

BOROUGH OF MANASQUAN
ORDINANCE NO. 1985-06

AN ORDINANCE TO REPEAL SECTION 20-2 (STREET OPENINGS AND EXCAVATIONS) OF CHAPTER 20 (STREETS AND SIDEWALKS) OF THE MUNICIPAL CODE AND ENACT NEW REGULATIONS, PROCEDURES AND PENALTIES CONCERNING EXCAVATIONS OF MUNICIPAL STREETS, ROADS, RIGHT-OF-WAYS OR PUBLIC EASEMENTS IN THE BOROUGH OF MANASQUAN, MONMOUTH COUNTY, NEW JERSEY.

BE IT ORDAINED, by the Borough Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey, as follows:

Section 1. Section 20-2 (Street Openings and Excavations) of Chapter 20 (Streets and Sidewalks) of the Code of the Borough of Manasquan is repealed.

Section 2. There is hereby enacted a new Section 20-2 entitled "Excavations of Streets" of Chapter 20 (Streets and Sidewalks) of the Code of the Borough of Manasquan, as follows:

20-2.1 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.

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 non-refundable permit application fee shall be paid to the Borough of Manasquan prior to the issuance of any permit. In no case shall a permit be issued until the required fees and deposits have been paid. The fee schedule for the nonrefundable permit application fee is established in Schedule "A" annexed to this Ordinance.
- 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 established in Schedule "B" annexed to

annually, once in January of each year, give the Municipality such a bond for ten thousand dollars (\$10,000.00); provided that when the total square footage of openings or trenches made by the utility company reaches five thousand (5,000) square feet, such utility company may give either an additional bond or deposit cash security in an amount equivalent to three dollars (\$3.00) per square foot of additional openings or trenches it desires to make in that calendar year.

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 guarantying 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 dollars (\$1,000,000.00) per person, and three million dollars (\$3,000,000.00) 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.

20-2.3 Conditions of the Permit.

- a. In the case of all openings larger than sixteen (16) square feet and four 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

- 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 Saturday. The Mayor and Council, Municipal Engineer and Superintendent of Public Works must approve emergency situations or work required beyond the permitted time.
- g. The Municipal Clerk shall provide each permittee with a suitable placard plainly written or printed in letters at least one inch high with the following notice: "Borough of Manasquan, Permit No. _____, Expires _____." In the first blank space, there shall be inserted the number of the permit and after the word "Expires" shall be stated the date when the permit expires. It shall be the duty of any permittee to keep the placard posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such placard at or about an excavation not covered by the permit, or to misrepresent the number or date of expiration of the permit.

20-2.4 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).

20-2.5 Permits not to be issued on Streets Improved within Eight Years

blended with the existing pavement surface utilizing an infrared pavement restoration process.

- b. In such cases, the applicant shall make the request for a waiver of the permit moratorium in writing to the attention of the Mayor and Council (or designee).

20-2.6 Construction Operations.

- a. Whenever an opening is made in a paved road, the surface pavement shall be cut with a pavement cutter no wider than one (1) foot outside of the proposed excavation. Where paved sidewalks and gutters or curbing are to be crossed, they shall in no case be removed, but the work shall be done by tunneling beneath them. The work shall be so conducted as to not interfere with the water, sewer or gas mains or any connections with any building or structure until permission of the proper authorities shall have been obtained. All rock within five (5) feet of any water, sewer, or gas main or other pipe, which may be damaged thereby, shall be removed without blasting. No excavation that will damage trees or shrubbery shall be made without the approval of the Superintendent of Public Works.
- b. Where twenty-five percent (25%) 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).
- c. All pavement openings for which any permit is granted shall be replaced by the permittee by a temporary pavement of a bituminous concrete Type A immediately after filling. Permanent pavement is to be restored by the permittee not less than thirty (30) nor more than sixty (60) days after opening is made, unless this time is extended by the Superintendent of Public Works in writing based upon adverse road and weather conditions.
- d. 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.
- e. The permittee shall maintain the trench and regrade the subgrade

- f. The restoration of the opening or trench shall be maintained for one (1) year after completion.
- g. In the event that the proposed excavation or opening is to extend across the entire width of a public street, no more than one-half (1/2) of the traveled road surface shall be opened at any one time and such half shall be backfilled before the other half is opened. No excavation within and/or immediately adjacent to roadways available to traffic shall remain open after the hour of 6:00 p.m., nor over any weekend or holiday, unless special permission has been granted by the Superintendent of Public Works.
- h. All excavations shall be properly barricaded at all times and during the hours of darkness shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property. If the Chief of Police (or designee) determines the work site is not properly barricaded or provided with warning lights, the permittee shall correct this condition within four (4) hours of receiving such verbal communication.
- i. The excavation and all piles of excavated material or any stored material to be used in the work to be performed shall be carefully marked with barriers complete with appropriate warning devices that shall conform to the Manual. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions shall be maintained at all times so as to minimize inconvenience to the public and to the occupants of the adjoining property, and to assure the passage of emergency vehicles including first aid, fire and police. If the Chief of Police (or designee) determines the work site is not properly marked with barriers and appropriate warning devices, the permittee shall correct this condition within four (4) hours of receiving such verbal communication.
- j. During the hours of actual operation, construction, excavation or other work at the site, the permittee shall maintain and have in attendance at least one (1) flagman, or a uniformed police officer if deemed necessary by the Chief of Police for the safety of the general public, who shall be responsible for the flow of traffic to assure safe passage of vehicles in both directions and to avoid traffic hazards during the use of heavy equipment. When traffic conditions permit, the Chief of Police (or designee) may by written approval permit the closing of municipal streets to all traffic for a period of time prescribed by the Chief if in the Chief's opinion it is

- k. The permittee shall maintain safe crossings for two (2) lanes of traffic at all intersections where possible, and safe crossings for pedestrians at intervals not more than three hundred (300) feet.
- l. 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.
- m. No person shall divert or pump surface or other waters onto or across municipal roads or do any act upon property abutting municipal roads resulting in the flow or spill of water from the property across the municipal roads. No dewatering equipment, well, points, or piping shall occupy the traveled portions of roadways unless specifically approved and adequately protected to the satisfaction of the Superintendent of Public Works.
- n. Effluent from dewatering systems shall be discharged in such a manner that erodible soils are not adversely affected. All silt and sediments being carried in the dewatering effluent must be intercepted prior to effluent discharge into any drainage system through use of a sedimentation basin designed to allow retention of discharge for sufficient time to render such waters free of suspended silt and sediments. The use of screening devices in lieu of a sedimentation basin must receive specific approval and be employed only for minor flows.
- o. The permittee shall not interfere with any existing utility without the written consent of the utility owner. If it becomes necessary to relocate an existing utility, this shall be done by the owner. No utility owned by the Municipality shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving a privately owned utility shall be similarly borne by the permittee unless it makes other arrangements with the person or persons owning the utility. The permittee shall support and protect by methods approved by the Superintendent of Public Works or Municipal Engineer, all pipes, conduits, poles, wires and 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 and across the work. The permittee shall secure approval of method of support and protection from the owner of the utility in case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose will

Municipality shall not be made a party to any action because of this section.

20-2.7 Placement of Excavated Materials and Backfilling.

- a. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Superintendent of Public Works or Municipal Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage sites. If material requires disposal, the permittee shall dispose of all excavated materials at an approved location for this purpose. In its application, the permittee shall also describe in detail the location where any and all excavated materials shall be disposed of and provide written documentation that the proposed location for disposal is an approved location for this purpose. If said location is a landfill, the permittee shall provide proof that said landfill is registered and licensed to accept such material.
- b. All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Superintendent of Public Works or Municipal Engineer. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the Superintendent of Public Works or Municipal Engineer to prevent the spreading of dirt into traffic lanes. Further, no person shall place any material on or along any municipal road, gutter, or shoulder resulting in any stoppage of drainage along the road or roads or place material in a manner to cause it to drain into the storm sewer system.
- c. Any and all material excavated and stored or piled at or near any intersection, driveway or other access roads or alleys shall be so stored and piled as to provide an adequate line of sight for those persons entering and exiting the intersection streets, alleys or driveways, which line of sight shall provide a minimum of one hundred fifty (150) foot visibility.

exceeding six (6) inches in thickness, moistened as directed, and each layer adequately tamped until thoroughly compacted.

- e. Where excavations are made in tunnels beneath concrete pavement or beneath a pavement having a concrete base, the tunnel shall be backfilled with rammed concrete composed of one (1) part of cement, two (2) parts of sand, and five (5) parts of broken stone or washed gravel, or another approved material, tamped into place so that the cavity is completely filled.
- f. As the excavation work progresses, all streets 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 Superintendent of Public Works. From time to time, as may be ordered by the Superintendent of Public Works, and in any event immediately after completion of the work, the permittee shall, at 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 Superintendent of Public Works, the work may be done by the Superintendent of Public Works and the cost thereof charged to the permittee. The permittee shall also be liable for the cost thereof under the surety provided hereunder.
- g. After the backfilling of the opening or trench has been completed as above specified, the restoration of the pavement shall be governed by the following applicable rules:
 - 1. Once the excavation work area has been properly backfilled and compacted, the pavement shall be saw cut and removed a minimum of six inches on each side of the excavation to expose undisturbed subgrade. Excavations less than two feet from the curblines will require removal of the existing pavement for the excavation to the curblines. All edges shall be prepared with tack coat.
 - 2. The permittee shall install no less than six inches of bituminous stabilized base course, Stone Mix No. 1-2, to the surface of the excavation.
 - 3. All excavations shall be allowed to settle for no less than 90 days and no more than 180 days. During this time period, the permittee shall be responsible for maintaining

5. In streets constructed of cement concrete with a bituminous concrete overlay, pavement shall be replaced with equivalent concrete and bituminous pavement, thickness to match existing. Replacement of the cement concrete with bituminous concrete is not permitted.
6. All materials and workmanship to be in accordance with current NJDOT Standard Specifications for Road and Bridge Construction.

20-2.8 Permit Regulations.

- a. The applicant in accepting a permit under this section shall be deemed to have agreed to be liable for, and to indemnify and save harmless the Municipality from and against, any and all loss or costs or damages incurred by reason of any damage to any property, injury to any person or any loss of life resulting from its negligence or the negligence of its agents, employees, or subcontractors in undertaking or performing the work covered by the permit, or in failing to properly guard or maintain the opening or excavated material, equipment, or materials to be incorporated in the work.
- b. Construction equipment shall not be positioned or stored on any street after working hours unless approved by the Superintendent of Public Works and the Chief of Police (or designee).
- c. When a contractor is obligated to supply uniformed police officers on the job site as a condition of its permit, all arrangements shall be made through the Manasquan Police Department, who may assign the officers forty-eight (48) hours in advance of the commencement of work on the project in accordance with the provisions of municipal ordinances regulating off-duty services of municipal police officers.
- d. Flagmen, when utilized in construction work areas, shall be equipped with the following:
 1. Orange reflectorized vests
 2. Red flag, measuring twenty-four (24) by twenty-four (24) inches. For night conditions, lights shall be used in lieu of the flag.
 3. Sign paddles consisting of STOP/SLOW messages, as per the Manual on Uniform Traffic Control Devices, current edition. When used at night, STOP/SLOW signs shall be illuminated.

permit or any extension thereof shall accept the same subject to the foregoing provisions and conditions, without any liability or responsibility attaching to the Municipality for any loss or damage that might result by reason of such revocation.

20-2.10 Municipality Exempted from Permit. Nothing contained in this chapter shall be construed as requiring the issuance of a permit for the performance of any opening or excavation by the Municipality.

20-2.11 Violations and Penalties. Any person, firm or corporation that shall be convicted of a violation of a provision of this section shall, upon conviction whereof by any Court authorized by law to hear and determine the matter, be liable to the penalty stated in Chapter 1, Section 1-5. Each day that such violation exists shall constitute a separate offense.

Nothing in this section shall be construed by any permittee or other person to absolve any permittee or its employees, agents or contractors of any responsibility for any damage done to any person or property in opening or digging a trench in any public road, street, or highway.

20-2.12 Municipality Saved Harmless. The permittee shall indemnify and save harmless the Municipality, its officers, agents and employees from any loss, injury or damage resulting from any negligence or fault of the permittee, its agents, servants or employees or contractors in connection with the performance of any of the work covered by the permit. The terms and provisions of this section shall be deemed a covenant by such permittee to so indemnify and save harmless the Municipality.

20-2.13 Severability. In the event that any sentence, section or clause of this chapter shall be declared illegal or unconstitutional by a court of competent jurisdiction, this declaration shall not in any manner prejudice the enforcement of the remaining provisions hereof as long as same permits the enforcement of the spirit and intent of this chapter.

SCHEDULE "A"
PERMIT APPLICATION FEE

Fee	Extent of Excavation or Disturbance
\$125.00	The first fifty (50) square feet or portion thereof
\$100.00	Each and every additional fifty (50) square feet or portion thereof

INSPECTION FEE

\$250.00	For every separate or individual excavation or disturbance
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SCHEDULE "B"
CASH DEPOSIT OR SURETY BOND

(a) Opening in new or existing street improvements constructed of cement, concrete or bituminous concrete:

Pavement Disturbance	Cost per Square Foot
1 to 20 SF	\$ 20.00
21 to 40 SF	19.00
41 to 60 SF	18.00
61 to 80 SF	17.00
81 to 120 SF	16.00
121 to 160 SF	15.00
161 to 200 SF	14.00
201 to 240 SF	13.00
241 to 280 SF	12.00
281 to 320 SF	11.00
321 to 360 SF	10.00
361 to 400 SF	9.00
401 to 440 SF	8.00
441 to 480 SF	7.00
481 to 600 SF	6.00
601 to 700 SF	5.50
701 to 900 SF	5.00
901 to 1000 SF	4.50
1001 to 5000 SF	4.00
5001 to --- SF	3.00

(b) Opening(s) in streets not constructed of concrete or bituminous concrete:

Section 3. If any part or parts of this Ordinance are for any reason held to be invalid, such adjudication shall not affect the validity of the remaining portions of this Ordinance.

Section 4. All Ordinances or parts of Ordinances which are inconsistent herewith are repealed, but only to the extent of the inconsistency. All other parts of Chapter 20 of the Code of the Borough of Manasquan not inconsistent herewith are ratified and confirmed.

Section 5. This Ordinance shall become effective immediately following its final passage and publication as required by law.

NOTICE

PUBLIC NOTICE IS GIVEN that Ordinance No. 1985-06 was introduced at a meeting of the Borough Council of the Borough of Manasquan, in the County of Monmouth and State of New Jersey, on the 21st day of August, 2006, and was then read for the first time. This Ordinance will be further considered for final passage by the Borough Council at Borough Hall at 8:00 p.m. on the 11th day of September, 2006. At such time and place, or at any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning this Ordinance.



COLLEEN SCIMECA, RMC, CMC
Municipal Clerk