bond relating to restoration and maintenance of the street. Compliance with paragraph (13) does not relieve the permittee of its obligations under this paragraph.

(13) Damage to street. Responsibility of the permittee for restoration of the street includes the following:

(a) If there is a failure of the street, including a slope or other appurtenance thereto, in the area of the permitted work within 2 years after the acknowledged completion of the permitted work and there is no similar failure of the street beyond the area of the permitted work, the permittee has absolute responsibility to make temporary and permanent restoration of this area unless the permittee delivers clear and convincing evidence to the Township Office demonstrating that the street failure was caused by another person.

(b) In a situation where the permittee has the responsibility to restore the street, including slope or another appurtenance thereto, under subparagraph (i), the permittee has the duty to restore the improved area in accordance with the permit. If the permittee fails to restore the improved area properly, the Township will have the authority to do the work at the expense of the permittee. The permittee shall reimburse the Township for the costs plus 10% within 30 days after receipt of the Township's invoice.

(c) The obtaining of a bond, other security or an agreement described in Section 9 to secure restoration costs does not relieve the permittee of the restoration obligations imposed by subparagraph (i)

and (ii), nor does it relieve the permittee of its obligations under paragraphs (9) and (10). The obtaining of a bond, other security or an agreement will not act as a release of the permittee from liability under principles of tort law with respect to a failure of the street in the permitted area occurring after the expiration of the bond, other security or agreement.

(14) Future Street Changes. If in the future the street is altered for public convenience or necessity, the permittee shall at its own cost and expense, change or relocate all or a part of the structures or facilities authorized by the permit which interfere with the street alterations or which is inconsistent with the purpose of the street alterations.

(15) Acknowledgment by Inspector. Acknowledgment, by the inspector of the Township that all or part of the permitted work has been completed, does not constitute approval or acceptance of the work or agreement that work was performed in accordance with the permit. Acknowledgment of completion by the Township will not act as a release of the permittee or waiver by the Township of its right to seek performance or restitution from the permittee.

#### **SECTION 12 SPECIAL CONDITIONS – subsurface operations**

(A) Drilling, boring, driving or tunneling across improved area. Drilling, boring, driving or tunneling across improved areas shall comply with the following conditions:

(1) When crossing under an improved area, the opening for a utility facility shall be drilled, bored, driven or tunneled a minimum depth of 3 feet from the surface to the top of the opening.

(a) If the facility or its casing is 30 inches or greater in diameter, the bored cylindrical space surrounding either an uncased facility or a facility casing shall be filled with grout, in a manner authorized by the Township office.

(b) Jet or other nonmechanical boring methods are prohibited. Water may be used under low pressure only to cool the drill bit and to facilitate removal of cuttings from the bore opening, if retrievable liquid is immediately removed from the boring pit.

(2) No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling may be made closer than 3 feet to the edge of the shoulder, unless the permit authorizes a lesser clearance.

(3) A facility or other structure crossing under the improved area shall be constructed to assure the safety of the traveling public and to preclude the necessity of entering upon the improved area to effect future maintenance or replacement.

(B) Trenching across the improved area. Trenching across an improved area may be performed only when specifically authorized by the permit, in accordance with the following:

(1) The top of every utility facility shall be installed at least 3 feet beneath the surface.

(2) Trenching across the improved area may be authorized by the permit where drilling, boring, driving or tunneling are:

(a) Not feasible because:

(i) The subsurface is solid rock, as documented with satisfactory evidence such as drill records, or where boring was attempted without success.

(ii) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching, as documented with a detailed plan.

(iii) Adjacent development in a very congested urban area makes the construction of a tunneling or boring shaft impossible.

(b) Not required because of one of the following:

(i) The street unpaved.

(ii) The Township's wearing course is older than 12 years, and the street average daily traffic – ADT - does not exceed 250.

(3) When trenching is authorized by permit, the trenching operation shall be performed by one of the following methods:

- (a) Utility facility placed in one piece across street.
  - (i) Traffic shall be routed over  $\frac{1}{2}$  of the pavement width.
  - (ii) The closed half of the pavement shall be opened to the required depth and bridged with steel plates.
  - (iii) Traffic shall be shifted to the bridged half of the pavement.
  - (iv) The remaining half of the pavement shall be opened to the required depth.
  - (v) The facility shall be placed full width.
  - (vi) The open trench shall be backfilled and restored half-width in accordance with this section.
  - (vii) Traffic shall be shifted to the restored half of the pavement.
  - (vii) The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section.
- (b) Utility facility placed in more than one piece across street.
  - (i) Traffic shall be routed over  $\frac{1}{2}$  of the pavement width.
  - (ii) The closed half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section.



- (iii) Traffic shall be shifted to the restored half of the pavement.
- (iv) The remaining half of the pavement shall be opened to the required depth, the facility placed and trench backfilled and restored in accordance with the provisions of this section.

(4) The permittee shall protect its openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.

(5) Openings parallel to the street. Requirements for openings parallel to the street are as follows:

- (a) A utility facility shall be placed outside the pavement and shoulder unless there is no feasible space outside the pavement and shoulder for placing the facility, in which case occupancy within the pavement or shoulder may be authorized by the permit.
- (b) The top of a utility facility shall be installed at least 3 feet beneath the surface.
- (c) On an unpaved street, the near edge of the of the opening shall be at least 12 feet from the general center line of the traveled street, or as authorized in paragraph (1).
- (d) No opening may be made for more than 200 linear feet at one time unless authorized by the permit.

(6) The permittee shall protect its openings to provide for the safety of the traveling public, including motorist, bicyclist and pedestrians.

- (a) Daily stoppage of work requirements. Daily stoppage of work requirements include the following:
  - (i) Except for emergency repairs of utility facilities, work within the pavement or shoulder shall be stopped prior to peak traffic hours that may exist on a particular street on a particular day and as specified in the permit.
  - (ii) At the end of each workday, an opening in the right-of-way shall be the following:

- (1a) Covered with steel plates or bridging over openings which are less than 6 feet in either length or width. The plates or bridging shall be extended a minimum of 18 inches from each edge of the opening and shall be secured in a safe manner.
- (1b) Backfilled to the bottom elevation of the pavement or base course, or to the original surface elevation if outside the pavement and shoulder, and protected under Ordinance 203 (relating to work zone traffic control) and an approved traffic control plan until the surface is restored to its former condition.
  - (ic) Protected under Ordinance 203 and an approved traffic control plan, if the permittee has delivered certificates of insurance under section 11 general conditions.

(7) Disposition of materials. The responsibility of the permittee for disposition of materials is as follows:

- (a) The permittee shall keep the improved area free of material, which may be deposited by vehicles traveling upon or entering onto the street during the performance of work authorized by the permit.
- (b) The permittee is responsible for controlling dust conditions created by its own operations.
- (c) Excess material and material that is not suitable for backfill shall be promptly removed and properly disposed of outside the right-of-way as the work progresses.
- (d) Other material shall be stored under section 11 (relating to general requirements), and so that there will be no interference with the flow of street progresses.
- (e) The permittee is not authorized to close a portion of the pavement or shoulder to traffic for the primary purpose of storing material. If the permittee stores material on the pavement or shoulder, the permittee thereby acknowledges its obligation and commitment to

repair or reconstruct the pavement and shoulder, if damaged to its former condition, in a manner authorized by the Township. Delivered material may not be stored overnight on the pavement.

(f) The Township may authorize the permittee to restore the pavement or shoulder from superficial damage with a seal coat or surface treatment.

(8) Backfilling. An opening shall be backfilled by the permittee in accordance with the following:

(a) The opening may first be backfilled with fine aggregate material, meeting the requirements of section 703.1 of Publication 408, or granular material to protect the facility, placed to a height not to exceed 1 foot over the top of the facility, if the material is compacted in not more than 4 inch loose layers. To protect the facility the permittee is to place a permanent colored ribbon at least 1 foot above its facility.

(b) The opening shall then be backfilled with select granular material or other coarse aggregate material meeting the requirements of section 703.2 of Publication 408 as specified in the permit. Select granular material or other aggregate material will be required for use as backfill of openings in pavements, paved shoulders and improved (for example, oil and chip) shoulders within 4 feet of the edge of pavement. .

(c) Backfill shall be compacted as follows:

(i) General rule. Except as provided in subparagraph (ii) backfill material shall be placed in loose layers not to exceed 8 inches if vibratory compaction equipment is used or as authorized under Publication 408. Each layer shall be thoroughly compacted to preclude subsidence, under section 601.3 (e) of Publication 408.

(ii) Compaction outside pavement and shoulders. At least 15 days prior to the start of work, the applicant may submit its written compaction plan to the Township requesting backfill in an opening outside the pavement and shoulder to be placed in layers thicker than 8 inches prior to compaction. The compaction plan shall include full details

on equipment, materials and work methods as well as the permittee's acknowledgment of its obligation and commitment to regularly monitor the restored surface until 2 years after the acknowledged completion of the permitted work and to promptly correct failure or subsidence of the street. The Township may condition its approval of a compaction plan on the execution of a bond under Section 9 Issuance of Permits, if a part of the opening is within the improved area.

(iii) Existing pavement elevation. Compaction shall be completed to the bottom elevation of the existing pavement.

(d) The Township may require the permittee to have material proposed for the use as backfill and compacted material tested, at the expense of the permittee, for conformance to the applicable gradation and compaction requirements of Publication 408.

(e) Test holes shall be backfilled, as soon as safely possible, with existing type material or other material authorized by the Township, and sealed. The Township may authorize test holes in the pavement or shoulder to be restored without a 1 foot cutback of the surrounding

(9) Restoration of flexible base pavements. Base and surface restoration of flexible base pavements shall be performed under this subsection and as specified in the permit. Prior to replacement of the base course, 1 foot outside of each edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate subbase or stone base course, and the detached material shall be removed. Other surface opening methods such as cutting may be authorized if the methods result in the opening pavement having a neat straight vertical line.

(a) Exposed vertical and horizontal surfaces shall be prepared under section 401.3 of publication 408.

(b) The base course shall consist of a binder course and shall consist of ID-2 material meeting the requirements of section 421 of Publication 408. The base course material shall have a minimum depth of 6 inches or a depth equal to the existing base course, whichever is greater.

(c) The wearing course shall consist of ID-2 material meeting the requirements of section 420 of Publication 408 or FJ-1 material meeting the requirements of section 422 of Publication 408. The wearing course shall have a minimum depth of 2 ½ inches or a depth equal to the existing wearing course, whichever is greater.

(10) Restoration of plain or reinforced cement concrete pavements. Base and surface restoration of plain or reinforced cement concrete pavements shall be performed under this subsection and as specified in the permit. Drilling is not permitted where sawing or cutting is required.

(a) Prior to replacement of the pavement, 1 foot outside of each edge of the opening shall be sawed the full depth of the pavement in a neat straight line. The detached material shall be removed without damaging the adjacent pavement. The use of a pavement breaker is prohibited. The permittee may partially saw cut the pavement to a depth of at least 4 inches and cut the remaining pavement with a jackhammer weighing no more than 90 pounds, if:

- (i) The restored opening does not exceed 6 feet in either length or width.
- (ii) The restored opening is at least 2 feet from a pavement edge or joint.
- (iii) The street average daily traffic - ADT - does not exceed 700.

(b) The replacement pavement shall consist of high early strength concrete equal in depth to the original concrete pavement or to a depth of 8 inches, whichever is greater.

(c) On existing reinforced cement concrete pavements that are opened for more than 6 feet in either length or width, reinforcing steel, expansion tie bolts.

(d) The permittee may be required to restore the structural integrity of damaged cement concrete pavement by:

- (i) Replacing the opened pavement transversely the full lane width.

- (ii) Replacing the opened pavement longitudinally to a transverse joint or opening within 6 linear feet of the opening.
- (e) The surface shall be restored as follows:
  - (i) After surface corrections have been completed and before the concrete becomes nonplastic, the surface shall be given a textured finish that matches the existing adjacent surface. The surface shall be cured under section 501.3 of publication 408.
  - (ii) Restoration of the binder and wearing courses of a cement concrete pavement which has a bituminous surface shall be done under subsection (Restoration of flexible base pavements).

(11) Shoulder restoration. Shoulder restoration shall be performed under this subsection and as specified in the permit.

- (a) Paved shoulders. Paved shoulders shall be reconstructed and restored to a serviceable condition, of the same type as existed before the start of work, under section 651, 653, 654, 656, 657, and 658 of Publication 408.
- (b) Other shoulders. Other shoulders shall be restored as follows:
  - (i) The surface shall be restored with a least 4 inches of select granular material, or as authorized by the Township.
  - (ii) If the length of the open shoulder exceeds 100 linear feet, the shoulder shall be graded, rolled and –unless excused- penetrated with bituminous material at a rate of .35 gallon per square yard and chipped to prevent tracking of oil onto the pavement.
- (c) Outside existing shoulder. If the disturbed area extends outside the existing shoulder, the disturbed area outside the restored shoulder shall be properly graded and a ditch line shall be constructed wherever necessary to maintain street drainage.