

CHAPTER 21

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PART 1

STORM EMERGENCIES

§21-101. Definitions.

1. Words and phrases when used in this subpart shall have the meanings ascribed to them in the most current amendment of the Vehicle Code of Pennsylvania, except in those instances where the context clearly indicates a different meaning. The following words, terms and phrases used in this Part shall have the meanings given herein. Words used in the singular include the plural, words used in the plural include the singular and words used in the present tense include the future. Personal pronouns, his, her, their, are gender neutral. The word "shall" is mandatory. The words "advised" and "advisory" are discretionary:

EMERGENCY STORM — any storm, including winter storm, that creates a significant danger to life and/or property in New Britain Township or portion thereof.

PARKING — the standing of a vehicle, except a police or fire vehicle, ambulance or official vehicle of the Township or Commonwealth, whether occupied or not, upon a street other than temporarily for the purpose of, and while actually engaged in, loading or unloading, or in obedience to traffic regulations or traffic signs and signals.

POLICE DEPARTMENT — New Britain Township Police Department, its Chief, sworn officers and civilian employees.

PROPERTY OWNER — any person, persons, male or female, corporation, partnership, association, company, individual, owner, occupant, tenant or any organization.

SIDEWALK — a paved path or foot-walk for public use located within the right-of-way or easement of any public or Township maintained street.

STREET — any highway, road, roadway within the Township that is maintained by the Township.

TOWNSHIP — the Township of New Britain, Bucks County, Pennsylvania, its Board of Supervisors, Township Manager and all employees and appointees of the Township.

WINTER STORM — precipitation in the form of sleet, ice, freezing rain, snow or any combination thereof.

2. Special Powers of the Chairman and Vice Chairman of the Board of Supervisors, Township Manager or Emergency Management Coordinator, hereinafter "Designated Officials," to Regulate Parking.

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- A. Any designated official may establish temporary parking regulations effective during the period of an emergency storm.
 - B. Such emergency and/or temporary regulations shall be enforced by the Police Department in the same manner as permanent regulations.
 - C. No person shall park a vehicle in violation of any such regulations.
3. **Parking During Winter Storms.**
 - A. It shall be unlawful to park or allow to be parked any motor vehicle on any street within the Township following the deposit or accumulation of ice or snow of one inch or greater in depth, until the snow has been cleared and all salting and cindering operations have ceased.
 - B. After the first hour of a winter storm, it shall be the duty of the owner and/or operator of any motor vehicle which has been parked on any street within the Township to remove said vehicle from the street.
 4. **Intent; Applicability.** It is the intention of the Board of Supervisors that this subpart shall apply to each and every public street as defined herein and all shoulders and berms of such streets that are located within the public right-of-way.
 5. **Violations and Penalties.** Any person violating any provision of this subpart shall, upon conviction thereof before any Magisterial District Judge, be guilty of a summary offense.

(Ord. 02-09-01, 9/9/2002, §2)

§21-102. Responsibility to Maintain in Safe and Useable Condition.

1. It shall be the duty of the property owner of all sidewalks, curbing and driveway aprons located on his property in a safe and useable condition, to be free from litter, debris, cracks, holes and obstructions including, but not limited to, vegetation, bushes, trees, over-hanging branches, equipment and motor vehicles.
2. **Regulation for all Commercial, Industrial and MHP Zoning Districts.** Property owners shall remove snow and ice from all sidewalks located on his property in a safe and useable condition, to be free from litter, debris, cracks, holes and obstructions including, but not limited to, vegetation, bushes, trees, over-hanging branches, equipment and motor vehicles.
3. **Regulation for IN, CR, Residential Districts and all Actively Farmed Lands.** Property owners are advised to remove snow and ice from all sidewalks located along public streets on their property or street right-of-way within 24 hours of the time of the accumulation of snow and ice.

4. Depositing Snow and Ice on Streets. It shall be unlawful to plow, shovel, push, blow or otherwise remove snow from private property, driveways, lanes and sidewalks, curbing and driveway aprons and deposit it on or in the street.
5. Any person violating any provisions of this Section shall, upon conviction thereof before any Magisterial District Judge, be guilty of a summary offense.

(Ord. 02-09-01, 9/9/2002, §3)

§21-103. Towing of Vehicles.

1. Whenever any motor vehicle is found to be parked or stopped in violation of the restrictions of Chapter 15, Part 5, Removal and Impoundment of Illegally Parked Vehicles, the Chief of Police, and/or Superintendent of Public Works may issue instructions to an authorized towing service to remove the vehicle from the street to a place of safety, or other location as may be designated by the Township.
2. An authorized towing service is a towing service that has presented the Township with a certificate of insurance establishing that it has in full force and effect a garage keeper's liability insurance policy in an adequate amount to provide for indemnification of the owner of such impounded vehicle against the loss thereof or injury or damage while said vehicle is in the custody of the towing service.
3. Within 24 hours after the removal of such vehicle, notice of the fact that such vehicle has been impounded shall be sent by the New Britain Township Police Department to the owner of record. The notice shall designate the place from which the vehicle was removed, the reason for its removal and impounding and advising where the vehicle has been impounded. Such notice shall state that the payment of such towing and storage charges, unless such payment is made "under protest," shall be final and conclusive, and shall constitute a waiver of any right to recover the money so paid. The notice shall contain the words "if the towing and storage charges are paid under protest the owner or operator shall be entitled to a hearing on the matter before the Magisterial District Judge."

(Ord. 02-09-01, 9/9/2002, §4)

§21-104. Snow Removal from Fire Hydrants.

1. All property owners shall remove or cause to be removed snow from the street side of all fire hydrants located adjacent to or on such property or street right-of-way within 24 hours of the time of the accumulation of snow and ice.
2. Any person violating any provision of this Section shall, upon conviction thereof before any Magisterial District Judge, be guilty of a summary offense.

(Ord. 02-09-01, 9/9/2002, §5)

PART 2

**STANDARDS FOR CONSTRUCTION OF DRIVEWAYS AND INSTALLATION
OF UTILITIES WITHIN STREET RIGHTS-OF-WAY**

§21-201. Purpose.

In accordance with the provisions of §2322 of the Second Class Township Code, Act 60 of 1995, as amended, no railroad or street railway shall be constructed upon any Township road, nor shall any railroad or street railway crossings, driveway connections, gas pipes, water pipes, electric conduits or other piping be laid upon or in, nor shall any telephone, telegraph or electric light or power poles or any coal tipples or any other obstructions be erected upon or in any portion of a Township road, except under conditions, restrictions and regulations specified in permits granted by the Township for that purpose.

(Ord. 02-05-03, 5/20/2002, §1)

§21-202. Applicability.

No person, firm, corporation or other entity within the Township shall construct a driveway or install a utility within a street right-of-way, except as permitted by this Part.

(Ord. 02-05-03, 5/20/2002, §2)

§21-203. Permit Procedures.

1. A permit must be acquired from New Britain Township for any work within a Township right-of-way and from the Pennsylvania Department of Transportation (PennDOT) for any work within a State right-of-way where such work involves construction or alteration of a driveway or installation of utility or other structures.
2. An application for a driveway permit shall be submitted in the name of the owner or equitable owner of the property.
3. An application for a road opening permit for utility installation must be submitted in the name of the owner or operator of the facility.
4. Forms, plans and fees shall be submitted in accordance with regulations and procedures adopted by either New Britain Township or PennDOT for work in Township or State rights-of-way, respectively. The application fees for work within Township rights-of-way shall be specified in the schedule of fees adopted by resolution by the Board of Supervisors.

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(Ord. 02-05-03, 5/20/2002, §3)

§20-204. Regulations and Standards.

1. This Part represents minimum requirements of certain types of activities within Township or State rights-of-way. Activities associated with approved subdivisions or land developments shall be subject to any additional requirements of the final plans as approved by New Britain Township and/or PennDOT. Any activity not regulated by the Subdivision and Land Development Ordinance [Chapter 22] of New Britain Township shall be regulated by requirements of these rules and regulations.
2. A drainage control plan and analysis shall be submitted whenever an increase in flow of water into a street or into existing drainage facilities will result from the proposed activity. The design of all drainage facilities shall be based on the Rational Method, as determined by the PennDOT Design Manual, Part 2, as amended, and the U.S. Department of Commerce, Hydraulic Design Series No. 5, Hydraulic Design of Highway Culverts, as amended.
3. All construction work, structures, paving and facilities shall conform to the design standards of PennDOT publications 408 and 72 (Road Construction Standards), as amended. Work shall be done at such time and in such a manner as shall be consistent with the safety of the public. Any work within Township or State rights-of-way shall conform to all requirements and standards of PennDOT except as otherwise supplemented or modified by these rules and regulations. In the event regulations conflict, the most stringent regulations shall apply. If, at any time, it is found the work is not being done or has not been properly performed, the permittee, upon being notified, in writing, by either the Township or PennDOT, may immediately take the necessary steps, at its own expense, to replace the work in a condition to conform to such requirements or standards. In case any dispute arises between the permittee and the representative of the owner of the right-of-way, the owner's representative shall have the authority to suspend work until the question at issue can be decided by the Township and/or State.
4. The following PennDOT provisions shall regulate the occupancy of all Township and State rights-of-way, unless otherwise required by an approved subdivision or land development plan, the Township Engineer or PennDOT officials:
 - A. Pennsylvania Code, Title 67 Transportation, Chapter 441 Access and Occupancy of Highways by Driveways and Local Roads, as amended.
 - B. Pennsylvania Code, Title 67 Transportation, Chapter 459 Occupancy of Highways by Utilities, as amended.
5. A traffic control plan must be submitted to either close any portion of a travel lane during construction, during the hours of darkness when no active work is in progress or to detour traffic in order to perform the permitted work. All plans shall

conform with §6123 of the Motor Vehicle Code, as amended, and the applicable provisions of Pennsylvania Code, Title 67 Transportation, Chapter 203, as amended.

(Ord. 02-05-03, 5/20/2002, §4)

§21-205. Driveway Construction Requirements.

1. Driveways shall be located at least 40 feet from street intersections, measured from the centerline of the driveway to the point of intersection of the street ultimate right-of-way lines (extended). When streets of different classifications are involved, driveways shall provide access to the street of lesser classification.
2. Driveways shall be provided with a stopping area of 20 feet, at a maximum grade of 3%, measured from the edge of cartway. In order to provide access for emergency vehicles, the maximum centerline grade for any portion of the driveway shall not exceed 8% and the maximum change in grade shall not exceed 6%.
3. Driveways shall be paved for a minimum of 50 feet from the edge of the street or to the ultimate right-of-way, whichever is greater. The pavement construction shall be in accordance with the attached construction detail.¹ In the event additional width or a supplemental thickness is required by other rules and regulations of the Township or PennDOT or as may be necessitated by site conditions, these minimum requirements shall be increased appropriately.
4. Driveways shall have a minimum radius of curvature at the street intersection of 10 feet.
5. A minimum distance of five feet shall be maintained between the driveway and the side lot lines.
6. Driveways shall have a minimum turnaround area of 10 feet by 20 feet.
7. A fifty-foot clear sight triangle must be provided for all driveways, measured from the point of intersection of the street right-of-way line and edge of the driveway. The site plan shall contain a notation that states that the applicant is required to maintain the area of the clear sight triangle and the Township has the right to enter and perform required maintenance in the area if deemed critical to public welfare.
8. Sight distances for all driveways shall comply with Pennsylvania Code, Title 67 Transportation, Chapter 441 Access and Occupancy of Highways by Driveways and Local Roads, as amended.

¹ Editor's Note: Construction detail is on file and may be seen at the Township office.

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9. When a sidewalk is proposed across a driveway, a concrete apron shall be installed in accordance with the attached construction detail.² When a curb is proposed along a driveway, depressed curb shall be installed in accordance with the attached construction detail.
10. A fifteen-inch RCP culvert, or equivalent size, shall be provided for all driveways. The minimum culvert length shall be 24 feet, with flared end sections and end-walls. Where an existing roadside drainage swale is too shallow to permit installation of a driveway culvert, a concrete trench box with grate may be utilized upon approval of the Township.
11. Any associated grading, curb or sidewalk installation located within the street right-of-way shall be in accordance with the design standards of the Township's Subdivision and Land Development Ordinance [Chapter 22], as amended.

(Ord. 02-05-03, 5/20/2002, §5)

§21-206. Utility Installation Requirements.

All utility installation and pavement trench restoration shall be in accordance with the attached construction details.¹

(Ord. 02-05-03, 5/20/2002, §6)

§21-207. Maintenance Period.

Upon completion of the work authorized by the permit, the Township shall inspect the work and when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the Township. In addition to such inspection, the Township may reinspect the work not more than two years after its completion and if any settlement of the road surface or other defects shall appear in the work contrary to the conditions, restrictions and regulations of the Township, it may enforce compliance therewith. If the applicant shall fail to rectify a defect which presents an immediate or imminent safety or health problem in 48 hours or any other defect within 60 days after written notice from the Board of Supervisors to do so, the Board of Supervisors or its agents may do the work and impose upon the applicant the costs thereof together with an additional 20% of the costs, which may be recovered by a civil action in the Court of Commons Pleas of Bucks County.

(Ord. 02-05-03, 5/20/2002, §7)

² Editor's Note: Construction detail is on file and may be seen at the Township office.

§21-208. Guidelines for Maintaining and Operating Traffic Signals.

1. If any contractor performing work in New Britain Township damages, knocks down, or otherwise causes a failure to any traffic signal equipment located in the Township, the contractor shall be responsible for the repairing, replacing or resetting of any traffic signal equipment damaged or disturbed in accordance with the following requirements:
 - A. Immediately (within one hour) alert New Britain Township Police Department of any and all damages, and identify the type of repair permitted as stated and according to PennDOT Publication 191, Exhibit 3.2: Response Maintenance Schedule, which identifies the types of repairs permitted and not permitted for various knockdowns and failures.
 - B. Provide emergency or final repair (within four hours) related to damage, knockdown, or cause failure in accordance with PennDOT Publication 191, Exhibit 3.2: Response Maintenance Schedule.
 - C. In the event temporary repair is provided in-lieu-of emergency or final repair, final or permanent repair must be provided within one calendar week of damages or notice of delay must be provided to the Township with said time frame along with information regarding the estimated time for completion of final repair along with an explanation of delay.
 - D. If defects cannot be satisfactorily repaired or corrected to Township satisfaction within one calendar week, contractor shall provide reimbursement for any expenses incurred by New Britain Township for repairs.
 - E. For long-term traffic signal outages where flashing mode is not possible, an alternative traffic control method must be coordinated with PennDOT Engineering District 6-0 and the New Britain Township staff.

(Ord. 02-05-03, 5/20/2002; as added by Ord. 2012-07-01, 7/16/2012, §I)

§21-209. Penalties.

1. Enforcement Remedies.
 - A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Part shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$1,000 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation

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continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

- B. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this Section.
- C. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this Section.

(Ord. 02-05-03, 5/20/2002, §8; as amended by Ord. 2007-02-01, 2/12/2007; and by Ord. 2012-07-01, 7/16/2012, §II)

PART 3

RIGHT-OF-WAY MANAGEMENT

§21-301. Definitions.

For the purpose of this Part, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense; words in the plural number include the singular number; and words in the singular number include the plural number.

AFFILIATE — a person:

- A. With a direct or indirect ownership interest in the subject entity of 5% or more or which controls such interest, including forms of ownership such as general, limited, or other partnership interests, direct ownership interests, limited liability companies and other forms of business organizations and entities, but not including corporations;
- B. With a stock interest in the subject entity where the subject entity is a corporation and such stockholder or its nominee is an officer or director of the grantee or who directly or indirectly owns or controls 5% or more of the outstanding stock, whether voting or nonvoting; or
- C. Which controls the grantee and/or is controlled by or is under common control with such person or entity.

CABLE SERVICE — the same meaning as used in the Communications Act.

COMMUNICATIONS ACT — the Communications Act of 1934, as amended as of the time of enactment of this Part.

EQUIPMENT — any tangible asset used to install, repair, or maintain a facility in the public way.

EXEMPT — a service which is provided to residences or businesses within the service area but which is exempt from the provisions of this Part under Subsection 2 of §21-304 of this Part.

FACILITY — any tangible asset in the public way used or required to provide a nonexempt service to residences or businesses within the service area. The following are not a facility: a railroad, street railway, gas pipe, water pipe, electric conduit, electric piping, telephone pole, telegraph pole, electric light pole, electric power pole, coal tipple or obstruction to the public way.

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GRANTEE — a person who enjoys a nonexclusive privilege to occupy or use a public way to provide nonexempt service under this Part and who is in continuous compliance with this Part.

GROSS REVENUE — all gross revenue of the grantee or any affiliate of the grantee derived from the use or occupancy of public ways for the provision of non-exempt services to persons having a residence or place of business in the service area.

- A. Gross revenue shall include amounts earned, regardless of whether the amounts are paid in cash, in trade, or by means of some other benefit to the grantee or its affiliates; whether the services with which the revenue is associated are provided at cost or the revenue amount can be matched against an equivalent expenditure; and/or how the amounts are initially recorded by the grantee or its affiliates.
- B. Gross revenue shall not be a net of:
 - (1) Expense, including but not limited to any operating expense, capital expense, sales expense, or commission;
 - (2) Any accrual, including, without limitation, any accrual for commissions; or
 - (3) Any other expenditure, regardless of whether such expense, deduction, accrual, or expenditure reflects a cash payment.
- C. Gross revenue shall not be double-counted, viz., gross revenue which has been included as gross revenue of both the grantee and an affiliate but which sum is included in gross revenue due solely to a transfer of funds between the grantee and the affiliate shall not be counted for purposes of determining gross revenue.

NONEXEMPT — a service which is provided to residences or businesses within the service area but which is not exempt from the provisions of this Part under Subsection 2 of §21-304 of this Part.

PERSON — any natural person, sole proprietorship, partnership, association, limited liability company, corporation or other form of organization authorized to do business in the Commonwealth of Pennsylvania and who or which provides or seeks to provide one or more nonexempt services to residences or businesses in the service area. A governmental entity or a municipal authority is not a person.

PUBLIC WAY — the surface of, and the space above and below, any public street, unopened right-of-way, highway, bridge, land, path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way held by the Township in the service area. Public way shall also mean any easement now or hereafter held by the Township within the service area for the pur-

pose of public travel and/or for utility and/or public service use dedicated for compatible uses.

SERVICE AREA—the present municipal boundaries of the Township, and shall include any additions thereto by annexation or other legal means.

TOWNSHIP—the Township of New Britain, County of Bucks, Commonwealth of Pennsylvania, or the lawful successor, transferee, or assignee thereof.

(Ord. 2005-08-02, 8/8/2005)

§21-302. Registration.

Each person, other than on a transitory basis, who occupies or uses or seeks to occupy or use a public way to provide a nonexempt service to residences or businesses within the service area, or places any equipment or facility in a public way other than on a transitory basis, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the Township. Registration is accomplished by filing with the Township a completed provider certification in the form shown in Appendix A to this Part.³

(Ord. 2005-08-02, 8/8/2005)

§21-303. Grant of Privilege; Exemptions.

1. **Grant.** It shall be unlawful for any person to construct, repair, remove, relocate or perform any work on or use any facilities or any part thereof in a public way unless in compliance with this Part. Continuous compliance with this Part grants to the grantee a nonexclusive privilege to construct, repair, remove, relocate or perform any work on or use any facilities or any part thereof in the public ways within the service area and to occupy or use the public ways for the purpose of providing nonexempt service to residences or businesses within the service area.
2. **Exemptions.** This Part shall not apply to occupation or use of the public ways to provide:
 - A. The transportation of passengers or property, or both, as a common carrier by means of elevated street railway, inclined plane railway, railroad, street railway or underground street railway, trackless-trolley omnibus or by any combination of such means.
 - B. The transportation of artificial or natural gas, electricity, petroleum or petroleum products or water, or any combination of such substances, for the public.

³ Editor's Note: Appendix A is included at the end of this Chapter.

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- C. The production, generation, manufacture, transmission, storage, distribution or furnishing of natural or artificial gas, electricity, steam, air-conditioning or refrigerating service, or any combination thereof, to or for the public.
 - D. The diverting, developing, pumping, impounding, distributing or furnishing of water from either surface or subsurface sources to or for the public.
 - E. The collection, treatment or disposal of sewage for the public.
 - F. The conveyance or transmission of messages or communications by telephone or telegraph for the public, if all facilities are placed underground. No above-ground facilities are permitted unless in full compliance with the Township's Zoning Ordinance [Chapter 27] provisions with respect to telecommunication uses. [Ord. 2013-09-01]
 - G. The diverting, pumping or impounding of water for the development or furnishing of hydroelectric power to or for the public.
 - H. The transportation of oxygen or nitrogen, or both, by pipeline or conduit for the public.
 - I. Any ancillary service reasonably necessary or appropriate for the accomplishment of services specified in Subsection 2A through H.
 - J. Cable service.
3. Not a Cable System. This Part does not authorize a person to provide cable service. A person seeking to provide cable service must obtain permission from the Township under separate legislation of the Township.
 4. Not a Pole Attachment Agreement. This Part does not authorize the grantee to attach to any pole or other structure in a public way devices for the intentional transmission or radiation of radio frequency emissions or energy through the ether by any means now known or hereafter developed.

(Ord. 2005-08-02, 8/8/2005; as amended by Ord. 2013-09-01, 9/9/2013, §I)

§21-304. Standards of Service.

1. Conditions of Street Occupancy. All facilities and equipment installed or erected by the grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the proper use of public ways and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.
2. Restoration of Public Ways. If, during the course of the grantee's construction, operation, and/or maintenance of its facilities and equipment, there occurs a disturbance of any public way by the grantee, the grantee shall, at its expense,

replace and restore such public way to a condition which existed immediately prior to such disturbance. If the grantee excavates the surface of any public way, the grantee shall be responsible for restoration of the public way and its surface within the area affected by the excavation. The Township reserves the right, after providing notice to the grantee, to remove and/or repair any work done by the grantee which is inadequate. The reasonable cost thereof, including the cost of inspection and supervision, shall be paid by the grantee. All excavations made by the grantee in the public way shall be properly safeguarded for the prevention of accidents.

3. **Trees and Shrubbery.** The grantee shall notify the Township and all affected property owners regarding the grantee's need to trim trees or other natural growth upon and overhanging public ways so as to prevent the branches of such trees from coming in contact with its facilities or equipment. Trimming shall be limited to the area required to clear its facilities or equipment.
4. **Safety Requirements.** All such work in the public ways shall be performed in accordance with applicable safety codes and technical requirements.
5. **Maps.** Prior to beginning any construction of facilities, the grantee shall provide the Township with a construction schedule for work in the public ways, which schedule shall be updated as changed. Upon completion of initial construction and upon completion of construction of any modification to its facilities, the grantee shall provide the Township with a map showing the location of its installed facilities in the public ways. Such maps shall be provided in both paper form, as well as in an electronic format for placement on the Township's GIS system. Annually thereafter, the grantee shall provide a map to the Township showing the location of the grantee's facilities in the public ways on a scale of 150 feet per inch or whatever standard scale the Township adopts for general use.
6. **Excavations.** The grantee may make excavations in public ways for any facility subject to obtaining excavation permits from the Township. Prior to doing such work, the grantee must apply for, and obtain, appropriate permits from the Township and give appropriate notices to any other licensees and/or permittees of the Township and/or other units of government owning or maintaining facilities which may be affected by the proposed excavation.
7. **Reservation of Township Public Ways.** Nothing in this Part shall be construed to prevent the Township or other agency of government or municipal authority from constructing sewers, grading, paving, repairing and/or altering any street and/or laying down, repairing and/or removing water mains and/or constructing and/or establishing any other public work or improvement. If any of the grantee's facilities or equipment interferes with the construction or repair of any street or public improvement, including construction, repair or removal of a sewer or water main, the grantee's facilities or equipment shall be removed or replaced in the manner the respective Township or other agency of government or municipal authority shall direct. Any and all such removal or replacement shall be at the expense of the grantee. Should the grantee fail to remove, adjust or relocate its facilities by

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the date established by the Township or other agency of government or municipal authority, the Township or other agency of government or municipal authority may cause and/or effect such removal, adjustment or relocation, and the expense thereof shall be paid by the grantee, including all reasonable costs and expenses incurred by the Township or other agency of government or municipal authority due to the grantee's delay.

(Ord. 2005-08-02, 8/8/2005)

§21-305. Rentals.

1. Rental.

- A. In consideration of occupying or using the public ways under this Part, the grantee shall pay to Township a rental equal to 5% of gross revenue.
- B. The rental shall be assessed on a calendar-quarterly basis and shall be payable to the Township no later than 45 days after the expiration of the calendar quarter for which payment is due. The grantee shall file with the Township a complete and accurate statement, under notarial seal, at the end of each calendar year quarter, certified as true and correct by a representative of the grantee authorized to make such certification, explaining how the payment was calculated. In connection with the rental payment due on February 14, the grantee shall also submit to the Township, on that date or no later than six months thereafter, a detailed statement by an officer of the grantee, certified by the grantee's independent certified public accountant, verifying the accuracy of the gross revenue and rental payments for the previous calendar year, with a detailed breakdown and explanation of the calculation by each month.
- C. The grantee shall keep accurate books of account which shall clearly support the calculation of rentals and describe in sufficient detail the amounts attributable to each specific component of gross revenue. Such books of account and all supplemental information and source documents in support thereof, including but not limited to third-party remittances and contract documents, shall be made available to the Township and its authorized representatives for examination at a location in Bucks County, Pennsylvania, at any time during regular business hours, on 10 days' prior written notice and from time to time for the purpose of verifying or identifying rentals owed to the Township. The grantee shall exercise its best efforts to obtain financial records of affiliates for the Township for the purpose of verifying the accuracy of the rental payments. The Township shall have the right to examine and to recompute any amounts determined to be payable under this Part; provided, however, that such examination shall take place within 48 months following the close of each year. Any additional amount due to the Township as a result of the examination and recomputation shall be paid within 30 days following written notice to the grantee by the Township,

which notice shall include a copy of the examination report. In the event that said examination determines that funds are owed to the Township in an amount in excess of 2%, the cost of said examination shall be borne by the grantee and reimbursed to the Township within 30 days following written notice to the grantee.

- D. In the event that any rental or other payment is not made or the requisite documentation and certification is not provided on or before the applicable dates heretofore specified, interest shall be compounded daily and set at the one-year United States Treasury Bill rate existent on the date payment was due, plus three percentage points. Any amount recomputed to reflect correct payment due shall bear interest as described from the date such payment was originally due.

(Ord. 2005-08-02, 8/8/2005)

§21-306. Insurance, Indemnification and Bonds or Other Surety.

- 1. The grantee shall save the Township, its agents, employees and elected and appointed officials harmless from and against all claims, damages, losses and expenses, including reasonable attorney's fees, sustained on account of any suit, judgment, execution, claim or demand whatsoever arising out of the construction, leasing, operation or maintenance of the grantee's equipment, facilities, and services specified by this Part, whether or not any act or omission complained of is authorized, allowed and/or prohibited by the Part and the rights granted thereunder.

2. Insurance.

- A. The grantee shall obtain and maintain in full force and effect throughout the term of this Part insurance with an insurance company licensed to do business and doing business in the Commonwealth of Pennsylvania and acceptable to the Township. All companies will be required to be rated A-VH or better by A.M. Best or A better by Standard and Poors. The grantee shall provide the Township with proof of such insurance so required.
- B. The grantee shall obtain and maintain in full force and effect, at the grantee's sole expense, insurance coverage in the following types and minimum amounts:

Type	Amount
Workers' compensation and statutory employers liability	\$100,000/\$500,000/\$100,000
Commercial general (public) liability, to include coverage for the following where the exposure exists:	

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Type	Amount
Premises operations	Combined single limit for bodily injury and property damages of \$2,000,000 per occurrence or its equivalent
Independent contractors	
Products/completed operations	
Personal injury	
Contractual liability	
Explosion, collapse and underground property damage	
Comprehensive vehicle insurance coverage for loading and unloading hazards, for:	
Owned/leased vehicles	Combined single limit of bodily injury and property damages of \$1,000,000 per occurrence or its equivalent
Non-owned vehicles	
Hired vehicles	

- C. The Township shall receive, without expense, copies of certificates of insurance evidencing coverage stated above.

- D. The grantee agrees that, with respect to the above-required insurance, all insurance certificates will contain the following required provisions:
 - (1) Name the Township and its officers, employees, board members and elected and appointed officials as additional insured parties (as the interests of each insured may appear) as to all applicable coverage (except worker's compensation);
 - (2) Provide for 60 days' written notice to the Township for cancellation, non-renewal, or material change;
 - (3) Provide that all provisions of this Part concerning liability, duty, and standards of care, including the indemnity provisions, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies, subject to policy terms and conditions.

- E. Companies issuing the insurance policies shall have no recourse against the Township for payment of any premiums or assessments, which all are set at the sole risk of the grantee. Insurance policies obtained by the grantee shall provide that the issuing company waives all right of recovery by way of subrogation against the Township in connection with any damage covered by these policies.

3. The grantee shall obtain and maintain, at its sole cost and expense, and file with the Township a corporate surety bond with a surety company authorized to do business in the Commonwealth of Pennsylvania in the amount of 15% of the grantee's estimated costs to secure the grantee's performance of its obligations and faithful adherence to all requirements of this Part.
 - A. No action, proceeding or exercise of a right with respect to such bond shall affect the Township's rights to demand full and faithful performance under this Part nor limit the grantee's liability for damages.
 - B. The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until 60 days after receipt by the Township of New Britain, by registered mail, of written notice of such intent."
4. All expenses of the above-noted insurance and bond shall be paid by the grantee.
5. The insurance policies mentioned herein shall contain an endorsement stating the following: "Should any policies of insurance be cancelled or coverages be reduced, before the expiration date of said policies of insurance, the issuer shall deliver 60 days advance written notice to the Township."
6. Neither the provisions of this Part nor any insurance accepted by the Township pursuant hereto, nor any damages recovered by the Township thereunder, shall be construed to excuse faithful performance by the grantee and/or limit the liability of the grantee under this Part and/or for damages, either to the full amount of the bond or otherwise.

(Ord. 2005-08-02, 8/8/2005)

§21-307. Enforcement; Violations and Penalties.

1. General. In addition to all other rights, remedies and powers reserved and/or retained by the Township under this Part or otherwise, the Township reserves the right to bring a civil action to collect any sums due to the Township by the grantee and/or forfeit or revoke all privileges of the grantee under this Part in the event of willful or repeated violation of this Part.
2. Penalties. Any person which commits or suffers the violation of this Part shall, upon being found liable in a civil enforcement proceeding commenced by the Township, pay a fine of \$600 plus all court costs, including reasonable attorneys' fees, incurred by the Township. A separate offense shall arise for each day or portion thereof on which a violation is found to exist or for each section of this Part which is found to have been violated. In addition, the Township also may enforce this Part by an action brought in equity.

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(Ord. 2005-08-02, 8/8/2005)

§21-308. Effect on Other Provisions.

1. **Compliance With Applicable Laws and Ordinances.** The grantee shall at all times be subject to the exercise of the police power of the Township. The grantee shall comply with all lawful ordinances, codes, laws, rules and regulations of the Township, County of Bucks, Commonwealth of Pennsylvania, and the United States of America which are now in effect or hereafter enacted.
2. **Conflict.** Whenever the requirements of this Part are in conflict with other requirements of the ordinances of the Township of New Britain, the most restrictive, or those imposing the highest standards, shall govern. Privileges granted by this Part do not constitute a waiver or impairment of the rights of the Township at law or equity now or henceforth existing to proceed versus the grantee for enforcement of this Part or violation of this Part or ordinances of the Township.

(Ord. 2005-08-02, 8/8/2005)

21 Attachment 1

Township of New Britain

APPENDIX A

PROVIDER CERTIFICATION

This Certification is to be completed by each provider seeking to register with the Township of New Britain in compliance with the New Britain Township Rights of Way Ordinance. Unless indicated otherwise, capitalized words have the meaning ascribed to them in the Ordinance. Attach additional sheets if necessary.

1. **IDENTITY OF THE PROVIDER:** The name, address, telephone number, and fax number of the provider (the "Provider").

Please identify any predecessors of the Provider and provide other names under which the Provider has operated within the preceding five years, including name, address, and telephone number.

2. **CONTACT(S):** The name, title, address, telephone number, and fax number of Provider's contact.

3. **FICTITIOUS NAME:**

- The Provider will not be using a fictitious name.

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- The Provider will be using a fictitious name. Attach to this Certification a copy of the Provider's filing with the Commonwealth's Department of State pursuant to 54 Pa.C.S. §311, Form PA-953.

4. BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:

- The Provider is a sole proprietor.

The Provider is a:

- General partnership
- Domestic limited partnership (15 Pa.C.S. §8511)
- Foreign limited partnership (15 Pa.C.S. §8582)
- Domestic registered limited liability partnership (15 Pa.C.S. §8201)
- Foreign registered limited liability general partnership (15 Pa.C.S. §8211)
- Domestic corporation (15 Pa.C.S. §1306)
- Foreign corporation (15 Pa.C.S. §4124)
- Domestic limited liability company (15 Pa.C.S. §8913)
- *Foreign limited liability company (15 Pa.C.S. §8981)
- Other explain: _____

* Provide name and address of corporate registered office provider or registered office within PA.

Attach to this Certification the name and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

Attach to this Certification proof of compliance with appropriate Department of State filing requirements as indicated above.

5. AFFILIATES:

- The Provider has no Affiliates.
- The Provider has Affiliates but Provider does not conduct business with any such Affiliate(s), except as follows: (Identify each such Affiliate and provide

descriptive summary of the business conducted or the business arrangement. Attach an additional sheet(s) if necessary.)

6. PROVIDER'S PRESENT OPERATIONS:

- The Provider is not presently doing business in Pennsylvania as a public utility.
- The Provider is presently doing business in Pennsylvania as a public utility.

7. START DATE:

- The Provider already is providing services by virtue of Facilities and Equipment in the Public Ways. If so, please identify services: (Attach an additional sheet(s) if necessary.)
- The Provider proposes to begin offering services as follows: (List start date for each service.)

Provider certifies that no other services are presently and/or proposed to be offered by virtue of its Equipment or Facilities in the Public Ways.

8. CERTIFICATES OF PUBLIC CONVENIENCE: List all of the services encompassed by your answers in Question 7 for which a certificate of public convenience has been issued by the Pennsylvania Public Utility Commission. For each such service listed, specify the application number and date of issuance of each certificate. (Attach an additional sheet(s) if necessary. Also attach a copy of each such certificate.)

List all of the services encompassed by your answers in Question 7 for which no certificate of public convenience has been issued by the Pennsylvania Public Utility Commission. (Attach an additional sheet(s) if necessary.)

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9. UPDATES: Any change(s) to the information furnished by Provider in this Certification must be updated by Provider within thirty (30) days of the effective date of any such change by filing with the Township of New Britain an amendment in writing to this Certification fully describing the change. Such amendment must be accompanied by a completed Verification Statement in the form set forth following this Certification.

10. VERIFICATION: The Provider must complete the Verification Statement in the form set forth following this Certification.

The foregoing is submitted to New Britain Township in compliance with the New Britain Township Rights of Way Ordinance.

Typed or Printed Name of Provider

Typed or Printed Name of Authorized Official

By: _____
Signature of Authorized Official

Date: _____

VERIFICATION STATEMENT

[Commonwealth/State] of _____ ss.

County of _____:

Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

[He/She] is the _____ (Office of Affiant) of
_____ (Name of Provider)

That [he/she] is authorized to and does make this affidavit for said Provider;

That the foregoing Certification is current and complete. That the facts above set forth are true and correct.

The affiant understands that the making of false statement(s) herein may be grounds for criminal prosecution. This Certification and any related application(s) or ancillary document(s) are subject to the provisions of 18 Pa.C.S.A. §§ 4903 and 4904, relating to perjury and falsification in official matters.

Signature of Affiant

Sworn and subscribed before me on this _____ day of _____, 20__.

Signature of Official Adminstrating Oath

My Commission expires _____

