



Pipeline and Hazardous Materials Safety Administration

Technical Assistance Grant

**Guidelines for Planning Near Pipelines**

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## **PLANNING NEAR PIPELINES**

### **Ordinance Guidelines for Chester County, Pennsylvania**

In recent years, a number of local governments around the country have used their land use planning, zoning and permitting authority in a proactive effort to increase the safety of people living near pipelines. During this time, the Pipeline and Hazardous Materials Safety Administration (PHMSA) also formed the Pipelines and Informed Planning Alliance (PIPA). A committee of 150 people from a wide array of stakeholder groups crafted recommended “Best Practices” that could be used as a starting point for local discussions on improved safety near pipelines. The PIPA report containing those recommendations was released in December 2010. The report provides local governments, developers, and pipeline companies with recommended practices to consider when considering land use in proximity to pipelines (and vice versa) and provides a framework for how to consider the risk when new homes, schools, and businesses are proposed to be constructed near high-pressure transmission pipelines.

The four prong strategy discussed below was first developed as part of a U.S. DOT Technical Assistance Grant in 2010. The goal under that grant was to review existing ordinances and compare them to the “Best Practices” standards prepared by PHMSA. Municipal laws and ordinances vary widely and from state to state. Mr. John Gaadt, AICP of Gaadt Perspectives, LLC, adapted and built upon PIPA’s recommendations to create a regulatory approach tailored for this region of Pennsylvania. Further technical assistance was provided by Vincent M. Pompo, Esq., Chairman of the Municipal Law Department and the Environmental Law Practice Group of Lamb McErlane, who provided legal review of the ordinance framework.

The four prong municipal regulatory approach addresses the following:

- 1) Surface land uses affiliated with pipelines (providing for uses not otherwise permitted in most ordinances),
- 2) Street opening standards (providing for the regulation of street openings, installations and driveways),
- 3) Standards for new development in proximity to pipelines, and
- 4) Revisions to municipal comprehensive plans (providing the rational nexus between the comprehensive plan and code of ordinances).

Surface land uses affiliated with pipelines include, but are not limited to compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances. The purpose of such standards is to accommodate these uses consistent with the desire to protect the health, safety and welfare of the citizens of the municipality; minimize aesthetic, nuisance and visual impacts through design, siting and screening; ensure the location of such uses complies with industry standards; and preserve community character adjacent to such uses.

Street opening standards are intended to provide for the opening, cutting, excavating, grading, boring, crossing, installation or disturbance upon, in, under, or across a Township road or road right of way. Such standards are intended for any street openings on Township roads (not necessarily pipeline projects) and provide municipalities with appropriate tools to regulate and manage such occurrences.

Standards for new development in proximity to pipelines address the need for development proposals to incorporate existing or proposed pipelines into their site planning activities. The purpose of such standards is to help prevent or minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines; minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment; avoid exposing land uses with high on-site populations that are difficult to evacuate; and help reduce adverse impacts in the event of a pipeline failure. Standards include additional requirements for plan submission, buffers, setbacks, signage and landscaping provisions.

Suggested municipal comprehensive plan language, as stated above, is intended to provide a rational nexus between the comprehensive plan and municipal ordinances (pursuant to Section 105 of the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended). The purpose of such language is to acknowledge existing and proposed pipelines, recognize the benefits and risks of pipelines, acknowledge the need to monitor existing and proposed activity, enact regulations complimentary to state and federal law, encourage increased communication with pipeline operators, reference related county and statewide planning goals, and coordinate with county and state agencies on new pipeline projects.

Although revisions to the approaches developed as part of the strategy have been made since 2010, the adoption of Act 13 in 2012 (a statute amending the PA Oil and Gas Act) put into question whether some or all of the approaches for these ordinance guidelines were pre-empted by the Act. A subsequent lawsuit challenging certain portions of Act 13 (specifically relevant here Section 3303 which excluded municipal regulation of oil and gas operations and Section 3304 which required uniformity of local ordinances including use and setback requirements for siting oil and gas operations in zoning districts, including the “reasonable development” clause which permitted oil & gas operations in all zoning districts within the guidelines set forth by the provisions) resulted in the PA Commonwealth Court finding portions of the Act to be unconstitutional. The state’s public utility commission, attorney general and other officials appealed the Commonwealth Court’s decision to the PA Supreme Court, and oral arguments began in October of 2012. In December of 2013, a plurality of three Supreme Court Justices decreed that the state does not have absolute power over municipalities in terms of environmental protection and Act 13 puts municipalities in direct conflict with their constitutional authority to protect the environment under the “Environmental Rights Amendment”, Section 27 of the Pennsylvania Constitution. And, a majority of three Supreme Court Justices agreed that Sections 3303 and 3304 of the Act were unconstitutional. The Supreme Court recently denied a request to reconsider its opinion, and the decision on these grounds is now final.

Under Act 13 (and prior to the findings of PA's Commonwealth Court and Supreme Court, it was concluded that three of the four approaches were consistent with and were on solid ground from a planning and legal perspective. These were the ordinance guidelines for new development in proximity to pipelines, ordinance guidelines for street openings, and revisions to municipal comprehensive plans to recognize existing and proposed transmission pipeline issues. The fourth item, "Surface Land Uses Affiliated with Pipelines" (providing for uses not otherwise permitted in most ordinances), was not consistent with the zoning provisions of Act 13. Subsequent to the findings of both the Commonwealth Court and the PA Supreme Court, all four strategies are now viewed to be consistent with PA law.

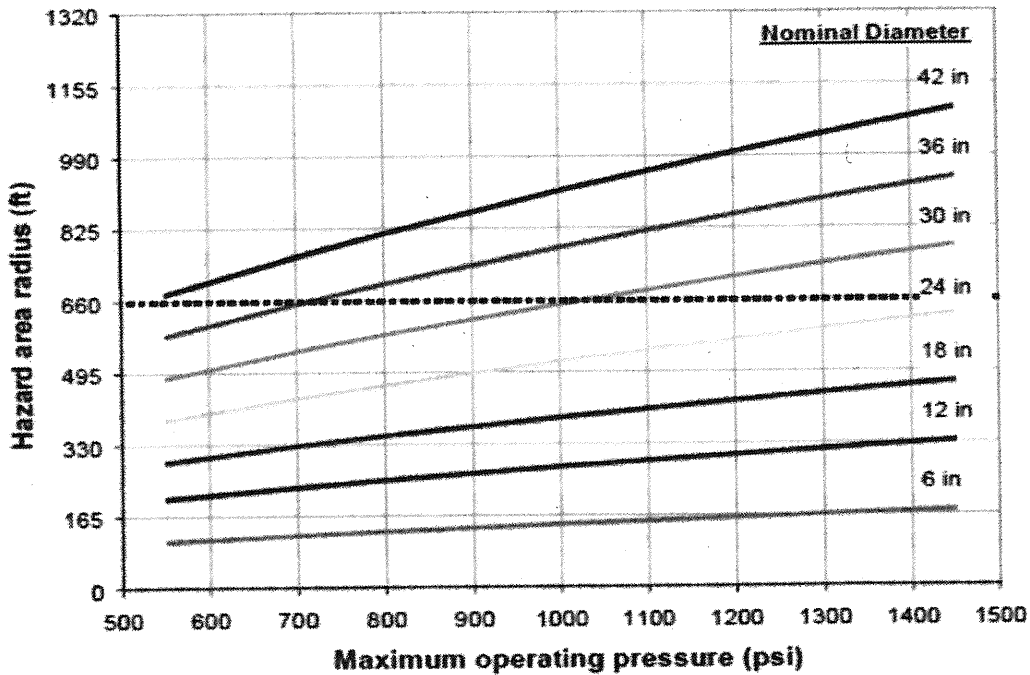
It is our opinion that these guidelines provide an effective approach towards proactively addressing pipelines within the legislative and regulatory climate currently in existence. We encourage each municipality to review the standards offered in these guidelines (for example, width of setbacks or landscaping provisions) in relation to their existing ordinances and placement within their codes. We believe that the overall approach outlined in these ordinance guidelines provides a sound framework for municipalities to begin examining their existing comprehensive plans and ordinances in relation to land use planning and pipelines so as to balance development with conserving natural resources and to protect the health, safety, and welfare of the citizens of Chester County.

The Pennsylvania Supreme Court in its decision *Robinson Township v. Commonwealth*, 83 A.3d 901 (Pa. 2013), stated:

In Pennsylvania, terrain and natural conditions frequently differ throughout a municipality, and from municipality to municipality. As a result, the impact on the quality, quantity, and well-being of our natural resources cannot reasonably be assessed on the basis of a statewide average. Protection of environmental values, in this respect, is a quintessential local issue that must be tailored to local conditions

In reviewing the ordinance guidelines related to land planning and pipelines, municipalities should consult their solicitors, and exercise due caution in adopting the guidelines contained herein. Each municipality is different and the approach taken to regulating transmission pipelines and their appurtenances should be tailored to the unique circumstances of the community.

## Exhibit 1- Potential Impact Radius (PIR) and Pipeline Class Locations



Source: "A Model for Sizing High Consequence Areas Associated With Natural Gas Pipelines", Gas Research Institute and C-FER Technologies, 2000.

The Hazard Area Radius, also referred to as the Potential Impact Radius (PIR) or Blast Radius, is calculated by comparing the diameter of a pipeline to its maximum operating pressure (psi). Note that the Impact Radius increases as operating pressure rises.

Calculating the Potential Impact Radius (PIR)(as measured in feet)

$$PIR = 0.69 * d * \text{SQRT} (P)$$

Where:

d = diameter of the pipe (inches)

SQRT = square root

P = pressure (psi)

Take the square root of the pressure (if pressure is 100 psi, the square root is 10), multiply by the diameter (inches), then multiply by 0.69. Resulting number is the PIR in feet.

### Class Locations

Many of the inspection protocol's through PHMSA and/or PA PUC are based on the pipeline "class location"; in general, class determines pipeline standards and frequency of inspections. Below are listed

## Exhibit 1- Potential Impact Radius (PIR) and Pipeline Class Locations

the various class locations. In essence, Class 3 & 4 areas are places where there would be greater human injury potential from a pipeline incident and therefore require more vigorous inspection regimes. Class locations are checked routinely and revised based on new development occurring in an area. Class locations are determined by the number of buildings within 660 feet (220 yards) on each side of a pipeline per sliding mile.

Class 1 location – 10 or fewer buildings.

Class 2 location – more than 10 but less than 46 buildings.

Class 3 & 4 locations – more than 46 buildings and buildings with high occupancy (churches, schools, etc.).

Recommended Comprehensive Plan Language to  
Reflect Existing and Proposed Transmission Pipelines

Amend chapters/sections dealing with Community Facilities and Services to reflect the following:

Transmission Pipelines

The Township recognizes the existence of *[as applicable, whatever pipelines currently exist]* running through portions of the Township and acknowledges the potential for additional pipelines running concurrently with existing pipelines or in other areas. Such transmission pipelines provide opportunities to meet the energy demands of the Atlantic seaboard but also pose tremendous risk for those communities potentially affected should a pipeline failure occur. Under normal circumstances, underground pipelines are relatively benign; however, where emergencies such as failures do occur, varied threats to public health, safety and welfare can be significant, from direct impacts such as resident injury or death, severe property damage, debris management, contaminated soils and groundwater pollution to indirect impacts associated with cleanup (expanded access points, groundwater recovery and remediation facilities, expanded soil disturbance, etc.). As such, the Township should monitor existing and future pipeline activity and enact, where feasible, regulations complimentary to the Pennsylvania Oil and Gas Act, as amended, Pennsylvania case law, and the Federal Energy Regulatory Commission designed to protect the public health, safety and welfare and regulate land uses in conformance with the Pennsylvania Municipalities Planning Code, Act 247, as amended.

Among the needs to address are those surface land uses affiliated with transmission pipelines, appropriate access provisions for pipeline rights-of-way, and buffering and setback standards appropriate to reduce adverse impacts to residents of new development should a pipeline failure occur. In addition to buffers and setbacks, the Township should examine the feasibility of increased communication with pipeline operators, particularly as related to new development proposals within proximity of transmission pipelines, and investigate measures to protect new land uses with high on-site populations. Regulations should also comply with other applicable policies of this plan, Chester County's Landscapes 2, and applicable statewide planning goals designed to meet the needs of the citizens of the Commonwealth. The Township should also continue to coordinate its activities with those of the County and State when and if new pipelines are proposed and applications proceed through the permit review and construction phases.



**PLAN SUBMISSION, BUFFERING AND SETBACK FROM  
TRANSMISSION PIPELINES**

Note: The sections of this ordinance are intended to be enacted as part  
of a Township's Subdivision and Land Development Ordinance.

**AN ORDINANCE PURSUANT TO ARTICLE V OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE BY PROVIDING FOR PLAN SUBMISSION, BUFFER, SETBACK, SIGNAGE AND LANDSCAPING PROVISIONS FOR NEW DEVELOPMENT ADJACENT TO TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Plan Requirements and Procedures, Sections \_\_\_, Plan Content for Preliminary and Final Plan Submissions, is amended by adding a new subsection \_\_\_, to read as follows:

( ) The location, center line right-of-way, and limits of easements for all transmission pipelines on the tract or on any abutting property.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_\_, Design Standards, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

Section \_\_\_. Buffer Standards and Setbacks from Transmission Pipelines

A. Purpose

The purpose of this section is to help prevent and minimize unnecessary risk to the public health, safety and welfare due to transmission pipelines and ensure consistency with the intent of the Township's Comprehensive Plan. Recognizing it is impossible to eliminate risk entirely, this section is intended to:

- (1) Minimize the likelihood of accidental damage to transmission pipelines due to external forces, such as construction activity and equipment.
- (2) Avoid exposing land uses with high on-site populations that are difficult to evacuate.
- (3) Help reduce adverse impacts in the event of a pipeline failure.

- (4) Ensure compliance with and supplement existing federal and state regulations related to transmission pipeline corridor management, among them the Federal Energy Regulatory Commission (FERC) and the Pennsylvania Oil and Gas Act.

B. Applicability

- (1) Setbacks. New residential buildings and all new commercial, industrial and institutional uses other than those surface uses affiliated with transmission pipelines shall be set back a minimum of three hundred (300) feet from any existing or proposed transmission pipeline right-of-way; such uses shall be set back from natural gas compressor stations or other surface land uses affiliated with transmission pipelines a minimum of seven hundred and fifty (750) feet or five hundred (500) feet from the nearest lot line of natural gas compressor stations or other surface land uses affiliated with transmission pipelines, whichever is greater. Other unoccupied residential or non-residential accessory uses such as but not limited to detached garages, parking areas, storage facilities or garden sheds shall not be located within two hundred (200) feet of any pipeline right-of-way.

Setbacks may be modified by the Township pursuant to the type of material being transported in the pipeline and whether the applicant proposes high on-site populations. The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the "Potential Impact Radius" (PIR), defined by the relationship between the diameter of the adjacent pipeline and its maximum operating pressure (see Exhibit 1), whether high on-site populations are proposed, and whether more than one transmission pipeline (such as coupled lines) exist (or are proposed). The PIR approach is applicable only to "gas" or "petroleum gas" transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2 shall adhere to the setback standards contained in this subsection.

*Note: Although Act 13's setbacks were 750 feet from compressor stations, the Act also provided DEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. The setbacks offered here are graduated to apply to different types of uses and settings. Municipalities wishing to consider larger setbacks for transmission pipelines (including petroleum or other hazardous liquid pipelines not addressed by the PIR approach) should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor.*

No activity or grading within the pipeline setback shall create depressions or areas in which flammable or explosive materials may collect or accumulate; examples include but are not limited to grading for structures, stormwater management facilities or landscape beds. Furthermore, pipeline rights-of way shall be identified and protected during construction by erecting suitable temporary barricades (non disturbance fencing or silt fencing) and posting notices on-site.

*Note: Given the regulatory process undertaken to permit new pipelines, the economic variables that influence pipeline location, and the changing market for materials transported through pipelines, it is often very difficult to determine whether a "proposed" pipeline will be constructed. The intent of requiring applicants to plan for proposed pipelines is to ensure applicants undertake due diligence in their land planning activities - communicating with pipeline companies/operators about intended development, informing and involving municipal officials in such communications, and making informed decisions regarding the likelihood of proposed pipelines being constructed. Municipalities may wish to consider adding ordinance language such as the following:*

"Applicants undertaking development in proximity to proposed transmission pipeline rights-of-way shall determine the likelihood of the pipeline being installed through proactive communications with the pipeline company/operator; such communications shall involve municipal officials and a determination shall be made as to the likelihood of the pipeline being constructed. In the event the developer and municipality disagree regarding the likelihood of the pipeline being constructed, the applicant shall indicate the extent of the disagreement on the plan, shall provide a minimum 100 foot buffer from the proposed right-of-way, and shall indicate on both the property and lot deeds the inherent risks of being in close proximity to a pipeline should it be constructed in the future."

- (2) Consultation zone. Any application, other than those surface uses affiliated with transmission pipelines, for new residential structures and all new commercial, industrial and institutional uses (whether Class 1, 2, 3 or 4 locations pursuant to Exhibit 1), proposed within six hundred sixty (660) feet of any existing or proposed transmission pipeline right-of-way shall include written verification from the applicant that:
- (a) The applicant has contacted the pipeline operator(s) and has provided the pipeline operator(s) with documentation detailing the proposed development activity and where the activity is to take place;
  - (b) The applicant has made sufficient access to the pipeline available to the pipeline operator(s) for routine maintenance and emergency operations; and
  - (c) The pipeline operator(s) has reviewed the documents for compatibility with continued or proposed safe operation of the transmission pipeline(s).

It shall be clear in the written notification submitted with the application that the pipeline operator(s) has received and acknowledged documentation showing the proposed activity and its location.

*Note: The 660 feet designation for consultation zones (above) and high on-site populations (below) is based upon "best practices" developed by the Pipelines and Informed Planning Alliance (PIPA), a planning committee formed by Pipeline and Hazardous Materials Safety Administration (PHMSA) (see the "Planning Near Pipelines" Introduction for more information).*

- (3) Land uses with high on-site populations. Applicants for land uses with high on-site populations within six hundred sixty (660) feet of a transmission pipeline shall develop appropriate mitigation measures to help reduce adverse impacts in the event of a pipeline failure. Such measures and/or corresponding plans shall be submitted to the Township for review. Land uses with high on-site populations include schools (through grade 12, trade schools, advanced education institutions, etc.), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

Mitigation measures intended to reduce risk and minimize impact in the event of a pipeline failure include but are not limited to: emergency procedures such as emergency plans and guides, employee training and drills, and education programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem. Applicants shall consult with the local Fire Marshal regarding the level of emergency planning and procedures appropriate for the proposed development; the Fire Marshal may also require submission of plans for review and approval where deemed appropriate.

- C. Land Development Design, Buffering and Screening. Applicants shall consider existing or proposed pipelines in their design and placement of lots, structures and roads. Specifically, consideration shall be given to incorporating the linear appearance of the pipeline right-of-way into the overall development design or landscaping in a manner that works with or minimizes the linear appearance of the pipeline right-of-way. Attempts shall be made to avoid creating a bisecting and unnatural linear space that does not relate to the land development.

The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to minimize the linear appearance of the pipeline right-of-way and screen and buffer new development from transmission pipelines in the event of an accident or failure. Landscaping can be used both to minimize the linear appearance of the pipeline right-of-way and buffer structures from those remedial activities associated with pipeline failure and clean-up.

The landscape plan shall incorporate a mix of native vegetation, including evergreens, shrubbery and trees, which shall be of sufficient density to meet the objectives outlined herein while permitting suitable points of access for pipeline personnel providing routine maintenance. Existing vegetation in proximity to transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of this Ordinance.

- D. Signage. Applicants shall consult with transmission pipeline operators to determine the need for, number of, and placement of utility identification signs, appropriate warning signs and owner identification signs. The number and placement of signs and their content shall be shown on plan submissions.

**Section 3.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Subdivision and Land Development Ordinance, as amended (the "Subdivision Chapter"), Article \_\_, Section \_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.

## ORDINANCE GUIDELINES

### SURFACE LAND USES AFFILIATED WITH TRANSMISSION PIPELINES

Note: The purpose of these guidelines is to provide a framework for an ordinance to be enacted as part of a Municipality's Zoning Ordinance, preferably within a "Supplementary Regulations" section. All contents of these ordinance guidelines, as well as any modifications made by local municipalities consistent with local planning objectives, are subject to review by a municipal solicitor consistent with the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, and the Pennsylvania Oil and Gas Act (including amendments contained in Act 13 of 2012 and subsequent findings of the PA Commonwealth Court and PA Supreme Court of challenges to Act 13).

**AN ORDINANCE PURSUANT TO ARTICLE VI OF THE PENNSYLVANIA MUNICIPALITIES PLANNING CODE, AMENDING CHAPTER \_\_\_ OF THE CODE OF ORDINANCES OF \_\_\_\_\_ TOWNSHIP, BEING THE ZONING ORDINANCE BY PROVIDING FOR THE REGULATION OF SURFACE LAND USES AFFILIATED WITH TRANSMISSION PIPELINES. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_ thereof, being the \_\_\_\_\_ Township Zoning Ordinance, as amended (the "Zoning Chapter"), Article \_\_\_, Supplementary Regulations, Section \_\_\_, is amended by adding a new section \_\_\_, to read as follows:

- A. Surface Land Uses Affiliated with Transmission Pipelines. The purpose of this section shall be to:
- (1) Accommodate the need for surface land uses affiliated with transmission pipelines consistent with the desire to protect the health, safety and welfare of the citizens of the Township.
  - (2) Minimize aesthetic, nuisance and visual impacts of surface land uses affiliated with transmission pipelines through design, siting and vegetative screening.
  - (3) Ensure the location of surface land uses affiliated with transmission pipelines in compliance with applicable industry standards and requirements, Federal law, and Pennsylvania State law, including the Federal Energy Regulatory Commission (FERC), the Pennsylvania Oil and Gas Act (as amended), and Pennsylvania case law.
  - (4) Preserve the rural, suburban and urban character of neighborhoods adjacent to surface land uses affiliated with transmission pipelines.

B. Use provisions.

- (1) Surface land uses affiliated with transmission pipelines shall be permitted as a principal use by right in the *Industrial District* where underground pipelines exist or are proposed. Such uses shall meet the dimensional requirements, including but not limited to area and bulk standards, of the *Industrial District*. Applicants are required to demonstrate to the satisfaction of the Township that the requirements of Section C, Standards for surface land uses affiliated with transmission pipelines, can be met.

*Note: Municipalities may wish to permit surface land uses as conditional uses within their Industrial District (rather than as by right uses); if so, the standards contained in Subsection C, below, would become the "conditional use standards" by which the land use would be permitted.*

*Note: Municipalities may wish to designate other areas where surface uses are permitted as conditional uses, such as zoning districts within which existing pipeline corridors already exist, or other special use districts (such as a defined "pipeline corridor district") appropriate for such uses. Each municipality will need to carefully consider whether additional or special use districts are appropriate for surface land uses affiliated with transmission pipelines in their community. Sample language for permitting surface land uses affiliated with existing transmission pipelines follows and could be inserted here as Subsection B.2; –*

- (2) Except as otherwise designated in Subsection (3) below, surface land uses affiliated with transmission pipelines shall be permitted as a principal use in \_\_\_\_\_ zoning districts where underground pipelines exist as of the date of adoption of this Section when authorized as a conditional use pursuant to Section C, Standards for surface land uses affiliated with transmission pipelines and (*insert reference to municipal Conditional Use Approval Standards*). In addition, such uses shall meet the dimensional requirements, including but not limited to area and bulk standards, of the underlying district.

- (3) Surface land uses affiliated with transmission pipelines shall be prohibited in the *Historic Preservation Overlay District*.

*Note: The example in Subsection B.3 above prohibits surface land uses in historic districts. Municipalities may also wish to prohibit or otherwise regulate such uses in other special districts or resource protection areas such as scenic corridor overlay districts, water resource protection areas (critical aquifer recharge areas, source water protection areas, wellhead protection areas, etc.), natural resource protection areas (wetlands, riparian buffer areas, rare habitat areas), etc.*

- (4) All other uses ancillary to surface land uses affiliated with transmission pipelines are prohibited unless otherwise permitted in the zoning district in which the use is located.

*Note: Ancillary uses could include signage or others types of outbuildings.*

C. Standards for surface land uses affiliated with transmission pipelines. The following standards will be considered by the Township prior to permitting surface land uses affiliated with transmission pipelines:

- (1) **Setbacks.** Unless otherwise approved by the Board of Supervisors upon recommendation of the Township Planning Commission, the applicant shall demonstrate that the setbacks for surface land uses affiliated with transmission pipelines and all supporting equipment and structures to any property line or right-of-way shall be consistent with the minimum setback in the underlying zoning district. In addition, surface land uses affiliated with transmission pipelines and all supporting equipment and structures shall be setback a minimum of seven hundred and fifty (750) feet from residential buildings and all commercial, industrial and institutional uses or a minimum of five hundred (500) feet from the nearest lot line, whichever is greater.

Setbacks may be increased by the Township pursuant to the type of material being managed at the surface land use affiliated with transmission pipelines and whether the use is adjacent to areas of high on-site population. Land uses with high on-site populations include schools (through grade 12, trade schools, advanced education institutions, etc.), hospitals, clinics, multi-family housing, retirement and/or life care facilities, stadiums or arenas, day care centers, or large scale commercial, industrial or institutional uses of fifty (50) or more persons.

The Township shall, on a case-by-case basis determine whether increased setbacks are warranted consistent with the "Potential Impact Radius" (PIR), defined by the relationship between the diameter of the adjacent pipeline (and appurtenances) and its maximum operating pressure (see Exhibit 1), whether high on-site populations are located in close proximity, and whether more than one transmission pipeline (such as coupled lines) will be managed at the surface land use affiliated thereto. The PIR approach is applicable only to surface land uses affiliated with "gas" or "petroleum gas" transmission pipelines as defined by Title 49, Code of Federal Regulations, Section 192.3. Surface land uses affiliated with transmission pipelines carrying "hazardous liquids", as defined by Title 49, Code of Federal Regulations, Section 195.2, shall adhere to the setback standards contained in this subsection.



*Note: Although Act 13's setbacks were 750 feet from compressor stations, the Act also provided PADEP latitude to reduce such setbacks if waived by the owner of adjacent buildings or adjoining lots. Municipalities wishing to consider larger setbacks for surface land uses affiliated with petroleum or other hazardous liquid pipelines should only do so if they believe they can justify the need for larger setbacks to protect High Consequence Areas (areas with high on-site populations) or Unusually Sensitive Areas (areas with unique natural resource constraints). Any increase or decrease in setbacks should be reviewed by the municipal solicitor. The municipality should consider retaining special counsel to present the case for larger setbacks when/if the conditional use process is utilized.*

- (2) Landscaping. The applicant shall provide a plan prepared by a landscape architect licensed in Pennsylvania showing landscaping proposed to be installed to screen and buffer surface land uses affiliated with transmission pipelines. The landscape plan shall incorporate the use of an eight-foot decorative fence surrounded by a mix of native vegetation, including evergreens, shrubbery and trees, which shall not be less than the height of the fence and shall be of sufficient density to screen the facility. Existing vegetation in proximity to surface land uses affiliated with transmission pipelines shall be preserved to the greatest extent possible. All proposed landscaping shall comply with the requirements of the Township's Subdivision and Land Development Ordinance (*or substitute the location of any landscaping provisions of the Township Code*). Applicants shall submit a visual survey from mutually agreed upon vantage points in order to support the proposed landscaping plan's mitigation of visual impacts.

*Note: Municipalities could consider whether they wish to ask that the fence provide screening (less than fifty percent open) for surface land uses. In addition, the word "decorative" could be deleted if it is viewed as too subjective.*

- (3) Noise. Sound produced by the surface land use affiliated with transmission pipelines shall not result in noise or vibration exceeding the average intensity of noise or vibration occurring from other causes as measured at the property line at any time in a 24 hour period; in no case shall the sound pressure level exceed 60 dB(A) (according to the American National Standards Institute (ANSI) "a" weighted scale) at the property line closest to the land use.
- (4) Odors. Odor, vapors or particulate matter produced by the surface land use affiliated with transmission pipelines shall not exceed the permissible emission of such substances occurring from other causes as measured at the property line. Specific contaminants shall be regulated by PA Code, Title 25, Environmental Protection, Part 1, Subpart C, Article III, Air Resources.
- (5) Signage. All signs, other than utility identification signs, appropriate warning signs, or owner identification signs, shall be prohibited. There shall be no

antennae, advertising, or other items or material affixed to or otherwise placed on surface land uses affiliated with transmission pipelines, except as permitted by the Township, pursuant to its sign ordinance.

- (6) **Parking.** If the surface land use affiliated with transmission pipelines is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of parking spaces shall be equal to the number of people on the largest shift. Parking spaces shall be located within the decorative fence and landscape buffer area so they are substantially concealed when viewed from surrounding properties.
- (7) **Access.** Sufficient access shall be provided to surface land uses affiliated with transmission pipelines for routine maintenance and emergency operations. Such access shall be sufficient to accommodate emergency vehicles, shall be all weather accessible, and shall provide sufficient area to safely deploy emergency equipment.
- (8) **Lighting.** No surface land use affiliated with pipeline utilities shall be artificially lighted except as required for emergency night time access. Any such lights shall be shielded so as to prevent intrusion upon neighboring properties and shall not be directed in such a way as to create a nuisance to users of adjoining streets and property or subject them to direct glare or hazardous interference of any kind.
- (9) **Engineered drawing submission.** Applications for a land use affiliated with transmission pipelines shall be accompanied by engineering drawings prepared by an engineer licensed in Pennsylvania. The applicant shall show that all applicable Commonwealth of Pennsylvania and U.S. standards for the construction, operation, and maintenance of the proposed facility have been met.
- (10) **Design.** The applicant proposing a surface land use affiliated with transmission pipelines must demonstrate that the structure has been designed to blend in with or mimic existing structures in the landscape such as residential outbuildings, farm structures, or other uses permitted in the underlying districts.
- (11) **Visual impact.** Any surface land use affiliated with transmission pipelines shall be designed and constructed so as to mitigate the visual impact from public roads and nearby uses. In addition, the color and other visual features of the land use affiliated with pipeline utilities shall be designed and installed in such a manner so as to create the least visual impact practicable. The applicant shall demonstrate compliance with this section, by among other things, providing photographic perspectives of the proposed site from all sides of the property, adjacent road ways and neighboring properties (with permission of the owners). Mitigation of visual impact shall be consistent with the landscaping requirements of Subsection C (2), above.

- (12) Need. The applicant for a surface land use affiliated with transmission pipelines is required to demonstrate, using scientific and technological evidence, that the facility must be located where it is proposed in order to satisfy its function in the company's pipeline system and demonstrate that there is a need for this facility at the location where it will be located.
- (13) State and Federal Regulation. All applicants, whether commercial pipeline companies or otherwise, must demonstrate the submission of sufficient filings and/or receive sufficient approvals, as required, through the Federal Energy Regulatory Commission (FERC), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Commonwealth of Pennsylvania [the Pennsylvania Department of Environmental Protection (PADEP) and/or the Pennsylvania Public Utilities Commission (PA PUC)]. Such documentation is not required as part of the initial application to the Township, but must be included with the final as-built plans submitted upon approval by the Township.
- (14) Removal of surface land uses affiliated with transmission pipelines. Any surface land uses affiliated with transmission pipelines, including access roads and related infrastructure, that are no longer licensed and active shall be removed and the site restored to its original condition at the owner's expense within 60 days of the last date that the facility was licensed by the PADEP and FERC. A bond or escrow account shall be posted with the Township in an amount sufficient to ensure such removal and site restoration prior to the construction of the facility. The applicant shall have prepared and submit to the Township to accompany the bond or escrow account, an estimate of the cost necessary to remove the surface land use facility associated with the pipeline and restore the site to its preconstruction condition.

**Section 2.** The Code of the Township of \_\_\_\_\_, Chapter \_\_\_\_ thereof, being the \_\_\_\_\_ Township Zoning Ordinance, as amended (the "Zoning Ordinance"), Article \_\_, Section \_\_\_\_, Definitions, is amended by adding the following terms and definitions therefore in the correct alphabetical sequence:

**Pipeline** – As defined by Title 49, Code of Federal Regulations, Sections 195.2 and 192.3.

**Surface land uses affiliated with transmission pipelines** – Above-ground transmission pipeline facilities including, but not limited to, compressor stations, pumping stations, regulator stations, launcher/receiver stations, and other surface pipeline appurtenances.

**Transmission Pipelines** – Transmission pipelines include, but are not limited to, pipelines designed for the transmission of a "gas" or "petroleum gas", except a "service line", as those terms are defined by Title 49, Code of Federal Regulations, Section 192.3; also included are pipelines designed for the transmission of a "hazardous liquid", as defined by Title 49, Code of Federal Regulations, Section 195.2.

## STREET OPENING ORDINANCE GUIDELINES

Note: This free-standing ordinance is intended to be enacted as part of a township's Code of Ordinances. It could also be incorporated into a Township's Subdivision/ Land Development Ordinance. While not directly related to pipeline infrastructure, this ordinance is intended to regulate any street openings or road crossings on municipal roads, including those commonly attributable to pipeline crossings.

### **AN ORDINANCE PURSUANT TO SECTION 2322 OF THE SECOND CLASS TOWNSHIP CODE, AS AMENDED, PROVIDING FOR THE REGULATION OF STREET OPENINGS AND INSTALLATIONS AND PROVIDING FOR THE REGULATION OF DRIVEWAYS WITHIN \_\_\_\_\_ TOWNSHIP. EFFECTIVE FIVE DAYS FROM ENACTMENT.**

**Section 1. Title.** This ordinance shall be cited to as the “\_\_\_\_\_ Township Street Opening Ordinance”.

**Section 2. Permit Required.** No opening, cutting, excavating, grading, boring, crossing, installation or disturbance of any kind shall be allowed upon, in, under, or across any portion of a Township road or any Township road right of way without a Road Occupancy permit granted by the Township for each separate undertaking. A permit shall not be immediately required for emergencies provided the applicant adheres to the requirements of Section 36. Permit applications are not required for accessing utility facilities through a manhole.

**Section 3. Application for Permit; Fee.** The application for a permit shall be on a form provided by the Township and submitted to the Township in triplicate. The Township Public Works Director or his designee shall be responsible for review and administration of the permit. The application shall be accompanied by a fee for processing the application in accordance with the Township Schedule of Fees adopted from time to time by the Board of Supervisors for street occupancy permits and restoration charges, and another fee for review by the Township Engineer and for making inspections, if needed. In addition, the applicant shall submit three copies of a sketch showing the location of the intended work, width of the traveled roadway (cartway), right-of-way lines, an address, and a dimension to the nearest intersecting road or other nearby landmark, so as to ascertain the location of the work. Permits will only be issued to public utility companies or contractors registered to do business in the Township.

Applicants shall be responsible for all costs and expenses incident to or arising from the permitted work, including the prescribed fees for the same, the cost of making and maintaining temporary restoration of the disturbed areas and making permanent restoration.

**Section 4. Decision on the Permit.** The permit application shall be approved or denied within 30 calendar days of submission of a complete application to the Township. If the application and required documents do not conform to the requirements of this Ordinance and applicable ordinances, rules, and regulations, the Township Engineer shall either issue a correction notice listing the deficiencies that must be corrected, or deny the application in

writing, stating the reasons. If the Township Engineer is satisfied that the proposed work conforms to the aforesaid requirements, the Township Engineer shall issue a permit.

**Section 5. PA One-Call.** At least 3 working days prior to the proposed start of work, the applicant or his representative shall contact the PA One-Call system at 1-800-242-1776, report the proposed work, and obtain a serial number, and provide such serial number to the Township. No work shall begin until such date and time as authorized by PA One-Call.

**Section 6. Maintenance of Traffic.** At least one lane of traffic shall be maintained at all times. The applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

**Section 7. Detours.** Under extremely unusual circumstances, the Township may allow a road to be closed and traffic to be detoured. In no event will the Township allow a road to be closed unless it receives at least 72 hours prior notice to allow time to notify 911, police, fire departments, emergency services and school districts. No road shall be closed without the applicant submitting a detour plan to the Township and having it approved by the Township. No road shall be closed without proper detour signs, as approved by the Township, having been provided and installed by the applicant. All detour signs shall be maintained for the entire work period.

**Section 8. Erosion Control.** All proper erosion control measures shall be taken to ensure compliance with applicable laws. If necessary, the applicant shall obtain erosion and sedimentation control plan approval from the County Conservation District prior to starting work.

Unless specifically authorized by the permit, applicants shall not alter the existing drainage pattern or the existing flow of drainage water. In addition, applicants are not permitted to direct, divert or otherwise drain surface waters onto any property without the consent, permission or other authorization from the property owners as well as adjacent and downstream property owners, pursuant to Township standards. Applicants are responsible for any damage caused to public or private property as a result of the work undertaken by the permit.

Unless specifically authorized by the permit, applicants shall not cut, remove or destroy trees or shrubbery within the right-of-way.

**Section 9. Trenching.** In situations where drilling, dry boring, driving or tunneling are not feasible, applicants may be authorized under their permit to trench across improved areas.

Trenching may be authorized across improved areas under the following conditions:

1. Subsurface material is solid rock;
2. Other facilities are located longitudinally under the improved area and the location of such precludes methods other than trenching;

3. Adjacent development in very congested urban settings makes tunneling or boring impracticable;
4. The Public Works Director or his designee determines that the disruption to traffic and length of exposure will be minimal.

When utility facilities are to be placed across a street in one piece, the following method shall be used:

1. Traffic shall be routed over one-half (1/2) 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 chapter;
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 restored in accordance with this chapter.

**Section 10. OSHA Requirements.** The applicant shall comply with all OSHA safety requirements and procedures, including without limitation all enclosed space requirements. All excavation or trenching shall comply with the most recent Federal, State and local regulations regarding safety at a construction site.

**Section 11. Notification.** The applicant shall notify the Township 24 hours in advance of starting work and upon completion of temporary restoration and permanent restoration for a field inspection of the work.

**Section 12. Backfill.** In the absence of Township specifications that exceed this standard, all backfill within the Township right-of-way shall be 2A Modified crushed stone of optimum moisture content. There shall be a minimum two (2) inches of bedding under the pipe or utility line. Crushed stone backfill shall be mechanically compacted in maximum six (6) inch lifts. Where work is done outside the paved cartway or shoulder, the last six (6) inches of backfill shall be topsoil.

**Section 13. Overnight Requirements.** If the work cannot be completed in one work-day, proper barricades, flashing lights, steel plates or other methods shall be used to secure the site and insure the safety of travelers on the roads in the Township until the next workday. The

applicant shall comply with the provisions of PennDOT Publication 203, "Work Zone Traffic Control".

**Section 14. Clean-up.** The work area shall be swept clean, cleaned of debris and otherwise policed at the end of each workday and at the end of the project. Mud shall not be tracked onto the streets at any time. All mud shall be cleaned up within one (1) hour of verbal or written notice from the Township or its agents. All loads shall be tarped.

**Section 15. Installation.** In the absence of Township specifications that exceed this standard, conduits and pipes shall be installed with a minimum of eighteen (18") inches of cover. In no case shall conduits or pipes be allowed to be placed within six (6) inches of the bottom of the roadway or driveway paving cross-section, which includes all courses of screenings, base stone, binder and bituminous or concrete wearing surface. Separation shall be obtained by at least six (6) inches of screenings, to allow paving to be milled in the future without damage to utilities.

**Section 16. Temporary Restoration.** The last two (2) inches of the excavation shall be backfilled with compacted "cold patch" or similar asphalt material to prevent dust and stone chip nuisances. All excavations shall be temporarily restored prior to allowing traffic on them. All settlement shall be brought back to grade within twenty-four (24) hours of verbal or written notice from the Township or its agents. The temporary restoration shall remain in place for a minimum of two (2) months to allow for final settlement to occur through the actions of rain and traffic, but in no case shall it remain in place more than four (4) months. The person issued the permit shall send a postcard to the Township indicating the date of completion of the temporary restoration.

**Section 17. Permanent Restoration.** In the absence of Township specifications that exceed this standard, all ragged or broken edges and undermined areas shall be saw-cut straight; the minimum cutback shall be one (1) foot and the minimum depth shall be six and one half (6½) inches. Permanent restoration shall match existing thicknesses and materials, except in the case of asphalt paving where the minimum requirements shall be five (5) inches of 25-mil Superpave and two (2) inches of 9.5-mil Superpave. All edges shall be sealed a minimum of six (6) inches wide with PG64-22 liquid asphalt. All non-paved areas shall be restored with six (6) inches of topsoil, seed and straw mulch cover, but with curlex blanket applied to all disturbed roadside swale areas in accordance with Chester County Conservation District practices. Permanent restoration shall be scheduled to occur during the spring, summer or fall seasons when proper bituminous paving can be completed. The person issued the permit shall send a postcard to the Township indicating the date of completion of the permanent restoration.

**Section 18. Additional Restoration.**

1. All disturbed portions of a street, including all appurtenances and structures, such as but not limited to guardrail or drain pipes, shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.

2. When both longitudinal and traverse trench openings are made in the street pavement, regardless of the age of the wearing course, the Township may require the applicant to overlay all traffic lanes in which such openings were made, for the entire length of the street that was opened, if the Public Works Director or his designee determines that the serviceability of the street has been impaired by the openings.
3. Any lawn area disturbed as part of the work shall be restored to the condition that existed prior to the start of work. At a minimum, the following standards shall be met:
  - a. A minimum of six (6) inches of screened topsoil shall be placed at all locations of lawn restoration.
  - b. Disturbed areas shall be permanently stabilized with a quality seed mixture and straw mulch. The seed mixture used shall match the existing grass type.
  - c. Erosion control blanket shall be placed on all slopes that are 3:1 or greater. Blankets must be placed on all areas where erosion occurs or as specified by the Public Works Director or his designee.
  - d. All wheel ruts or other construction damage created by the applicant shall be restored to a condition equal to or better than that which existed before the start of any work authorized by the permit.

**Section 19. Identification.** All excavations shall be marked after both temporary and permanent restoration. Where a pipeline crosses a public road, the location of the pipeline shall be marked by appropriate posts over the center of each pipeline. The posts shall be placed on both sides of the roadway on or one-foot inside the right-of-way line and shall contain all information required by federal regulations with, as a minimum, the name and local address of the pipeline company offices and a phone number to call that will provide immediate response in the event of an emergency.

**Section 20. Guarantee.** All work shall be guaranteed for a period of one (1) year from the date of final inspection and certification by the Township Engineer that the work has been completed in accordance with the permit. All defects shall be corrected by the applicant within twenty-four (24) hours of verbal or written notice from the Township or its agents.

**Section 21. Security Deposit and/or Bonding.** Except for public utility corporations operating under a franchise covering an area in whole or in part within the Township, projects in excess of \$25,000 shall deposit with the Township financial security in an amount equal to 110% of the cost of completion of the work required to comply with this chapter, estimated as of 90 days following the date scheduled for completion, provided the cost exceeds \$25,000. The form, amount and administration of the financial security shall be in accordance with Section 509 of the Pennsylvania Municipalities Planning Code, 53 P.S. §10509. The financial security shall be held by the Township until the end of a 1-year guarantee period and shall be used by the Township as liquidated damages in case of default or non-performance by the applicant.



Public utility corporations operating under a franchise covering an area in whole or in part within the Township shall have on file with the Township a bond in the amount of \$5,000 or as may be established by resolution of the Board of Supervisors with a surety that is licensed to transact such business in the Commonwealth of Pennsylvania, which bond shall be renewed annually, covering the cost of all inspections made by the Public Works Director or his designee pertaining to all openings or excavations made or to be made in a calendar year or shall furnish a bond in the amount determined by the Public Works Director or his designee covering the aforesaid costs pertaining to proposed openings or excavations set out in the application. The aforesaid bonds shall have either corporate surety or other surety approved by the Township Solicitor and shall be conditioned to indemnify the Township in the event of any loss, liability or damage that may result or accrue from or be due to the making, existence or manner of guarding or constructing any opening or excavation during the term of said bond.

**Section 22. Prohibited Locations.** No utilities, except for transverse laterals, shall be placed in the planting area between the face of curb and the sidewalk, or within five (5) feet of the edge of cartway or paved shoulders. This area is reserved for Township use for storm sewers, traffic signs, streetlights, etc.

**Section 23. Recently-Paved Streets.** Except for emergencies, excavations will not be permitted in streets that have been built or overlaid within the previous three (3) years, unless the applicant agrees to overlay the full width of the street with one and one half (1½) inches of 9.5 mm Superpave for a distance of ten (10) feet on either side of the extreme edges of the disturbed paving measured along the length of the road. Overlays shall be placed within one (1) week of permanent restoration of the excavation.

**Section 24. Driveway Permits.** Permits shall be required for all new or widened driveways within the Township. Driveway permits for Township roads shall be obtained from the Township. The application shall be accompanied by a fee in accordance with the Township Schedule of Fees adopted from time to time by the Board of Supervisors. Driveway permits for State roads shall be obtained from PennDOT. The provisions of Section 19, security deposit, and Section 33, insurance, shall not apply to an applicant for a driveway permit serving an existing single family residence.

**Section 25. Driveway Dimensions.** The minimum width of a driveway shall be nine (9) feet. In areas where a driveway is approved for access to multiple lots or uses, the minimum width of the driveway shall be sixteen (16) feet; where it can be shown to the satisfaction of the Township that sufficient pull-offs are provided for access to multiple lots or uses, the minimum width may be reduced to nine (9) feet. The maximum width of residential driveways shall be twenty (20) feet. The maximum width of commercial and industrial driveways shall be determined by engineering analysis. Driveways shall provide four (4) foot paved radius tapers (turning widths) where the driveway meets the cartway edge of a Township road; regardless of width, should turning movements onto or off of driveways result in damage to the cartway edge of a Township road, property owners shall be liable for repairs to the Township road.

**Section 26. Driveway Locations.** The centerline of driveways shall be located at least fifty (50) feet from the continuation of the right-of-way line of the closest intersection, or directly across from 3-way intersections.

**Section 27. Number of Driveways.** Not more than two (2) driveways shall be permitted to any single property, tract or business establishment. Residential lots and lots with frontages of one hundred (100) feet or less shall be limited to one driveway.

**Section 28. Visibility.** All driveways shall meet the visibility requirements of PennDOT Chapter 201. The clear-sight triangle shall be maintained clear of all obstructions at all times.

**Section 29. Drainage.** Driveways shall be depressed to match the existing roadside swale or shoulder so as to allow above-ground drainage over the driveway and to direct driveway runoff into said swale or shoulder. Pipes shall not be installed under driveways, except under unusual circumstances and with prior Township approval.

**Section 30. Grades.** The portion of a driveway within the street right-of-way shall not exceed four (4) percent grade. The remainder of the driveway shall not exceed fifteen (15) percent grade. Driveways shall be paved from the cartway to a minimum of twenty-five (25) feet back from the right-of-way line. Paving shall consist of six (6) inches of 2A crushed stone and two (2) inches of ID-2 per PennDOT Publication 408, latest edition. The remainder of the driveway may be constructed of any suitable stone, paver or paved surface.

**Section 31. Erosion.** Driveways shall be designed to avoid erosion and excessive runoff by grading, interception swales and/or drainage systems. If erosion products are deposited on the cartway, shoulders or swales, the property owner shall remove them within four (4) hours of verbal or written notice from the Township or its agents. In addition, the property owner shall take necessary measures to avoid reoccurrence of the problem.

**Section 32. Private Streets.** Driveways serving as private streets shall not be dedicated to the Township nor does the Township assume any responsibility for their maintenance.

**Section 33. Flag Lots.** When flag lots abut each other at a common street line, or in other situations considered appropriate by the Board of Supervisors, a common driveway shall be utilized for access to the lots.

**Section 34. Unnatural Water Sources.** Discharge from any roof drains, downspouts, sump pumps, foundation drains, disposal fields, etc., (excluding wastewater discharges) shall not be permitted onto a right-of-way or onto a driveway or driveway drainage system that directs runoff toward a street. Such discharge may be connected to underground drainage systems in the street if available, preferably into an inlet for accessibility.

**Section 35. Insurance.** As part of the permit application, the applicant shall provide the Township with insurance certificates for the following policies of insurance in full force and

effect with an insurance company(ies) admitted by the Pennsylvania Insurance Commissioner to do business in the Commonwealth of Pennsylvania and rated not less than A in Best Insurance Key rating Guide:

1. Commercial general liability insurance, including property damage liability and personal injury liability of not less than \$1,000,000 for each occurrence and a \$2,000,000 minimum aggregate amount.
2. Automobile bodily injury liability insurance of not less than \$500,000 each person; \$500,000 each occurrence.
3. Statutory Workman's Compensation and employer's liability insurance.

All policies of commercial general liability insurance required hereunder shall name the Township, its supervisors, engineer and employees as additional insureds. Specifically, commercial general liability insurance policy shall name the Township, its officers, agents, supervisors, elected officials and employees as an additional insured under ISO endorsement CG 20 26 07 04 or non ISO equivalent. Any policy or policies of insurance shall be primary and non-contributory to insurance coverage maintained by the Township. Certificates of insurance shall state that coverage shall not be cancelled by either party except after thirty (30) days' prior to written notice by U.S. certified mail, return receipt requested, has been given to the Township. In addition, the applicant shall indemnify and hold harmless the Township and shall assume the defense and all costs of lawsuits and awards.

**Section 36. Emergencies.** In the case of emergencies threatening property or lives, the applicant may proceed with the work after notifying the Township and 911. The applicant shall still be responsible for applying and obtaining the permit and satisfying all requirements. The application shall be made within twenty-four (24) hours of the verbal or written notice to the Township and 911. If the Township Administrative Office is closed, the applicant shall notify the Township Police Department. Information communicated shall include: 1. the date and time the emergency work is started; 2. the location of the emergency work site; and 3. a description of the emergency work.

**Section 37. Equipment Damage to Streets or Sidewalks.** 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. Where other than rubber-equipped machinery is authorized, pavement, sidewalks and shoulders shall be protected by the use of matting wood, or other suitable protective material having a thickness of four (4) inches (unless the permit indicates that the applicant plans to repave the full width of the roadway). Should damages occur, pavement, shoulders and sidewalks shall be restored to their formal condition at the applicant's expense.

**Section 38. Other Regulations.** In addition to the requirements of this Ordinance, all work is subject to all applicable federal, state and local laws, ordinances and regulations.

**Section 39. Violations and Penalties.** Any person or utility which shall violate or permit the violation of the provisions of this ordinance shall, upon being found liable therefore in a criminal enforcement proceeding, pay a fine of not more than \$1,000 nor less than \$25, together with court costs and reasonable attorney fees, and may be incarcerated for a period not exceeding 90 days. Such fines, costs, attorney fees and incarceration, after being reduced to a final, unappealed judgment, shall be enforced by the Township pursuant to the applicable rules of criminal procedure. Each day of violation shall constitute a separate violation.

**Section 40. Definitions.** As used in this ordinance, the following terms shall have the meanings indicated:

**CARTWAY** -- The portion of a street or alley, right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

**PERSON** -- Any natural person, municipal authority, corporation, partnership, joint venture, sole proprietorship, firm, association and any other entity of whatever type.

**RIGHT-OF-WAY** -- The total width of any land reserved or dedicated as a street, alley or crosswalk, or for any other public or private purpose.

**Section 41. Severability.** If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and chapters shall not be affected and shall continue in full force and effect.

**Section 42. Effective date.** This ordinance shall be effective five (5) days from the date of enactment.

The PSATS Ordinance Database includes examples that townships can use when developing their own ordinances, job descriptions, and personnel regulations. Please keep in mind that these examples are merely models and should only be used as a guide in developing your own ordinance, job description, or personnel regulation. PSATS encourages township officials to review and discuss all proposed ordinances, job descriptions, or personnel regulations with their township solicitor. Also, please keep in mind that PSATS cannot guarantee that a model ordinance, job description, or personnel regulation has or will withstand a court challenge.

To use the database, you can browse for ordinances, job descriptions, or personnel regulations by choosing a category such as "Job Descriptions" or "Roads/Streets." Search for ordinances by using keywords such as "snow", "road maintenance", "nuisance", or other words that are relevant to your request.

If you can't find what you're looking for...new ordinance files are constantly being added to this site. However, there may be instances where we do not currently have what you are looking for. If you can't find a specific ordinance, try submitting a request for one. Click on the Ordinance Request link, fill out the form and click on submit. After receiving your request, we will try to locate a sample ordinance for you.