

WAYNE TOWNSHIP, ERIE COUNTY, PENNSYLVANIA

ORDINANCE NO. 69

AN ORDINANCE OF THE TOWNSHIP OF WAYNE, COUNTY OF ERIE AND COMMONWEALTH OF PENNSYLVANIA REQUIRING ALL PERSONS TO OBTAIN PERMITS PRIOR TO CONNECTING, ALTERING, OR PAVING DRIVEWAYS TO PUBLIC ROADS OR PERFORMING EXCAVATING OR OTHER WORK IN PUBLIC ROADS; REQUIRING THE SUBMISSION OF PLANS IN COMPLIANCE WITH PENNDOT AND TOWNSHIP DESIGN REQUIREMENTS PRIOR TO THE ISSUANCE OF PERMITS; PROVIDING FOR THE DISAPPROVAL OF PLANS WHERE CONNECTION OR WORK WOULD RESULT IN IMPROPER DRAINAGE OR NONCOMPLIANCE WITH PENNDOT AND TOWNSHIP DESIGN AND CONSTRUCTION REQUIREMENTS; PROVIDING FOR THE PAYMENT OF PERMIT FEES; AND PROVIDING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors in and for the Township of Wayne, Erie County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION 1: SHORT TITLE

This Ordinance shall be known as the "Wayne Township Highway Occupancy Ordinance."

SECTION 2: LEGISLATIVE INTENT AND APPLICABILITY

The background of this Ordinance and the legislative intention of the Board of Supervisors ("Board") in enacting it are as follows:

- A. The Township of Wayne is a municipal township of the second class.
- B. The Township of Wayne has suffered damage to its roads as a result of improper connection of driveways to Township roads and faulty drainage.
- C. Improper connections and faulty drainage have resulted in hazardous conditions. .
- D. The Township deems it necessary for the proper management, maintenance and control of its public road system to regulate the connection of driveways to Township roads.
- E. Roadway excavations have resulted in damage, improper drainage and uneven riding surfaces on Township roadways, all to the danger and hazard of vehicular traffic.
- F. Roadway excavations have resulted in increased costs of repairs and maintenance of public roads and to eliminate hazards to the public.
- G. The Township desires to require proper connection of driveways and repair of roadway excavations to minimize damage to Township roads.

SECTION 3: DEFINITIONS For the purposes of this Ordinance, the following terms shall be defined as follows:

Board - The Board of Supervisors of Wayne Township, Erie County, Pennsylvania.

Cartway - The traveled area of the roadway located between the road shoulders.

Contractor -The person who installs a driveway or excavates in a Township roadway, including all agents, subcontractors, officers or employees of that person or business entity.

Driveway - Every entrance or exit used by vehicular traffic to or from properties abutting a public road. The term includes proposed streets, lanes, alleys, courts and ways.

Emergency – Any condition constituting a clear and present danger to life or property, which calls for immediate action.

Owner - The owner of the land upon which the driveway is located and his successors or assigns.

Person - Any natural person, firm, partnership, corporation, entity, association or other group of persons. The singular shall include the plural and the masculine shall include the feminine and the neuter.

Permit - A highway occupancy permit issued by the Board pursuant to this Ordinance.

Permittee - The holder of a duly issued permit.

Public Road – Any road, street, alley, bridge or public thoroughfare, including the entire area between right-of-way lines, either presently maintained by Wayne Township, or shown on a subdivision or land development plan and intended to be dedicated to Wayne Township in the future.

PENNDOT - Pennsylvania Department of Transportation.

Right-of-way - The area that has been acquired by the Township for highway purposes, also identified as the roadway.

Roadway Excavation - Any ditch, trench, excavation, tunnel or opening in or under the surface of any public road.

Township – Wayne Township, Erie County, Pennsylvania, or its duty appointed representative.

SECTION 4: REQUIREMENT OF PERMIT

A. Permit required.

1. No person shall hereafter install or alter an existing driveway or allow any work incident to the alteration or installation of a driveway including the alteration of existing drainage characteristics without first obtaining a permit from the Township. Driveway permits will be issued only to the owners of the

property. Permits will not be issued to contractors of the property owner.

2. No person shall hereafter perform excavation or other work within a Township public road without first obtaining a permit from the Township.

B. No combined permits. Each driveway, whether or not serving the same premises, shall require an individual permit. Each excavation or other work site within a public road shall require an individual permit.

SECTION 5: APPLICATION PROCEDURES

Prior to obtaining a permit for a driveway connection, alteration, or paving, every owner shall file an application with the Township, on a form furnished by the Board. Every person intending to perform excavation or other work within a public road shall, prior to obtaining a permit, file an application with the Township on a form furnished by the Board. The application shall be accompanied by such permit issuance fees and general inspection fees as determined by resolution from time to time by the Board. Issuance fees are used to defray costs incurred by the Township in reviewing and processing the application and plan(s), including the preliminary review of the site location identified in the application, and issuing and processing the permit. General inspection fees are used to defray costs incurred by the Township in spot inspection(s) during the progress of the work and after it has been completed to ensure compliance with the permit and these regulations.

SECTION 6: REQUIREMENTS FOR A DRIVEWAY CONNECTION

A. Required information. The application shall be accompanied by a sketch of the proposed driveway which at a minimum shall indicate:

1. Geometric information such as width, radius, dimensions and location of the proposed driveway, right of way, slope and grades, length of driveway to residence or building, and distance to property lines and nearest driveway(s) and intersection(s). In conjunction with submission of the application, the applicant shall place a stake at the desired location which shall coincide with the submitted sketch.
2. Safe sight distances shall be indicated on the sketch as obtained from actual field measurement. Measurement of sight distance shall be measured in accordance with the requirements of PENNDOT and attested by the owner's signature on the application. Minimum sight distances shall be required to meet those provided in PENNDOT Chapter 441.8.
3. Drainage culvert (if applicable) or swale including related grades as may be required. The determination for installation of a culvert pipe or swale shall be made by the Township following initial review by the Township representative. The application must also include a long-term drainage and erosion control plan, which shall specify provisions for roadside drainage and control and mitigation of surface water runoff created by installation or improvement of the driveway.
4. When determined by the Township, a Stormwater Management Plan shall

be filed in accordance with the requirements of the Township Stormwater Management Ordinance, in which case approval of the Stormwater Management Plan shall precede issuance of a driveway permit.

B. Review criteria. The application, accompanying sketch, and drainage plan shall be reviewed by the Township. Driveway design shall conform to the requirements and standards and specifications of this Ordinance, PENNDOT Chapter 441, the Erie County Subdivision & Land Development Ordinance, the Wayne Township Stormwater Management Ordinance, and all related standards and specifications that are incorporated herein by reference. In no event shall a permit be issued for a proposed driveway under any of the following circumstances:

1. It would create hazardous effects of storm water run-off.
2. It would cause damage to a public road.
3. It would increase hazardous driving conditions on the public road.
4. It would be constructed in a manner that would obstruct it from view.
5. The sight distance is inadequate to safely allow movement to be made into or out of the driveway.
6. The free movement of highway or street traffic would be impaired.
7. It would create an area of traffic congestion on the highway or street.
8. It would be located at a location that would interfere with the placement, functioning or maintenance of a highway or street sign, detector, lighting or other device that affects traffic control.
9. Where the property abuts two or more streets or highways, ingress and egress may be restricted to only that highway or street which can more safely accommodate its traffic.
10. No more than one driveway shall be permitted per lot on any one highway or street frontage. The Board of Supervisors may grant permission for additional driveways under exceptional circumstances.
11. It would be located within forty (40) feet of the right-of-way line of an intersecting street. This dimension shall be increased for driveways to shopping centers and other commercial, industrial, public or institutional purposes.
12. It would be located within five (5) feet of a fire hydrant, catch basin or drain inlet.
13. It would exceed a slope of fifteen (15%) percent within fifteen (15) feet of the street right-of-way line.

14. It would be located within three (3) feet of a property line.
15. It would impair drainage within the right-of-way, alter the stability of the improved area, or change the drainage of adjacent area.
16. In the opinion of the township it would create a hazardous situation not otherwise anticipated.

C. Damage to public roads. The owner and contractor are responsible for damage to any portion of the public road caused by equipment en route to or used at the work site.

D. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43, Publication No. 90, and Publication 213.

1. The Permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Township. A traffic control plan shall be submitted to and approved by the Township Engineer before detouring any traffic.
2. Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
3. Designated employees shall be assigned by the Permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 43 and Publication No. 90.

E. Drainage. All driveways that are installed on any public road will be required to install either a drainage pipe (culvert) or construct a drainage swale as directed by the Township representative. Where open shoulders or berms exist, the grade of the access driveway shall slope away from the roadway surface at the same rate as the existing shoulder (unless advised to the contrary by the Township) for the prevailing width of the shoulder. The gradient of a driveway beyond this point (within the roadway right of way) shall be not more than 8%.

F. Stabilization of Driveway within the Right of Way. All driveways which are constructed and have access onto a public road shall be surfaced with a stabilized material between the cartway and the right of way line.

G. PENNDOT requirements. When a driveway accesses a state road, the owner shall comply with all PENNDOT requirements, including the requirement to obtain a permit from PENNDOT.

H. Re-inspections. The Township may re-inspect at any time after completion, and if there is settlement of the connection or any other defects appear in the work contrary to the conditions, restrictions and regulations of this Ordinance, the Township may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight (48) hours or any other defect within sixty (60) days after written notice from the Board of Supervisors to do so, the Township may do the work and impose upon the owner the cost thereof, together with an additional ten percent (10%) of the costs, which may be recovered by the Township.

I. Owner's Maintenance responsibility. All property owners shall be responsible for long-term maintenance of the driveway and related drainage or stormwater management plan. In the event that excess stormwater runoff or sediment is diverted onto public roads the owner will be given notice and required to make necessary corrections to bring the driveway and drainage into compliance. In the event that a driveway culvert pipe becomes crushed or blocked it may be replaced at the owner's expense. The Township reserves the right to require the owner to make repairs, to make the repair at the owner's expense or to contract with a third party at owner's expense to perform the needed repairs. All property owners shall be responsible for any and all costs for maintenance to public roadways resulting from water runoff caused by an improperly maintained driveway.

All driveways, adjacent areas and areas between such driveways including channelization, paving, drainage, etc. installed by the property owner or his predecessor in title shall be maintained by the property owner in such a manner as not to interfere or be inconsistent with the design, maintenance and drainage of the Township roadway or the safe and convenient passage of traffic upon the Township roadway. The term adjacent area shall apply only to that area within the property owner's property or that area of the Township right of way contiguous to the property owner's property.

J. Sight distance. Measurement of sight distance from a vehicle turning from a driveway shall be such that the position of the driver is taken to be 10 feet from the edge of the traveled cartway at the centerline of such driveway; the driver eye height is to be 3.5 feet; the vehicle height on traveled cartway is to be 4.25 feet. Adequate sight distance is to be provided to the right and to the left of the driveway.

K. Permit issuance. If the plans meet the criteria above, the Township shall issue the permit. If the application is found to be deficient, or if in the opinion of the Township the plan should be revised in order to meet the criteria above, the Township shall notify the owner of the changes to be made, whereupon the applicant shall make such changes and return the revised plans to the Township. When the application is acceptable to the Township, the permit shall be issued. If the approved installation is not completed within nine month of the permit issuance date, the permit shall expire.

L. Enforcement.

1. Upon determining that a driveway has not been installed or maintained in accordance with the provisions of this Ordinance and/or is unsafe, the authorized Township representative shall serve or cause to be served on the owner a written notice containing a description of the portion of the driveway deemed unsafe or in violation of the Ordinance, a statement of the particulars in which the driveway is unsafe or in violation of the Ordinance, and an order requiring the same to be made safe, brought into conformity with the Ordinance or removed, as may be deemed necessary by the Township. If the person to whom such notice or order is addressed cannot be found after diligent search, then such notice or order shall be sent by certified mail to the last known address of such person; and a copy of such notice shall be posted in a conspicuous place on the premises to which it relates. Such mailing and posting shall be deemed adequate service. Said notice shall require the owner or occupier of said land to commence the repair or removal, as the case may be, within ten days of such notice and to complete the repair or removal within thirty days thereof. The "Application Procedures" of Section 5 shall apply.
2. If the person served with a notice and order to remove or repair an unsafe driveway or portion thereof shall fail to comply with the notice or with the time limits contained therein, the Township shall have the right to proceed to either remove or repair the driveway as the case may be. The Township shall collect the cost of any removal or repair together with a penalty of ten per cent (10%) of such cost, and may file a municipal claim therefore or by an action in assumpsit or may seek relief by a bill in equity.
3. In case there shall be in the opinion of the appropriate Township official, actual immediate danger to users of the affected Township roadway, the Township may purchase such material and employ such labor and cause the necessary work to be done through rendering the driveway or portion thereof temporarily safe, without the necessity of resorting to the procedure as to notice prescribed herein. The Township shall collect the cost of any removal or repair together with a penalty of ten per cent (10%) of such cost, and may file a municipal claim therefore or by an action in assumpsit or may seek relief by a bill in equity.

SECTION 7: REQUIREMENTS FOR EXCAVATIONS AND OTHER WORK AND CONSTRUCTION IN PUBLIC ROADS

Design, construction and restoration shall conform to the requirements of this Ordinance, PENNDOT Chapter 459 and specifications as may be adopted by the Township from time to time.

A. Permit application.

1. Any person desiring to open, excavate, or bore in or under any public road in the Township, shall file an application with the Township a minimum of five working

days prior to the start date on forms provided by the Township. Such application shall contain the following information:

- (a) The name and address of applicant.
- (b) The exact location of the proposed opening, excavation, or boring.
- (c) The approximate size and depth of the proposed opening, excavation, or boring.
- (d) The proposed dates and times of commencing and completing the work.
- (e) The method and progression for performing the work.
- (f) The purpose of the proposed opening, excavation, or boring.
- (g) Such other information as the Township may deem pertinent.

2. Such application shall contain a statement, which shall be subscribed to by the applicant, to the effect that the applicant will comply with all relevant ordinances of the Township (including this Ordinance) and laws of the Commonwealth of Pennsylvania and that the applicant will defend, protect and save harmless the Township and its officers, agents, and employees from all loss and liability in accordance with the provisions of this Ordinance.

B. Issuance of permit. Upon being satisfied that the application is in proper form and upon receipt from the applicant of the fee prescribed by this Ordinance, the performance bond prescribed by this Ordinance and the certificates of insurance prescribed by this Ordinance, the Township shall issue a permit.

1. A permit shall apply only to the specific work described in the application, shall expire on the date and time when the work is proposed to be completed, but no later than nine months from the issuance date, and may contain such conditions or limitations as the Township deems necessary for the protection of persons and property.
2. Prior to expiration, the permittee shall notify the township in writing if unable to complete the work before the date specified, and request an extension of time. Such request shall be on the subscribed application form and accompanied by a supplement fee. Each extension shall not exceed a six-month time period.
3. Prior to an expiration date, a permittee may return a permit with written notice that the proposed work will not be carried forward. Collected fees for inspection of the work will be refunded by the Township within thirty days.

C. Emergency situations. In the case of any leak, explosion or other accident in any subsurface pipe, line, conduit, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, conduit, construction or apparatus to commence an opening or excavation to remedy such condition before securing

a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this Ordinance are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, conduit, construction or apparatus, the Township, after such notice, or attempt of notice, as it shall deem necessary under the circumstances of the particular case, may proceed to have the work necessary and required by such emergency performed and charge the cost thereof to such owner or person.

D. Open lane of travel. No opening, excavation or construction in any public road shall extend from the right-of-way line into the road past the centerline, before being restored to a condition safe and convenient for travel.

E. Allowable limits of excavation. No more than five hundred (500) feet longitudinally shall be opened in any street at any one time, except in the case of the installation of gas or water lines by public or private bodies, or of sanitary or storm sewers by the Township or a duly constituted Township municipal authority. No more than one hundred (100) feet longitudinally shall remain open at the end of the workday.

F. Special conditions for subsurface operations.

1. Drilling, boring, driving or tunneling across improved area.

(a) When crossing under any improved area, the opening for a utility facility shall be drilled, bored or driven on a horizontal plane at a minimum depth of three (3) feet below the surface of the highway and its swale ditches.

(i) The facility may be placed otherwise by tunneling when specified in the permit. When tunneling, after the facility is placed, the hole shall be backfilled with one-to-three-to six concrete of dry consistency and tamped.

(ii) Wet boring is prohibited.

2. No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling shall be made closer than three (3) feet to the edge of the cartway unless the permit authorizes less clearance. Trenches placed parallel with the road shall be dug so that the near edge of the trench is at least three (3) feet outside of the edge of the cartway with a minimum depth of three (3) feet below the surface of the road. In the case of unpaved road, the trench shall be placed so its near edge of the trench is at least fifteen (15) feet from the centerline of the traveled road. The Township shall determine the centerline.

3. Facilities and other structures crossing under the improved area shall be constructed so as 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.

G. Trenching across improved area.

1. No trenching shall be permitted across the improved area unless authorized

by the permit.

2. Trenching across the improved area may be authorized by the permit where drilling, boring, driving or tunneling are not feasible because:

(a) The subsurface is solid rock.

(b) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.

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

3. When trenching is specified in the permit, the trenching operation shall be performed by one of the following two (2) methods:

(a) Utility facility placed in one (1) piece across highway.

(i) Traffic shall be routed over one-half (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 (relating to special conditions for subsurface operations).

(vii) Traffic shall be shifted to the restored half of the pavement.

(viii) The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with the standards established by the Township.

b. Utility facility placed in more than one (1) piece across highway.

(i) Traffic shall be routed over one-half (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 (relating to special conditions for subsurface operations).

(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 the trench backfilled and restored in accordance with the standards established by the Township.

H. Open trenches. If work is stopped on any road project, and any ditch or trench remains open for an unreasonable period, in the opinion of the Township, the owner and/or contractor, if so directed, shall refill the ditch or trench and work shall not be resumed until such time as the owner and/or contractor is ready to proceed. In the event that the owner and/or contractor fail to fill in the ditch or trench upon notification by the Township, the Township may perform the necessary and required work and charge the cost thereof to the owner.

I. Consent of abutting owners. The owner and/or contractor is not relieved from

obtaining consent required from the owners or abutting properties and does not have the right to remove or destroy trees or shrubbery within the legal limits of the highway except under such conditions as the Township may prescribe.

J. Temporary surface. On improved public roads, in some instances the permittee will be required, or permitted, not to make permanent repairs immediately, in which case the technical standards for restoration provided by the Township shall apply.

K. Non-disturbance of utility connections. The work of excavation shall be so conducted so as not to interfere with the water mains, gas lines, sewers or their connections with the houses or any other sub-surface pipes or structures until permission of the owners of such lines or structures shall have been obtained. The contractor is responsible for locating and protecting underground utilities and coordination with respective utility company.

L. Township may correct work, in the event that any work performed by the owner and/or contractor, shall, in the opinion of the Township, be unsatisfactory and the same shall not be corrected in accordance with these instructions within the time so fixed, or in the event that the work for which the permit was granted is not completed within the time fixed by the Township, the Township may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof to the owner.

M. Permits non-transferable. Permits may not be transferred without the approval of the Township.

N. Damages to public road. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route or used at the work site.

O. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 213.

1. The Permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the district office. A traffic control plan shall be submitted to and approved by the Township Engineer before detouring any traffic.
2. Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
3. Designated employees shall be assigned by the Permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with current Pennsylvania Department of Transportation Publications.

P. PENNDOT requirements. When an excavation or other work is proposed in a state road, the owner shall comply with all PENNDOT requirements, including the requirement to obtain a permit from PENNDOT.

Q. Re-inspections. The Township may re-inspect the work not more than two years after its completion, and if there is settlement of the connection, or any other defects appear in the work contrary to the conditions, restrictions and regulations of this Ordinance, the Township may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within forty-eight (48) hours or any other defect within sixty (60) days after written notice from the Board of Supervisors to do so, the Township may do the work and impose upon the owner the cost thereof, together with an additional ten (10%) percent of the costs, which maybe recovered by the Township.

R. Permittee responsibilities.

1. The Permittee shall pay all costs and expenses incident to or arising from the project, including the prescribed fees for same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration. The Permittee shall reimburse the Township for any and all inspection costs, which the Township may deem necessary to incur, within thirty (30) days after receipt of the Township's invoice.
2. The Permittee shall provide 24-hour notification to police, fire, school bus, etc. of road closings or traffic interruption. The permittee shall provide notification to PA One Call as provided by law.
3. If work is stopped on a project for any reason, other than at the end of any normal workday, and any ditch or trench remains open for an unreasonable period, in the opinion of the Township, the Permittee, if so directed, shall refill the ditch or trench and work shall not be resumed until the Permittee is prepared to proceed immediately with the work to its completion. In the event the Permittee 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 and shall be reimbursed for the costs by the Permittee within thirty (30) days after receipt of the Township's invoice.
4. If the Permittee, after making an opening in the surface to place or repair a facility or for any other purpose, fails to restore any portion of the right-of-way to conform to this section, upon notice from the Township to do so, the Township reserves the right to do the work and the Permittee shall reimburse the Township for the costs within thirty (30) days after receipt of the Township's invoice.
5. The permittee is responsible for all temporary and permanent restoration.
 - (a) The permittee shall restore all disturbed portions of the roadway, including

slopes, appurtenances, and earthen areas, to a condition at least equal to that which existed before the start of any work authorized by the permit. The Township shall establish standards for paving, backfilling, and associated work which can be obtained from the Township prior to excavation.

(b) Prior to opening more than 500 linear feet of road surface or shoulder, or both, the permittee shall provide dated photodocumentation verifying the preconstruction condition of the public road. However, it is recommended that dated photodocumentation is submitted for all highway occupancy permits involving surface opening to avoid responsibility for preexisting highway conditions.

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

S. Altering vegetation is generally prohibited. However the permittee may request an exception to this provision. (example: necessary tree removal)

T. Altering drainage prohibited.

1. Unless specifically authorized by the permit, the Permittee shall not:

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

(b) Direct the additional drainage of surface water toward, onto or into or in any way affect the highway right-of-way or highway facilities.

2. The permit does not authorize the Permittee to direct, divert or otherwise drain surface waters over the property of any other property owner.

(a) The permit does not in any way relieve the Permittee from acquiring the consent, permission or other authorization from any property owner that the Township determines may be adversely affected by drainage alterations.

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

U. Equipment damaging roadway.

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

2. In the event that other than rubber-equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four (4) inches, unless the permit requires the Permittee to repave the

roadway full width.

3. If the equipment damages the pavement or shoulders, the Permittee shall restore the pavement or shoulders to their former condition at the Permittee's expense.

V. Indemnification. The Permittee shall fully indemnify and save harmless and defend the Township of and from all liability for damages or injury occurring to any person or persons or property 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 work by, at the instance or with the approval or consent of the Permittee; from any failure of the Permittee or any such person to comply with the permit or these regulations; and, for a period of two (2) years after completion of the permitted work, from the failure of the highway in the immediate area of the work performed under the permit where there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work.

W. Insurance. The Permittee shall, upon request, submit to the Township office a certificate or certificates of insurance for public liability and property damage, in form and amount satisfactory to the Township, 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 structures or facilities.

X. Maintenance of disturbed area; bonding requirements. The applicant shall maintain the portion of the street disturbed by the opening or excavation for a period of two (2) years from the date the backfilling is completed at a proper grade and condition free from ridges and depressions. Such maintenance work shall be done as often as may be necessary. To guarantee proper restoration of the surface and proper maintenance of the disturbed area, the applicant must deposit with the Township, prior to issuance of the permit, an approved form of security in the favor of the Township in an amount set annually by Township Resolution. The following types of security are acceptable:

- 1.) Bond with corporate surety
- 2.) Certified Check
- 3.) Cashier's Check

Utilities and other persons who open or excavate in streets on a regular basis may, with the permission of the Township, keep on deposit a single security in an amount set by the Township and applying to the work included in all of the permits at any time outstanding.

Y. Notification and correction of defects; failure to correct. If, within a period of two (2) years from the date the backfilling is completed, the Township determines that the backfilling, surface restoration or maintenance of the disturbed area is defective, it shall notify the applicant, in writing, to that effect. Promptly upon receipt

of such written notice the applicant shall take immediate steps to correct such defects. If the applicant fails to take immediate corrective action, the Township may perform the work itself or cause the same to be performed by another person. The applicant and the surety on its bond shall be liable for all costs and expenses incurred by the Township in correcting such defects and for any penalty assessed as a result of the applicant's failure to take immediate corrective action.

Z. Blasting. No pre-drilling or blasting shall be permitted within the right-of-way unless authorized by the permit.

1. If the Permittee proposes to blast, the Permittee shall make, execute and deliver a bond to the Township in an amount determined by the Township with surety by a company duly registered and authorized to do business in the Commonwealth, conditioned that the Commonwealth will be saved harmless from any damages whatsoever to the improved area for a period of two (2) years from the date of the completion of the last work covered by the permit.
2. When blasting is anticipated within one hundred (100) feet of any bridge, box or culvert, a detailed plan of excavating, shoring, blasting and backfilling procedures shall be submitted, with the application, to the Township Office for review and approval.
3. No blasting shall be permitted if within twenty-five (25) feet of the nearest part of a bridge, box or culvert.
4. Only controlled blasting, as specified in Section 203.3 (d), PENNDOT Form 408, shall be permitted within the improved area.

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

BB. Damaged structure or facility to be repaired. If at any time the structure or facility shall become damaged from any cause whatsoever, the Permittee shall have it removed, repaired or otherwise made safe immediately upon notification from the Township.

CC. Approval by inspector. Approval by the Township's inspector of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval by the inspector act as a release of the Permittee or waiver by the Township of its right to seek performance or restitution from the Permittee.

DD. When plates or bridging required. Except for emergency repairs of utility facilities, work shall be stopped prior to peak traffic hours that exist on a particular highway on a particular day. Steel plates or bridging shall be placed over all openings made within the improved area, which are less than six (6) feet in either

length or width when work is stopped. The plates or bridging shall be extended a minimum of eighteen (18) inches from each edge of the opening and shall be secured in a safe manner.

EE. Disposition of materials.

1. The Permittee shall keep the improved area free of all material that may be deposited by vehicles traveling upon or entering onto the roadway during the performance of work authorized by the permit.
2. The Permittee shall be responsible for controlling dust conditions created by its own operations.
3. All excess material and material that is not suitable for backfill shall be removed and disposed of outside the right-of-way as the work progresses.
4. All retained suitable material shall be placed or stored on the side of the operation farthest from traffic, unless otherwise authorized by the permit, and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch or waterway.

FF. General rule. Permits will not be issued to install aboveground facilities at locations which the Township determines to have a high accident potential.

GG. Location of above ground facilities.

1. New poles, guys and other aboveground facilities shall be installed outside the shoulder of the public road as near the right-of-way as practicable.
2. Installation of poles, guys and other aboveground facilities in locations where highway curb exists shall be placed off the roadway but as close to curb as possible.

HH. Location of wires, cables or conductors. All wires, cables or conductors which overhang any portion of the right-of-way shall be placed so as to provide a minimum vertical clearance of eighteen (18) feet over the roadway except where the National Electrical Safety Code requires vertical clearances in excess of eighteen (18) feet due to voltage and/or span lengths.

II. Guys.

1. Guys shall be placed so as to avoid interference with vehicular or pedestrian traffic.
2. Guys shall be insulated or grounded in compliance with the National Electrical Safety Code.

JJ. Identification of poles. Each pole shall bear the name or initials of the facility owner and the pole number(s) assigned by the facility owner.

KK. Availability of records for examination. All permit records, restoration records

and emergency work records shall be made available for examination by the Township upon request.

SECTION 8: ADDITIONAL CONDITIONS

In granting permit, the municipality may attach such special conditions thereto as may be reasonably necessary to protect the health, safety, and welfare of the public and adjacent property. Any violation of the special permit conditions attached thereto shall be subject to the penalties set forth in Section 11 of this Ordinance.

SECTION 9: ADDITIONAL SPECIFICATIONS

From time to time, the Board of Supervisors may adopt, by ordinance such additional driveway and/or excavation specifications and requirements, and may supplement or modify the driveway and excavation specifications set forth in this Ordinance. Any violation of the additional requirements or specifications, modifications and supplements, as duly adopted, shall be subject to the penalties set forth in Section 11 of this Ordinance.

SECTION 10. INSPECTION

The Township shall be notified and afforded the opportunity to inspect all work for conformity with all of the ordinances of the Township. Twenty-four (24) hour notice must be given by the owner and/or contractor to the Township when the work is sufficiently advanced for inspection, and prior to backfilling. A township representative may be present for backfilling operations.

SECTION 11. PENALTIES

Any owner or contractor who violates any provision of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding pay a fine of not less than Three Hundred (\$300) nor more than One Thousand (\$1,000.00) Dollars plus all court costs including reasonable attorney's and consultant fees incurred by Wayne Township, and up to thirty (30) days in prison. Each day of violation shall constitute a separate offense and be subject to the penalty set forth herein.

SECTION 12: SEVERABILITY

If any sentence, clause, phrase or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, phrases, sections or parts of this Ordinance.

It is hereby declared as the intention of the Board of Supervisors of this Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, phrase, section or part thereof not been included therein.

SECTION 13: REPEALER

Any other Ordinance or parts thereof inconsistent with this Ordinance be and are hereby expressly repealed.

SECTION 14: EFFECTIVE DATE

This Ordinance shall become effective as provided by law.

ENACTED AND ORDAINED this ____ day of _____, 2009 .

WAYNE TOWNSHIP BOARD OF SUPERVISORS

ATTEST:

Secretary

Date