

## **Chapter 291**

### **STREETS AND SIDEWALKS**

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## EAST WASHINGTON CODE

### **§ 291-35. Penalties.**

**[HISTORY: Adopted by the Borough Council of the Borough of East Washington as indicated in part histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Property maintenance—See Ch. 245.

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### **Part 1**

#### **Sidewalk Maintenance**

**[Adopted 5-2-1966 by Ord. No. 316; amended in its entirety 9-16-1985 by Ord. No. 404]**

### **ARTICLE I**

#### **General**

### **§ 291-1. Curbs and sidewalks to be constructed.**

Every owner of real estate which abuts streets presently served by sidewalks and every owner of real estate upon which is hereinafter erected a building is hereby required to maintain or to lay out and construct sidewalks along such street or streets. Every owner of real estate in the Borough of East Washington along, adjacent to or abutting on any street presently serviced by a curb is required to maintain said curb or to lay out and construct such a curb along such street or streets.

### **§ 291-2. Permits and workmanship.**

- A. No curb or sidewalk shall be laid out, constructed, reconstructed or materially repaired by any person, firm or corporation unless a permit therefor shall have been obtained from the Code Enforcement Officer. No permit shall be issued by the Officer until the person, firm or corporation making application shall submit plans showing that the location, length, width, depth, grade and design of the proposed curb and sidewalk, or repair thereto, are in conformity with the standards prescribed therefor by the Borough. Where special circumstances exist, special standards shall be applied in the interest of public safety and the best interests of the Borough.
- B. All curbs and sidewalks shall be constructed or reconstructed in a workmanlike manner and shall be made of concrete, unless written permission for some other suitable material is obtained from the Borough Council. Written approval of the work must be obtained from the Code Enforcement Officer or his Deputy upon completion thereof. Failure to obtain such approval shall subject the party responsible therefor to the remedies and penalties hereinafter described.

**§ 291-3. Commencement of work.**

Where required by this Part 1, work on the construction of curbs and sidewalks shall commence within 30 days from the date of the enactment of this Part 1 and shall proceed with due diligence upon proper notification from the Borough Secretary. Where streets are added by ordinance to the list of designated streets, the property owners thereon shall commence work within 30 days of the date of enactment of such ordinance. Where such compliance would work a hardship on the property owner, said owner may make written application for an extension of time to the Borough Council.

**§ 291-4. Maintenance.**

All curbs and sidewalks now in existence or hereafter constructed shall be kept in good repair and in safe and usable condition.

**§ 291-5. Remedies; violations and penalties.**

- A. Upon neglect of any property owner to comply with any provision of this Part 1, the Borough may, after 20 days' notice, have the laying out, grading, constructing or repairing of curbs and sidewalks done by the Borough. The cost of that work, plus 10% additional, together with all charges and expenses, shall be assessed against that property owner and may be collected by municipal claim or action in assumpsit.
- B. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and/or to imprisonment for a term not to exceed 90 days, provided after receiving notice of any violation, each day thereafter shall constitute a separate offense until the violation is remedied; provided further, the penalties prescribed in this subsection may be in addition to any amount assessed and collected under Subsection A of this section. **[Amended 11-7-2005 by Ord. No. 481]**

**§ 291-6. Notice.**

Any and all notices required by this Part 1 shall be served on the owner of the premises to which the notice refers, if such owner is a resident of the Borough. If the owner is not a resident, then the notice may be served upon the agent or tenant of the owner or upon the occupant of such premises. If the owner has no agent or tenant or there is no occupier of such premises, then service shall be by notice posted upon the premises.

## ARTICLE II Sidewalks

**§ 291-7. Existing sidewalks defined.**

An existing sidewalk is any paved surface on or along the right-of-way of public streets used or obviously intended for use by pedestrians traveling along said street. It shall include paved surfaces such as concrete, asphalt, flagstone, brick, slate or other monolithic or modular

building material. It shall include unpaved surfaces such as stone, cinders, boards, sand, gravel, clay, or similar loose aggregates.

**§ 291-8. Good repair and safe usable condition.**

A sidewalk shall have a continuous common surface without abrupt pitches in angle or interruption by cracks or breaks and shall be free of loose material and holes deeper than 1/2 inch and two inches in diameter. It shall be free of cracks or breaks creating edges of 1/2 inch or more in height. Cracks in sidewalks shall be no wider than 3/4 inch.

**§ 291-9. Slopes and gradients.**

- A. Whenever sidewalks join other walks, driveways, or curbs, they shall blend to a common level. The pitch of such surface blend shall not exceed a gradient of 1:12 (8.33%).
- B. The gradient along sidewalks shall not have a gradient greater than 1:20 (5%) and a cross-gradient not greater than one in 100.
- C. Longitudinal gradients of 1:12 may be permitted in repairs to sidewalks raised by tree roots, frost, or other natural conditions, or settled due to underground excavations, as long as edges not in excess of 1/2 inch are created.

**§ 291-10. Obstructions.**

- A. All obstructions to the free use of the sidewalks must be removed or corrected. Obstructions in the sidewalks such as curb shutoff valves, sewer vents, and expansion joint material shall not project above or below the walk more than 3/4 inch. Broken covers and caps shall be replaced and secured.
- B. Signs, trees and shrubbery along and over sidewalks shall not project over the sidewalk for a distance of 6 1/2 feet above the surface of the sidewalk.

**§ 291-11. Repairs and replacement.**

Defects shall be corrected whenever they occur. Small defects or repairs to small areas may be corrected with concrete, grout or other material approved by the Building Officer and suitable for restoring the surface to a safe and usable condition. All sidewalks replaced shall have a minimum width of four feet. Where replacement is required and there is no curb, a vertical curb shall be installed in accordance with current Borough standards, alignments and elevations.

## ARTICLE III

**Curbs****§ 291-12. Curbs defined.**

A curb is defined as any monolithic or modular material, such as concrete, limestone or brick, which runs parallel to streets and sidewalks and projects above the street and is installed and intended to protect the street from raveling, channel rainwater, or support an adjacent sidewalk. Whenever a curb is located closer than six inches to an adjacent sidewalk, the top shall be considered part of the sidewalk. Curbs are generally of the vertical or rolled type.

**§ 291-13. Condition.**

Curbs shall be maintained free of crumbling, settling or tipping. Deviations in horizontal alignment shall not exceed one inch in both vertical and rolled curbs. Spalling, crumbling or other deteriorations of the surface shall not exceed one inch in depth, and vertical alignments shall be within two inches of perpendicular. Adjacent sections shall not be more than 3/4 inch out of vertical alignment.

**§ 291-14. Repairs and replacement.**

Curbs shall be repaired with cement, grout, concrete or other material approved by the Code Enforcement Officer and suitable for restoring the curb to a safe and functional condition. Methods of repair may include the use of vertical pins and new concrete when the top sections are deteriorated.

ARTICLE IV  
**Administration****§ 291-15. Inspection.**

The Code Enforcement Officer or his designee shall make or cause to be made an annual inspection of curbs and sidewalks in the Borough. Inspections shall also be made when complaints are received. If curbs and sidewalks are found to be deficient according to the standard enumerated in Articles II and III, the property owner shall be notified in accordance with Article I of this chapter.

**§ 291-16. Assistance.**

If the property owner requests assistance in determining methods of repair, the Code Enforcement Officer or his designee, which may be a consulting engineer, shall lend such assistance at no charge.

**§ 291-17. Borough-contracted work.**

- A. The Code Enforcement Officer or the consulting engineer shall from time to time prepare specifications for corrective work and procure prices on a competitive basis for types of

repair work on a unit cost basis. Such contracts shall be awarded in accordance with current law and Borough policy. If any owner fails to make the repairs after receipt of notice or if he/she requests the Borough in writing to act as his agent in making the repairs, the Code Enforcement Officer is authorized to issue individual purchase orders for repairs to each property against the previously awarded contract and collect from the property owner in accordance with § 291-5 of this Part 1.

- B. In instances where property owners do not comply with the notice or ordinance, the information shall be reported to the Mayor for prosecution in accordance with this Part 1, §§ 291-5 and 291-6.

### **§ 291-18. Variances.**

Variances to these standards may be granted by action of Council.

## **Part 2 Snow and Ice Removal [Adopted 10-15-1979 by Ord. No. 381]**

### **ARTICLE V Removal from Sidewalks.**

#### **§ 291-19. Snow to be removed.**

From and after the effective date of this part, it shall be unlawful for any owner of property within the Borough on which is constructed any sidewalk parallel to a street to allow snow to remain accumulated on any said sidewalk more than 12 hours after the end of a snowfall.

#### **§ 291-20. Borough may do work. [Amended 9-16-1985 by Ord. No. 404]**

Should any owner of such property aforesaid neglect or refuse to remove snow from such sidewalks for more than 12 hours after a snowfall, the Borough Secretary, Street Commissioner or Code Enforcement Officer shall, at the cost of the owner, remove such snow. Such amounts as are expended by the Borough in the removal of such snow, together with an administrative fee of 15%, may be collected from the owner of the property involved by municipal claim, action in assumpsit or otherwise.

#### **§ 291-21. Violations and penalties. [Amended 9-16-1985 by Ord. No. 404; 11-7-2005 by Ord. No. 481]**

Any person, firm or corporation who shall violate any provision of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than \$600 and/or to imprisonment for a term not to exceed 90 days.

**Part 3**  
**Overhanging Vegetation**  
[Adopted 6-8-1970 by Ord. No. 334]

**ARTICLE VI**  
**Dead and Live Vegetation**

**§ 291-22. Vegetation as nuisances.**

Dead and live vegetation or portions thereof which obstruct and/or overhang the public streets, sidewalks and alleys of the Borough of East Washington are hereby declared to be nuisances.

**§ 291-23. Owner to remove.**

The owner or occupier of land within the Borough of East Washington upon which such streets are located shall remove the same upon 20 days written notice from the Borough Secretary.

**§ 291-24. Notice.**

Said written notice shall be served upon the owner of the premises to which the notice refers, if such owner is a resident of the Borough. If the owner is not a resident, then the notice may be served upon the agent or tenant of the owner or upon the occupant of such premises, and if the owner is a nonresident of the Borough and the premises are vacant, then service shall be by notice posted upon the premises.

**§ 291-25. Borough may do work; cost.**

Upon failure of any such owner or occupier to comply with such notice, the Borough may cause the tree or trees to be removed and collect the cost of such removal, together with penalty of 10% of such cost, in the manner provided by law for the collection of municipal claims or by action of assumpsit, or may seek relief by bill in equity.

**Part 4**  
**Street Excavations**  
[Adopted 4-1-2013 by Ord. No. 512]

**ARTICLE VII**  
**Driveway and Street Excavation**

**§ 291-26. Short title.**

This article shall be known as the “East Washington Borough Driveway and Street Excavation Ordinance.”

**§ 291-27. Legislative intent and applicability.**

The background of this article and the legislative intention of the Council (“Council”) in enacting it are as follows:

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

**§ 291-28. Definitions.**

For the purposes of this article, the following terms shall be defined as follows:

**BOROUGH**—East Washington Borough, Washington County, Pennsylvania, or its duly appointed representative.

**COUNCIL**—The Council members of East Washington Borough, Washington County, Pennsylvania.

**CONTRACTOR**—The person who installs a driveway or excavates in a Borough roadway, including all agents, subcontractors, officers or employees of that person or business entity.

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

**OWNER**—The owner of the land upon which the driveway is located and his successors or assigns.

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

**PERMIT**—A highway occupancy permit issued by the Council pursuant to this article.

**PERMITTEE**—The holder of a duly issued permit.

**PUBLIC ROAD**—Any road, street, alley, bridge, or public thoroughfare, including the entire area between right-of-way lines, either presently maintained by East Washington Borough, or shown on a subdivision or land development plan and intended to be dedicated to East Washington Borough in the future.



PENNDOT–Pennsylvania Department of Transportation.

RIGHT-OF-WAY–The area which has been acquired by the Borough for highway purposes.

**§ 291-29. Requirement of permit.**

- A. Permit required. No person shall hereafter install or alter an existing driveway or allow any work incident to the alteration or installation of a driveway including the alteration of existing drainage characteristics without first obtaining a permit from the Borough. No person shall hereafter perform excavation or other work within a Borough public road without first obtaining a permit from the Borough. The fee amount for said permit shall be approved annually by resolution. The fee for said permit shall be set by resolution of Council.
- B. No combined permits. Each driveway, whether or not serving the same premises, shall require an individual permit. Each excavation or other work sit within a public road shall require an individual permit.

**§ 291-30. Application procedures.**

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

**§ 291-31. Requirements for a driveway connection.**

- A. Required information. The application shall be accompanied by a sketch of the proposed driveway which at a minimum shall indicate:
  - (1) Geometric information such as width, radius, dimensions and location of the public road, right of way, slope and grades, length of driveway to residence or building, and distance to property lines and nearest driveway(s) and intersection(s). In conjunction with submission of the application, the applicant shall place a stake at the desired location which shall coincide with the submitted sketch.
  - (2) Safe sight distances shall be indicated on the sketch as obtained from actual field measurement. Measurement of sight distance shall be measured in accordance, with the requirements of PennDOT. Minimum sight distances shall be required to meet those set forth by PennDOT. Signature of the application by the owner shall be an admission that the indicated sight distance is the result of actual field measurement.
  - (3) The Borough Engineer shall review the same and make comments and/or recommendations to the Council for the Council's consideration.

- (4) Drainage culvert (if applicable) or swale including related grades as may be required. The determination for installation of a culvert pipe or swale shall be made by the Borough Engineer following initial review by the Borough Code Enforcement Officer. The application must also include a long term drainage and erosion control plan which shall specify provisions for road side drainage and control and mitigation of surface water runoff created by installation or improvement of the driveway.
  - (5) When determined by the Borough, a stormwater management plan shall be filed in accordance with the requirements of the Borough Stormwater Management Ordinance [Chapter 286], in which case approval of the stormwater management plan shall precede issuance of a driveway permit.
- B. Review criteria. The application and accompanying sketch and drainage plan shall be reviewed by the Borough or its duly appointed representative. Driveway design shall conform to the requirements and standards and specifications of this article, PennDOT, the applicable East Washington Borough Subdivision Ordinance [Chapter 295], as amended, the East Washington Borough Stormwater Management Ordinance [Chapter 286] and all related standards and specifications which are incorporated herein by reference. In no event shall a permit be issued for a proposed driveway under any of the following circumstances:
- (1) It would create hazardous effects of stormwater run-off.
  - (2) It would cause damage to a public road.
  - (3) It would increase hazardous driving conditions on the public road.
  - (4) It would be constructed in a manner which would obstruct it from view.
  - (5) The sight distance is inadequate to safely allow movement to be made into or out of the driveway.
  - (6) It would create an area of traffic congestion on the highway or street.
  - (7) It shall not be located at an interchange, ramp area or a location that would interfere with the placement, functioning or maintenance of a highway or street sign, detector, lighting or other device that affects traffic control.
  - (8) Where the property abuts two or more streets or highways, ingress and egress may be restricted to only that highway or street which can more safely accommodate its traffic.
  - (9) No more than one driveway shall be permitted per lot on any one highway or street frontage. The Council may grant permission for additional driveways under exceptional circumstances.
  - (10) It shall not be located within 40 feet of the right-of-way line of an intersecting street when deemed reasonably necessary for safety by the Council. This dimension shall be increased for driveways to shopping centers and other commercial, industrial, public or institutional purposes.
  - (11) It shall not be located within five feet of a fire hydrant, catch basin or drain inlet.
  - (12) It shall not exceed a slope of 7% within 15 feet of the street right-of-way line.
  - (13) It shall not be located within three feet of a property line.

- C. Damage to public roads. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route or used at the work site.
- D. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.
  - (1) The permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Borough. A traffic control plan shall be submitted to and approved by the Borough Engineer before detouring any traffic.
  - (2) Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
  - (3) Designated employees shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with applicable Publications 212 and 213.
- E. Drainage. All driveways which are installed on any public road will be required to install either a drainage pipe (culvert) or construct a drainage swale as directed by the Borough representative.
- F. Paving to limits. All driveways which are constructed and have access onto a paved public road will be required to be paved from the edge of the existing public road to the right-of-way limit or the end of the radius whichever extends further from the Borough road.
- G. PennDOT requirements. When a driveway accesses a State road, the owner shall comply with all PennDOT requirements, including the requirements to obtain a permit from PennDOT.
- H. Re-Inspections. The Borough may re-inspect the work not more than two years after its completion, and if there is settlement of the connection or any other defects appear in the work contrary to the conditions, restrictions and regulations of this article, the Borough may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within 48 hours or any other defect within 60 days after written notice from the Council to do so, the Borough may do the work and impose upon the owner the cost thereof, together with an additional 20% of the costs, which may be recovered by the Borough.
- I. Owner's responsibility. As part of obtaining a driveway permit, all property owners shall be responsible for long-term maintenance of the driveway and related drainage or stormwater management plan. In the event that excess stormwater runoff or sediment is diverted onto public roads the owner will be given notice and required to make necessary corrections to bring the driveway and drainage into compliance. In the event that a driveway culvert pipe becomes crushed or blocked it may be replaced at the owner's expense. The Borough reserves the right to require the owner to make repairs, to make the repair at the owner's expense or to contract with a third party at owner's expense to perform the needed repairs. All property owners shall be responsible for any and all costs for maintenance to public roadways resulting from water runoff caused by improperly

maintained driveway pipes.

- J. Overnight parking. Where construction permitted by this article requires equipment to park at the site overnight, it shall be located at a minimum of four feet from the edge of the cartway of the Borough road.
- K. Sight distance. Measurement of sight distance from a vehicle turning from a driveway shall be such that the position of the driver it taken to be 10 feet from the edge of the traveled roadway at the centerline of such driveway; the driver eye height is to be three and one-half feet; the vehicle height on traveled roadway is to be four and one-fourth feet. Adequate sight distance is to be provided to the right and to the left of the driveway.
- L. Permit issuance. If the plans meet the criteria above, the Borough shall issue the permit. If the application is found to be deficient, or if in the opinion of the Borough the plan should be revised in order to meet the criteria above, the Borough shall notify the owner of the changes to be made, whereupon the applicant shall make such changes and return the revised plans to the Borough. When the application is acceptable to the Borough, the permit shall be issued.

#### **§ 291-32. Requirements for excavations and other work in public roads.**

Design, construction and restoration shall conform to the requirements of this article, PennDOT regulations and specifications as may be adopted by the Borough from time to time.

##### **A. Permit application.**

- (1) Any person desiring to open, excavate or bore in or under any street in the Borough, shall file an application with the Borough on forms provided by the Borough. Such application shall contain the following information:
  - (a) The name and address of applicant.
  - (b) The exact location of the proposed opening, excavation, or boring.
  - (c) The approximate size and depth of the proposed opening, excavation, or boring.
  - (d) The proposed dates and times of commencing and completing the work.
  - (e) The method and progression for performing the work.
  - (f) The purpose of the proposed opening, excavation, or boring.
  - (g) Such other information as the Borough may deem pertinent.
- (2) Such application shall contain a statement, which shall be subscribed to by the applicant, to the effect that the applicant will comply with all relevant ordinances of the Borough (including this article) and laws of the Commonwealth of Pennsylvania and that the applicant will defend, protect and save harmless the Borough and its officers, agents, and employees from all loss and liability in accordance with the provisions of this article.

- B. Issuance of permit; applicability. Upon being satisfied that the application is in proper form and upon receipt from the applicant of the fee prescribed by this article, the performance bond prescribed by this article and the certificates of insurance prescribed by this article, the Borough shall issue a permit. Such permit shall apply only to a specific work described

in the application, shall expire on the date and time when the work is proposed to be completed and may contain such conditions or limitations as the Borough deems necessary for the protection of persons and property.

- C. Emergency situations. In the case of any leak, explosion or other accident in any subsurface pipe, line, conduit, construction or apparatus, it shall be lawful for the person owning or responsible for such pipe, line, conduit, construction or apparatus to commence an opening or excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this article are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such pipe, line, conduit, construction or apparatus, the Borough, after such notice, or attempt of notice, as it shall deem necessary under the circumstances of the particular case, may proceed to have the work necessary and required by such emergency performed and charge the cost thereof to such owner or person.
- D. Open lane of travel. No opening, excavation or construction in any public road shall extend from the right-of-way line into the road past the center line, before being restored to a condition safe and convenient for travel.
- E. Allowable limits of excavation. No more than 100 feet longitudinally shall be opened in any street at any one time, except in the case of the installation of gas or water lines by public or private bodies, or of sanitary or storm sewers by the Borough or a duly constituted Borough municipal authority.
- F. Special conditions for subsurface operations.
  - (1) Drilling, boring, driving or tunneling across improved area.
    - (a) When crossing under any improved area, the opening for a utility facility shall be drilled, bored or driven on a horizontal plane at a minimum depth of three feet below the surface of the highway and its swale ditches.
      - [1] The facility may be placed otherwise by tunneling when specified in the permit. When tunneling, after the facility is placed, the hole shall be backfilled with one-to-three-to-six concrete of dry consistency and tamped.
      - [2] Wet boring is prohibited.
  - (2) No openings for the purpose of placing utility facilities or other structures under the improved area by drilling, boring, driving or tunneling shall be made closer than three feet to, the edge of the roadway unless the permit authorizes less clearance.
  - (3) Facilities and other structures crossing under the improved area shall be constructed so as to assure the safety of the traveling public and to preclude the necessity of entering upon the improved area to effect future maintenance or replacement.
- G. Trenching across improved area.
  - (1) No trenching shall be permitted across the improved area unless authorized by the permit.
  - (2) Trenching across the improved area may be authorized by the permit where drilling, boring, driving or tunneling are not feasible because:

- (a) The subsurface is solid rock.
  - (b) There are other facilities located longitudinally under the improved area and their location precludes methods other than trenching.
  - (c) Adjacent development in a very congested area makes the construction of a tunneling or boring shaft impossible.
- (3) When trenching is specified in the permit, the trenching operation shall be performed by one of the following two methods:
  - (a) Utility facility placed in one piece across highway.
    - [1] Traffic shall be routed over one-half of the pavement width.
    - [2] The closed half of the pavement shall be opened to the required depth and bridged with steel plates.
    - [3] Traffic shall be shifted to the bridged half of the pavement.
    - [4] The remaining half of the pavement shall be opened to the required depth.
    - [5] The facility shall be placed full width.
    - [6] The open trench shall be backfilled and restored half-width in accordance with this section (relating to special conditions for subsurface operations).
    - [7] Traffic shall be shifted to the restored half of the pavement.
    - [8] The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section (relating to special conditions for subsurface operations).
  - (b) Utility facility placed in more than one piece across highway.
    - [1] Traffic shall be routed over one-half of the pavement width.
    - [2] The closed half of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section (relating to special conditions for subsurface operations).
    - [3] Traffic shall be shifted to the restored half of the pavement.
    - [4] 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 this section (relating to special conditions for subsurface operations).
- H. Open trenches. If work is stopped on any road project, and any ditch or trench remains open for an unreasonable period, in the opinion of the Borough, the owner and/or contractor, if so directed, shall refill the ditch or trench and work shall not be resumed until such time as the owner and/or contractor is ready to proceed. In the event that the owner and/or contractor fail to fill in the ditch or trench upon notification by the Borough, the Borough may perform the necessary and required work and charge the cost thereof to the owner.
- I. Consent of abutting owners. The owner and/or contractor is not relieved from obtaining consent required from the owners or abutting properties and does not have the right to remove or destroy trees or shrubbery within the legal limits of the highway except under

such conditions as the Borough may prescribe.

- J. Temporary surface. On improved public roads, a minimum two inch, temporary paving of hot mix thoroughly bound and compacted shall be installed flush with the surface of the adjoining paving. Permanent paving must be completed within 60 days of excavation or following completion of site work related to the driveway.
- K. Non-disturbance of utility connections. The work of excavation shall be so conducted so as not to interfere with the water mains, gas lines, sewers or their connections with the houses or any other sub-surface pipes or structures until permission of the owners of such lines or structures shall have been obtained. The contractor is responsible for locating and protecting underground utilities and coordination with respective utility company.
- L. Borough may correct work, in the event that any work performed by the owner and/or contractor, shall, in the opinion of the Borough, be unsatisfactory and the same shall not be corrected in accordance with these instructions within the time so fixed, or in the event that the work for which the permit was granted in not completed within the time fixed by the Borough, the Borough may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof to the owner.
- M. Permits non-transferable. Permits may not be transferred without the approval of the Borough.
- N. Damages to public roads. The owner and/or contractor are responsible for damage to any portion of the public road caused by equipment en route or used at the work site.
- O. Traffic protection and maintenance. Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Pennsylvania Department of Transportation, as set forth in Publication No. 43 and Publication No. 90.
  - (1) The permittee shall provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Borough office. A traffic control plan shall be submitted to and approved by the Borough Engineer before detouring any traffic.
  - (2) Warning signs shall be placed in advance of the actual operation in such a manner as to be visible to the traveling public, and substantial barricades with adequate illumination shall be provided and maintained for any open trench or hole in the improved area.
  - (3) Designated employees shall be assigned by the permittee to direct one-lane traffic. Flagmen shall be provided as specified in the permit and in accordance with Publication No. 43 and Publication No. 90.
- P. PennDOT requirements. When an excavation or other work is proposed in a State road, the owner shall comply with all PennDOT requirements, including the requirement to obtain a permit from PennDOT.
- Q. Re-inspections. The Borough may re-inspect the work not more than two years after its completion, and if there is settlement of the connection, or any other defects appear in the work contrary to the conditions, restrictions and regulations of this article, the borough may enforce compliance therewith. If the owner fails to rectify a defect which presents an immediate or imminent safety or health problem within 48 hours or any other defect within

60 days after written notice from the Council to do so, the Borough may do the work and impose upon the owner the cost thereof, together with an additional 20% of the costs, which maybe recovered by the Borough.

- R. Overnight parking. Where construction permitted by this article requires equipment to park at the site overnight, it shall be located a minimum of four feet from the edge of the cartway of the Borough road.
- S. Permittee responsibilities.
- (1) The permittee shall pay all costs and expenses incident to or arising from the project, including the prescribed fees for same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration. The permittee shall reimburse the Borough for any and all inspection costs, which the Borough may deem necessary to incur, within 30 days after receipt of the Borough's invoice.
  - (2) In the event of failure or neglect by permittee to perform and comply with the permit or these regulations, the Borough may immediately revoke and annul the permit and order and direct the permittee to remove any or all structures, equipments or property belonging to the permittee and/or its contractors from the legal limits of the right-of-way and to restore the right-of-way to its former condition. In the event the Borough determines that such structures, equipment or property pose a threat to the public safety and the permittee fails to remove the same after notice from the Borough to do so, the Borough's attorneys or any attorney of any court of record shall be authorized to appear for the permittee and to enter an amicable action of ejectment and confess judgment against the permittee; and the attorney shall be authorized to issue forthwith a writ of possession with costs, without leave of court.
  - (3) If work is stopped on a project for any reason, other than at the end of any normal workday, and any ditch or trench remains open for an unreasonable period, in the opinion of the Borough, the permittee, if so directed, shall refill the ditch or trench and work shall not be resumed until the permittee is prepared to proceed immediately with the work to its completion. In the event the permittee fails to refill the ditch or trench or proceed until completion of the work, upon notice from the Borough to do so, the Borough may perform the necessary and required work and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Borough's invoice.
  - (4) If the permittee, after making an opening in the surface to place or repair a facility or for any other purpose, fails to restore any portion of the right-of-way to conform to this section, upon notice from the Borough to do so, the Borough reserves the right to do the work and the permittee shall reimburse the Borough for the costs within 30 days after receipt of the Borough's invoice.
- T. Altering drainage prohibited.
- (1) Unless specifically authorized by the permit, the permittee shall not:
    - (a) Alter the existing drainage pattern or the existing flow of drainage water.
    - (b) Direct the additional drainage of surface water toward, onto or into or in any way affect the highway right-of-way or highway facilities.
  - (2) The permit does not authorize the permittee to direct, divert or otherwise drain surface



waters over the property of any other property owner.

- (a) The permit does not in any way relieve the permittee from acquiring the consent, permission or other authorization from any property owner which the Borough determines may be adversely affected by drainage alterations.
- (b) The permittee is responsible for any damage caused to any property owners as a result of work done under the permit.

U. Equipment damaging roadway.

- (1) To protect the pavement and shoulders, all equipment shall have rubber wheels or runners and shall have rubber, wood or similar protective pads between the outriggers and the surface unless otherwise authorized by the permit.
- (2) In the event that other than rubber-equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of matting, wood or other suitable protective material having a minimum thickness of four inches, unless the permit requires the permittee to repave the roadway full width.
- (3) If the equipment damages the pavement or shoulders, the permittee shall restore the pavement or shoulders to their former condition at the permittee's expense.

V. Indemnification. The permittee shall fully indemnify and save harmless and defend the Borough of and from all liability for damages or injury occurring to any person or persons or property through or in consequence of any act or omission of any contractor, agent, servant, employee or person engaged or employed in, about or upon the work by, at the instance or with the approval or consent of the permittee, from any failure of the permittee or any such person to comply with the permit or these regulations; and, for a period of two years after completion of the permitted work, from the failure of the highway in the immediate area of the work performed under the permit where there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work.

W. Insurance. The permittee shall, upon request, submit to the Borough office a certificate or certificates of insurance for public liability and property damage, in form and amount satisfactory to the Borough, to cover any loss that may be incurred for or on account of any matter, cause or thing arising out of the construction, reconstruction, repair, relocation or installation of the permitted structures or facilities.

X. Maintenance of disturbed area; bonding requirements. The applicant shall maintain the portion of the street disturbed by the opening or excavation for a period of 18 months from the date the backfilling is completed at a proper grade and condition free from ridges and depressions. Such maintenance work shall be done as often as may be necessary. To guarantee proper restoration of the surface and proper maintenance of the disturbed area, the applicant must deposit with the Borough, prior to issuance of the permit, a bond in an amount set by the Borough, with corporate surety guaranteeing the proper performance of the work and the proper maintenance of the disturbed area for the period of time required above. Utilities and other persons who open or excavate in streets on a regular basis may, with the permission of the Borough, keep on deposit a single bond in an amount set by the Borough and applying to the work included in all of the permits at any time outstanding.

Y. Notification and correction of defects; failure to correct. It within a period of 18 months from the date the backfilling is completed, the Borough determines that the backfilling,

surface restoration or maintenance of the disturbed area is defective, it shall notify the applicant, in writing, to that effect. Promptly upon receipt of such written notice the applicant shall take immediate steps to correct such defects. If the applicant fails to take immediate corrective action, the Borough may perform the work itself or cause the same to be performed by another person. The applicant and the surety on its bond shall be liable for all costs and expenses incurred by the Borough in correcting such defects and for any penalty assessed as a result of the applicant's failure to take immediate corrective action.

- Z. Blasting. No pre-drilling or blasting shall be permitted within the right-of-way unless authorized by the permit.
- (1) If the permittee proposes to blast, the permittee shall make, execute and deliver a bond to the Borough in an amount determined by the Borough with surety by a company duly registered and authorized to do business in the Commonwealth, conditioned that the Commonwealth will be saved harmless from any damages whatsoever to be improved area for a period of one year from the date of the completion of the last work covered by the permit.
  - (2) When blasting is anticipated within 100 feet of any bridge, box or culvert, a detailed plan of excavating, shoring, blasting and backfilling procedures shall be submitted, with the application, to the Borough office for review and approval.
  - (3) No blasting shall be permitted if within 25 feet of the nearest part of a bridge, box or culvert.
  - (4) Only controlled blasting, as specified in § 203.3(d), PennDOT Form 408, shall be permitted within the improved area.
- AA. Maintaining structure or facility. As long as the permittee operates and leaves in place any structures or facilities in, upon or along the right-of-way, the permittee shall maintain and keep them in good order and repair.
- BB. Damaged structure or facility to be repaired. If at any time the structure or facility shall become damaged from any cause whatsoever, the permittee shall have it removed, repaired or otherwise made safe immediately upon notification from the Borough.
- CC. Approval by inspector. Approval by the Borough's inspector of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval by the inspector act as a release of the permittee or waiver by the Borough of its right to seek performance or restitution from the permittee.
- DD. When plates or bridging required. Except for emergency repairs of utility facilities, work shall be stopped prior to peak traffic hours that exist on a particular highway on a particular day. Steel plates or bridging shall be placed over all openings made within the improved area, which are less than six feet in either length or width when work is stopped. The plates or bridging shall be extended a minimum of 18 inches from each edge of the opening and shall be secured in a safe manner.
- EE. Disposition of materials.
- (1) The permittee shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the roadway during the performance of work authorized by the permit.

- (2) The permittee shall be responsible for controlling dust conditions created by its own operations.
  - (3) All excess material and material that is not suitable for backfill shall be removed and disposed of outside the right-of-way as the work progresses.
  - (4) All retained suitable material shall be placed or stored on the side of the operation farthest from traffic, unless otherwise authorized by the permit, and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch or waterway.
- FF. General rules. Permits will not be issued to install aboveground facilities at locations which the Borough determines to have a high accident potential.
- GG. Location of above ground facilities.
- (1) New poles, guys and other aboveground facilities shall be installed outside the shoulder of the public road as near the right-of-way as practicable.
  - (2) Installation of poles, guys and other aboveground facilities in locations where highway curb exists shall be placed off the roadway but as close to curb as possible.
- HH. Location of wires, cables or conductors. All wires, cables or conductors which overhang any portion of the right-of-way shall be placed so as to provide a minimum vertical clearance of 18 feet over the roadway except where the National Electrical Safety Code requires vertical clearances in excess of 18 feet due to voltage and/or span lengths.
- II. Guys.
- (1) Guys shall be placed so as to avoid interference with vehicular or pedestrian traffic.
  - (2) Guys shall be insulated or grounded in compliance with the National Electrical Safety Code.
- JJ. Identification of poles. Each pole shall bear the name or initials of the facility owner and the pole number(s) assigned by the facility owner.
- KK. Availability of records for examination. All permit records, restoration records and emergency work records shall be made available for examination by the Borough upon request.

**§ 291-33. Additional specifications by resolution.**

From time to time, the Council may adopt, by resolution, such additional driveway and/or excavation specifications and requirements, and may supplement or modify the driveway and excavation specifications set forth in this article. Any violation of the additional requirements or specifications, modifications and supplements, as duly adopted, shall be subject to the penalties set forth in § 291-35 of this article.

**§ 291-34. Inspection.**

It shall be the duty of the Borough to inspect all work for conformity with all of the ordinances of the Borough. Notice must be given by the owner and/or contractor to the Borough when the work is sufficiently advanced for inspection, when it shall be the duty of the proper officer to

inspect the same after receipt of said notification.

**§ 291-35. Penalties.**

Any owner or contractor who violates any provision of this article shall, upon being found liable therefore in a civil enforcement proceeding pay a fine not exceeding \$1,000 plus all court costs including reasonable attorney's or consultant fees incurred by East Washington Borough. Each day of violation shall constitute a separate offense and be subject to the penalty set forth herein.