

**COUNTY OF MERCER, NEW JERSEY**  
**ORDINANCE NO. 2011- 4**

1<sup>st</sup> Reading... February 24, 2011.....  
 2<sup>nd</sup> Reading... March 24, 2011.....  
 Public Hearing... March 24, 2011...

Date to County Executive... March 25, 2011  
 Date Returned... March 31, 2011.....

Date Adopted:  
 .. March 24, 2011.....

Date Resubmitted to Board.....  
 Approved as to Form and Legality

.....  
 .. April 13, 2011.....

Effective Date

County Counsel

**AN ORDINANCE TO ESTABLISH A MERCER COUNTY  
 RIGHT -OF- WAY ENTRY OPENING**

WHEREAS, the Mercer County Board of Chosen Freeholder is delegated and required by law to construct, operate and maintain certain roadways and keep them safe and convenient for the traveling public at all times; and,

RECORD OF VOTE													
First Reading							Second Reading						
FREEHOLDER	Aye	Nay	N.V.	Abs.	Res.	Sec.	FREEHOLDER	Aye	Nay	N.V.	Abs.	Res.	Sec.
Cannon	X				✓		Cannon	X				✓	
Carabelli	X					✓	Carabelli	X					
Cimino	X						Cimino	X					
Frisby	X						Frisby	X					
Koontz	X						Koontz	X					
Walter				X			Walter	X					
Colavita	X						Colavita	X					✓

X—Indicates Vote      Abs.—Absent      N.V.—Not Voting  
 Res.—Resolution Moved      Sec.—Resolution Secoded

Rejected  By Eric M. G. L.  
 Approved  County Executive  
 Reconsidered  Override    
 By Board..... Vote Aye Nay  
Pasquale A. Colavita J. Terlene N. Werthly  
 Chair of the Board Clerk to the Board

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WHEREAS the County of Mercer is responsible for ensuring the proper flow of storm water runoff along County Road and through bridges, culverts and other drainage structures maintained by Mercer County; and,

WHEREAS, unauthorized and improper openings of County Roadways and County Rights of Way can impair traffic safety and operational conditions, and,

WHEREAS the unauthorized placement of materials within County Road Rights of Way can obstruct the flow of storm water runoff; and,

WHEREAS the unauthorized placement of signs, equipment, obstructions, vegetation and other appurtenances within County Road Rights of Way can impair traffic safety and operation conditions; and,

WHEREAS the County of Mercer assumes liability for conditions that exist within County Road Rights of Way and drainage structures maintained by Mercer County; now therefore,

BE IT ORDAINED, by the Board of Chosen Freeholders of the County of Mercer:

## SECTION I - PURPOSE

This Ordinance provides the legal means to prevent damage to Mercer County Roadways and Rights of Way under its maintenances and jurisdictional responsibility within this County, and for keeping same safe and convenient for the traveling public at all times.

## SECTION II - DEFINITIONS

**County Engineer**-Engineer responsible for all county related infrastructure and has the authority to reject work that is not in conformance with County policies and procedures and direct its removal and replacement. The County Engineer has the final decision if there is a dispute with the applicant's road opening permit or procedures.

**Applicant**-Any person or persons, firm, corporation, or municipality desiring to disturbance, open or make any type of excavation in any County Road and/or County Rights of Way.

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**Road Construction Permit (RCP)** – New driveway or street; excavation of the existing roadway surface; road widening; disturbance to the road surface; tie-in to a County drainage structure. Application fees waived if depicted on an approved site plans / subdivisions.

**Right of Way Occupancy Permit (ROWOP)**– Placement of signs within County right of way; storage of equipment; dumpster storage; placement of utility poles adjacent to the roadway; placement of utilities under the roadway by boring or jacking and also event closures. Application fee waived if modifications are shown specifically on an approved site plan.

**County Road-A** general term denoting a public way for purposes of vehicular travel, including the entire area within the County Right of Way.

**County Right of Way**-The land, property, or interest therein acquired for or devoted to transportation purposes or construction of a public improvement.

## **SECTION III - ROADWAY CONSTRUCTION PERMIT & RIGHT OF WAY OCCUPANCY PERMIT**

### **A. General requirements**

1. It shall be unlawful for any person or persons, firm, corporation, or municipality to make any excavation in, or to open, or damage the surface of any road or street under the jurisdiction of the County of Mercer without written approval from, the County Engineer.
2. It shall be unlawful for any person or persons, firm, corporation, or municipality to make any excavation in, or to open, or damage any portion of the Mercer County Right of Way or Permanent Easement under the jurisdiction of the County of Mercer without written approval from the County Engineer.

### **B. Conditions Requiring a Roadway Construction Permit (RCP) & Right of Way Occupancy Permit (ROWOP)**

#### **Roadway Construction Permit (RCP) & Right of Way Occupancy Permit (ROWOP)**

1. A RCP/ROWOP shall be required for any disturbance to the roadway surface or construction of a new street or driveway access to a County Road. Examples of actions that would trigger the need to obtain a Permit include but are not limited to: excavation within the roadway pavement,

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installation of manholes; installation of pipe; trenching; installation of curb; new driveway construction, driveway apron modifications; planting of trees; and installation of signs. Each Applicant shall submit RCP, depicting the specific improvements / modifications to be constructed. If further improvements/ modifications are necessary, the Applicant shall be required to submit a new RCP.

2. A RCP/ROWOP shall be required for each approved connection into the County Storm Drain System, whether the connection is made with a new manhole or inlet, or is connected into an existing storm manhole or inlet. Connections that are not readily visible or are inaccessible are prohibited.
3. A RCP/ROWOP will be required for each new or modified driveway or road intersection encroaching upon the County Road or County Right of Way.
4. Disputes concerning the need for a RCP/ROWOP shall be referred to the County Engineer.

## C. Applicant's Responsibilities

1. Any person or persons, firm, corporation, or municipality desiring to disturb, open, or make any type of excavation in any County Road and/or County Right of Way shall have a completed RCP/ROWOP application and approved permit minimum of 2 weeks prior to the start of work, together with two (2) sets of detailed plans indicating and describing in detail the work proposed to be performed and the estimated length of time required to perform same. This information shall be completed on forms provided by the Mercer County Highway Division.
2. A RCP/ROWOP shall be required for connections into an existing County storm drain system. The county engineer shall have up to two week to act upon applicants for RCP/ROWOP from their submission to receive approval. Thereafter, work can commence immediately after receiving an approved permit.
3. A RCP/ROWOP shall be required for conditions of a new driveway, new roadway, or modify an existing driveway or roadway intersection. The county engineer shall have up to 2 weeks to act upon and approve such applications. Thereafter, work can commence immediately after approval where the driveway street or access modification is part of an approved Site Plan. The Applicant shall include the applicable plan sheets in the Permit application.
4. A RCP/ROWOP shall be required for connecting to any structure, type, sign, or any other object to a bridge or culvert under the ownership, maintenance or jurisdiction control of the County of Mercer. The Applicant shall submit two (2) sets of proposed construction plans and structural and

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or drainage calculations prepared by a Licensed Professional Engineer registered by the State of New Jersey State Board of Professional Engineers and Land Surveyors indicating that the proposed work and or attachment will not adversely affect the structural or operating capacity and functional characteristics of the drainage structure, prior to the issuance of any permits for the work on said proposed project. The County engineer shall be empowered to issue the necessary permits(s) as needed for this approved project. The Applicant shall submit requests for permits(s) two (2) weeks prior to the start of work.

5. Any application including the proposed construction of a new roadway, whether public or private, shall be presented to the County Engineer for review, comment and approval. In any case, should approval of any of the above be granted, the Applicant will be required to apply for and obtain the RCP/ROWOP, submit the required fees, and post the cash bond or other guarantee bond as stipulated in the appropriate section of this Ordinance two (2) weeks prior to the commencement of any work. If the modifications set forth are part of an approved site plan and the Applicant can demonstrate the work has been bonded through the local municipality, the application fee and bond requirement shall be waived.
6. Any new driveway that is to intersect a County Road shall be constructed in such a fashion so that the driveway slopes upward and shall be a minimum height of six (6") inches above the gutter grade at the intersection of the new driveway with the County Road. This requirement shall apply whether a drop curb is being constructed or not. If the modifications set forth are part of an approved site plan and the Applicant can demonstrate the work has been bonded through the local municipality, the application fee and bond requirement shall be waived.
7. The Applicant shall ensure that any storm water runoff as a result of the driveway or new road construction does not adversely impact drainage on the County Roadway.
8. Applications for RCP/ROWOP shall be accompanied by a Public Liability Insurance Policy or a Certificate of Insurance issued by an insurance company authorized to conduct business in the State of New Jersey and shall indemnify the County of Mercer from all liability by reason of property damage or personal injuries or death which may result or be claimed as a result of any accident occurring at the place of opening. The following minimum limits are prescribed below:
  - \$1,000,000.00 for Bodily Injury or Death.
  - \$25,000.00 for Property damage, and indemnifying.
9. Site Plan approval shall not remove the Applicant's requirement for providing the above insurance requirements.

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10. The applicant shall arrange for all inspections 72 hours prior to the commencement of work. After installation of the final permanent surface material, the Applicant is required to return the portion of the RCP/ROWOP to the Road Inspector for inspection and approval of the final pavement surface course.
11. The Applicant shall restore the pavement or surface of any road or street in which an excavation has occurred in accordance with the County of Mercer Trench Restoration Standards as on file in the Office of the County Engineer, or as special provisions prevail. Final pavement restoration shall occur within four (4) months, or as directed by the County Engineer. The maintenance bond posted for said work shall be released or returned to the Applicant two years after the date of the satisfactory completion of the repair and the restoration work. In the event the Applicant fails to restore the pavement in a satisfactory manner and within the time framed specified in the permit, restoration work shall be completed by the County. All costs associated with this work, including engineering, inspection and construction will be charged against the Performance Bond.
12. The Applicant shall notify the County promptly upon the completion of any restoration of any road, street or Right of Way following any opening or excavation thereof. If the work is acceptable to the County, the Applicant shall be provided written notification to this effect. Subsequent to receiving this notification, the Applicant would be eligible for a refund if a Cash Bond was posted or canceling of the Performance Bond.
13. The applicant shall indemnify and hold harmless the County of Mercer, its officers, agents or employees for any work, including but not limited to sidewalk construction, curb construction, trenching, excavation, or placement of traffic control devices, performed within County Road Right of Way.
14. Any backfilling of trench work or excavated areas within County Road Right of Way shall be done in the presence of the assigned Mercer County Inspector. If the County Inspector is not present and the excavated area has been backfilled, the Applicant shall re-excavate the opening and backfill the opening when the County Inspector is present at the Applicant's sole expense.
15. Excavation and backfill within a paved roadway shall follow the backfill requirements as stipulated in the Mercer County Trench Restoration Standard Detail.
16. All excess materials shall be removed from the roadway and Right of Way by the Permittee and at his sole expense. The Applicant shall adhere to all applicable federal and New Jersey State requirements for disposal of excess material.

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17. All openings must insure that there is sufficient protection to prevent the freezing of the water, gas, or sewer pipes during and after construction. This protection will be at the expense of the Applicant.
18. Applications shall be accompanied by a statement or surety bond to guarantee the replacement of the road or Right of Way to its former condition. All such applications shall be included and made part of the Permit.

## D. Fees

1. A permit fee of shall accompany all applications for a Roadway Construction Permit and Right of Way Occupancy Permit as shown in Attachment A of this Ordinance and part hereof. This Fee is to cover the expenses incurred by the County of Mercer for processing the Application and inspecting the work during normal County working hours.
2. RCP/ROWOP shall expire one year from the date of issuance by Mercer County. Should the Applicant fail to commence his work within this time period, the Applicant shall complete a new RCP/ROWOP and post a new fee.
3. Fees, once paid by the Applicant, shall not be refunded or credited.
4. The County of Mercer will furnish an Inspector for each day during the time the applicant is saw cutting, backfilling and paving the opening. During normal County working hours, no additional fee will be charged for inspection. If the applicant performs work that must be inspected outside of normal County Working Hours, prior to 7:30 A.M. and after 3:30 P.M. Monday through Friday inclusive, and during all times on any Saturday, Sunday, and Mercer County Holidays; the Applicant must submit a certified check payable to the County of Mercer for inspection services. The amount shall be based upon the prevailing rate of wage for the inspector, the applicant will be charged for the costs incurred as stipulated for any minimum overtime cost in the Union Contract for said County employee, even if the operation is less than the minimum time.

## E. Validity of Permits

1. The Roadway Construction Permit/Right of Way Occupancy Permit(s) shall be only valid for a period of one year from the date of issuance.
2. The County Engineer, may allow for the issuance of an Emergency Right of Way Occupancy Permit (EROWOP)/Emergency Road Construction Permit (ERCP). An EROWOP/ERCP may be permitted under conditions where an existing utility facility has become unexpectedly broken, damaged

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## F. Bonds

1. As a condition of the RCP/ROWOP , the Applicant shall submit a Performance and Maintenance Bond guaranteeing the satisfactory completion of all work and restoration, repaving, and repair of the to the roadway and/or other features within County Right of Way in accordance with Mercer County Standards. The Performance Bond amount shall be in accordance with Attachment A or this Ordinance and part hereof.
2. The Maintenance Bond shall be effective and remain in full force for a period of two (2) years after the date the final pavement restoration surface or other permanent top, such as landscaping within disturbed roadside areas, has been applied and approved by the County Engineer or approved designee.
3. The Performance and Maintenance Bond shall be issued by a Surety Bonding Company authorized to conduct business in the State of New Jersey, or be a Cash Bond in the form of a Certified Check in the full cash amount of the work to be. This Certified Check will be held for the full two (2) year period as described in Subparagraph 2 above and be returned to the applicant upon the approval of the County Road Supervisor.
4. The Performance and Maintenance Bonds for the removal, replacement, or installation of sidewalk are not required by Mercer County but are generally required by the local municipality. However, if the work is performed within Mercer County Right of Way, the Applicant will still be required to obtain a Roadway Construction Permit/Right of Way Occupancy Permit and post proof of insurance.
5. The Performance and Maintenance Bonds for the removal, replacement, or installation of driveway aprons are not required by Mercer County but are generally required by the local municipality. However, if the work is performed within Mercer County Right of Way, the Applicant will still be required to obtain a Roadway Construction Permit/Right of Way Occupancy Permit and post proof of insurance. Should curb be removed and/or replaced to accommodate the replacement of a driveway apron, a bond will be required.

## G. Working Hours and Procedures

1. The Roadway Construction Permit/Right of Way Occupancy Permit shall specify the anticipated date and duration of work. Should this time and date change, the Applicant shall notify the Mercer Highway Division the prior business day to arrange for the new working date. Failure to notify the Mercer County Highway Division may result in a nullification of the Road Opening Permit.



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2. The Applicant shall also be required to telephone the Mercer County Highway Division at least two hours in advance of any backfilling.
3. In the case of an emergency (broken existing services or main lines for utility works, for example, water, electric, gas, or telephone lines), such repairs will be allowed at any time, provided the Applicant has informed the Mercer County Highway Division. The Applicant will be required to obtain the necessary permits the next business day.
4. All Traffic Control shall be provided at the Applicant's sole cost, and shall adhere to the requirements of the local Municipal Police Department and the Standards as set in the latest edition of "Manual of Uniform Traffic Control Devices" for Construction Zones and the Traffic Control Specifications of the County of Mercer and prepared by a New Jersey licensed Professional Engineer.
5. Unless there is a valid emergency determined by the County Road Supervisor, no work shall be performed within the County Road or Right of Way which obstructs traffic flow by closing of any traffic lane during the rush hours between 7:00 A.M. to 9:00 A.M. and between 4:00 P.M. to 6:00 P.M.; Monday through Friday inclusive.
6. It shall be the responsibility and duty of the Applicant to properly protect the excavation area. The Applicant shall also be responsible for erecting suitable traffic control devices (cones, barricades, signs, etc.) in accordance with the Manual on Uniform Traffic Control Devices and as approved by the County Engineer.
7. The Applicant shall make every effort to maintain two-way traffic on the County roadway. Where two lanes cannot be provided, the Applicant may be permitted to alternate traffic flow in a single lane with uniformed police officers directing traffic on either end of the work area. Single lane traffic will only be permitted during working hours as specified above or as permitted by Mercer County or the local municipality. Without the express written approval of the County Engineer, all lanes shall remain open at all other times.
8. All pavement restoration shall conform to the Excavation Details as shown of the Mercer County Standard Detail for Trench Restoration. (Utility Trench Standards attached)
9. The Applicant shall backfill the excavated area with concrete the same day the trench is made. Open trenches shall not be permitted overnight.
10. Boring- The Applicant shall bore under the roadway a minimum of 18 inches below the pavement surface. The County Engineer shall approve construction methods and materials.

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## H. Closing of County Roads

1. Closing of roads under the jurisdiction of the County of Mercer shall not be permitted without the express written consent of the County Engineer and the municipality in which the closure shall occur. If closure of the roadway is permitted, the Applicant has the full and sole responsibility to barricade off the roadway, post and remove all required detour signing and other traffic control devices and hire Traffic Officers as may be directed by the County of Mercer and the local Municipal Police Department having jurisdiction. All of this work is to be performed by the Applicant at their expense.

## I. Road Openings within County Roads Resurfaced Within the Last Five (5) Years

1. Excavation, trenching or any other disturbance or damage to roadways under Mercer County jurisdiction that were resurfaced within the last five (5) years shall not be permitted without the approval of the County Engineer.
2. Whenever such owner, tenant, contractor, or public utility desires to open a County Road for a new connection or opening on a County roadway that has been resurfaced in the most recent five-year period, such parties shall make written application to the County Engineer for such permission. The application and letter shall fully address why this opening is necessary. If permission is granted, the Applicant shall be required to implement measures over and above the required trench restoration including but not limited to milling and resurfacing the roadway surface from curb to centerline beyond the limits of trench and excavation work. The extent of milling and resurfacing shall be based on the proximity of the Applicant's trench or excavation work. The County Engineer shall make the final determination of the limits of permanent restoration.

## J. Jurisdictional Regulations

1. Any excavation or opening made in any road, street, or right-of-way referred to within any part of this Ordinance shall be subject at all times to all laws of the United States of America and to the State of New Jersey, and any other appropriate regulation adopted by the County of Mercer or any municipality or other governmental body having lawful jurisdiction to impose any such law or regulation governing the use of said street, road, or right-of-way.

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2. The Applicant as prolonged by OSHA regarding trench excavation and sheeting shall adhere to safety requirements.

## K. Special Trench Restoration Standards

1. Road openings within a Mercer County Roadway that was resurfaced within the last five (5) years shall be milled two (2) inches and resurfaced with two (2) inches of FABC (I-5) to the centerline at a minimum. Any removed or damaged traffic markings shall be replaced in kind as part of the permit.

## L. Penalty for Failure to Perform Restoration

1. In the event the Applicant violates the conditions of the Road Opening Permit, or otherwise fails to restore any road, street, or Right of Way in sufficient manner required hereunder, the County of Mercer shall make such restoration. The County Engineer shall prepare a certificate of cost and expense in effecting such restoration. Such certificate of cost shall be final and conclusive as to the amount shall thereafter be immediately due and payable by the Applicant.

## M. Bonds

1. Applications for any permit hereunder shall be accompanied by a cash deposit or surety bond, or other contractual guarantee on indemnification, in such amount, in such manner as shall be set forth in the Schedule A attached hereto and made part of this Ordinance.
2. In lieu of filing of written contract, statement, or surety bond to guarantee the restoration of the road, street, or Right of Way for each Project or opening, the Applicant may, at the discretion of the County Engineer may provide a single bond amount to cover all work that they will perform within the County during the calendar year, which bond shall be renewed annually. Otherwise, the County Engineer reserves the right to require the utility or municipality to post individual cash or surety bonds for each individual project or Opening.

## SECTION IV-STORAGE WITHIN COUNTY RIGHT-OF-WAY/ROADS

### A. General Requirements

1. Unless specifically and directly related to the construction, maintenance and operation of a county roadway, storage or stockpiling of construction materials, including but not limited to soil, pavement millings, sewer pipe,

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or right-of-way under jurisdiction of the County of Mercer shall not be permitted.

2. Placement of advertising signs and / or structures along any County road, street, or Right of Way, or other road, street, or right-of-way under jurisdiction of the County of Mercer shall not be permitted.
3. A County Right of Way Occupancy Permit shall be required for the permanent placement of utilities, signs, mailboxes and any other appurtenances that are permitted to exist within public rights of way under applicable federal and state laws along any County road, street, or Right of Way, or other road, street, or Right of Way under jurisdiction of the County of Mercer. Applicant shall obtain approval by the County Engineer for signs placed within the County right of way shall comply with the Manual on Uniform Traffic Control Devices, latest edition and all applicable Mercer County standards.

### **B. Applicant's Responsibilities**

1. The County RCP/ROWOP shall describe the materials or equipment desiring to be placed or stored in detail, giving the quantity, weight, or other dimensions and particulars thereof.
2. No materials may be stored or placed on any County road, street or Right of Way.
3. The Applicant shall be liable at all times to any person injured or property, equipment damaged or injured by storage or placement of materials, and shall be solely and fully responsible to all persons affected by such action, and shall further indemnify or save harmless the County of Mercer, its officers, agents, and employees from any claims or actions, expense, or damage, or injuries resulting there from.
4. No materials or equipment shall be stored upon any road or street referred to herein at any time, in any manner, so as to reduce the total travel way to not less than twenty-two (22) feet in width and subject to the approval of the county engineer.
5. No materials or equipment shall be stored upon any County Right of Way (for example, sidewalk or pedestrian walkway, etc) referred to herein at any time, in any manner, so as to reduce the width to not less that five (5) feet of way open to travel by the public and subject to the approval of the county engineer.
6. No materials, structures, or equipment shall be placed at any time in any manner so as to interfere with or divert, flow of water along said road, street, or the gutters thereof.
7. All applications for County RCP/ROWOP shall be accompanied by Public Liability Insurance Policy of a Certificate of Insurance in the minimum amounts of at least \$100,000.00 to \$300,000.00 for Bodily

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Injuries or Death, and \$25,000.00 for Property Damage, issued by an insurance company authorized to conduct business in the State of New Jersey and indemnifying the County of Mercer from all liability by reason of property damage or personal injuries or death which may result or may be claim as a result of any accident occurring at the point of opening.

## **C. Fees and Validity of Permit**

1. Fees for County RCP/ROWOP shall be in accordance with Schedule A attached hereto and part of this Ordinance.

## **SECTION V-PROHIBITED ACTIONS**

The following actions by the Applicant shall be prohibited and subject to penalties and fines:

1. The disturbance of any County Roadway or Right of Way by the locking of wheels of any vehicle or attaching a drag or other mechanism to the same is hereby prohibited in this County.
2. The obstruction or damage to any County Roadway or Right-of-Way by the spilling, filling, flowing, or throwing of stones, dirt, earth, foreign objects, or and other materials thereon.
3. Placement or cause any snow, ice, frozen objects, or any type of materials or articles upon any part of the traveled County Roadway or upon any County Bridge by any means, which results or may result in any accumulation on the traveled County Roadway, no matter how far it may travel before reaching the County Road.
4. Placement of any snow, ice, frozen object, or any type of materials or articles upon any part of the intersection of any roadway, driveway, etc. with a County Road, as to cause a site obstruction, no matter how far it has traveled before reaching the County Road.
5. Failure to remove snow, ice or other frozen material or articles placed upon any part of the County Road or within an intersection with a County Road, so as to cause a sight obstruction or an obstruction to vehicular or pedestrian traffic; no matter how it was placed there by any person, persons, firm, corporation, contractor, utility, or municipality.
6. Placing of brush, trees, growth, or any other type of article upon any County Road.
7. Filling of gutters along any County Roadway by dirt, fill, earth, foreign objects, or any other materials.
8. Diverting surface, sump pump and other runoff waters to and upon County Roadways, Rights of Way, drains, gutters, bridges, and culverts.

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- pedestrian traffic; no matter how it was placed there by any person, persons, firm, corporation, contractor, utility, or municipality.
6. Placing of brush, trees, growth, or any other type of article upon any County Road.
  7. Filling of gutters along any County Roadway by dirt, fill, earth, foreign objects, or any other materials.
  8. Diverting surface, sump pump and other runoff waters to and upon County Roadways, Rights of Way, drains, gutters, bridges, and culverts.
  9. Placing earth, dirt, stones, foreign objects, or any other materials or articles upon any part thereof except in accordance with the provisions of this Ordinance, and no person, persons, firm, corporation, or municipality shall do or cause to be done any act including the construction of buildings, private or public roadways, grading, landscaping, or otherwise, which shall cause or result in the accumulation of dirt, silt, earth, foreign objects, or any other materials upon the County Roadway or Right of Way, storm water drainage facilities, gutter, bridge, or culvert.
  10. Constructing any road, driveway, access, curb, or other structure intersecting with, or entering upon, any County Roadway or County Right of Way, or any road, street or Right of Way which the County of Mercer is responsible to maintain or have jurisdiction there over without first submitting a detailed plan of said curb, driveway, access or intersecting roadway (whether a public or private roadway) to the County Engineer for review and approval.
  11. Placing earth, dirt, stones, landscaping materials or equipment that shall cause or result in unacceptable sight distance restrictions or allowances that would jeopardize the safety of the general public in any way.
  12. Blasting within the County Road, street, or Right of Way; unless the Permittee has complied with all of the requirements as stipulated in the Local Municipal Jurisdiction Requirements.
  13. Tunneling under County Roads is prohibited unless approved by the County Engineer.

## SECTION VI-VIOLATIONS AND PENALTIES

### A. Responsibility

1. Any person, persons, firm, corporation, or municipality violating any provision of this Ordinance which results in the damage to or obstruction of any County Roadway or Right of Way, gutter, storm drain, bridge, or culvert, shall be solely responsible for all expenses incurred by the

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2. County of Mercer in repairing said damage or removing said obstructions; in addition to the penalties herein provided.
3. Should the County of Mercer be named or held liable for any action associated with said violation described above, the County of Mercer shall name the violator as a part in any lawsuit or claims arising from the violator's actions. The County of Mercer will undertake the necessary legal action to hold itself harmless because of the violator's actions and to make the violator reimburse the County of any expenses it incurs as a result of the violator's action.

## **B. Fines and Imprisonment**

1. Any person, persons, firm, corporation, or municipality found violating any provision of this Resolution which results in damage to or obstruction of and County Roadway or Right of Way, gutter, storm drain, bridge, or culvert, shall be held fully responsible for all expenses incurred by the County of Mercer in repairing said damage or removing such obstructions, in addition to the penalties herein provided.
2. Any person, persons, firm, corporation, or municipality found to be in violation of the provisions of this Ordinance shall upon conviction thereof be subject to a fine not exceeding One Thousand Dollars and No Cents (\$1,000.00) per calendar day the violation remains.

## **SECTION VII- ENFORCEMENT POWERS**

1. The County Sheriff is charged with the enforcement of all provisions of these regulations stipulated in this Ordinance and is hereby designated as the Agent acting in behalf of the Board of Chosen Freeholders of the County of Mercer.

## **SECTION VIII-REPEAL OF PREVIOUS RESOLUTIONS/ORDINANCES**

1. The provisions contained in this Ordinance shall supersede all other prior provisions, rules, regulations and practices concerning Highway Access and Highway Occupancy.

## **SECTION IX-EFFECTIVE DATE**

This Ordinance shall become effective on April 13, 2011

And shall be published and provided by Law.

Dated: March 24, 2011