

**BOROUGH OF FREEHOLD**  
**APPLICATION & PERMIT FOR ROAD OPENING**

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ PHONE \_\_\_\_\_

OPENING LOCATION: \_\_\_\_\_

BETWEEN: \_\_\_\_\_ & \_\_\_\_\_

START DATE: \_\_\_\_\_ FINISH DATE: \_\_\_\_\_

OPENING SIZE: \_\_\_\_\_ ft. wide \_\_\_\_\_ ft. long \_\_\_\_\_ ft. deep

TOTAL SQUARE FEET: \_\_\_\_\_

FOR THE PURPOSE OF: \_\_\_\_\_

PAVEMENT TYPE: \_\_\_\_\_

SPECIAL CONDITIONS: \_\_\_\_\_

APPLICATION FEE: \$100.00

INSPECTION FEE: \$400.00 (opening not to exceed 50 Sq. Ft.)

INSPECTION FEE: OPENING EXCEEDING 50 SQ. FT: \$50.00 FOR EACH  
ADDITIONAL 100 SQ. FT.

TOTAL APPLICATION & INSPECTION FEES: \$ \_\_\_\_\_

DEPOSIT: \$1,000.00 (opening not exceeding 50 Sq. ft.)  
\$250.00 FOR EACH ADDITIONAL 50 SQ. FT.

TOTAL DEPOSIT \$ \_\_\_\_\_

SIGNED \_\_\_\_\_

EXPIRATION DATE: \_\_\_\_\_

FOR FREEHOLD BOROUGH

\_\_\_\_\_

**#2005/21**  
**ORDINANCE AMENDING CHAPTER 12**  
**(STREETS, SIDEWALKS AND**  
**PUBLICPLACES), SECTION 12.16**  
**(EXCAVATIONS AND PUBLIC ROAD**  
**OPENING PERMITS) OF THE REVISED**  
**GENERAL ORDINANCES OF THE**  
**BOROUGH OF FREEHOLD**

WHEREAS, the Borough Engineer reviewed the existing ordinance relating to road openings and recommended revising same; and

WHEREAS, the Governing Body accepts the recommendation .

NOW, THEREFORE BE IT  
ORDAINED that Chapter 12.16 be rescinded in its entirety and replaced with the following:

**Section I**

**Chapter 12.16**

**EXCAVATIONS**  
**PUBLIC ROAD OPENING PERMITS**

**Sections:**

- 12.16.010 **Definitions.**
- 12.16.020 **Street openings and pavement cuts.**
- 12.16.030 **Duties and responsibilities of applicants.**
- 12.16.040 **Street opening regulations.**
- 12.16.050 **Fees.**
- 12.16.060 **Deposits.**
- 12.16.070 **Liability insurance.**
- 12.16.080 **Openings in new streets.**
- 12.16.090 **Standard detail.**

**12.16.010 Definitions.**

The following words shall have the meanings ascribed to them when used in this chapter, except in those instances where the context clearly indicates otherwise.

"Applicant" means any person who makes application for a permit.

"Borough" means the Borough of Freehold, County of Monmouth, State of New Jersey.

"Engineer" or "borough engineer" means the borough engineer of Freehold, or his or her duly credited representative acting within the powers assigned him or her.

"Emergency" means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

"Permittee" means any person who has been issued a permit and has agreed to fulfill all the terms of these regulations.

"Person" means and includes any natural person, partnership, firm, association, utility or corporation. Whenever used in any section prescribing and imposing a penalty, the term "person" as applied to associations, means the partners or members thereof, and as applied to corporations, the officers thereof.

"Street" means and includes a public street, public easement, public right-of-way, public highway, public alley, public way, or public road owned, accepted or maintained by the borough. (Prior code § 16-1)

**12.16.020 Street openings and pavement cuts.**

**A. Permit Required.**

1. Compliance with Regulations. It is unlawful for any person or persons to tear up or excavate any of the borough streets or roads, or borough-owned parking lots, for any purpose whatsoever without first obtaining the necessary permit in accordance with the regulations of this chapter.

2. Permit for Each Separate Undertaking. It is unlawful for any person to make any tunnel opening or excavation of any kind in or under the surface of any street of the

borough without first securing a permit for the borough for each separate undertaking.

3. Exception for Utility Company Emergency. However, any public utility company maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, providing the permit, either written or oral, could not reasonably and practically have been obtained beforehand.

4. Application for Permit. The utility company or applicant shall thereafter apply for a permit on the first regular business day on which the office of the borough engineer is open for business and such permit shall be retroactive to the date when the work was begun.

B. Street Openings Limited. No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that, upon the approval by the engineer, additional work may be done under the provisions of the permit in an amount not greater than ten (10) percent of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limit mentioned herein.

C. Commencement of Work. Work for which a permit has been issued shall commence within ninety (90) days after the issuance of the permit. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional application fee of twenty five dollars (\$25.00).

D. Permits Nontransferable. Permits are not transferable from one person to another and the work shall not be made in any place other than the location specifically designated in the permit. Work, done by contractors,

subcontractors or agents of the permittee within the scope of the permit, shall not be considered as done by another person.

E. Expiration of Permits--Extension of Time. Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee is unable to complete the work within the specified time, he or she shall, prior to the expiration of the permit, present a request in writing to the engineer for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the engineer, 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.

F. Municipal Utility Cuts. All street openings required by utilities owned and/or operated by the borough shall be made and restored under the direction and supervision of the engineer. The permit, fee, deposit, insurance, and bond requirements shall not be applicable to any openings made by such municipally owned and/or operated utilities.

Street openings, pavement cuts, and pavement restoration for sanitary sewer and water service connection extensions, after obtaining the required utility permits from the borough in addition to the street opening permit, shall be made by the applicant.

G. State and County Highways. These regulations shall not be applicable in those instances where the highway is maintained by the state of New Jersey or by the county of Monmouth. In such cases, the regulations of the respective governmental bodies having jurisdiction shall govern.

H. Rights of the Borough. Every permit shall be granted subject to the rights of the borough or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, not inconsistent with the permit.

I. Revocation of Permits.

1. Grounds for Revocation. Any permit may be revoked by the engineer after notice to the permittee, for:

a. Violation of any condition of the permit or of any provisions of these regulations;

b. Violation of any provision of any other applicable ordinance or law relating to the work;

c. Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others. A permittee may be granted a period of two days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before such permit is revoked.

2. Written Notice of Violations. Written notice of any such violation or condition shall be served the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified or registered United States mail addressed to the person to be notified.

3. Borough Engineer to Restore Street. When any permit has been revoked and the work authorized by the permit has not been completed, the engineer shall do such work as may be necessary to restore the street or part thereof to as good condition as before the opening was made. All expenses incurred by the borough shall be recovered from the deposit or bond the permittee has made or filed with the borough. (Prior code § 16-2)

#### 12.16.030 Duties and responsibilities of applicants.

A. Application for Permit--Plan of Work. It shall be the duty and responsibility of any applicant to:

1. Make a written application for such permit with the engineer on such form as he or she shall prescribe. No work shall commence until the engineer has approved the application and plan and issued a permit and until the permittee has paid and provided all fees, deposits, certificates and bonds required under these regulations. The permit shall be approved or denied within ten (10) days of receipt of application;

2. Furnish in duplicate a plan showing the work to be performed under such permit. If approved by the engineer, one copy of such plans shall be returned to the applicant at the time the permit is granted.

B. Nonliability Agreement. The applicant shall agree to save the borough, its officers, employees, and agents harmless from any and all costs, damages and liabilities which may accrue or be claimed to accrue by reason of any work performed under such permit. The acceptance of any permit under these regulations shall constitute such an agreement by the applicant whether the same is expressed or not.

C. Evidence of Availability for Commencement of Work. The applicant shall present evidence that all materials, labor and equipment which are needed to complete such work as authorized by the permit are available, or will be available prior to the scheduled date of commencement.

D. Show of Permit Upon Demand. The applicant shall keep the original copy of the permit and an approved copy of the plan at all times while such work is in progress at the location for which the permit was granted and show such permit and/or plan upon demand by the borough or police authorities. (Prior code § 16-3)

#### 12.16.040 Street opening regulations.

A. Opening and Excavation Restrictions.

1. Center Line Restriction. No opening or excavation in any street shall extend

beyond the center line of the street before being backfilled and the surface of the street temporarily restored.

2. Same Day Backfill--Exception. Trenches shall not be opened for a longer distance than that which can be properly backfilled and temporarily patched the same day; except in certain instances when, due to the special nature of the work involved, backfill cannot be accomplished the same day, provided prior notice be given to the engineer and any trench or excavation be properly safeguarded and not obstruct the flow of traffic.

3. Backfill shall consist of an approved compacted subgrade material, placed and compacted in six inch (6") layers with a vibratory pad-type compactor, when access with a vibratory roller is not practical. Pavement subbase shall be a minimum six inch (6") dense graded aggregate base course which shall consist of quarry processed stone. Pavement base shall be six inches (6") of hot mix asphalt base course, Mix I-2. All material and construction methods shall conform to the requirements of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, Latest Edition (see Standard detail, Section 12.16.090).

4. Utility Facilities. All utility facilities shall be exposed sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation if necessary.

5. Protection of Pipe Drains--Culverts. Pipe drains, pipe culverts, or other facilities encountered shall be protected by the permittee.

6. Repair and Payment of Damage. Any facilities or utilities damaged by the permittee must be repaired by the permittee under the supervision of the interested person or the permittee shall make payment to that person to cover repairs made by utility company or interested person.

7. Monuments. Monuments of concrete, iron, or other lasting materials set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey bench mark within the borough shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the engineer. Permission shall be granted upon condition that the permittee shall properly replace the monument.

8. Proper Drainage. When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the satisfaction of the engineer.

9. Removal of Excavated Material. When any earth, gravel or other excavated material is caused to roll, flow, or wash upon any street, the permittee shall cause the same to be removed from the street within eight hours after deposit. In the event the earth, gravel or other excavated material so deposited is not removed, the engineer shall cause such removal and the cost incurred shall be paid by the permittee or deducted from his or her deposit.

10. Safety Requirements.

a. Every permittee shall place around the project such barriers, barricades, lights, warning flags or danger signs as shall be determined by the engineer or the police authorities for the protection of the public. Additional safety requirements may be prescribed by the engineer or the police authorities and, where applicable, shall be in conformance with the requirements set forth by OSHA. Where it is expected traffic flow will be obstructed, the police department shall be notified prior to excavation. The borough fire department shall be notified by the permittee when a street shall be blocked off.

b. Whenever any person fails to provide or maintain the safety devices required by the engineer, such devices shall be installed and maintained by the borough. The amount of the cost incurred shall be paid by the permittee or deducted from his or her deposit.

c. No person shall wilfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of these regulations.

11. Access to Driveways; Fire Hydrants. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access, except in emergencies affecting the safety of life and property. Free access shall be provided at all times to fire hydrants.

12. Public Travel--Flow of Traffic--Nuisance. Excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the engineer may require the permittee to provide toe boards or bins. If the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the engineer. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the permittee shall keep a passageway at least one-half the sidewalk width open along such sidewalk line.

13. Time for Work. Work authorized by a permit shall be performed between the hours of eight a.m. and four-thirty p.m. Monday through Friday, unless the permittee obtains prior consent from the engineer to do the work at an earlier or later hour.

14. Further Conditions for Granting of Permit. In granting any permit, the engineer may attach such other conditions thereto as may

be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:

a. Limitations on the period of the year and time of day in which the work may be performed;

b. Restrictions as to the size and type of equipment;

c. Designation of routes upon which materials may be transported;

d. The place and manner of disposal of excavated materials;

e. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise, and other results offensive or injurious to the neighborhood, the general public, or any portion thereof;

f. Regulations as to the use of streets in the course of the work.

15. Trenching to be Sawcut. All trenching within the pavement lines shall be sawcut prior to the excavation of the trench.

16. Sawcutting. Before removal of bituminous or Portland cement concrete materials, a full depth sawcut shall be performed to provide for the complete removal of said material without damage to the remaining adjacent material. The saw shall be capable of providing a neat cut the full depth in a single pass.

B. Backfilling and Restoring Opening.

1. Backfill.

a. After excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence.

b. Backfill shall consist of an approved compacted subgrade material, placed and compacted in six inch (6") layers with a vibratory pad-type compactor, when access with a vibratory roller is not practical.

Pavement subbase shall be a minimum six inch (6") dense graded aggregate base course which shall consist of quarry processed stone. Pavement base shall be six inches (6") of hot mix asphalt base course, Mix I-2. All material and construction methods shall conform to the requirements of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, Latest Edition (see Standard detail, Section 12.16.090).

c. The engineer must be notified prior to road opening by the permittee. The engineer must also be notified during the twenty-four (24) hour period preceding the beginning of backfilling. The date and approximate time at which backfilling will be begin shall also be provided to the engineer.

d. No backfilling shall be accomplished unless or until the engineer or a designated borough inspector is present, except in an emergency situation: however, the applicant accepts responsibility for proper compaction in those instances.

2. Temporary Paving. All excavations shall be temporarily paved at the end of each day's work with a minimum of two inches of hot mix asphalt base course Mix I-2. The temporary pavement shall be maintained in a satisfactory condition until the final restoration of the pavement is made.

3. Paving. All pavement restoration shall conform to the requirements of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, Latest Edition (see Standard detail, Section 12.16.090).

a. Concrete Base Pavement. Restoration of pavement in streets having a concrete base shall be restored with a minimum of eight inches. Class "B" air entrained concrete with reinforcement equal to that of pavement removed. Surface course shall be a minimum of two inches (2") of hot mix asphalt surface course (Mix I-5).

b. Bituminous Concrete Pavements. Restoration of bituminous concrete paved streets shall consist of a minimum of six inches of hot mix asphalt base course (Mix I-2) and two inches of hot mix asphalt surface course (Mix I-5).

C. Water and Sewer Connection Trenches. Where permits are for the installation of water or sewer connections the permittee must provide for the backfill, subbase, base course and the final surface course.

D. Sidewalk Areas. Where excavations are in a sidewalk area, unpaved areas shall be restored to the condition prior to disruption by grading, placement of four inches of topsoiling, seeding, liming and fertilizing. Sidewalks shall be restored to the prior width and grade using the existing type materials wherever possible. New concrete walks may be constructed in lieu of replacement with prior type materials, with permission of the adjacent property owner.

E. Inspection.

1. The borough engineer, or a duly authorized agent or representative of the borough shall make daily inspections of all work authorized by a permit. The engineer is empowered to provide a full time inspector if the work to be performed is of a nature that a full time inspector is necessary to insure compliance with the provisions of these regulations. All costs of inspection shall be borne by the permittee.

2. In no case shall any opening made by a permittee be considered in the charge or care of the borough or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of the police power, when it is necessary to protect life and property. (Prior code § 16-4)

#### 12.16.050 Fees.

A. Application Fees and Inspection Fees.

- 1. Application fees \$100.00
- 2. Inspection fees.
  - a. Opening not to exceed fifty (50) square feet \$400.00
  - b. Opening exceeding fifty (50) square feet \$50.00 for every additional 100 square feet.

- B. Refunds. No refunds of fees shall be made after filing of the application.
- C. Waiver of Fees. Application and inspection fees shall be waived for work done at the request of, and solely for, the borough. (Prior code § 16-5)

**12.16.060 Deposits.**

- A. Deposit Required. The applicant shall deposit with the borough adequate funds to cover the costs of inspecting the work to be performed, restoring the street damaged or disturbed by the work, protection of the work site, cleanup of the work site, and any other work which may be necessary to be performed by the borough, should the applicant fail to comply with the terms and provisions of these regulations. Deposits shall consist of cash, certified check or surety bonds.
- B. Computation of Deposit.
  - 1. For a fifty (50) square foot opening, the minimum deposit shall be one thousand dollars (\$1,000.00).
  - 2. For an opening exceeding fifty (50) square feet, the deposit shall be one thousand dollars (\$1,000.00), plus two hundred fifty dollars (\$250.00) for each additional fifty (50) square feet.
- C. Form of Deposit. The deposit may be either in the form of a certified, treasurer's or cashier's check or in lawful money of the United States. A surety bond may be substituted for the check or money.
- D. Insufficient Deposit. If any deposit is less than sufficient to pay all costs, the permittee

shall, upon demand, pay to the borough an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency, the borough may institute an action to recover the same in any court of competent jurisdiction. Until such deficiency is paid in full, no additional permits shall be issued to such permittee.

E. Yearly Deposit. Whenever any public utility or authority shall anticipate more than one street opening or excavation per calendar year, such utility or authority may post one deposit in an amount and form as provided above for the calendar year or part thereof to cover the cost of any and all work. Public utilities or authorities with assets in excess of one hundred thousand dollars (\$100,000.00) may post a corporate bond to cover the anticipated work for the year, but such bond shall not be less than fifty thousand dollars (\$50,000.00).

F. Refund of Deposit. Upon notification by the permittee that all work authorized by the permit has been completed and after restoration of the opening, the borough shall refund to the permittee his or her deposit, less all costs incurred by the borough in connection with such permits. In no event shall the application or permit fee be refunded. In those instances where bonds are utilized for deposits the borough may make claim against the total amount of the bond for all costs incurred by the borough. Should the permittee fail to comply with the regulations, the total amount of the bond shall be applied singularly to each permit so that at all times thereafter there remains in effect the full amount of the bond. (Prior code § 16-6)

**12.16.070 Liability insurance.**

A. Insurance Requirements. Each applicant, before the receipt of a permit, shall provide the borough with an acceptable certificate of insurance indicating that he or she is insured against claims for damages for personal injury as well as against claims for property damage

which may arise from or out of the performance of the work, whether such performance be by himself or herself, his or her subcontractor, or anyone directly or indirectly employed by him or her, and naming the borough as one of the insured. Such insurance shall cover collapse, explosive hazards, and underground work by equipment on the street, and shall include protection against liability arising from completed operations. The amount of the insurance shall be prescribed by the engineer in accordance with the nature of the risk involved; provided, however, that the liability insurance for bodily injury in effect shall not be in an amount less than one hundred thousand dollars (\$100,000.00) for each person and three hundred thousand dollars (\$300,000.00) for each accident and, for property damages, in an amount not less than one hundred thousand dollars (\$100,000.00) with an aggregate of three hundred thousand dollars (\$300,000.00) for all accidents. Public utilities and authorities may be relieved of the obligation of submitting such a certificate if they are insured in accordance with the requirements of these regulations.

B. Public Utility or Authority--Self-Insurer Certificate. In lieu of filing a certificate of insurance, a public utility or authority may file with the borough a copy of self-insurer certificate issued by the Security-Responsibility Bureau of the Department of Law and Public Safety. (Prior code § 16-7)

#### **12.16.080 Openings in new streets.**

A. Notices of Improvements. When the borough shall improve or pave any street, the engineer shall first give notice to all persons owning vacant property abutting on the street about to be paved or improved, and to all public utilities and authorities operating in the borough. All such persons, utilities and authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within sixty (60) days from the giving

of such notice. The time shall be extended if permission is requested in writing and approved by the borough.

B. Restrictions upon Opening New Streets. No permit shall be issued by the engineer which would allow an excavation or opening in a paved and improved street surface less than five years old unless the applicant can clearly demonstrate that public health or safety require that the proposed work be permitted or unless an emergency condition exists. (Prior code § 16-8)

#### **Section II**

If any part of this Ordinance shall be deemed invalid such part shall be deemed severable and the invalidity thereof shall not affect the remaining part of this Ordinance.

#### **Section III**

Any Ordinance or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed and superseded.

#### **Section IV**

This Ordinance shall take effect upon final passage and publication in accordance with Law.