

ORDINANCE NO. 2008-1

AN ORDINANCE OF CONEWAGO TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA, PROVIDING THAT NO PUBLIC ROADS OF THE TOWNSHIP BE OPENED OR CUT BY ANY PERSON OR FIRM, CORPORATION, OR UTILITY WITHOUT FIRST SECURING A PERMIT IN ACCORDANCE WITH ORDINANCE AND REGULATIONS PURUANT THERETO; PROVIDING FOR CONSTRUCTION OF AND MODIFICATION OF DRIVEWAYS ENTERING TOWNSHIP ROADS; PROVIDING PENALTIES FOR VIOLATION THEREOF.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Township of Conewago, Dauphin County, Pennsylvania, that Part 2 and Part 3 of Chapter 21 of the Township of Conewago Code of Ordinances are hereby deleted in their entirety and shall be replaced by a new Part 2, which is the following Ordinance, and which shall be known and may be cited as the "Conewago Township Street Cut and Occupancy Ordinance."

Part 2
Street Cut and Occupancy Ordinance
Openings and Excavations

§201. Purpose.

The purpose of this article is to protect and preserve the health, safety and welfare of residents of Conewago Township by requiring all persons who wish to install any utility within township streets or open cut or bore under any township street to first obtain a township road occupancy permit from the township regulating the manner of street disturbance by boring or open cutting and restoring; setting forth related matters; and prescribing penalties for violation

§202. Definitions.

The following words and phrases when used in this article shall have the meanings ascribed to them in this section except where the context clearly indicates a different meaning:

ADJACENT AREA — The area surrounding the immediate area of the permitted work which can reasonably be assumed to have been affected by the permitted work.

APPLICANT — The person or entity filing an application under this article for a permit. Once a permit has been issued, the applicant, or his assignee, if the assignment of the permit shall have been approved by the Township, shall be deemed the permittee.

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

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

STREET- The entire right-of-way of a public street, public highway, public alley, public way, public road or public easement within Conewago Township. That portion ordinarily used for vehicular travel, exclusive of the sidewalk.

CLEAR ROADSIDE AREA — The portion of right-of-way beyond the pavement edge within which no existing obstructions are located.

DETOUR — To send traffic by a circuitous route around the portion of a road that has been closed in accordance with the applicable sections of this ordinance relating to traffic control plans or relating to traffic protection and maintenance.

EMERGENCY — An unforeseen occurrence or combination of circumstances which calls for immediate action or remedy. For public health and safety.

EQUIPMENT — All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary or the proper construction and completion of the work.

FACILITY — Shall mean and include all privately, publicly and cooperatively owned lines and systems or producing, transmitting or distributing communications, electricity, heat, gas, oil, crude products, water, steam, waste, and other similar commodities, which directly or indirectly serve the public, and all appurtenances and attachments thereto.

FLEXIBLE BASE PAVEMENT — A pavement structure which maintains intimate contact with and distributes loads to the subgrade and depends on aggregate interlock, particle friction, and cohesion for stability.

FORM 408 — A publication containing Penn DOT's highway construction specifications, including any amendment thereto and any substitution or replacement thereof.

STREET OPENING— The area within the street right-of-way any ditch, excavation, tunnel or opening in or under the surface of any street.

INSPECTOR — The Township's authorized representative assigned to inspect permit operations.

PAVEMENT — The combination of subbase, base course, and surface course placed on a subgrade to support the traffic load and distribute it to the roadbed.

PENN DOT — The Pennsylvania Department of Transportation.

PERMIT — A street occupancy permit issued by Conewago Township pursuant to this ordinance.

PERSON — Any natural person, firm, partnership, association, corporation or political subdivision, including Conewago Township Authority

RIGHT-OF-WAY — The area of a street and shoulders that is own and controlled by Conewago Township.

SHOULDER — The portion of the street, contiguous to the traffic lanes, for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses and pavements.

TOWNSHIP — The Township of Conewago, Dauphin County, Pennsylvania.

TOWNSHIP BOARD OF SUPERVISORS — The Board of Supervisors of Conewago Township, Dauphin County, Pennsylvania.

TOWNSHIP ROADMASTER — The person so designated by the Conewago Township Board of Supervisors or his representative so designated either by the Conewago Township Board of Supervisors or by the Township Roadmaster to carry out the duties and responsibilities of maintenance, repairs, oversight, and construction of Township roads.

TOWNSHIP STREET— A street under the jurisdiction of Conewago Township.

UTILITY — A person owning a utility facility, including any wholly owned or controlled subsidiary, and including any plumber or any other contractor hired or engaged by the owner.

§ 203. Permit required; terms and conditions.

- A. Permit required. It shall be unlawful for any person to make any street opening without first securing a permit therefor from Conewago Township; provided, however, that any person maintaining pipes, lines or underground conduits, in or under the surface of any street by virtue of any law, ordinance or franchise, may proceed with an excavation or opening without a permit when emergency circumstances demand the work be done immediately for the preservation of the public health, safety or welfare, or provided that the permit could not reasonably and practically have been obtained beforehand. Such person, however, shall proceed under the Emergency work provision guidelines.

- B. Emergency work provision guidelines. Permit administration procedure. Emergency repairs involving the placing of facilities or opening of the surface within the right-of-way

may be performed prior to obtaining a permit, provided the following procedure is adhered to:

1. The utility company shall immediately notify Conewago Township by telephone when the necessity for an emergency repair occurs.
2. Prior to opening the surface or placing utility facilities within the right-of-way, the utility work crew shall supply the following information:

- a. Date emergency work is started.
 - b. Time emergency work is started.
 - c. Location of emergency work site.
 - d. Description of emergency work.
3. Regular permit shall be applied for within five days to confirm and set forth, in detail, any work performed. The application number shall then be entered on the emergency permit card by the applicant.
 4. All work performed under the authority of an emergency permit shall conform to the regulations set forth in this article, including without limitation, those regulations set forth in this ordinance relating to general conditions, special conditions for subsurface operations and special conditions for above-ground facilities.
- C. Conditions of approval. The approval of any street opening permit shall confer a right upon the permittee, subject to the terms and conditions of the permit, to temporarily occupy and use the street surface during the course of construction work covered by the permit and to thereafter occupy the space within which the work is to be located, subject in every case to the specific right of the township to require temporary or permanent relocation or removal of any of the facilities entirely at the permittee's expense in the event that said facilities are in conflict with the township's interest or the public interest in the use of the street.
- D. Special conditions. In approving any permit, Conewago Township may attach such special conditions thereto as may be reasonably necessary to protect the public and private property
- E. Acceptance of permit. By accepting the permit, the applicant agrees to perform the work in accordance with the terms and conditions of the permit, and of any special conditions which may be attached thereto, and to save the township, its officers, employees and agents from any costs, damages and liabilities which may accrue by reason of the work.
- F. Expiration of permit. Every permit issued hereunder shall expire within one (1) year from the date of issuance. If the permittee shall be unable to complete the work within one (1) year from the date of issuance, he shall, prior to expiration of the permit, present, in writing, to the township a request for an extension of time, setting forth therein the reasons for the requested extension at least 45 days before permit expiration date. If in the opinion of the township such an extension is necessary, the permittee may be granted additional time for the completion of the work.
- G. Revocation of permits. The township may revoke any permit issued hereunder after notice of violation of any condition of the permit.
- H. The permittee is responsible in calling the Pennsylvania One Call System (PA Act 172, as amended). A 72 hours notice is usually required for the Pa. One Call to provide underground utility information and preventing excavation work from damaging underground utility facilities. A document number from Pa One System must be added to the permit by the permittee before any excavating work is preformed.

§204. Application; fees; insurance.

- A. Application. Any person intending to make a street opening on a township street shall make written application therefor to the township. The application for a permit shall be on a form provided by the township and submitted to the township in triplicate. No work shall be commenced until the township has approved the application and issued a permit, excepting emergency work, as provided under § 203B hereof. Three copies of an accurate drawing clearly showing the following shall accompany each application:
1. Extent of the proposed street opening
 2. Width of the traveled roadway
 3. Right-of-way lines.

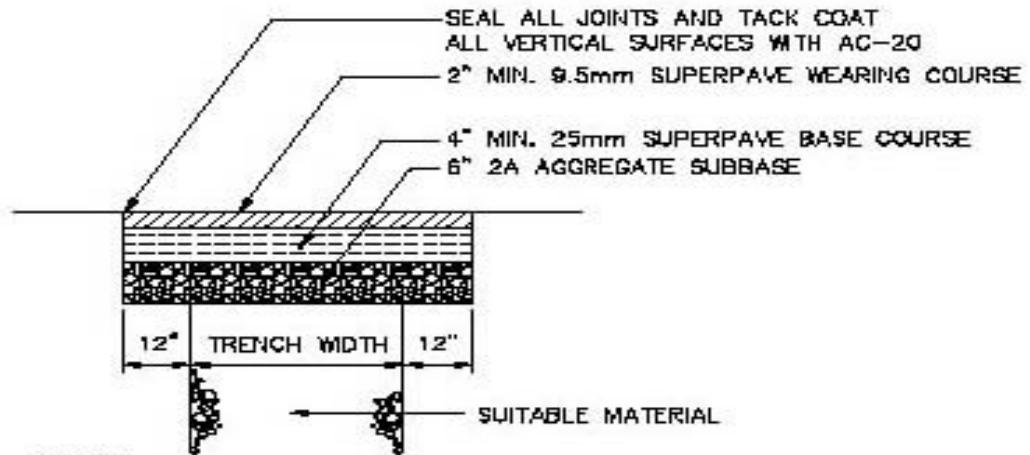
4. Dimension to the nearest intersecting street.
 5. Construction details.
 6. When required by the township, the location and depth of all other subsurface
- B. Fees. A basic fee, improvement guarantee and/or maintenance guarantee shall accompany the application, if applicable, as follows:
1. Basic fee: the basic fee established by PennDOT/PSATS fee schedule for road cuts and road openings. All additional fees or inspections shall be as established by the Township's fee schedule Resolution
 2. Improvement/performance guarantee. The Township shall require financial security for an improvement guarantee in accordance with §206 prior to the start of work. For road cuts and openings of a nature that will not directly impact or cause damage to the macadam road surface, curbing, drainage systems, signage, or other public improvements in the right-of-way, the improvement/performance guarantee may be reduced or not required at the discretion of the Road Master and Township Engineer.
 3. Maintenance guarantee. The Township shall require the filing of a maintenance guarantee and in a form according to §206B herein to cover repair of street opening work performed that shall take effect beginning on the date of project completion. The maintenance guarantee shall be in effect for a two (2) year period (24 months) following the notice of completion of work. The amount of the maintenance guarantee shall be \$1,000 or equal to 20%, whichever is greater, of the actual costs or estimated improvement guarantee amount of any sheet excavation and restoration work for a single project as determined by the Township Engineer or Conewago Township Roadmaster. For road cuts and openings of a nature that will not directly impact or cause damage to the macadam road surface, curbing, drainage systems, signage, or other public improvements in the right-of-way, the maintenance guarantee may be reduced or not required at the discretion of the Road Master and Township Engineer.
- C. Insurance. The applicant shall furnish certificates of liability and workers' compensation insurance. The certificate of insurance required of the applicant under this ordinance shall indicate that he is insured against claims for damages for personal injury as well as against claims for property damages which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall include protection against liability arising from completed operations. Such insurance shall provide complete third-party coverage for Conewago Township. The amount of such insurance shall be prescribed by the Township Engineer or Roadmaster in accordance with the nature of the risks involved; provided, however, that the liability insurance for bodily injury in effect shall be in an amount not less than \$500,000 for each person and \$1,000,000 for each accident and for property damages an amount not less than \$500,000. Failure of applicant to file such certificate shall be grounds for denying a permit.

§ 205. Specifications.

- A. General. Unless specifically permitted by the township:
1. No street opening shall extend across more than 1/2 of the street at one time.
 2. Two-way traffic shall be maintained
 3. Access to driveways and/or buildings abutting the street shall be maintained.
 4. All trenches shall be filled and closed overnight or covered with a steel plate. The steel plate shall be adequate for HS-25 loading and shall safely convey all vehicular and pedestrian traffic.
 5. Disturbed portions of the roadway, including but not limited to slopes and appurtenances and structures such as guiderails, curbs, signs, markings, drain pipes, 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, consistent with other township ordinances, or consistent with the PennDot Standards for Roadway Construction, whichever is the higher standard. Additional restoration may also be required, upon written notification, to restore the structural integrity of the pavement or shoulder.
- B. Trench openings
1. Parallel to street

- A. Trench openings for utility facilities and other structures shall be made so that the near edge of the opening is at least three feet outside the edge of the street unless the permit authorizes a lesser clearance, with a minimum depth of three feet from the surface to the top of the facility.
 - B. On an unpaved street, the near edge of the trench opening shall be at least 12 feet from the general center line of the traveled street.
 - C. No trench opening shall be left open for a distance of more than 200 feet at any one time, unless authorized by the permit. In addition, no more than 40 feet of trench shall be left open on the shoulder of a street at the end of any workday, unless authorized by the permit.
2. Across improved area.
 - A. No trenching shall be permitted across the improved area unless authorized by the Permit.
 - B. Trenching across the improved area may be authorized by the permit where drilling, boring, driving, or tunneling are not feasible because
 1. The subsurface is solid rock
 2. There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.
 3. Adjacent development in a very congested urban area makes the construction of a tunneling or boring shaft impossible.
 4. The Township Roadmaster determines that the disruption to traffic and length of exposure will be minimal.
- C. Special.
1. The permittee shall locate in advance of excavation all surface and subsurface utility lines and structures and shall take all precautions necessary to avoid damage to other utility lines and to public or private property. In the event that damage does occur to property of others, the permittee shall promptly and satisfactorily repair all damage and restore the property to a satisfactory condition. See §203 (G) for additional requirements.
 2. Provisions shall be made to accommodate the flow of storm drainage, and no excavated material or trench shall be permitted to interfere with the normal flow of surface water.
 3. Traffic control shall be maintained in accordance with Pennsylvania Department of Transportation Publication 213, and the permittee shall furnish and maintain such signs, barricades, lights and flagmen as may be necessary to properly protect the public.
 5. The permittee shall be responsible to notify other public utility companies of the proposed work, stating the nature and location of the work to be done, and shall keep all said parties (Including the Township Roadmaster) informed of the progress of the work. When access to abutting properties is to be denied, the permittee shall notify the affected parties in advance.
- D. Pavement cuts, excavation and backfill.
1. The permittee shall avoid disturbing roadways or shoulders by limiting work areas to outside of roadways and shoulders unless approved by the Township.
 2. Disturbed areas will be returned back to that which existed before the start of work authorized by the permit. Additional restoration may also be required, upon written notification, to restore the structural integrity of the pavement or shoulder. See §205 (A5) for additional specifications.
 3. If the permittee wishes to open pavement having a bituminous concrete surface and the township's wearing course is less than 10 years old, the permittee shall, in addition to the restoration conditions outlined in the permit and in this article, bore under the street if required by the township or overlay the pavement in accordance with the following conditions:
 - a. When a longitudinal opening longer than 100 linear feet has been made in the pavement, the permittee shall mill and overlay the traffic lanes in which the opening was made, for the entire length of roadway that was opened, in a manner authorized by the township.
 - b. When two or more transverse openings have been made within 100 linear feet of pavement, the permittee shall mill and overlay traffic lanes in which the openings were made, for the entire length of roadway between the openings, in a manner authorized by the township
 - c. If disturbed lanes adjacent to the undisturbed lanes are overlaid, the edge of the disturbed lane shall be saw cut or milled to a depth of 2 inches or the depth of the existing surface course, whichever is less, for the length of the opening to ensure a smooth joint, with proper elevation and cross section. A full width overlay may be authorized on various roadways instead of saw cutting or milling the disturbed land.

- d. If disturbed lanes adjacent to shoulders are overlaid, the shoulder shall be raised, with material and in a manner authorized by the township for the type of existing shoulder, so that the overlaid pavement and shoulder edges are at the same elevation
4. Regardless of the age of the wearing course, the township may require the following restoration:
 - a. If more than 100 linear feet of longitudinal or transverse openings, or both, are made in the pavement, the township may require the permittee to overlay traffic lanes in which the openings were made, for the entire length of highway that was opened, if the township determines that the ride ability or structural integrity of the pavement has been impaired by the openings.
 - b. If four or more openings are made by the same permittee within 100 linear feet of pavement, the township may require the permittee to restore the entire disturbed pavement between the openings by milling, planing or other authorized method and overlaying the entire disturbed pavement.
 - c. If future settlement of the trench is possible, the township may require a temporary restoration of the pavement for up to a six-month period in accordance with §205 (13)
 5. If an opening is made in a bituminous concrete pavement within three feet from the edge of pavement or other longitudinal joint or opening, the surface restoration shall be extended to the edge of pavement or other longitudinal joint or opening.
 6. At each end of an overlay, the permittee shall install a paving notch, under Standards for Roadway Construction RC-28, by milling, planing or other authorized method and provide a minimum ten-foot transition.
 7. The transition areas at each end of an overlay shall follow the contour of the surrounding surface.
 8. When pavements are covered or destroyed by the permitted work, including overlays, they shall be replaced with temporary pavement markings, before opening the disturbed pavement to traffic. When the pavement surface is restored, all pavement markings that were covered or destroyed shall be replaced in their former location.
 9. Restored openings in the pavement or opened shoulder shall be sealed under Section 401.3(j)(3) of Publication 408 in the case of bituminous concrete.
 10. All trenching and backfill shall be in accordance with a construction detail approved by the township. All backfill shall be comprised of clean type 2A aggregate and compacted in accordance with Publication 408.
 11. Subbase, base and surface restoration of **flexible base pavements** shall be performed under this section and as specified in the permit.
 - a. Prior to replacement of the base course, one foot outside of each edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate subbase or stone base course, and the detached material shall be removed.
 - b. The subbase shall consist of No. 2A aggregate meeting the requirements of Section 350 of Publication 408. The subbase shall have a minimum depth of six inches or a depth equal to the existing subbase, whichever is greater.
 - c. Exposed vertical and horizontal surfaces shall be prepared under Section 401.3(f) of Publication 408.
 - d. The base course shall consist of Superpave Asphalt Mixture Design, HMA Base Course, PG 64-22, 0.0 to 0.3 million ESAL's, 25.0 mm mix. meeting the requirements of Section 409 of Publication 408 or other base course material authorized by the township. The base course material shall have a minimum depth of four (4 1/2) and a half inches or a depth equal to the existing base course, whichever is greater.
 - e. The binder course shall consist of Superpave Asphalt Mixture Design, HMA Binder Course, PG 64-22, 0.0 to 0.3 million ESAL's, 19 mm mix., or other as approved material meeting the requirements of Section 421 of Publication 408. The binder course shall have a minimum depth of two (2) inches or a depth equal to the existing binder course, whichever is greater.
 - f. The wearing course shall consist of Superpave Asphalt Mixture Design, HMA Wear Course, PG 64-22, 0.0 to 0.3 million ESAL's, 9.5 mm mix, SRL L or other as approved material meeting the requirements of Section 420 of Publication 408. The wearing course shall have a minimum depth of two (2) inch or a depth equal to the existing wearing course, whichever is greater.

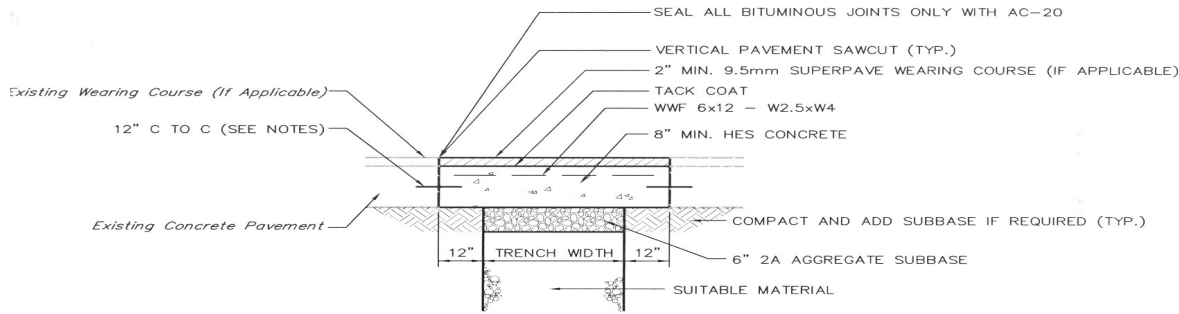


NOTES

- ALL VERTICAL CUTS SHALL BE SAWCUT ONLY
- MATERIAL AND PLACEMENT FOR COARSE AND FINE AGGREGATES SHALL BE IN ACCORDANCE WITH PENNDOT SPECIFICATIONS PUBLICATIONS 408, LATEST EDITION.

**FLEXIBLE PAVEMENT
TRENCH RESTORATION**
NOT TO SCALE

12. Subbase, base and surface restoration of **rigid base pavements** (with or without bituminous overlay) shall be performed under this section and as specified in the permit.
- a. Prior to replacement of base course, one foot outside of each edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate subbase or stone base course, and the detached material shall be removed.
 - b. The subbase shall consist of No. 2A aggregate meeting the requirements of Section 350 of Publication 408. The subbase shall have a minimum depth of six (6) inches or a depth equal to the existing subbase, whichever is greater.
 - c. The base course shall consist of reinforced high early strength (H.E.S.) concrete meeting the requirements of Section 501 of Publication 408. The base course material shall have a minimum depth of eight (8) inches or a depth equal to the existing base course, whichever is greater.
 - d. For those roads with an existing bituminous surface, the wearing course shall consist of Superpave Asphalt Mixture Design, HMA Wear Course, PG 64-22, 0.0 to 0.3 million ESAL's, 9.5 mm mix, SRL L or other as approved material meeting the requirements of Section 409 of Publication 408. The wearing course shall have a minimum depth of two (2) inches ID-2 or a depth equal to the existing wearing course, whichever is greater.
 - e. For those roads without an existing bituminous surface, the eight-inch HES concrete shall be installed flush with the existing concrete surface.



NOTES: DIAGRAM IS ONLY AN EXAMPLE. SOME MEASUREMENTS DO NOT REFLECT THIS ORDINANCE REQUIREMENTS. SEE TOWNSHIP ROADMASTER IF ANY QUESTIONS.

1. USE 1 1/4" DIA x 18" LONG DOWEL BARS FOR PAVEMENT DEPTHS 10" OR LESS AND 1 1/2" DIA x 18" LONG DOWEL BARS FOR PAVEMENT DEPTHS GREATER THAN 10".
2. PLACE THE DOWEL BARS PARALLEL TO THE CENTERLINE AND SURFACE OF THE SLAB. THE VERTICAL OR HORIZONTAL SKEW FROM ONE END OF THE DOWEL BAR TO THE OTHER END IS NOT TO EXCEED 1/4".
3. TRANSVERSE PAVEMENT JOINTS SHALL BE CONSTRUCTED AT A 6:1 OR FLATTER SKEW.
4. ALL CONSTRUCTION SHALL CONFORM TO PENNDOT PUBLICATION 408 AND ROADWAY CONSTRUCTION DRAWINGS, CURRENT EDITIONS.

**RIGID PAVEMENT
TRENCH RESTORATION**

NOT TO SCALE

NOTES diagram is only an example, some measurements do not reflex this ordinance requirements. See Township Roadmaster if any questions.

1. Use 1 1/4Dia x 18" Long dowel bars for pavement depths 10" or less and 1 1/2 dia. X 18" Long dowel bars for pavement depths greater than 10"
2. Place the dowel bars parallel to the centerline and surface of the slab. The vertical or horizontal skew from one end of the dowel bar to the other end is not to exceed 1/4".
3. Transverse pavement joints shall be constructed at a 6:1 or flatter skew.
4. All construction shall conform to PennDot Publication 408 and roadway construction drawings, current editions.

13. Temporary restoration of a pavement may be required by the township prior to pavement restoration in accordance with the following:

- A. 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 replaced to a depth equal to the existing course depth with material meeting the requirements of Section 350.2 of Publication 408.
- B. Temporary pavement restoration shall be completed before traffic is allowed to travel on the disturbed area.
- C. The temporary pavement shall be immediately removed and permanent restoration performed as soon as possible. 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.

14. In all cases where the application for a permit proposes construction or installation of electric wires across a public right-of-way, the application shall show that the electrical wires are to be contained in an approved electrical conduit.

E. Special restoration requirements. Whenever unusual conditions exist, or arise during construction, the township may change the permanent restoration requirements from those given therein. In all cases, marks of construction beyond the area of actual trench shall be satisfactorily restored. In cases where a substantial portion of the original street paving is removed or damaged, the township may require the permittee to resurface the entire street area, in addition to constructing the final paving repairs over trench areas. The township may also elect to accept payment from the permittee to the township for final paving

repairs, in a sum to be determined by the township based upon then current costs for such work plus 15%, and to apply the sum so paid toward the cost of reconstruction of the entire street.

F. Inspection during construction

1. The Township Road Master and the Township Engineer shall be notified by the permittee four working days in advance of any intended date of construction. The provisions stated herein shall be construed as mandating periodic inspections, and the undertaking of periodic inspections shall not be construed as an acceptance of the work during construction or as a final inspection of the construction.
2. The applicant shall reimburse the township for the reasonable and necessary expense incurred for the inspection of improvements by Conewago Township Roadmaster or Township Engineer. Such reimbursement shall be based upon time and material costs for the referenced inspections. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the Township Engineer to the township when fees are not reimbursed or otherwise imposed on applicants. If the inspection fees exceed the basic fee established in §204 (B1), then the Township may invoice the permittee for costs incurred by the Township for the inspection of improvements. Improvements shall not be finally approved until the invoice is paid.
3. The Township, at the expense of the permittee, reserves the right to require tests of the improvement to determine whether the improvement complies in all respects with the requirements of the Township.

G. Future maintenance. The permittee shall be responsible to correct any trench settlement or deterioration in the final paving work or failure of any other work associated with the permit. Such responsibility is without limitation during the first two (2) years after the date of the final completion certificate. Thereafter, settlement of the trench area and any other repair work shall remain the responsibility of the permittee to repair, unless the Township gives a specific release.

§ 206. Administration

A. Computation of improvement financial guarantee.

1. The amount of improvement guarantee shall be equal to 110% of the cost of completion of street improvements estimated as of 90 days following the date scheduled for completion by the permittee. Annually, the township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the township may require the permittee to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the permittee in accordance with this ordinance.
2. The amount of financial guarantee required shall be based upon an estimate of the cost of completion of the required street improvements, submitted by the applicant. The township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant and the township are unable to agree upon an estimate, the estimate shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the township and the applicant. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid by the applicant or permittee.
3. If the party posting the financial guarantee requires more than one year from the date of posting of the financial guarantee to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period

beyond the first anniversary date from posting of financial security to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above procedure.

- B. Form of financial security for improvement/performance and/or maintenance guarantee will not be paid interest by Conewago Township and held in an escrow bank account. The escrow shall be returned to the permittee upon successful fulfillment of all restorations and maintenance obligations without interest. The financial security may be in the form of cash, certified treasurer's or cashier's check, letter of credit or surety bond made payable to Conewago Township. Although the township may accept an alternative type of financial security, commonly used forms such as irrevocable letters of credit and escrow accounts will be accepted. Such financial security shall be posted with a bonding company or federal or commonwealth chartered lending institution chosen by the party posting the financial security, provided that said bonding company or lending institution is authorized to conduct such business in the commonwealth, subject to review by the Township Solicitor for adequacy.
- C. Release of improvement/performance financial security.
1. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Township, and the Township shall have 45 days from receipt of such request within which to allow the Township Road Master or Township Engineer to certify that such portion of the work upon the improvements has been completed in accordance with the approval of the road cut/street opening permit or amendments and adjustments approved by the Township. Upon such certification, the township shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed or, if the Township fails to act within said forty-five-day (45) period, the Township shall be deemed to have approved the release of funds as requested. The Township may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
 2. When the permittee has completed all of the necessary and appropriate improvements, the permittee shall notify the Township, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer and Roadmaster. The Township shall, within twenty (20) days after receipt of such notice, direct and authorize the Road Master and/or the Township Engineer to inspect all of the aforesaid improvements. The Township Road Master and/or Township Engineer shall, thereupon, file a report, in writing, with the township and shall promptly mail a copy of the same to the permittee. The report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part and, if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Road Master or Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
 3. If any portion of said improvement shall not be approved or shall be rejected by the township, the permittee shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
 4. If any portions of said improvements are not approved or are rejected by the township, the applicant shall proceed to complete the same and, upon completion, the same procedure of notification outlined herein shall be followed.
- D. Final completion certificate. After final inspection and acceptance of the work, and after payment of any release or collection of any insufficiency due, the township shall issue a final completion certificate. The date of such final completion certificate shall fix the two (2) year time period during which the permittee absolutely is responsible for maintenance of permanent pavement repairs and trenches.
- E. Release of financial guarantee for maintenance
1. Following the completion of the project and final inspection, all financial guarantees for maintenance will remain in place and will be returned to the permittee upon reinspection

of the work by the Township in two (2) years, or 24 months from the time of issuing the final completion certificate when all work was satisfactorily completed.

2. Procedure for release of maintenance guarantee or deposit. In the event that any improvements which may be required have not been installed or corrected as provided in this ordinance or in accordance with the approved permit, the township is hereby granted the power to enforce any financial security by appropriate legal and equitable remedies. If proceeds of the maintenance guarantee or deposit are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said financial security, the township may, at its option, install all or part of such improvements and may institute appropriate legal or equitable action to recover the funds necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the financial security or from any legal or equitable action brought against the applicant, or both, shall be used solely for the installation of the improvements covered by such security and not for any other municipal purpose.

§ 207. Violations and penalties.

Any person, firm or corporation who or which is found to be in violation of any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than \$5,000 and/or undergo imprisonment for a term not to exceed 90 days. Each and every day or portion thereof in which any violation of the provisions of this article is committed or continued shall constitute a separate offense.

§ 208. Other Related Ordinances.

All Standards imposed by Subdivision and Land Development Ordinance Chapter 22 shall prevail over any inconsistent standards imposed by this Ordinance. Ordinance No. 1989-1, enacted September 9, 1989, as amended by Ordinance No. 1996-1, §1.

§ 209. Repealer.

Any Ordinance or part of Ordinance inconsistent with this Ordinance, as adopted, is hereby repealed insofar as it is inconsistent herewith.

ENACTED AND ORDAINED by the Conewago Township Board of Supervisors, Dauphin County, Pennsylvania, on the 13 day February, 2008.

BOARD OF SUPERVISORS, TOWNSHIP OF CONEWAGO

DAUPHIN COUNTY, PENNSYLVANIA

BY: _____, JOHN D. ROCHAT, Chairman

ATTEST:

_____, SHIRLEY MEYERS, Secretary

(SEAL)

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