

ORDINANCE 16-2010

**BOROUGH OF SEA GIRT
COUNTY OF MONMOUTH
STATE OF NEW JERSEY**

**AN ORDINANCE REGULATING THE OPENING OF STREETS IN
THE BOROUGH OF SEA GIRT AND REPEALING ORDINANCES #60,
#607, #792 & #860**

BE IT ORDAINED by the Borough Council of the Borough of Sea Girt in the County of Monmouth and State of New Jersey that:

Section 1. Ordinance #60, #607, #792 & #860 are repealed.

Section 2. Permit Required.

No person, business, corporation or other entity (from now on called "person") shall dig up, break, tunnel, undermine, disturb or in any manner excavate any municipal street, road, right-of-way, or public easement, or make or cause to be made any excavation in or under the aforementioned areas for any purpose or place, or deposit, or leave in any of the aforementioned areas any earth or other excavated material obstructing or interfering with the free use of same unless such person shall first have obtained an excavation permit therefor from the Municipal Clerk. Openings may be made without the necessity of filing a written application and obtaining an excavation permit only in emergencies, such as a broken or frozen water main, gas leak or other happening which would endanger public life, health and safety; provided, however, that notice thereof shall be immediately given verbally to the Superintendent of Public Works or Police Department and written application in accordance with this chapter shall be made within forty-eight (48) hours.

Section 3. Application for Permit.

No excavation permit under this section shall be issued until the person seeking such permit shall have first done the following:

- a. Made a written application for the issuance of such permit submitted to the Municipal Clerk, signed by the person making the application or by a duly authorized agent, and containing the following information:
 1. Name, address and telephone number of the person for whom the work is to be performed.
 2. Name, address and telephone number of the person performing the work.
 3. Location of the work area, including a map or sketch.

4. An outline or plan describing the work to be performed.
 5. Number of square feet of surface to be opened.
 6. Cubic content of material to be excavated.
 7. Type of surface to be removed or disturbed.
 8. Cubic content of material to be burrowed.
 9. Date and time of commencement and estimated date of completion with an agreement by the applicant to refill or resurface the opening or excavation so that the street surface shall be restored to the same condition or better, in which it was before the proposed work.
 10. The types of proposed traffic control devices and procedures to be utilized for the project, which devices and procedures shall be in conformity with the guidelines set forth in the Manual of Uniform Traffic Control Devices, current edition, (the "Manual").
 11. The names and telephone numbers of at least two (2) persons responsible on a twenty-four (24) hour call basis to handle emergency repairs for the applicant.
- b. A nonrefundable permit fee of \$150.00 shall be paid to the Borough of Sea Girt prior to the issuance of any permit. In no case shall a permit be issued until the required fees and deposits have been paid.
 - c. The applicant must furnish to the Municipality a cash or surety bond to guarantee that the opening or trench made by the permittee will be closed properly. The amount of the cash deposit or surety bond is \$15.00 per square yard. Provided the minimum deposit is 1,000.00. Upon completion of the work in a satisfactory manner, the bond or cash surety will be released in return for a maintenance bond or cash guarantee that the road, street, or highway over the same will remain in good condition for at least one (1) year after the closing by the permittee. The failure to carry out all required work and properly close the area of the road opening shall require the forfeiture of any cash or surety bond guaranteeing the work, or alternatively, require the surety company to complete all required work in an acceptable manner; provided however, the cash or surety bond shall not limit the amount of damages incurred by the Municipality. The Municipality reserves the right to pursue additional claims against the permittee for all damages in excess of the amount of the cash and/or surety bond.
 - d. Deliver to the Municipality satisfactory proof of insurance in the minimum amount of one million (\$1,000,000.00) dollars per person, and three million (\$3,000,000.00) dollars per occurrence, insuring the permittee and the Municipality against liability for injury or loss sustained by any person or persons as a result of the acts of commission or omission of the permittee, or any servants, agents or employees of the permittee.

Section 4. Conditions of the Permit.

- a. In the case of all openings larger than sixteen (16) square feet and four (4) feet deep, the application is subject to review by the Superintendent of Public Works as to whether or not a permit should be issued. If it is recommended by the Superintendent of Public Works that a permit be issued, the Municipal Clerk shall issue the permit and forward all monies collected to the Municipal Treasurer for deposit. If the permit is denied, then the Municipality shall retain the application fee and notify the applicant in writing not later than five (5) days after the action denying the application.
- b. Except in emergent conditions, the permittee shall give a minimum of forty-eight (48) hours notice of the proposed opening and/or excavation to all persons owning property abutting on the street about to be opened or excavated. Notice shall be given by personal service or by regular mail upon all persons entitled to such service.
- c. All openings, excavations, backfilling or grading shall be done by the person to whom any permit is issued. Such person shall give at least seventy-two (72) hours written notice to the Superintendent of Public Works prior to the commencement of any work.
- d. The area of the road opening shall be left in a broom clean condition.
- e. All work shall be performed and completed in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Chief of Police. Street and/or traffic lanes approved for closure to traffic must be closed and then reopened at the times specified in the application, with no deviations permitted. The Police Department shall be informed in writing of all street closings at least twenty-four (24) hours in advance, except where the work is of an emergency nature, in which case notice shall be given to the Police Department when work commences.
- f. Construction work will be permitted only between 8:00 a.m. and 6:00 p.m. Monday through Friday and Saturday 9:00 am to 5:00 pm and must also comply with Borough Ordinance 2007-16, which pertains to no construction on certain holidays. The Mayor and Council, Municipal Engineer and Superintendent of Public Works must approve emergency situations or work required beyond the permitted time.

Section 5. Construction Specifications

It shall be the duty of the applicant to restore the street surface in the following manner and to maintain all proper safeguards relating to the opening or excavation to protect the public from damage or injury resulting from same.

No work may commence before markout by the appropriate agencies. Right-of-way or property monuments and/or markers, traffic control devices and other public entity maintained devices in the right-of-way shall not be removed or disturbed unless permission to do so is first obtained in writing by the Superintendent of Public Works.

1. All trench openings shall be neatly saw cut, unless specifically allowed, in writing by the Public Works Department for unusual circumstances.
2. The restoration of the opening or trench shall be maintained for one (1) year after completion.

Where twenty-five (25%) percent or more of the existing pavement surface has been destroyed or disturbed, final paving shall consist of a one (1) inch overlay of the entire width of the pavement surface with Bituminous Concrete Type FABC (Mix 1-5).

The type of material used for backfilling shall be as specified by the Borough Engineer to ensure the restoration of a street or road to its prior condition. For the purpose of establishing specifications for the restoration, the specifications promulgated by the Department of Transportation of the State of New Jersey shall serve as a guideline for street restoration.

In the event of a snow or ice storm, the permittee will be required to take whatever steps the Superintendent of Public Works (or designee) deems necessary to secure the traveled way for snow removal operations. At the first sign of precipitation, all work on the shoulders and traveled way shall stop and they shall be cleared of all dirt, etc. and then backfilled so as not to interfere with snow removal operations until the weather permits resumption of work.

3. Tack coat should be applied to the edges of the street opening just prior to placement of the bituminous surface course. Placement of the tack coat shall be in accordance with the latest revision of the State of New Jersey Standard Specifications for Road and Bridge Construction.
4. It shall be the duty of each person, corporation, partnership, firm and their contractor or agents to notify the Borough Administrator prior to the backfilling of the opening or excavation, and of the date such work will be done, so that the Borough Engineer or agent of the Borough may, in his discretion, inspect all aspects of the street restoration, etc., and to file a written report to be used in the determination of the return of the repair deposit.
5. The partially restored pavement (stabilized base course level with the existing pavement as described in subsection 15-1.3c.) shall be allowed to

settle for no less than ninety (90) days and no more than one hundred eighty (180) days. Upon the completion of the settling period, the opened or excavated area shall be milled and repaved with NJDOT Mix I-5 utilizing an infrared restoration process. If at any time during the settlement period, the trench becomes unacceptable as determined by the Director of Public Works, the permittee shall be notified of the condition requiring repair, and such repair shall be performed within twenty-four (24) hours of such notification by the Director of Public Works. If the repair is not made in the time specified, the Borough may make the repair and any cost thereof will be charged against the permittee's cash repair deposit and/or maintenance bond. At the end of the period of time of settlement required by the Department of Public Works, an inspection shall be performed by the Department.

6. The permittee shall be required to replace any facilities including but not limited to curb, pavement sidewalk, line striping, etc. that are affected by the excavation and restoration work.

Section 6. Removal and Protection of Utilities.

The permittee shall first obtain the appropriate utility markouts as required by law. The permittee shall not interfere with any existing utility without the written consent of the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Borough shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the owner of the utility. The permittee shall support and protect, by timbers or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work and do everything necessary to support, sustain and protect them under, over, along or across the work, in accordance with applicable statutory provisions. In case any pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or owner and the expense of such repairs shall be borne by permittee, and his or its bond shall be liable therefore. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility, and its bond shall be liable therefore. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

Section 7. Cleanup.

As the excavation work progresses, all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Department of Public Works. From time to time as may be

ordered by the Department of Public Works, and in any event, immediately after completion of the work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from the work; and upon failure to do so within twenty-four (24) hours after having been notified to do so by the Borough, the work may be done by the Borough and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

Section 8. Notice of Street Paving by the Municipality.

When the Municipality shall improve or pave any street, the Municipal Clerk (or designee) shall give notice by regular mail to all persons owning property abutting on the street about to be paved or improved, and to all public utilities and authorities operating in the Municipality. All such persons, utilities, and authorities shall make all connections as well as any repairs thereto which would necessitate excavation or disbursement of the street, within forty-five (45) days from the provision of such notice. The time may be extended if permission is requested in writing and approved by the Mayor and Council (or designee).

Section 9. Opening of Newly Paved Streets Restricted.

No permit shall be issued which would allow an opening or excavation of a paved or improved street surface less than six and a half (6 1/2) years old unless the applicant clearly demonstrates to the Borough Engineer that public health or safety requires the proposed work to be permitted or unless an emergency condition exists. If a permit is issued pursuant hereto to open any repaved street less than six and a half (6 1/2) years old, an enhanced restoration may be required for said opening permit at the discretion of the Borough Engineer. Enhanced restoration may include half width to full width milling and repaving to minimize the deleterious effects of the pavement disturbance.

Municipality Exempted from Permit

Nothing contained in this section shall be construed as requiring the issuance of a permit for the performance of any opening or excavation by the Municipality.

Section 10. Violations, Penalty.

Any person, firm, entity or corporation violating any of the provisions of this section shall, upon conviction hereof, be subject to a fine not to exceed one thousand (\$1,000.00) dollars or imprisonment for a term not to exceed ninety (90) days, or both, at the discretion of the court having jurisdiction in this matter. The court shall have the discretion to impose a term of community service in lieu of imprisonment. Each day that a violation continues shall be deemed a separate offense.

Section 11. Effective Date

This Ordinance shall take effect immediately upon final passage and publication as required by law.