

TOWNSHIP OF EDEN
Lancaster County, Pennsylvania

ORDINANCE NO. 2024-03

**AN ORDINANCE OF THE TOWNSHIP OF EDEN,
LANCASTER COUNTY, PENNSYLVANIA, REQUIRING A
PERMIT FOR THE OPENING AND EXCAVATION OF
TOWNSHIP STREETS.**

BE AND IT IS HEREBY ORDAINED AND ENACTED by the Board of Supervisors of the Township of Eden, Lancaster County, Pennsylvania, as follows:

SECTION 1. LEGISLATIVE AUTHORITY; PURPOSE.

- A. The Township is empowered to regulate these activities by the authority of Section 2322 of the Second Class Township Code, 53 P.S. § 67322.
- B. It is in the public interest to regulate the location and construction of utility facilities, other structures, and excavations and openings within the Township street right-of-way for the purpose of ensuring the structural integrity of the street, economy of maintenance, preservation of proper drainage and safe and convenient passage of traffic.

SECTION 2. DEFINITIONS AND INTERPRETATION.

- A. Definitions. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section:

ACKNOWLEDGEMENT OF COMPLETION — The date on which the Township records that permitted work appears to be completed under the permit and this Ordinance.

APPLICANT — Any person who submits an application for a permit. For the purposes of this Ordinance, any public utility company or municipal authority required to obtain a permit shall be considered the applicant. An application shall not be submitted in the name of contractors of the public utility company or municipal authority.

BACKFILL — Material used to replace or the act of replacing material removed during construction.

BOARD OF SUPERVISORS — The Board of Supervisors of Eden Township.

CALENDAR YEAR — January 1 through December 31, inclusive.

CLEAR ZONE — The portion of right-of-way beyond the pavement edge within which, under PennDOT Design Manual, no new obstructions may be located.

CODE ENFORCEMENT OFFICER — The person designated by the Board of Supervisors to administer this Ordinance

CONCRETE — Soil cement, plain cement concrete or reinforced cement concrete.

COST — Actual expenditures incurred by the Township for labor, equipment and materials, including, without limitation, all fringe benefits and overhead.

EMERGENCY — An unforeseen circumstance which calls for immediate action to protect or safeguard life or property or for the restoration or continuance of a public utility or other public service.

EXCAVATION — Any activity within the right-of-way of any street which involves cutting, breaking, crossing (either laterally or longitudinally), drilling, grading, digging, or disturbing the earth or other material making up the surface or subsurface of any street. In this Ordinance, the term “opening” shall have the same meaning as excavation.

IMPROVED AREA — The area within the right-of-way which has been constructed for street purposes, including roadbed, pavement, shoulders, slope, sidewalks, drainage facilities and other appurtenances.

MUNICIPAL AUTHORITY — Any municipal authority created, in whole or in part, by the Board of Supervisors under the Municipality Authorities Act (53 Pa. C.S. § 5601 *et seq.*) to administer a revenue-producing public enterprise.

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.

PENNDOT — The Pennsylvania Department of Transportation or any agency successor thereto.

PERMITTEE — Any applicant who has been issued a permit and who shall have, by acceptance thereof, agreed to fulfill all provisions of this Ordinance.

PERSON — Any natural person, partnership, firm, association, corporation, municipal authority or similar entity.

PUBLICATION 213 — PennDOT Publication 213, Temporary Traffic Control Guidelines.

PUBLICATION 408 — PennDOT Publication 408, Specifications.

PUBLIC UTILITY — Any utility company, excluding municipal authorities, licensed by the Public Utility Commission of the Commonwealth of Pennsylvania.

SECOND CLASS TOWNSHIP CODE — The Act of May 1, 1933 P.L. 103, No. 69, as reenacted and amended by the Act of November 9, 1995, P.L. 350, No. 60, as amended.

SELECT GRANULAR MATERIAL or 2 RC — A material meeting specifications in Section 703.3 of Publication 408.

SIDEWALK AREA — That portion of the street right-of-way reserved for sidewalks.

STREET — A public street, public easement, right-of-way, public highway, public alley, public way or public road accepted or maintained by the Township, or open for travel and use by the public whether or not so accepted or maintained, , excluding the designated curb and sidewalk areas.

SUITABLE MATERIAL — Soil, granular material or shale meeting specifications in Section 206.2 of Publication 408.

TOWNSHIP — The Township of Eden, Lancaster County, Pennsylvania, or any individual authorized by the Board of Supervisors to act on behalf of the Township.

B. Interpretation. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. Words used or defined in one tense or form shall include other tenses or derivate forms.
2. Words in the singular number shall include the plural number, and words in the plural number shall include the singular number.
3. The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.
4. The words “shall,” “must” and “will” are mandatory in nature and establish an obligation or duty to comply with the particular provision. The words “may” and “should” are permissive.
5. The time within which any act required by this Ordinance is to be performed shall be computed by excluding the first day and including the last day. However, if the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the Pennsylvania General Assembly, it shall also be excluded. The word “day” shall mean a calendar day, unless otherwise indicated.
6. References to officially adopted regulations, standards, or publications of other governmental agencies shall include the regulation, publication, or standard in effect on the date when a permit application is first filed. It is the intent of the

Township in enacting this Ordinance to incorporate such changes to statutes, regulations, and publications to the extent authorized by 1 Pa. C.S. §1937.

SECTION 3. PERMIT REQUIRED.

A. General Requirements:

1. The opening of the surface of any Township Street is prohibited unless a permit is obtained for that purpose in the manner hereinafter described. Such a permit shall be granted by the Code Enforcement Officer, when the person applying for such permit files an application with the Township in compliance with the provisions of this Ordinance.
2. Any person working in the right-of-way of a street who in any manner disturbs such street or who in any manner causes damage to a street shall be required by this Ordinance to obtain a permit and to correct such damage in accordance with the standards of the Township.
3. A permit application is not required for modifying parts of existing permitted facilities if no surface excavation is required, such as cable within an existing conduit, cross arms or transformers on poles, or accessing an existing utility facility through a manhole.
4. Public utilities shall obtain permits for street openings and excavations to be performed by their own crews, forces, or contractors.
5. The obtaining of street excavation permits by Township departments shall not be required when work is to be performed by Township personnel. All contractors performing work under contract for the Township or any municipal authority shall obtain the street opening permit for street openings.
6. Nothing contained herein shall be construed to authorize the issuing of a permit for the making of a tunnel under any street. Tunneling shall only be permitted after successful petition to Board of Supervisors.
7. No street opening shall be performed, except in the case of emergency, between November 15 and March 15.

B. Emergency Openings.

1. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an excavation without first obtaining a permit when emergency circumstances demand the work to be done completely, provided the permit could not be reasonably and practically have been obtained beforehand. In all cases where emergency excavations are necessary, the Code Enforcement Officer shall be notified prior to such excavation.

2. A person performing street openings for an emergency must certify the nature of the emergency or circumstance, in writing, to the Code Enforcement Officer within five business days after such emergency.
3. In the event that street openings are necessitated by emergencies, permits shall be obtained, and fees paid, within five (5) business days after completion of the work, and said permit shall be retroactive to the date when the work began.

C. Reconstruction or Resurfacing.

1. When the Township shall propose to reconstruct or resurface any street, the Code Enforcement Officer or Roadmaster may serve written notice by certified mail of such improvements to all persons owning property abutting the road about to be improved and to all public utility companies and municipal authorities operating in the Township. Within ninety (90) calendar days from receipt of such notice, all notified persons shall complete or cause to be completed all necessary repairs and replacement of utility mains, service under the street and designated curb and sidewalk areas.
2. Notified persons shall also complete any new installations under the street and designated curb and sidewalk areas required for use within a five (5) year period thereafter. All repairs, replacements and new installations shall be in first-class condition so that the same cannot reasonably be expected to require repairs or renewal within a period of at least five (5) years thereafter.
3. Upon failure of any notified person or persons to comply with the notice to place the same in first-class condition as herein provided, the Township shall cause existing utility mains, service connections and/or laterals to be placed in first-class condition as aforesaid or to be entirely removed if not used or necessary for public convenience, whereupon the Township shall be entitled to collect the cost of such renewals, repairs, removal or other work from the aforesaid responsible person or person, either by invoicing the person or persons, or, in case of water or sewer house connections, by filing municipal liens therefore against the abutting properties benefited by such connections.
4. This section shall not forbid the installation by tunneling, after successful petition to the Board of Supervisors, of new underground facilities, or the repair, replacement, or removal of already existing in or under the portions of such streets improved, in accordance with applicable rules and regulation, upon obtaining a permit and submitting payments to the Township of the same fees as prescribed by the provisions of this article for making a surface opening in the street.

SECTION 4. PERMIT APPLICATION PROCEDURE.

A. Required Application Information. A permit application:

1. Shall be submitted to the Code Enforcement Officer in person or by mail on a properly completed form prescribed by the Township at least ten (10) business days prior to the start of work for making all street openings or excavations
2. Shall set forth all information required by the Township including, but not limited to: the names, addresses and contact information for the owner and contractor performing the work; the purpose for which such excavation is to be made; the probable length, width, and depth, and location of the same; the full scope of work to be included in the project; a sketch of the proposed opening site; the date such excavation is to be refilled and resurfaced in the manner hereinafter provided; and shall provide that the applicant will faithfully comply with each and every provision contained in this Ordinance.
3. Shall be signed by the applicant. Where the permit is required for water or sewer, the application shall be signed by an authorized representative of the utility furnishing the water or sewer service.
4. An applicant shall furnish an engineered drawing of the proposed opening site only upon request of the enforcement officer. Items required on the drawing shall be specified at the time of the request.
5. The Township Code Enforcement Officer will forward the application to the Township Engineer and Township Road Master for review and comment.

B. Permit Fees. A permit application shall be accompanied by the following fees, payable to the Township:

1. Permit Application Fee. Application fees are charged to defray cost incurred by the Township in reviewing and processing the application and plans, including the preliminary review of the site location identified in the application, whether or not a permit is issued and processed. The application fee shall be in accordance with PennDOT regulations as required by Section 2322 of the Second Class Township Code.
2. Inspection Fee. General inspection fees are 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. The inspection fee shall be calculated in accordance with PennDOT regulations as required by Section 2322 of the Second Class Township Code. The area computed for the inspection fee shall be based on the actual size of the excavation, including any pavement that must be removed to enable an overlap of surface course on the existing base course.

3. Degradation Fee. Degradation fees are charged to defray a percentage of the costs for resurfacing and/or reconstruction of Township streets resulting from the depreciation of streets associated with street excavations. The degradation fee shall be set by resolution by the Board of Supervisors.
- C. Indemnification; Hold Harmless. As a condition of the permit, the Permittee shall fully indemnify and hold 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 of this Ordinance. The acceptance of any permit under this article shall constitute such an agreement by the applicant whether the same is expressed or not.
- D. Certificate of Insurance. An application shall be accompanied by a certificate of insurance issued by an insurer having a certificate of authority and a licensed agent authorized to transact the business in insurance in this Commonwealth.
1. Coverage Requirements.
 - a. Permittee shall be insured against claims for personal injury, as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance is by the Permittee or anyone directly or indirectly employed by, or contracted by the Permittee. Such insurance shall include protection against liability arising from completed operations, underground utility damage and collapse of any property. If blasting is authorized by the permit, the insurance coverage shall include property damage and personal injury occasioned by blasting.
 - b. Liability insurance for personal injury or death shall be in the amount not less than \$1,000,000 for each person, and \$1,000,000 for each occurrence, and for property damage in an amount not less than \$300,000.
 2. Additional Insured. Such insurance shall also provide hold harmless coverage in accordance with Section 4(C) above, and shall designate the Township and its elected and appointed officials, officers, employees and agents as additional insureds.
 3. Separate Obligations. The Permittee's obligations to indemnify the Township and obtain insurance to secure indemnification under Section 4(C) above, and obligation to obtain a bond under Section 5(A), are separate obligations from obtaining insurance for the purposes required by this Section 4(D). Obtaining insurance under this Subsection does not relieve the Permittee of its obligations under Section 4(C) and Section 5(A).

SECTION 5. BOND REQUIREMENTS.

- A. Performance Bond. To guarantee proper restoration of the surface and proper maintenance of the disturbed area, the applicant shall provide, prior to the issuance of the permit, a bond in an amount set forth by the Township, which shall not be less than \$2,000. The bond shall be with corporate surety guaranteeing the proper performance of the work and the proper maintenance of the disturbed area for twenty-four (24) months after the date the backfilling is completed at proper grade and in a condition free from ridges and depressions. 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 bond in the amount set by the Township and applying to the work included in all permits at any time outstanding.
- B. Default in Performance. Whenever the Township shall find that a default has occurred in the performance of any term or condition of the permit, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall state the work to be done, the estimated cost thereof, and the period of time deemed by the Township to be reasonably necessary for the completion of such work.
- C. Completion of Work. After receipt of such notice, the surety must, within the time therein specified, either cause the required work to be performed or, failing therein, indemnify the Township for the cost of doing the work as set forth in the notice.

SECTION 6. PERMIT ISSUANCE AND CONDITIONS.

- A. Permit Issuance.
 - 1. Upon approval of an application submitted under this Ordinance, a permit will be issued by the Township, 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.
 - 2. A copy of the permit and relevant plans shall be available at the work site for review.
 - 3. No permit shall be granted to any applicant unless the applicant shall have paid any and all fees owed to the Township for prior excavations made, or for any loss, damage, or expenses in any manner occasioned by, or arising from the excavation of streets of the Township under prior permits.
- B. Permit Limitations.
 - 1. No Permittee shall permit any of the work authorized by such permit in any amount greater than that specified in the permit, except as provided in Subsection 6(B)(2) below.
 - 2. Where the Permittee desires to perform additional work not in excess of an amount greater than ten percent (10%) of the amount specified in the permit, the Permittee may apply to the Township for an amended permit for the additional work. If the

additional work desired to be performed exceeds ten percent (10%) of the amount specified in the original permit, an application for a new permit shall be made. Any deposit or bond posted in connection with the original permit shall be deemed to cover any such additional work as may be added pursuant to the issuance of an amended permit within the limit specified herein.

- C. Rights of Township. Every permit shall be granted subject to the right of the Township or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used not inconsistent with the permit.

- D. General Conditions. The permit is binding upon the Permittee, its agents, contractors, successors and assigns.
 - 1. The Permittee is responsible for causing compliance with the terms and conditions of the permit by its employees, agents and contractors.
 - 2. The permit shall be located at the work site and be available for inspection by representatives of the Township.
 - 3. 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.
 - 4. 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.
 - 5. The work authorized under the permit shall also be subject to all other applicable specifications, rules, laws, and regulations of the United States and the Commonwealth of Pennsylvania and all other applicable Township ordinances.
 - 6. The work authorized under the permit shall be done at such time and in such manner as to be consistent with the safety of the public and shall conform to all requirements and standards of the Township.

- E. Other Conditions. In granting any permit, the Township may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property. The conditions may include, but are not limited to, the following:
 - 1. Limitations on the period of year in which the work may be performed;
 - 2. Restrictions as to the size, weight, and type of equipment;
 - 3. Designation of routes upon which materials may be transported;

4. Designation of the place and manner of disposal of excavated materials;
5. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise, and other results offensive or injurious to the neighborhood, the general public, or any portion thereof; and
6. Regulations as to the use of streets in the course of work.

F. Permits not Transferable.

1. Permits are not transferable from one person to another.
2. 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 in writing. If a permit is assigned or transferred without first obtaining approval from the Township, the assignment or transfer is 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.
3. The work shall not be performed in any place other than the location specifically designated in the permit.

G. Commencement of Work.

1. Work for which a permit has been issued shall commence within sixty (60) days after the issuance of the permit.
2. If work has not commenced within sixty (60) days after issuance of the permit, the permit shall be terminated automatically unless the Permittee applies for an extension of time within which to commence work. If such an extension is granted, the original permit shall remain in force for the period of time specified in the extension.
3. Permits which terminate by reason of failure to commence work within thirty (30) days after issuance or within any time extension granted under Subsection 7(A)(2) may be renewed only upon the payment of an additional permit fee as originally required.
4. Permits shall be issued for a period not to exceed one (1) year.
5. Any application to renew an expired permit shall be treated as a new application, including the payment of a new permit fee.

SECTION 7. EXPIRATION AND REVOCATION OF PERMITS.

A. Expiration of Permits.

1. Expiration. Every permit shall expire at the end of the period of time which shall be set out in the permit.
2. Time Extensions. If the Permittee shall be unable to complete the work within the specified time, the Permittee shall, prior to expiration of the permit, present, in writing, to the Township a request for an extension of time.
 - a. The request for extension shall set forth the reasons for the requested extension, and the additional length of time required to finish the work.
 - b. The request for extension shall be accompanied by a fee established by the Township, which shall defray the costs of reviewing and processing the request.
 - c. If the Township finds that the failure to complete the work under the permit within the time specified therein was due to circumstances reasonably beyond the control of the Permittee and that an extension of time to complete the work under the permit is necessary and not contrary to the public interest, the Permittee may be granted additional time for completion of the work.
3. Cancellation of Remaining Work. In all cases where a permit has been issued and the work set forth in such permit has not been completed, the amount not completed shall be cancelled.
4. Refund of Degradation Fee. Upon cancellation, the degradation fee paid shall be recalculated on the basis of the work actually completed and the actual extent of excavation. All degradation fees paid in excess of this adjustment shall be refunded without interest by the Township, upon warrant properly drawn. The portion of the permit fee attributable to processing the permit application shall not be refunded upon permit cancellation.
5. Restoration of Pavement. Before the degradation fee is refunded, the Permittee shall remove all structures, equipment or property belonging to the Permittee or its contractors, or both, from the legal limits of the right-of-way and restore the right-of-way to its former condition, and shall restore the pavement in accordance with the requirements of this Ordinance.
6. Failure to Restore Pavement. If the Permittee does not restore the pavement in accordance with all requirements of this Ordinance, no refund shall be due and the Township shall have the right to make any necessary restoration and recover all costs from the Permittee. The Township shall invoice the Permittee for all costs by the Township in the performance of this work. Payment not made within thirty (30) days shall be collectable in the manner provided by law.

B. Revocation of Permits.

1. Grounds for Revocation. Any permit may be revoked by the Township, after notice to the Permittee, for:
 - a. Violation of any condition of the permit or of any provision of this Ordinance.
 - b. Violation of any other applicable provision of any other applicable ordinances or any law relating to the work.
 - c. Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the life or property of others.
2. Notice and Opportunity to Correct. A Permittee shall be granted a period of three (3) days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before the permit is revoked. Written notice of any such violation or condition shall be served upon the Permittee or the Permittee's agent engaged in the work. The notice shall contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery to the person to be notified or by certified or registered United States mail addressed to the person to be notified.
3. Restoration of Pavement. When any permit has been revoked, the Permittee shall remove all structures, equipment or property belonging to the Permittee or its contractors, or both, from the legal limits of the right-of-way and restore the right-of-way to its former condition.
4. Failure to Restore Pavement. When any permit has been revoked and the work authorized by the permit has not been completed, or the Permittee does not restore the pavement in accordance with all requirements of this Ordinance, the Township shall have the right to make any necessary restoration and recover all costs from the Permittee. The Township shall invoice the Permittee for all costs by the Township in the performance of this work. Payment not made within thirty (30) days shall be collectable in the manner provided by law.
5. No Refund. Upon revocation of a permit, no fees will be refunded to the Permittee.

SECTION 8. PERMITTEE RESPONSIBILITIES.

- A. Obligations of Permittee. The Permittee shall assume all responsibility for the excavation made by such party for refilling the same and for all damages that may arise by reason of the digging of such trenches or excavations.
- B. Payment of Fees and Costs. 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 thirty (30) days after receipt of the Township's invoice.

- C. Township Supervision. Whenever it is determined by the Code Enforcement Officer and/or Township Engineer that in the best interest of the Township it is necessary to assign additional street opening inspectors to supervise excavation, backfill or pavement restoration operations, such inspectors shall be paid by the Township at a rate to be fixed by the Township. The Township shall invoice the Permittee for all costs incurred by the Township necessitated by the assignment of additional inspectors.
- D. Notice to Engineer. The Permittee shall notify the Code Enforcement Officer at least three (3) business 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.
- E. Identification of Contractor. If backfill or restoration work will be performed for the Permittee by a contractor, the Permittee shall identify to the Code Enforcement Officer 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 and this Ordinance.
- F. 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 Publication 213.
- G. Work Completion Notification. When permitted work has been completed, the Permittee shall notify the Township in writing. Acknowledgement 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 the work was performed in accordance with the permit. Acknowledgement of completion by the inspector will not act as a release of the Permittee or waiver by the Township of the right to seek performance or restitution from the Permittee.

SECTION 9. TECHNICAL SPECIFICATIONS.

A. Safety Requirements.

1. All gutters must be left open so as not to obstruct the free passage of water, and the sidewalks and footways must be kept in a safe and passable condition.
2. All excavations shall have sufficient lights and barricades to identify them from all directions during the day and after dark.
3. If for safety purposes the Code Enforcement Officer or Roadmaster deems it necessary to install additional warning devices, i.e., lights, barricades or signs, the Permittee shall be notified of the decision and shall receive instructions on the

installation. If the Permittee fails to install such devices, the Township shall invoice the Permittee for rental and installation costs incurred from the date of installation until the date of removal. Payment not made by the Permittee within thirty (30) days of the invoice date shall be collectable in the manner provided by law.

4. In case of emergencies, the Township may install all additional warning devices deemed necessary by the Code Enforcement Officer or Road Master. The Township shall invoice the Permittee for rental and installation costs incurred from the date of installation until the Permittee installs the required warning devices.

B. Altering Drainage Prohibited.

1. Unless specifically authorized by the permit, the Permittee may not:
 - a. Alter the existing drainage pattern or the existing flow of drainage water.
 - b. Direct additional drainage of surface water toward, onto, or into or in any way affect the street right-of-way or street facilities.
2. The permit does not authorize the Permittee to direct, divert, or otherwise drain surface waters over the property of another property owner.
 - a. 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.
 - b. The Permittee is responsible for damage caused to property owners as a result of work done under the permit.
3. A permit will not be issued to authorize the discharge of water into the right-of-way unless the water is surface drainage.

C. Protection of Street. A street shall be protected in accordance with the following:

1. 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.
2. 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.
3. 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 directed by the Township.

D. Blasting. Blasting requirements include the following:

1. No predrilling or blasting may be performed within the right-of-way unless authorized by the permit.
2. The blaster's license number shall be furnished upon request.
3. No blasting will be performed within fifty (50) feet of the nearest part of a bridge, box or culvert.
4. The Permittee's obligation for restoration of the street under this Ordinance shall include failure of the street occasioned by blasting.

E. 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 excavation for a utility facility shall be drilled, bored, driven or tunneled a minimum depth of three (3) feet from the surface to the top of the excavation.
2. No excavations 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 three (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 affect future maintenance or replacement.

F. Trenching Across the Improved Area.

1. The top of every utility facility shall be installed at least three (3) feet beneath the surface.
2. Trenching across the improved area may be authorized by the permit where drilling, boring, and 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 within 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 (1) or more of the following:
 - i. The street is unpaved.
 - ii. The Township's wearing course is older than ten (10) years.
- 3. When trenching is authorized by the permit, the trenching operation shall be performed by one of the following methods:
 - a. Utility facility placed in one (1) piece across street.
 - i. Traffic shall be routed over 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 Ordinance.
 - 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 this Ordinance.
 - b. Utility facility placed in more than one (1) piece across street.
 - i. Traffic shall be routed over 1/2 of the pavement width.
 - ii. The closed half of the pavement shall be opened to the required depth and the facility placed and the trench backfilled and restored in accordance with this Ordinance.
 - 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 provisions of this Ordinance.

4. No more than two hundred fifty (250) feet, measured longitudinally, shall be opened or excavated in any street at any one time, except by special permission of the Township. At the end of the workday, all trenches shall be either backfilled or plated.
5. Pipe drains, pipe culverts, or other facilities encountered shall be protected by the Permittee.
6. Monuments of concrete, iron, or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey benchmark within the Township shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained, in writing, from the Township Engineer. Permission shall only be granted upon the condition that the Permittee shall pay all expenses incident to the proper replacement of the monument.
7. All utility facilities shall be exposed sufficiently or definite location determined ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
8. When any earth, gravel, or other excavated material is caused to flow, roll, or wash upon any street, the Permittee shall cause removal of same from the street within four (4) hours after deposit to permit safe flow of traffic. In the event the earth, gravel, or other excavated material so deposited is not removed as specified, the Township shall cause such removal, and the cost incurred shall be paid by the Permittee or deducted from his deposit.
9. Access to private driveways shall be coordinated with abutting property owners and shall be provided to said abutting property owners during working construction operations.
10. The Permittee shall protect its excavations to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
11. The permit may authorize the placement at depths less than three (3) feet of traffic signal detectors or other street facilities which are not capable of operating more than three (3) feet below the surface.

G. Excavations Parallel to the Street. Requirements for excavations parallel to the street are as follows:

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

3. No excavation may be made for more than two hundred (200) linear feet at one time, unless authorized by the permit.
 4. The Permittee shall protect its excavations to provide for the safety of traveling public, including motorists, bicyclists and pedestrians.
- H. Daily Stoppage of Work Requirements. At the end of each workday, an excavation in the right-of-way shall be one of the following:
1. Covered with steel plates or bridging over excavations which are less than six (6) feet in either length or width. The plates or bridging shall be extended a minimum of eighteen (18) inches from each edge of the excavation and shall be secured in a safe manner.
 2. 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 Publication 213 and an approved traffic control plan until the surface is restored to its former condition.
 3. Protected under Publication 213 and an approved traffic control plan, if the Permittee has delivered certificates of insurance under Section 4(D).
- I. Direct Burial Operations. Direct burial of a utility 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 shall comply with the following:
1. No direct burial operations will be permitted within the right-of-way, unless authorized by a permit.
 2. Direct burial operations will not be authorized in the pavement or paved shoulders.
 3. Direct burial operations in unpaved shoulders are not allowed from December through March, inclusive, or at other times when there is frost in the top three (3) feet beneath the surface.
 4. No direct burial is authorized within three (3) feet from the edge of pavement. A greater distance shall be attained wherever possible.
 5. The excavation shall be a minimum depth of three (3) feet. If this depth cannot be consistently maintained, the proper depth shall be achieved by trenching.
 6. The utility facility shall be installed under any structures which are less than three (3) feet deep. Disturbed structures shall be repaired or replaced by the Permittee.
 7. The disturbed area shall be restored in conjunction with the direct burial operation. Heaved surface shall be scarified to a depth of at least four (4) inches, extending at least one (1) foot on either side of the heaved area for the entire length of the heaved area. The disturbed area shall then be graded, backfilled where necessary, and

compacted until the disturbed area is restored to a condition at least equal to that which existed before the direct burial operation. Disturbed shoulders shall also be restored under Section 10(L).

J. Backfilling and Restoration. An excavation shall be backfilled by the Permittee in accordance with the following:

1. Fine Aggregate. The excavation 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 one (1) foot over the top of the facility, if the material is compacted in not more than four (4) inch loose layers or as authorized under Publication 408.
2. Underground Facility Marking. To help protect its facility from future excavations, the Permittee shall place a permanent colored ribbon at least one (1) foot above its facility. If the facility is nonmetallic, the Permittee shall place a metallic ribbon at a depth from which the ribbon can be sensed by typical metal-locating equipment.
3. Backfill Materials. The excavation shall then be backfilled with select granular material, unless retained suitable material, as defined in Section 2(A), is authorized or other coarse aggregate material meeting the requirements of Section 703.2 of Publication 408 is specified in the permit. Select granular material or other aggregate material will be required for use as backfill of excavations in pavements, paved shoulders and improved shoulders as well as unimproved shoulders within three (3) feet of the edge of the pavement. Retained suitable material will normally be authorized for use as backfill of excavations outside shoulders and in unimproved shoulders more than three (3) feet outside the edge of the pavement and up to within three (3) feet of the surface.
4. Backfill Compaction. Backfill shall be compacted as follows:
 - a. General Rule. Except as provided in Subsection 9(J)(4)(b) below, backfill material shall be placed in loose layers not to exceed eight (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.
 - b. Compaction Outside Pavement and Shoulders. At least fifteen (15) days prior to the start of work, the applicant may submit its written compaction plan to the Township requesting backfill in an excavation outside the pavement and shoulder to be placed in layers thicker than eight (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 two (2) years after the acknowledged completion of the permitted work and to promptly correct failure of subsidence of the street.

- c. Existing Pavement Elevation. Compaction shall be completed to the bottom elevation of the existing pavement.
 - 5. Test holes shall be backfilled, as soon as safely possible, with existing type material and other material authorized by the Township and sealed under Section 9(P) Township may authorize test holes in the pavement or shoulder to be restored within a one (1) foot cutback of the surrounding surface.
 - 6. The Township shall be notified by the Permittee, during the forty-eight (48) hour period preceding beginning of backfilling, of the date and approximate time at which backfilling will begin.
- K. Pavement Restoration. Base and surface pavement restoration shall be performed under this subsection and as specified in the permit.
- 1. Prior to replacement of the base course, one (1) foot outside of each edge of the excavation 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 excavation methods such as cutting may be authorized if the methods result in the opened pavement having a neat, straight, vertical line.
 - 2. Exposed vertical and horizontal surfaces shall be prepared under Section 401.3(f) of Publication 408.
 - 3. The pavement specifications shall be in accordance with the Eden Township Subdivision and Land Development Ordinance.
 - 4. If the Township finds that paving surfaces adjacent to the street excavations may be damaged where trenches are made parallel to the street, or where a number of cross trenches are laid in proximity to one another, or where the equipment used may cause such damage, the Township shall, if the total linear length of the trench repair exceeds one hundred (100) linear feet or exceeds twenty-five percent (25%) of the length of the street, require a full-width overlay of the affected area. The Board of Supervisors may authorize a contribution from the Permittee for the resurfacing of the entire roadway in lieu of patching or restoration. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
 - 5. If a parallel trench extends into the cartway for a distance exceeding fifty (50) feet, full restoration and overlay to the centerline of the road is required. The Board of Supervisors may authorize a contribution from the Permittee for the resurfacing of the entire roadway in lieu of patching or restoration. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.
- L. Shoulder Restoration. Shoulder restoration shall be performed under this subsection and as specified in the permit.

1. Paved Shoulders. Paved shoulder 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 or 658 of Publication 408 and Roadway Construction Standard RC-25.
2. Other Shoulders. Other shoulders shall be restored as follows:
 - a. The surface shall be restored with at least two (2) inches of select granular material or as authorized by the Township.
 - b. If the length of the open shoulder exceeds one hundred (100) linear feet, the shoulder shall be graded and rolled.
3. 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.

M. Temporary Pavement Restoration. Temporary pavement restoration is permitted for emergency excavations under Section 3(B) and when weather conditions are such as to prevent the completion of permanent restoration of the street surface at the time backfilling is completed. When temporary pavement restoration is permitted, the Permittee shall install temporary surface and maintain the temporary surface in accordance with the following:

1. The base shall consist of compacted select granular material with a surface of two (2) inch bituminous material. If the existing pavement structure includes a course of subbase material, it shall be required to a depth equal to the existing course depth with material meeting the requirements of Section 350.2 of Publication 408.
2. Temporary pavement shall be completed before traffic is allowed to travel on the disturbed area. The temporary pavement may be kept in place for up to six (6) months or as specified in the permit, if it is properly maintained.
3. When weather conditions permit, the temporary pavement shall be removed and permanent restoration performed under Sections 9(K) or 9(L).

N. Paint Identification.

1. Upon completion of pavement or paved shoulder restoration, the restoration date shall be painted immediately adjacent to the restored cut but not in an area where tires normally contact the pavement.
2. The painted date shall indicate the month and year numerically. The numerals shall be six (6) to nine (9) inches in height.
3. The paint shall be color-coded as follows: blue (water), yellow (gas-petroleum), red (electric), orange (communications) and green (sewer).

4. The paint shall be maintained for two (2) years after the acknowledged completion of the permitted work.
5. If the pavement or shoulder is being overlaid for more than one hundred (100) linear feet, the Township may, upon request, exempt the Permittee from complying with this subsection.

O. Additional Restoration.

1. Disturbed portions of the street, including, but not limited to, slopes and appurtenances and structures such as guide rails, curbs, signs, markings, drainpipes, driveways and vegetation, shall be restored by the Permittee to a condition at least equal to that which existed before the start of work authorized by the permit. Additional restoration may be required, upon written notification, to restore the structural integrity of the pavement or shoulder.
2. If any settlement in a restored area occurs within a period of one (1) year from the date of completion of the permanent restoration, and the Permittee fails to make such correction after notification, any expense incurred by the Township in correcting such settlement shall be paid by the Permittee or recovered from his bond, unless the Permittee submits proof satisfactory to the Township that the settlement was not due to defective backfilling.

P. Sealing. Restored openings in the pavement or paved shoulder shall be sealed under Section 401.3(j)(3) of Publication 408.

Q. Facilities and Structures.

1. Aboveground Facilities.

- a. General Rule. The Township shall not issue a permit to install aboveground facilities at a location which the Township determines to have a high crash potential.
- b. Location of Aboveground Facilities. New poles and other aboveground facilities shall be installed outside the street clear zone as near the right-of-way line as practicable.

2. Location of Wires, Cables or Conductors. A wire, cable or conductor which overhangs a portion of the right-of-way shall be placed to provide a minimum vertical clearance of eighteen (18) feet over the pavement and shoulder, except where the National Electrical Safety Code requires vertical clearances in excess of eighteen (18) feet due to voltage or span lengths.

3. Guys. A guy shall be placed and insulated as follows:

- a. A guy shall be placed to avoid interference with vehicular or pedestrian traffic.

- b. A guy shall be insulated and grounded in compliance with the National Electrical Safety Code.
 4. Identification of Poles. A pole shall bear the name or initials of the facility owner and the pole numbers assigned by the facility owner.
 5. Abandoned Facilities. Whenever any pipe, conduit, duct, tunnel, or other structure located under the surface of any street is abandoned, or the use thereof abandoned, the person owning, using, controlling, or having an interest therein shall, within thirty (30) days after such abandonment, file with the Township a statement, in writing, giving in detail the location of the structure so abandoned. Whenever there are manholes or tunnels associated with any abandoned underground facilities, such manholes or tunnels shall be capped at the time of abandonment and the Township notified thereof in writing.
 6. Maintaining Structure or Facility. As long as the Permittee operates and leaves in place the structure or facilities in, upon or along the right-of-way, the Permittee shall maintain and keep them in good order and repair.
 7. 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 subsection is separate from the obligations to restore the street and obtain a bond relating to restoration and maintenance of the street under this Ordinance. Compliance with Section 9(R) below does not relieve the Permittee of its obligations under this subsection.
 8. 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 are inconsistent with the purpose of the street alterations.
- R. Damage to Street. Responsibility of the Permittee for restoration of the street includes the following:
1. The Permittee shall guarantee and maintain all work for a period of twenty-four (24) months from the completion of the restoration and replacement work. Within this twenty-four (24) month period, upon notification from the Township of necessary correction work required, including street settlement, the Permittee shall correct or cause to be corrected all restoration work required within five (5) calendar days of notification, unless the Code Enforcement Officer approves a longer period of time.
 2. The Code Enforcement Officer shall determine the extent of the restoration required and the method of correction. Any and all work not completed within the required five-day period may be completed by the Township. The Township shall

invoice the Permittee for all the costs incurred by the Township in performance of this work, plus an additional ten percent (10%) to cover administrative expenses. Payment not made within thirty (30) days of the invoice shall be collectable in the manner provided by law, including any allowable penalties.

3. The obtaining of a bond under Section 5 to secure restoration costs does not relieve the Permittee of the restoration obligations imposed by this subsection. 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 failure of the street in the permitted area occurring after the expiration of the bond, other security or agreement.

SECTION 10. VIOLATIONS AND PENALTIES.

- A. Notification of Violation. If the Code Enforcement Officer determines that a person has committed or permitted the commission of a violation of this Ordinance, the Code Enforcement Officer shall inform such person in writing of the violation, shall notify such person to cease the violation of this Ordinance and shall inform such person that he or she must pay a civil penalty to the Township within the range of the amounts set for below to settle the violation.
- B. Penalty Amounts. The penalty for a first offense shall be not less than \$50 and not more than \$600; the penalty for a second offense shall be not less than \$100 and not more than \$600; and the penalty for a third or greater offense shall be not less than \$200 and not more than \$600.
- C. Enforcement. If such person fails or refuses to remit the penalty to the Township within ten (10) days from the date of the written notice of the violation of this article, the Township may commence a civil enforcement proceeding seeking penalties and costs for the violation of this article and/or may commence an action in equity. The Township shall seek a judgment for the penalty previously imposed, together with additional daily penalties for continuing violations, plus all court costs, including the reasonable attorneys' fees incurred by the Township in the enforcement proceedings. Each day that a violation continues shall constitute a separate violation, and each section of this article which is violated shall constitute a separate violation. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure.

SECTION 11. APPEALS.

- A. Right to Appeal. Any person aggrieved by a decision under this Ordinance shall, to the extent allowed by law, be entitled to a hearing before the Board of Supervisors pursuant to the provisions of the Local Agency Law.
- B. Request for Appeal. A written request for appeal must be submitted to the Board of Supervisors within ten (10) business days of the date of the action taken by the Code Enforcement Official. The written request must identify the following:

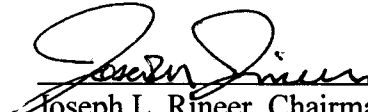
1. The decision or action of the Code Enforcement Official which serves as the basis for the appeal;
 2. The specific section of this Ordinance upon which the Code Enforcement Officer's decision or action was made; and
 3. Justification for the appeal.
- C. Effect of Appeal. The approval of an appeal shall not have the effect of making null and void the intent and purpose of this Ordinance. In the approval of an appeal, the Board of Supervisors may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this Ordinance.

SECTION 12. SEVERABILITY. The provisions of this Ordinance shall be severable and, if any of the provisions hereof shall be held to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

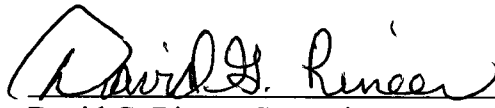
SECTION 13. EFFECTIVE DATE. This Ordinance shall take effect and be in force five (5) days after its enactment by the Township as provided by law.

DULY ORDAINED AND ENACTED this **12th** day of **February, 2024**, by the Board of Supervisors of the Township of Eden, Lancaster County, Pennsylvania, in lawful session duly assembled.


EDEN TOWNSHIP BOARD OF SUPERVISORS



Joseph L. Rineer, Chairman



David G. Rineer, Supervisor



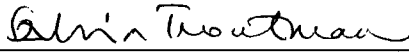
Lawrence M. Stoltzfus, Supervisor

CERTIFICATE

I, Szilvia Troutman, Secretary of the Board of Supervisors of Eden Township, Lancaster County, Pennsylvania (“Township”) certify that: The foregoing is a true and correct copy of an Ordinance of the Board of Supervisors of the Township which duly was enacted by affirmative vote of a majority of the members of the Board of Supervisors of the Township at a meeting held on the 12th day of February, 2024; such Ordinance has been duly recorded in the Ordinance Book of the Township; such Ordinance has been duly published as required by law; and such Ordinance remains in effect, unaltered and unamended, as of the date of this Certificate.

I further certify that the Board of Supervisors of the Township met the advance notice and public comment requirements of the Sunshine Act, 65 Pa.C.S. § 701 *et seq.*, as amended, by advertising the date of said meeting, by posting prominently a notice of said meeting at the principal office of the Township or at the public building in which said meeting was held, and by providing a reasonable opportunity for public comment at said meeting prior to enacting such Ordinance.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township of Eden, this 12th, day of February, 2024.



(Assistant) Secretary

