

CHAPTER XVIII STREETS AND SIDEWALKS

18-1 EXCAVATION OF PUBLIC STREETS

18-1.1 Permit Required.

No person shall open, excavate, replace the pavement of or place any form of construction in, over or upon any street or highway under the jurisdiction or control of the Town, or otherwise endanger or obstruct the normal flow of traffic or normal flow of surface water by the placing of any trench, barricade, structure, material or equipment not normally designed to be operated, placed or used on the public streets and highways in the Town, without first securing a written permit. (Ord. No. O-1-83 § 178-1 A)

18-1.2 Certificate of Insurance Required.

No person shall be granted a permit to open any street unless he shall furnish a certificate of insurance from a responsible insurance company authorized to do business in New Jersey, to be filed with the Director of Public Works, showing that he is adequately insured against liability and property damage claims. The minimum amount of such comprehensive public liability insurance shall be for one million (\$1,000,000.00) dollars for each claim for bodily injury, three million (\$3,000,000.00) dollars multiple claims for bodily injury arising from a single accident and five hundred thousand (\$500,000.00) dollars property damage for a single accident. As such insurance shall remain in full force and effect throughout the effective period of the permit as well as any authorized extensions thereof; all such insurance shall carry an endorsement to the effect that the insurance company will provide at least ten (10) days written notice to the town prior to any modification or policy cancellation. The Town shall be named as additional insured on all such insurance certificates or the certificate shall contain adequate cross-indemnification provisions in favor of the Town. The certificate of insurance shall be in legal form satisfactory to the Municipal Attorney. (Ord. No. O-1-83 § 178-1B)

18-1.3 Performance Bond Required.

All municipal or public or private utilities which install, operate, own, maintain or service utilities within the street rights-of-way in the Town shall deposit, not later than January 31st of each year, a performance bond naming the utility as obligor and a responsible insurance company authorized to do business in New Jersey as surety, in an amount not less than ten thousand (\$10,000.00) dollars. The surety and legal form of the bond shall be as approved by the Municipal Attorney. The performance bond shall run from January 31st present to January 31st next. It shall bind the obligor and surety to the Town and guarantee the replacement of all openings made by the utility in accordance with the specifications and standard for the work as provided for in the "Standard Specifications for Bridges and Road Construction of the New Jersey Department of Transportation" and all other legal requirements of the Town then in effect or which may from time to time be added or amended. (Ord. No. O-1-83 § 178-1C)

18-1.4 Guarantee of Work and Materials; Failure to Correct or Restore.

All persons performing work in, over or upon any street or highway under the jurisdiction or control of the Town shall be responsible for and shall guarantee all such work and replacement thereof against all defects of workmanship and materials (as determined by the Director of the Department of Public Works) for a period of three (3) years from the date of permanent replacement. If any person shall fail to perform any corrective or restorative work on demand of the Director of the Department of Public Works, the Town may perform the work at the cost and expense of such person. (Ord. No. O-1-83 § 178-1D)

18-1.5 Compliance Required.

Filing of a performance bond shall not relieve any person from securing a permit and complying with all other terms of this section or any rules and regulations promulgated pursuant hereto. (Ord No. O-1-83 § 178-1E)

18-1.6 Connections with Utilities; Separate Permit.

Issuance of a permit under the terms of this section does not carry with it the right to make connections to any municipal, public or private utility. (Ord. No. O-1-83 § 178-1 F)

18-1.7 Exemptions.

Road openings required under contracts with the Town and openings performed by municipal departments are exempt from the requirements of this section. (Ord. No. O-1-83 § 178-1G)

18-1.8 Permit Applications.

Applications for permits to open streets under the jurisdiction or control of the Town shall be made in writing on forms provided by the Director of the Department of Public Works. The application shall be complete in full and accompanied by plans which shall be subject to the approval by the Director of the Department of Public Works, the Municipal Engineer, or his agent, and the Chief of Police. When an application is approved, the Director of Public Works shall issue the permit upon payment of the required permit fee and receipt of the proper insurance bonds, surety, payments and documents as specified herein. Applications for permits to open a State highway for water, storm or sanitary sewer mains and connections shall be made in writing on forms provided by the Director of Public Works. The Town shall apply to the State Highway Department for a permit in the name of the applicant. Applications for a permit to open a road under the jurisdiction or control of the County of Morris shall be made by the interested party directly to the County of Morris. (Ord. No. O-1-83 § 178-2)

18-1.9 Fees.

a. *Inspection Deposit Fee; Inspection Fee.* Unless otherwise exempt from this section, no person shall be granted a permit to open any street until there is deposited with the Director of Public Works an inspection deposit fee of twenty (\$20.00) dollars.

The inspection deposit fees shall be a credit against the final inspection fee. The inspection fee shall be seventy-five (\$75.00) dollars for the first three (3) hours and twenty (\$20.00) dollars per hour or any part thereof after that. For each municipal or other public utility, the fee shall be fifty (\$50.00) dollars, and twenty (\$20.00) dollars per hour for each inspection hour or part thereof expended by the Director of Public Works or his agent for inspection, for all other persons or entities, but in no event shall the fee be less than the amount provided above. The Director of Public Works may specify a greater inspection deposit fee if, in his judgment, the total inspection fee can be reasonably estimated to exceed the minimum deposit as required above.

b. *Repair Deposits.* In addition to the inspection fee, the applicant shall be required to deposit with the Director of Public Works a repair deposit of fifty (\$50.00) dollars per square yard (\$200.00 minimum) to ensure that the total inspection fee is paid and also to ensure that the replacement, repair and maintenance of the pavement and other surface areas where the road opening is made is satisfactory to the Director of Public Works. The Director of Public Works may fix a higher repair deposit as, in his judgment, will fairly represent the full cost and expense of maintaining, repairing and replacing any public road, other surfaces, structures, improvements or appurtenances within the street area as may be disturbed or affected by the work of the applicant. If the road opening is not repaired, maintained or replaced as directed by the Director of Public Works within a period of time not to exceed seven (7) working days or if the inspection fee is not paid on request, the Town may, in addition to any other relief available, utilize all or a portion of the repair deposit to perform or complete the work. Any balance due after subtracting the total cost of inspection and cost of the restoration, repair or maintenance shall be refunded to the applicant. Municipal or other public and private utilities required to post a performance bond under subsection 18-1.3 shall not be required to post an additional sum in the form of a repair deposit to ensure the cost of replacing the pavement or other resurfacing. All deposits hereunder and payments to be made to the Town shall be in the form of cash or equivalent unless expressly provided otherwise by this section. Where the repair deposit, as fixed by the Director of Public Works, is greater than five hundred (\$500.00) dollars, any person may, with respect to any sums in excess of the five hundred (\$500.00) dollars and in lieu of a cash deposit for such excess, file with the Town Clerk a performance bond, satisfactory to the town as to form, amount and surety, which amount shall be conditioned on maintaining, repairing and replacing all road openings, pavement and other surfaces in the manner provided by law. (A performance bond may be posted for amounts over five hundred (\$500.00) dollars, provided that the first five hundred (\$500.00) dollars is in cash.)

c. *Extent of Work; Assignment of Inspector.* When the extent of the road opening and work to be performed in connection therewith can not be shown adequately on the application provided by the Town, the applicant shall submit detailed plans and specifications in duplicate, which shall indicate the extent of the work to be done within the Town. The Town may assign an inspector to ensure that during the pavement cutting and excavation all underground structures or facilities are adequately protected and, further, to ascertain compliance with the requirements set forth herein and as are found in the "Standard Specifications for Bridge and Road Construction of the New Jersey Department of Transportation". Inspection shall be made at the expense of the applicant for the permit.

d. *Performance Bonds or Deposit Not Relief From Securing Permit.* The filing of a performance bond or the depositing of an inspection fee deposit or repair deposit shall not relieve any person from the necessity of securing a permit and complying with all other terms and conditions of this section.

e. *Self-Insured Public Utilities and Government Agencies.* In lieu of filing a certificate of insurance as provided herein, a public utility or governmental agency may file with the Director of Public Works a proper certification that it is qualified as a self-insurer pursuant to law.

f. *Permit Fees.* The fee for permits for openings, cuts, dug up, replaced, constructed, reconstructed, repaired or disturbed shall be twenty (\$20.00) dollars. A separate permit shall be required for each work area which extends two hundred fifty (250) linear feet in length or for each work area which encompasses five hundred (500) square feet in street surface replaced.

g. *Replacement of Pavement in Kind.* Every opening shall be replaced in the manner specified herein and by other law and the work shall be done at the proper expense of and paid for by the person obtaining the permit. All street pavements shall be replaced in kind. (1980 Code § 98-178 Ord. No. O-1-83 § 178-3; Ord. No. O-21-87 § 178)

18-1.10 Pavement Cuts.

a. *Sketch Required.* It shall be required prior to any excavation within the public rights-of-way that the applicant shall provide the Director of Public Works with a sketch showing limits of excavation, location, and depth of any utilities within or adjacent to the excavation as well as any other structures which shall be affected by the excavation. The Director of Public Works shall issue no permit until such sketch has been received and approved.

Pavement cuts shall not be permitted on newly constructed or new bituminous concrete surfaced roads for a period of five (5) years except in cases of emergencies or conditions required by the Director of Public Works upon payment of a surcharge. The surcharge for opening a paved or bituminous concrete surfaced road within five (5) years of installation shall be in accordance with a schedule prepared by the Director of Public Works and filed with the Municipal Clerk; the schedule shall reflect the current cost of materials and labor actually used for the complete paving of a bituminous concrete surfaced road for the work area affected and all adjacent street areas. The payment of a surcharge shall be in addition to the fees and costs of Subsection 18-1.9. The surcharge shall be deposited with the Director of Public Works prior to the issuance of a road opening permit. The above deposits shall reasonably approximate the cost of the installation of final resurfacing by the Town; however, such deposits as indicated in the formula above shall be increased by twenty-five (25%) percent so that the total amount that the applicant shall deposit with the Town of Morristown shall be in the amount equal to one hundred-twenty-five (125%) percent of the estimated cost as calculated by the Director of Public Works. The additional twenty-five (25%) percent is required because the fee calculated and collected at the time of the issuance of the permit is based upon an estimate of the area to be patched, and as-built conditions may vary from estimates. The Town may use the surcharge for immediate resurfacing of the road affected and adjacent areas or it may retain the surcharge until such time as the Town elects to repave the road. The applicant shall not be entitled to any refund on any surcharge paid, nor shall it be entitled to any interest which may accrue thereon, if any.

b. *Notice of Work.* The Director of Public Works shall notify all private, municipal and other public utilities of the streets which are to be newly constructed or which are to be newly surfaced. The notice shall contain the proposed date of construction or surfacing and shall call to the attention of the owner the provision of this subsection and request that if they anticipate installing utility connections in the street or doing of any work requiring the cutting of the pavement, the installations or other work should be done prior to the proposed construction or repaving. The notice shall be sent at least three (3) months prior to the proposed date for the commencement of construction or paving; provided, however, that the failure to give such notice shall not affect the validity of the surcharge provisions of this section.

c. *Pavement Replacement.* Prior to the commencement of the excavation work the proposed excavated area, as specified per permit, shall be marked out and the pavement saw cut. All existing pavement within the area shall be removed and disposed of. Under no circumstances shall excavated pavement be allowed to be redeposited in the area excavated. Prior to pavement replacement, any irregular or jagged edges of the existing pavement adjacent to the excavation shall be recut to a generally straight and uniform vertical cut. Pavement replacement shall be in conformance with the Standard Specifications for Bridges and Road Construction of the New Jersey Department of Transportation. The pavement edges of all excavations shall be painted first with a coat of asphaltic oil, RC-2 or RC-3. Immediately after this is completed, the surface course hot mix asphalt mix 5 -- 2" thick, shall then be placed and rolled, and all edges abutting existing pavement shall be thoroughly compacted with hot hand or mechanical tampers and hot smoothing irons to create a smooth and well-conded joint.

d. *Traffic Flow to be Maintained; Hours of Construction; Performance Standards.*

1. Prior to filing an application for a road-opening permit, a contractor shall provide the Chief of Police or his designee the plans excavation/road-opening plans and location of dumpsters. After review of the plans, the Chief of Police or his designee shall establish the necessary requirements to insure public safety and minimize the inconvenience to the traveling public. Where the contractor objects to one or more of these requirements, he may submit an alternative proposal for the Chief's consideration. However, the Chief of Police shall make the final determination as to traffic safety requirements. Where relevant, the Manual on Uniform Traffic Control Devices shall serve as the guiding authority.

2. No contractor, subcontractor or employee of any company shall begin working in or immediately adjacent to any roadway, sidewalk or walkway until he has complied with the provisions of this section and the requirements established by the Chief of Police or his designee.

3. Prior to commencing work, the contractor shall provide the Police Bureau and the Director of the Department of Public Works with the names and telephone numbers of representatives who will be available for immediate duty in the event of an emergency during nonworking hours, and who will be responsible to correct or reduce any hazardous conditions.

4. In the absence of compelling reasons to the contrary, no more than one-half of any roadway may be opened at one time and it shall be backfilled and suitably surfaced before the other half is opened.

5. The Police Chief or his designee may require the contractor to hire one or more Police Officers to handle traffic at the worksite where the contractor's site work will interfere with vehicular or pedestrian traffic. The contractor shall arrange for the hiring and payment of the Police Officers through the Office of the Police Chief.

6. Construction shall only be permitted during the daylight hours, commencing no earlier than 8:00 a.m. and terminating no later than 4:00 p.m., except where the Chief of Police or the Director of the Department of Public Works determine that it is necessary for the work to begin earlier than 8:00 a.m. and/or continue later than 4:00 p.m. The Chief of Police or Public Works Director shall base that determination on public convenience and the need for access, coupled with public safety requirements such as construction on high volume roadways.

7. The contractor shall not leave a trench open that he can backfill and properly cover at the end of each workday, so that the roadway is completely unobstructed for the normal flow of traffic. The contractor may be permitted to cover the trench with steel plates of adequate strength to support H-20 traffic loads across the trench if the Director of Public Works or the Chief of Police determine that there are special circumstances, and grant their approval to cover the trench in that manner.

8. The contractor shall assure that all streets, roads or thoroughfares are accessible for the passage of fire apparatus, mail delivery, police vehicles, ambulances and all other emergency or essential equipment at all times. The contractor shall also maintain access to fire hydrants, intersecting streets and private driveways. The work shall proceed in such a manner as to cause as little interference with vehicular/pedestrian traffic as possible.

9. The contractor shall not permit trenches to be open for a distance of more than two hundred fifty (250) feet in advance of laying any subsurface structure. He shall assure that transverse openings involving the full width of the roadway shall be made in such a way that only one-half of the roadway or thoroughfare will be obstructed at any one time. Complete blocking of any road or thoroughfare is prohibited without the express, written approval of the Police Chief. Wherever possible, services shall be driven or bored.

10. In the event that the Chief of Police or his designee notifies the contractor or his representative of any hazardous construction practice or violation of the motor vehicle code, or if the volume of traffic becomes excessive, the contractor shall immediately discontinue all operations until remedial action is taken to the satisfaction of the Chief of Police. In the event that work is disrupted, the contractor shall not be able to make any claim for damages against the Town due to delay or extra work by reason of this section.

11. Compliance with all prescribed safety precautions contained in this section shall not relieve the contractor of his primary responsibility to take all necessary measures to protect and safeguard the work, nor shall it relieve him of any responsibilities toward safeguarding the public safety.

12. In order to expedite emergency trench repairs outside normal working hours, the contractor stockpile sufficient material that is suitable for emergency repairs at strategic locations. In the event of an emergency, the contractor shall complete the emergency repairs within a reasonable period of time. If, in the opinion of the Director of Public Works, the

contractor fails to promptly and adequately remediate the emergency condition, the Department of Public Works shall complete the repairs and the costs shall be levied against the contractor.

13. During non-working hours, the contractor shall maintain sidewalks, walkways, roadway lanes and shoulders free from construction vehicles and any other obstruction, whenever they present a hazard to passing traffic. In the event an obstruction cannot be removed, the contractor shall be responsible for marking the obstruction with approved reflective devices and lights to eliminate any hazard to vehicular traffic. In the event there is an obstruction to pedestrian traffic, the contractor shall provide a safe passage area for pedestrians. No materials or equipment shall be stored in the roadway or any location not specifically approved by the permit or by the Chief of Police.

14. Whenever the contractor is performing an operation that requires the closing of a lane of traffic, even for a brief period of time, the contractor shall close the lane and comply with the following requirements:

(a) The contractor shall use flagmen, wearing helmet, traffic vest and using a hand held stop/slow sign, direct the flow of traffic in work areas whenever trucks or other vehicles enter or leave the traffic stream. The contractor shall be responsible for providing and paying for all flagmen. No personnel vehicles shall be permitted to park in or immediately adjacent to the work area.

(b) The work shall include installation, transportation, continuous maintenance, and repair and replacement of all protective and warning devices required by the Chief of Police and these regulations. The contractor shall be responsible for immediately repairing or replacing any device that is damaged by weather, vehicular traffic or other causes.

(c) The contractor shall provide a sufficient number of working and traffic control signs, barricades, lights and other protective devices, which shall conform to the requirements of the Manual of Uniform Traffic Control Devices. The contractor shall also place construction warning signs in accordance with the requirements of Manual of Uniform Traffic Control Devices or as directed by the Chief of Police.

(d) The contractor shall assure that barricades are constructed in such a manner so as to withstand all conditions of weather, handling and usage to which they may be subjected. If it is necessary, the contractor shall place weighted sandbags on the supports for the barricades, to resist overturning in winds of fifty (50) miles per hour, force or passage of traffic.

(e) The contractor shall keep the worksite clear of parked vehicles, except for those in actual use at the operation in progress.

(f) When working on through streets, the contractor shall move all equipment off the paved area of the roadway or to a side street location approved by the Town.

15. The Department of Public Works shall not issue any street or road opening permits during December, except for emergencies that have been verified by the Director of Public Works and the Chief of Police. Emergency situations warranting the issuance of

street or road opening permits include broken or frozen water mains, gas leaks or any other condition that would endanger life, health and public safety, or would interfere with the normal operations of government. Normal maintenance, upgrading of services to new clients or other work that could reasonably have been completed prior to December 1 or that could reasonably be delayed until January 1 shall not be deemed emergencies.

e. *Expiration of Permit; Extensions.* Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to the expiration of the permit, present in writing to the Director of Public Works a request for an extension of time, setting forth therein the reasons for the requested extension. If in the opinion of the Director of Public Works such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work. Permits are not transferable from one person to another and the works shall not be done in any place other than the locations specifically designated in the permit.

(Ord No. 0-1-83 § 178-4; New)