

CODE OF WAYMART BOROUGH
STREETS AND STREET PARKING – CHAPTER 95

Chapter 95
Streets and Street Parking

§ 95-01. Grading, Excavation and Fill (a/k/a Street Encroachment).

§ 95-02. Street Maintenance.

§ 95-03. Sidewalks.

§ 95-04. Street Construction, Opening and Dedication.

§ 95-05. Street and Parking Regulations.

[HISTORY: Ordinances as amended and related to: Grading, Excavation and Fill (a/k/a Street Encroachment) adopted as Ordinance 2004-2; Street Maintenance as adopted via Ordinance 6/2/98 and Ordinance 2009-4; Sidewalks adopted via Ordinance 88-5; Street Construction, Opening and Dedication via Ordinance 79-3, Ordinance Ordinance 6/2/98 and Ordinance 2008-2; Street Regulations via Ordinance 2019-3 and Parking Regulations via Ordinance 2-2006 and Ordinance 1-2021.]

§ 95-01. Grading, Excavation and Fill (a/k/a Street Encroachment).

A. Definitions. As used in this article, the following terms shall have the meanings indicated:

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

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

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

Borough: The Borough of Waymart, Wayne County, Pennsylvania, a Pennsylvania municipal corporation, acting by and through its Council.

Emergency Repair: Repair to a utility undertaken under Section 459 to repair damage resulting from a vehicle accident or collision with the facility, a failed component or storm damage. The term does not include service connections or disconnections unrelated to vehicle accident, a failed component or storm damage.

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

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

Improved Area: The area within the right-of-way which has been constructed for roadway purposes, including roadbed, pavement, shoulders, slope, sidewalks, drainage facilities and other appurtenances.

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Inspector: The Borough's authorized representative assigned to inspect permit operations.

Pavement: The combination of subbase, base course and surface coarse placed on 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 curbed sections. The term does not include shoulders.

Permit: A street or highway occupancy permit issued by the Borough of Waymart under these regulations.

Person: A natural person, firm, copartnership, association, corporation, authority or political subdivision.

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

Right-of-Way: The area which has been acquired by the Borough for roadway purposes.

Seal-Coat: A thin treatment consisting of bituminous or other approved material, usually covered with aggregate, applied to the surface course.

Shoulder: The existing improved or graded portion of the roadway, contiguous to the traffic lanes, for accommodation of stopped vehicles, for emergency use or for lateral support to the surface course of pavements.

Street: A roadway or bridge on the system of Borough roadways and bridges, including the entire width between right-of-way lines, over which the Borough has assumed or has been legislatively given jurisdiction.

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

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

Suitable Materials: Soil, granular material or shale meeting the specifications in the Pennsylvania Department of Transportation Specifications, Publication 408 (latest edition), in Section 206.2 when placed and compacted under Section 459.8(g) of said publication.

Supplement: An amendment to a permit issued, in writing, by the Borough.

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

Utility: A person owning a utility facility, including any wholly owned or controlled subsidiary.

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Utility Facility or Facility: Privately, publicly or cooperatively owned lines, facilities and systems for producing, transmitting or distributing communications, power, electricity, light, heat, gas, refined petroleum products, liquefied petroleum gas (LPG), crude products, coal, water, steam, waste, stormwater and other similar commodities, including fire and police signaling systems and streetlighting systems, which directly or indirectly serve the public or any part thereof.

Vehicle: Every device which is or may be moved or drawn upon a street or roadway.

- B. Permit Required. Except as provided for in Subsections (1) through (2) below, no work may be performed within the right-of-ways of the Borough of Waymart involving the placing of utility facilities or other structures or opening of the surface without first obtaining a permit from the Borough of Waymart.
- (1) Emergency repairs of utility facilities may be performed by the owner of the utility without first obtaining a permit, provided that an application for a permit, as provided for herein, shall be made no later than three business days following the emergency opening.
 - (2) A permit is not required for modifying parts of existing permitted facilities, such as cable within conduit, cross arms or transformer poles, or manhole riser rings prior to resurfacing if no opening in the surface is required.
 - (3) A permit is not required for stringing overhead utility lines.
 - (4) A permit is not required for accessing an existing utility facility through a manhole.
 - (5) From November 15 through March 15, there shall be no street openings or excavations whatsoever, except in emergency conditions, and then only under the strict supervision of the Waymart Borough Director of Public Works.
- C. Application for Permit.
- (1) Who may execute applications:
 - (a) If a corporation, authority, political subdivision or other person in the business of providing utility service owns, operates or intends to operate the facility, the application shall be submitted in the name of and executed by the party. An application may not be submitted in the name of the contractor of the owner or operator, nor in the name of persons only being served by the facility.
 - (b) In the case of a facility owner who is not in the business of providing utility service, such as a developer whose land is located outside of a utility's service jurisdiction, the application may be made in the name of the developer with the express written acknowledgment of the owner of the utility. The applicant shall indemnify and hold harmless the Borough from any claims by anyone claiming residual property interests in the permitted area.

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- (2) Required application information. A permit application shall be submitted to the office of the Borough of Waymart at least 15 days prior to the anticipated start of work, except as provided for under emergency work. The application shall be submitted in person or by mail on a properly completed application form provided by the Borough.
- (a) The application shall:
- [1] Be signed by the applicant.
 - [2] Include at least three sets of plans, of a sufficient quality, detailing the location and pertinent horizontal and vertical dimensions of the opening, the proposed utility installation and related roadway features, including center line, edges of pavements, outside edge of shoulders, curbing, guide rail, drainage structures and right-of-way lines. Freehand drawings of features or utility facilities are unacceptable.
 - [3] Be accompanied by a check or money order, payable to the Borough of Waymart, in the appropriate amount, as authorized herein relating to permit fees).
 - [4] Be accompanied by a detailed traffic control plan for the permitted work.
- (b) The Borough may also require satisfactory evidence of the applicants ability to completely discharge construction, maintenance and financial duties imposed by this article. The Borough may require security, including but not limited to:
- [1] Execution of an indemnity agreement of a form satisfactory to the Borough.
 - [2] Insurance in a form and amount acceptable to the Borough.
 - [3] Surety bonds in a form and amount acceptable to the Borough for a period of at least two years after the acknowledged completion of the permitted work.
 - [4] Surety bonds in a form and amount acceptable to the Borough to guarantee maintenance costs for the facility and the right-of-way in which it is located for a period of at least two years after the acknowledged completion of the permitted work.
 - [5] Depositing sufficient currency in an escrow account acceptable to the Borough to fully secure the obligations in Subsections (3) and (4) immediately above.
 - [6] The use of bonded contractors.
- (3) Accuracy of application. The information provided in the application shall be accurate. The applicant is responsible for the accuracy of information submitted to the Borough, including the application, plans, drawings, reports and correspondence.
- (4) Authority to reject application. The Borough shall examine and determine the genuineness,

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regularity and legality of every application and may reject an application if not satisfied as to its genuineness, regularity or legality or truth of a statement contained in the application. The Borough may also make investigations and inquire additional information as it deems necessary.

- D. Issuance of Permits. Upon approval of an application submitted hereunder, a permit will be issued by the appropriate Borough official, subject to the regulations hereunder and any conditions contained in the permit and its attachments and supplements. The permit shall be the applicants authority to proceed with the work specified in the permit. A copy of the permit and relevant plans shall be available at the work site for review.
- E. Permit Supplements. The permittee may request a supplement to a permit to amend a permit condition, such as revising the traffic control plan or extending the permit expiration date. A permit is valid for a period of six months, or multiples thereof as specified on the permit, subject to the following:
- (1) If the permittee has not completed the authorized work by the expiration date of the permit, an application shall be submitted requesting a time extension on the permit.
 - (2) If approved, a supplement to the permit authorizing a new completion date will be issued by the Borough.
 - (3) No extension of the permit will be authorized unless the permittee obtains an extension on the duration of the bond, insurance or other security required as a condition of the permit. Said extension shall correspond with the permit time extension.
 - (4) No work may be performed on an expired permit until a time extension supplement or new permit is obtained.
- F. Work Commencement Notification. The permittee shall notify the Borough at least one business day in advance of the backfilling of and excavation permitted hereunder.
- G. Permit Fees.
- (1) The Waymart Borough Council shall establish a schedule of fees and collection procedures for permits required herein. Said schedule of fees shall be adopted or amended by resolution and will be posted in the office of the Borough of Waymart.
 - (2) It shall be the responsibility of the applicant to pay for all additional or unusual costs, including inspection costs, incurred by the Borough for the review and processing of applications filed for approval hereunder.
- H. Emergency Work. Emergency repairs involving the placing of facilities or opening of the surface within the right-of-way may be performed prior to obtaining a permit if the following procedures are adhered to:
- (1) The utility facility owner or operator shall promptly notify the Borough's Director of Public

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Works by telephone when the necessity for emergency repairs occurs during the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday. Emergency work occurring at other times shall be reported to the Borough on the following workday. A one call is not considered notification to the Borough Public Works Department.

- (2) A permit shall be applied for within three business days to confirm and set forth, in detail, any work performed.
- (3) Any emergency work performed shall comply with the technical standards contained herein.
- (4) The Borough reserves the right to inspect all construction activities within Borough streets and right-of-way at the expense of the permittee.

I. General Permit Conditions.

- (1) Work performed shall conform to the Borough's standards, including but not limited to the following:
 - (a) The Borough reserves the right to inspect all construction activities within Borough streets and right-of-way at the expense of the permittee.
 - (b) The work shall be done at a time and in a manner consistent with the safety of the traveling public and conform to the requirements of the Borough.
 - (c) If it is found by the Borough that the work is not being done or has not been properly performed, the permittee shall promptly take the necessary steps, at his/her own expense, to place the work in the condition to conform to the requirements or standards.
 - (d) If a dispute arises, the Borough Inspector has the authority to suspend work until the question at issue may be referred to and decided by the Borough.
- (2) In the event of failure or neglect by the permittee to comply with the permit or this article, the Borough may immediately revoke and annul the permit and order and direct the permittee to remove structures, equipment or property belonging to the permittee or his/her contractor from the legal limits of the Borough right-of-way and to restore the right-of-way to its former condition.
- (3) At the end of a workday, any opening in the right-of-way shall be covered, backfilled or otherwise adequately protected so as not to cause a threat to the public and/or create an attractive nuisance. If work is stopped on a project for reasons other than at the end of a normal workday or for a period of time longer than two days, the permittee shall promptly backfill the opening and restore the surface, and work may not resume until the permittee is prepared to proceed with the work to its completion. If the permittee fails to backfill the opening or proceed until completion of the work, the Borough reserves the right to do the work upon notice to the permittee, where practical, and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Borough's invoice.

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- (4) If the permittee, after making an opening in the surface to place or repair a facility or for another purpose, fails to restore the surface as required herein within 30 days, the Borough reserves the right to do the work upon notice to the permittee, where practical, and shall be reimbursed for the costs by the permittee within 30 days after receipt of the Borough's invoice.
- (5) Unless specifically authorized by the permit, the permittee shall not:
 - (a) Alter the existing drainage patterns or the existing flow of drainage water.
 - (b) Direct additional drainage or surface water toward, onto or into or in any way affect drainage facilities of the Borough. The permit does not authorize the permittee to direct, divert or otherwise drain surface waters over the property of another property owner.
- (6) The permittee is responsible for damage caused to property as a result of the work done under the permit.
- (7) The streets of the Borough shall be protected in accordance with the following:
 - (a) 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.
 - (b) If other than rubber-equipped machinery 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 his/her obligation to repair or reconstruct the pavement or shoulder, if damaged, to its former condition.
- (8) Maintenance and protection of traffic shall be carried out by the permittee.
- (9) Prohibition of road closure.
 - (1) No Borough street or road shall be entirely closed to traffic. At least one travel lane shall remain open during any road activity contemplated under this article.
 - (2) Notwithstanding the road-closure prohibition of § 179-23I(1), if work on any Borough street or road shall require a street closure due to the nature of the work or due to any width limitations of the street, a Borough street or road may be closed entirely upon written authorization from the Waymart Borough Public Works Director, who shall have the further discretion to establish limitations and/or parameters relative to the street closing.

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- (10) Progressive remediation and restoration.
- (a) Notwithstanding anything herein to the contrary, any road or street opening under this article shall require the following pavement and/or road surface restoration and/or remediation:
 - [1] Regardless of the scope or breadth of any project triggering the provisions of this article, all streets and/or roads subject to a street opening shall be restored to the same original height, width and dimension of that street or road within 20 days of any original road/street opening.
 - [2] This restoration shall be mandated and required for any street or road opening on a street-by-street basis, except as otherwise provided for herein.
 - [3] Despite some street/road opening projects encompassing multiple roads and/or streets, no street/road opening shall occur beyond the street/road opening of the first street/road without restoration/remediation of the first street/road opening as provided herein.
 - [4] In the event that a lengthy section of a street or road is earmarked for street opening, no less than temporary restoration/remediation required herein shall be instituted for any section of a street or road for every three-block section.
 - [5] Nothing contained herein shall prohibit temporary road/street restoration as projects continue as long as that temporary restoration is compliant with requirements herein.
 - [6] Nothing contained herein shall be construed to modify, alter, or amend any other provisions and/or time constraints of this article and/or this section.
 - [7] The intent of this amendment is to prevent and prohibit lengthy and unattended street and/or road openings within the Borough without assuring safety and convenience to the traveling public.
 - (b) Repeal provisions. Any ordinance or part(s) thereof inconsistent herewith is hereby repealed.
 - (c) Saving provisions. Should any section, subsection, clause, provision, or other portion of this article be declared invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of this article, the Borough Council of Waymart Borough having adopted this article as if such invalid portions had not been included therein.
 - (d) When effective. This article shall become effective five days after the adoption thereof.

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- K. Indemnification of Borough. Indemnification of the Borough for property and personal injury will be governed by the following: The permittee shall fully indemnify and save harmless and, if requested, defend the Borough, 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 Borough, its officers, agents and 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 insistence of or with the approval or consent of the permittee or his/her agent to comply with the permit or this article.
- L. Restoration of Roadway. The responsibility of the permittee for restoration of, or damage to, the roadway includes the following:
- (1) If there is a failure of the roadway, including a slope or other appurtenance thereto, in the area of the permitted work within five years after the acknowledged completion of the permitted work and there is no similar failure of the roadway beyond the area of the permitted work, the permittee has absolute responsibility to make temporary and permanent restoration or repairs of the area unless the permittee delivers clear and convincing evidence to the Borough demonstrating that the failure was caused by another person or for reasons unrelated to the permitted work performed.
 - (2) In situations where the permittee has the responsibility to restore the roadway, including slope or other appurtenances thereto, under Subsection (1) above, the permittee has the duty to restore the area in accordance with the permit or to the state that existed prior to the permitted work. If the permittee fails to restore the area properly, the Borough reserves the right to do the work and shall be reimbursed for the costs, by the permittee, within 30 days after receipt of the Borough's invoice.
 - (3) The obtaining of a bond, other security or an agreement to secure restoration costs does not relieve the permittee of the restoration obligations imposed by Subsections A and B above. The obtaining of a bond, other security or an agreement to secure restoration costs will not act as a release of the permittee from the liability under principles of tort law with respect to a failure of the roadway, in the permitted area, occurring after the expiration of the bond, other security or agreement.
- M. Inspector's Acknowledgment of Completion of Work. Acknowledgment by an Inspector of the Borough 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. Acknowledgment of completion by the Inspector will not act as a release of the permittee or a waiver by the Borough of its rights to seek performance or restitution from the permittee.
- N. Special Conditions for Subsurface Operations.
- (1) Pavement removal.
 - (a) All excavations of streets by the open cut method shall include removal of the pavement to a minimum width of at least one foot beyond the limits of the trench and one foot beyond the limits of any damaged pavement.

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- (b) The pavement shall be saw cut prior to excavation unless other wise indicated on approved plans. Cuts in driveways or street approaches may require an overlay of the entire approach as determined by the Borough Public Works Department.
 - (c) All saw cuts shall be made in a straight line and shall be parallel to existing transverse and longitudinal joints unless otherwise approved.
 - (d) If contractor operations remove or damage more than 20% or more of the street surface or the surface is less than five years or less old, or it is determined that any open cut will result in substantial surface deterioration, the entire street shall be overlaid or reconstructed as required by the Borough Public Works Department.
- (2) Trenching across a street or roadway. Trenching across an improved area may be performed only when specifically authorized by the permit and in accordance with the following:
- (a) The top of every utility facility shall be installed at least three feet beneath the surface unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
 - (b) Where trenching is authorized by the permit, the trenching operation shall be performed by one of the following methods:
 - [1] Utility facility placed in one piece across the roadway.
 - [a] Traffic shall be routed over 1/2 of the pavement width.
 - [b] The closed half of the pavement shall be opened to the required depth and bridged with steel plates.
 - [c] Traffic shall be shifted to the bridged half of the pavement.
 - [d] The unbridged 1/2 of the pavement shall be opened to the required depth.
 - [e] The facility shall be placed full width.
 - [f] The open trench shall be backfilled and restored half width in accordance with this section.
 - [g] The traffic shall be shifted to the restored half of the pavement.
 - [h] The bridging shall be removed and the remaining half of the trench shall be backfilled and restored in accordance with this section.

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- [1] Utility facility placed in more than one piece across the roadway.
 - [a] Traffic shall be routed over 1 /2 of the pavement width.
 - [b] The dosed 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.
 - [c] Traffic shall be shifted to the restored half of the pavement.
 - [d] The remaining 1/2 of the pavement shall be opened to the required depth, the facility placed and the trench backfilled and restored in accordance with this section.
- [2] The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
- (3) Trenching parallel to a roadway. Trenching parallel to a highway shall conform to the following requirements:
 - (a) A utility facility shall be placed outside the pavement and shoulder unless there is no feasible space outside the pavement and shoulder for plating the facility.
 - (b) The top of every utility facility shall be installed at least three feet beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
 - (c) No opening may be made for more than 200 linear feet at one time, unless authorized by the permit.
 - (d) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
 - (e) Daily stoppages of work. Daily stoppages of work requirements include the following:
 - [1] At the end of each workday, an opening in the right-of-way shall be protected by one of the following:
 - [a] Covered with steel plates or bridging over openings which are less than six feet in either width or length. 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.
 - [b] Backfilled under this section to the original surface elevation.

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- [c] The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
- (4) Multiple open cuts.
- (a) Multiple open cut excavations such as might occur during installation of sanitary sewers, water main, natural gas main, etc., in an existing street justifies permanent repair of the disturbed area followed by an asphalt cap over the entire width and length of the affected street and shall be performed as defined herein for final pavement replacement.
 - (b) The top of every utility facility shall be installed at least three feet beneath the surface, unless specifically authorized by the permit to be installed at a lesser depth due to unavoidable or unalterable conditions. If said conditions exist and the utility is permitted at a lesser depth, the utility will be placed at the maximum depth reasonably managed.
 - (c) No opening may be made for more than 200 linear feet at one time, unless authorized by the permit.
 - (d) The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
 - (e) Daily stoppages of work. Daily stoppages of work requirements include the following:
 - [1] At the end of each workday, an opening in the right-of-way shall be protected by one of the following:
 - [a] Covered with steel plates or bridging over openings which are less than six feet in either width or length. 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.
 - [b] Backfilled under this section to the original surface elevation.
 - [2] The permittee shall protect the openings to provide for the safety of the traveling public, including motorists, bicyclists and pedestrians.
- (5) Backfilling. An opening shall be backfilled by the permittee in accordance with the following:
- (a) The opening may first be balled with fine aggregate material meeting the requirements of Section 703.1 of Pennsylvania Department of Transportation Specifications, Form 408, or granular material to protect the facility, placed to a height not to exceed one foot over the top of the facility. The material shall be compacted in not more than four-inch loose layers or as authorized under Pennsylvania Department of Transportation Specifications, Form 408.

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- (b) The opening shall then be backfilled with select granular material, unless retained suitable material is authorized or other coarse aggregate material meeting the requirements of Section 703.2 of Pennsylvania Department of Transportation Specifications, Form 408, is specified in the permit. Retained suitable material shall normally be authorized for backfill outside of the pavement and shoulder. Backfill material shall be placed in a loose layer not to exceed eight inches, and vibratory compaction equipment shall be used. Each layer shall be thoroughly compacted to preclude subsidence under Section 601.3 of Pennsylvania Department of Transportation Specifications, Form 408. Compaction shall be completed to the bottom elevation of the existing pavement.
 - (c) Backfill material shall be free of broken concrete, asphalt, woody material, sod, debris, clumps, frozen materials, or clods.
 - (d) The permit holder shall supply sufficient density tests conducted by an approved independent testing laboratory to assure the Borough Public Works Department that compaction requirements are being accomplished. The permit holder shall notify the Borough Public Works Department of the name, address, and phone number of the testing laboratory 72 hours prior to backfilling operations.
 - (e) Field compaction tests shall be used that give immediate results.
- (6) Restoring flexible pavements.
- (a) Temporary replacement (patching).
 - [1] All pavement removed in a crossing and/or paralleling paved street, or as a result of damage caused by the permit holder, shall be temporarily replaced by the permit holder in accordance with the following.
 - [2] Base and surface restoration of flexible pavements shall be performed under this section and as required in the permit. Prior to replacement of the base course, one foot outside the 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 detached material shall be removed.
 - [3] Exposed vertical surfaces shall be prepared as required under Section 401.3(f) of Pennsylvania Department of Transportation Specifications, Form 408. The base course material shall consist of bituminous concrete meeting the requirements of Section 305 of Pennsylvania Department of Transportation Specifications, Form 408, and shall have a minimum depth of five inches or a depth equal to the existing base course, whichever is greater.
 - [a] From May 1 through November 14, a minimum of five inches compacted thickness of hot mixed base coarse material shall consist of bituminous asphalt meeting the requirements of Section 305 of Pennsylvania

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Department of Transportation Specifications, Form 408.

- [b] From November 15 through April 30 when hot mixed bituminous asphalt is not available, a minimum of three inches compacted cold patch asphalt over 12 inches compacted #2A (Note: The dates shown here are approximate only. If hot mixed bituminous material is reasonably available between November 15 and April 30, it shall be used if suitable weather allows.) Cold patch temporary repair shall be replaced with hot mixed bituminous repair prior to final paving restoration.
 - [c] Temporary pavements must be placed immediately after utility installation in the crossing and/or paralleling of streets. Failure to do so shall be just cause of either the temporary or permanent suspension of the permit holder's permit. Temporary pavements may be placed in accordance with the requirements herein as permanent as pavements, subject to the acceptance by the Borough Public Works Department.
 - [d] All temporary pavements must be maintained and kept in good condition by the permit holder until the final pavement replacement is made. Costs for emergency repairs by the Borough Public Works Department will be billed to the permit holder.
- (a) Final pavement replacement.
- [1] All excavations by the open cut method shall include removal of the pavement-wearing course to a minimum width of at least six feet and at least two feet beyond the limits of the trench or excavation.
 - [2] If more than 20% of the width of a lane of an asphalt-surfaced street (or section thereof) is removed or damaged by the permit holder's operations, a full cap of the street width (or section thereof) will be required. The full cap shall consist of a bituminous overlay. The wearing course shall consist of ID-2 material meeting the requirements of Section 421 of Pennsylvania Department of Transportation Specifications, Form 408, and shall have a depth of two inches or a depth equal to the existing wearing course, whichever is greater. Other types of pavements and shoulder surfaces shall be replaced in kind or as specified in the permit. Restored openings shall be sealed in accordance with Pennsylvania Department of Transportation Specifications, Form 408. Milling/saw-cut at tie-in to existing pavement shall be made on a 6:1 angle the entire width of the area to be paved.
 - [3] The final area of pavement to be replaced and/or capped shall be determined by the Borough Streets Department. The final paving shall be done by an approved paving contractor in accordance with the current Borough specifications for paving. The name of the proposed paving contractor shall be submitted in writing to the Borough and approved in writing by the Borough. The Borough reserves the right to inspect all work and materials to be used at the permit holder's cost. All pavements and right-of-way damage by the permit holder's operations shall be

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restored to the satisfaction of Borough at the permit holder's expense.

O. Violations and penalties.

- (1) General rule. Violation of the provisions of this article or the permit requirements constitutes grounds for the imposition of the following penalties:
 - (a) Upon receipt of oral or written notice of violations from an authorized representative of the Borough or a police officer having jurisdiction in the work area, the permittee shall cease to perform any further work in the area except to restore the area to a safe condition. No further work may commence in the area until the violations have been remedied. When the permittee has received oral notice of a violation, written notice shall be sent to the permittee within 10 days of receipt of the oral notice.
 - (b) Confiscation of the permit by any authorized representative of the Borough or a police officer having jurisdiction in the work area.
 - (c) Revocation of the applicant's permit.
 - (d) Removal of facilities installed without a permit is in violation of this article.
 - (e) Fines, imprisonment or other penalties as are provided for by law. Any person, firm, partnership or corporation who or which shall violate any provision of this article shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not more than \$600, plus costs of prosecution, and upon failure to pay the fine may be committed to jail for a period not to exceed 30 days, provided that each violation of any one of the provisions of this article shall constitute a separate offense.
 - (f) Other action as may be necessary or proper.
 - (g) Other violations and penalties as stated in the schedule of fees provided for herein.
- (2) Other grounds for revocation. Additional grounds for revocation of a permit are as follows:
 - (a) The Borough may revoke a permit whenever it determines that the permitted facility is not being properly maintained, is in violation of a condition of the permit or this article, constitutes a hazard to traffic or interferes with the proper use of the roadway by the Borough or the public.
 - (b) The Borough may revoke a permit for nonpayment of a fee as authorized herein, including default of a check submitted for payment.

P. Modification of conditions.

- (1) General rule. When a term or condition of this article cannot be met, an applicant may request, in writing, that the Borough modify the term or condition as it pertains to the specific application under the following:

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- (a) The applicant has done all that can be reasonably expected to be done to comply with the term or condition.
 - (b) The proposed modification satisfies the intent of the term or condition to be modified.
 - (c) The reason for the requested modification is infeasibility of meeting the exact terms or conditions of this article rather than mere economic benefit to the applicant.
- (2) Modification granted. If requested modification is granted, the permit will specify the required modification. A permit issued under authority of this section shall be signed by the Chairman of the Public Works/Streets Committee.

§ 95-02. Street Maintenance.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Business Day: Any day not a Sunday or a national holiday.

Business Hours: Hours between 9 a.m. and 5 p.m. on any business day.

Cartway: That portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

Sidewalk: That portion of a street between the curb lines, or the lateral lines of a cartway, and the adjacent property lines, intended for use by pedestrians.

Street/Highway/Road: The entire width between the boundary lines of a way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

- B. Removal of Snow and Ice from Sidewalks. Every person in charge or control of any building or lot of land fronting or abutting on a paved sidewalk, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away or cause to be removed or cleared away, snow and/or ice from a path of at least 36 inches in width from so much of said sidewalk as is in front of or abuts on said building or lot of land.
- (1) Except as provided in subsection (2) hereof, snow and ice shall be removed from sidewalks within 12 hours after the cessation of any fall of snow, sleet or freezing rain.
 - (2) In the event snow and/or ice on a sidewalk has become so hard that it cannot be removed without likelihood of damage to the sidewalk, the person charged with its removal shall, within the time mentioned in subsection (1) hereof, cause enough sand or other abrasive to be put on the sidewalk to make travel reasonably safe; and shall, as soon thereafter as weather permits, cause to be cleared a path in said sidewalk of at least 36 inches in width.
- C. Removal of Snow and Ice from Roofs. Every person in charge or control of any building or other structure, whether as owner, tenant, occupant, lessee, or otherwise, shall remove and clear away,

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or cause to be removed and cleared away, any accumulation of snow and ice on said building or other structure that is liable to fall on any sidewalk, roadway or other public way. Such work shall be completed within a reasonable time, but not later than 12 hours after the cessation of any fall of snow, sleet or freezing rain.

- D. Street Deposits. It shall be unlawful for any person, association, firm, partnership, corporation or any other entity owning, possessing or occupying any property along any dedicated or undedicated public street or alleyway within the Borough, in removing said snow, ice, hail or sleet, to deposit same on the traveled cartway of any dedicated or undedicated public street or alleyway within the Borough.
- E. Proper Operation of Vehicles. Any vehicle transporting or carrying soil, sand, stone, dirt, debris, refuse, litter or other substance of any kind, including liquids and chemicals, over streets, alleys and thoroughfares shall be so operated as to prevent said materials from being scattered, spilled, dropped or blown from the vehicle or from the wheels, tires or undercarriage thereof. It shall also be unlawful to scatter, spill, dump or drop any other substance of any kind, including liquids and chemicals, from any vehicle or from the wheels, tires or undercarriage thereof, upon streets, alleys and thoroughfares.
- F. Penalties.
- (1) If any person or persons being the occupant or occupants of any lot, house, store, shop, office or other buildings or if any person being the owner of any unoccupied building or part of a building or lot within the limits of the Borough or if any church or religious society, congregation or association or if any corporation occupying any real estate within such limits or owning any unoccupied real estate within such limits shall neglect or refuse to remove the snow and ice from the sidewalks so occupied or owned by him, her, them within the time specified herein or otherwise violate the provisions of this section (§ 95-02), such person or persons, society or congregation, association or corporation so offending shall, upon conviction thereof before a District Justice, be sentenced to pay a fine of not less than \$50 nor more than \$600 plus costs of prosecution and upon failure to pay the fine may be committed to jail for a period not to exceed thirty (30) days. Each 24-hour period shall constitute a separate offense.
 - (2) Provided any responsible party or entity who shall receive a notice of violation identifying the date and address where the violation took place, as well as any other factor that might be necessary in order to secure a clear understanding of the circumstances attending to the violation, within seven (7) days after the time of the notice, pay the sum of \$25 that will be in full satisfaction of the violation, and will save the violator from prosecution and payment of a fine and costs to be imposed by the District Justice.
 - (3) If any person or persons shall neglect or refuse to perform his, her or their duties under this section, the Borough may cause such walks to be cleared of ice and snow or take such other actions required to remedy the violation of this section (§ 95-02) and collect the total costs thereof, in the name of the Borough, from the owner or occupant of said property for the services rendered.

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§ 95-03. Sidewalks.

- A. Construction and Repair Required. The Borough of Waymart may require owners of property abutting on any street, including State highways, to construct, pave, repave and keep in good repair the sidewalk, curb and gutter along such property at such grades and under such regulations as may be prescribed by ordinance.
- B. Supports Under Sidewalks and Curbs. Where sidewalks or curbs are to be constructed, paved, repaved or repaired over coal cellars or other excavations, such sidewalks shall be supported by iron or steel beams, girders, stone or concrete arches. Any support of wood or perishable material shall be prohibited.
- C. Conformity to Line and Grade. All sidewalks, curbs and gutters shall be constructed, paved, repaved or repaired under the line and grade obtained by the property owner from the Engineer or registered surveyor that conforms to the existing or surrounding line and grade. All repaving and or repairs shall conform to the original specification of the sidewalk when initially installed or, if not available, then to the specification of the most recent new sidewalk construction project.
- D. Notice to Do Work. Notice to construct, pave, repave and repair sidewalks, curbs or gutters shall be given by registered or certified mail to abutting property owners and such owners shall have 60 days, during frost-free months, to comply with said notice in conformity with any construction specifications prescribed by ordinance.
- E. Inspection. At any time during the performance of the required work the Borough may inspect the work, to determine whether construction specifications are being observed.
- F. Borough Levy on Property Owners. Upon failure of any property owner to construct, pave, repave or maintain any sidewalk, curb or gutter in compliance with notice to do so, the Borough may do the same or cause the same to be done and may levy the cost of this work on such owner as a property lien to be collected in the manner provided by law,
- G. Emergency Repairs. Where, in the opinion of the Borough Council, a dangerous condition exists that can be repaired by an expenditure of \$100, the Borough shall send such property owner notice by registered or certified mail stating emergency repairs are required. Upon failure of such owner to comply with the notice within 48 hours after receiving it, the Borough may make emergency repairs and levy cost of its work on such owner as a property lien to be collected in the manner provided by law.
- H. Construction and Repair Done on Owner's Initiative Without Notice. Any property owner not required by notice to construct, pave, repave or keep in repair sidewalks, curbs or gutters may construct, pave, repave or repair the sidewalk, curb and gutter abutting his property; provided, such owner shall make application to the Borough before commencing work, shall conform to the provisions of this Part and other regulations as to specifications for construction and repair work and shall notify the Borough within two days after completion of his work.

§ 95-04. Street Construction, Opening and Dedication.

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- A. Short Title. This Part shall be known as the "Waymart Borough Road Ordinance."
- B. Plan Approval. No person, corporation or firm shall construct, open for travel or dedicate for public use or maintain any road or street in the Borough of Waymart until plans for the same are approved by the Waymart Borough Council.
- C. Preparation of Plan. Plans of any road to be constructed, opened or dedicated in Waymart Borough shall be prepared in duplicate and submitted (together with the filing fee) to the Waymart Borough Council for approval. Plans shall include such maps and such other information in writing as may be required to explain the plans.
- D. Exception. For the purpose of this section, the word "road" shall not include ways used exclusively for access to timber lands, hay fields, pasture lands, agricultural lands, sandbanks or quarries for removal of stone, shale or of gravel.
- E. Filing Fee. The filing fee shall be paid by check or money order, payable to the order of Waymart Borough. The filing fee for the original plans shall be in an amount as established, from time to time, by resolution of the Borough Council.
- F. Plan Requirements. Plans shall include such details as may be required to adequately reflect the land conditions in, over or upon which the proposed road or street will be constructed, opened or dedicated. Plans shall include, but shall not be limited to, the following details:
 - (1) The width of the road throughout its entire course including intersections and turnabout areas.
 - (2) Specifications for proposed bridges.
 - (3) Specifications for proposed drainage.
 - (4) The course, capacity and structure of drainage facilities.
 - (5) The profile of the road.
 - (6) Identification of the markers which will indicate on the ground the location of courses or property lines or other items shown on the map.
 - (7) A certification regarding the identity of each property owner along all sides of the right-of-way of the roadway together with an indication as to whether such property owner joins in the submission for approval of the plans and releases any right to assert any claim such property owner might otherwise have against any person, persons, partnership, corporation by reason of the construction, opening or dedication or the maintenance and use of such roadway; such certification shall be made by or on behalf of the person, persons, partnership or corporation requesting approval of the plans and shall be supported by appropriate evidence of the authority pursuant to which the certification is made.
- G. Performance Bond. Approval of the plans by the Council may be made contingent upon the filing

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of a performance bond with surety approved by the Council in such amount as, in the discretion of the Council, may be required under the circumstances, which bond will be conditioned upon the roadway being constructed in accordance with the approved plan and will be in such amount as shown on the plans should the applicant fail to do so or in such other amount as may be reasonable under the circumstances.

H. Following are the minimum requirements of any road:

- (1) A 40 foot wide legal right-of-way. "Legal right-of-way" shall mean the width released or dedicated to road purposes which may be greater than (but not less than) the area actually used as a travelled portion and shoulders of the road and drainage facilities adjoining the same.
- (2) The travelled portion of the road shall be 20 feet wide.
- (3) A 3 foot wide shoulder shall be provided of each side of the travelled portion of the road and in addition to the travelled portion.
- (4) "Travelled portion" shall mean that part of the road (with base and top constructed as herein provided) over which vehicles may be driven.
- (5) On all dead-end roads a turnabout area with a 80 foot diameter will be provided.
- (6) The traveled portion of the roadway must have one of the following:
 - (a) An 8 inch rolled base of red shale or gravel with a 2 1/2 inch ID bituminous top.
 - (b) An 8 inch rolled base of red shale or gravel with 3 inch FB-1 bituminous top.
 - (c) A suitable subgrade with 4 inch bituminous black base topped by a 1 inch wearing surface.
 - (d) Suitable materials of demonstrated quality equal to or better than is specified in subsections (a), (b) or (c), above.
- (7) At each point where the roadway is intersected by a driveway which requires that surface drainage water be carried under the intersection of the driveway and the road, a sluice pipe of not less than 15 inches in diameter (and of such gauge as conforms to PennDOT requirements for a sluice pipe of corresponding diameter) shall be installed across the width of the driveway and at such depth as drainage and soil conditions may require at that location, the depth and manner of installation to be subject to approval of the Borough Council in each case.
- (8) At such points along the road as may require cross drains, such cross drains shall be of pipe of not less than 15 inches in diameter (and of such gauge as conforms to PennDOT requirements for a cross drain of corresponding diameter) which cross drains shall be buried to the depth and in the manner depending upon subsoil and drainage conditions at the

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location of the cross drains, the depth and manner of installation to be subject to approval of the Borough Council in each case.

- (9) In addition to the requirements of this Chapter any road constructed, opened or dedicated in Waymart Borough must satisfy requirements of PennDOT to the extent that such Commonwealth of Pennsylvania requirements may be necessary to qualify the Borough to receive reimbursement from the Commonwealth for the subject road under such laws of the Commonwealth of Pennsylvania as provided for reimbursement to Pennsylvania municipal subdivision for the construction or reconstruction or maintenance or repair of roads.
- I. Plan Amendments. In the event plans are disapproved for any reason, amended plans may be submitted to satisfy requirements for approval; amended plans must be accompanied by an additional filing fee as herein provided for amended plans and will be processed in the same manner as the original plans.
- J. Conference. In the event plans are disapproved the applicant may request a conference with the Borough Building and Street Committee to review the reasons for such disapproval and such conference will be scheduled at the earliest date convenient to the committee.
- K. Penalties. Any person, firm or corporation who shall violate any provision of this Chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs,, to imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.
- L. Incorporated Provisions. The provisions of §1735 of the Pennsylvania Borough Code, 53 PS §46735, are hereby incorporated as part and parcel of this Part.

§ 95-05. Street and Parking Regulations.

- A. Water Street.
 - (1) Waymart Borough accepts the dedication of Water Street as one way going East, entering from Belmont Street at Wayne Bank and ending at East Street, allowing no parking on either side of said street.
 - (2) The purpose of this ordinance is to accept and designate this section of Water Street from Belmont Street to East Street as one way West to East. This is necessary to the Borough, the general public, and welfare of Borough citizens.
 - (3) By virtue of this Chapter, Waymart Borough Council hereby designate the section of Water Street from Belmont Street (Route 296) to East Street as One Way with no parking on either side.
- B. Parking Restrictions. Any person owning a vehicle parked in violation of the following parking regulations shall pay on the First Offense: \$25.00. Second or Subsequent Offense: \$50.00 and not less than \$100.00.

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- (1) There shall be no overnight parking on Belmont Street, Route 296, from the intersection of South Street and Belmont Street north to the intersection of Carbondale/Honesdale Road, a distance of 900 feet, from November 15 to April 15, 10:00 PM. to 7:00 AM, in the Borough of Waymart.

- (2) There shall be no overnight parking on Center Street in the Borough of Waymart during the hours 10:00 PM through 7:00 AM.