

**TOWNSHIP OF BYRAM
SUSSEX COUNTY, NEW JERSEY**

ORDINANCE NO: 008 - 2024

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE
TOWNSHIP OF BYRAM AMENDING CHAPTER 213 ENTITLED
“STREETS AND SIDEWALKS” OF THE CODE**

Purpose Statement: The purpose of this Ordinance is to amend Chapter 213 entitled “Streets and Sidewalks” to update the Code section and to establish a five year moratorium on excavation in recently resurfaced or newly surfaced Township streets.

Section 1. Chapter 213 entitled “Streets and Sidewalks” is amended in its entirety to state as follows:

Chapter 213. Streets and Sidewalks

Article I. Street Excavations

213-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT

Shall mean any person who makes application for a permit under the provisions of this section.

CONSTRUCTION

Shall mean the putting together, building, or placing of any materials upon, through or over the street, curb, sidewalk or areas within the right-of-way of any street, alley or lane within the Township which could interfere with the public's use of said street or sidewalk.

EMERGENCY

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

ERECTION OF OBSTRUCTION

Shall mean the putting together, building, or placing of any materials upon, through or over the street, curb, sidewalk or areas within the right-of-way of any street, alley or lane within the Township which could interfere with the public's use of said street or sidewalk.

EXCAVATION OR EXCAVATIONS

Shall mean the digging of any trench or excavation through or under the street, curb, sidewalk or right-of-way, or the cutting into or opening and removal of any of the pavement surfaces, curb or sidewalks within the right-of-way of any street, curbs or sidewalks within the Township.

PERMITTEE

Shall mean any person who has been issued a permit and has agreed to fulfill all terms of this section.

PERSONS

Shall mean and include any natural person, partnership, firm, association, utility, corporation or authority created pursuant to an act of the State of New Jersey. Whenever used in any section prescribing and imposing a penalty, the term person as applied to associations shall mean the partnership members thereof, and, as applied to corporations, the officers thereof.

PUBLIC UTILITY COMPANY

Shall mean any company subject to the jurisdiction of and control by the New Jersey Public Utilities Commission, or the Federal Communications Commission.

STREET Any road, highway, public way, public alley, easement or other right-of-way accepted or maintained by the Township as a public street, as well as any state or county road or highway over which the Township has acquired jurisdiction by agreement.

STREET OCCUPANCY

Shall mean excavation, construction, erection of obstructions or the establishment of any access from abutting property to a street, which access will be used by vehicles as a driveway or means of egress or ingress to said streets.

STREET OPENINGS

Shall mean any excavation, construction or erection of obstructions within the right-of-way of Township streets which do not fall within the definition of street occupancy.

TOWNSHIP

Shall mean the Township of Byram, County of Sussex, State of New Jersey.

213-2. Permit required.

It shall be unlawful for any person to make any street opening, which shall include any excavation, any construction or erection of any obstruction of any kind upon, in, under or over the right-of-way of any street, or to make any street occupancy, without first securing a permit from the Township for each separate undertaking. However, any person maintaining pipe, lines or other underground facilities in or under the surface of any street may proceed with opening without a permit when emergency circumstances demand the work be done immediately, provided that the permit could not reasonably or practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the Township offices are opened for business and said permit shall be retroactive to the date when the work was begun. In

all cases where emergency openings are necessary, the Township Police Department shall be notified prior to such openings. **213-3. Application for permit.**

Any person desiring to tear up, open or make excavation of a right-of-way in the Township shall first submit an application to the Township Clerk for a permit therefor, together with plans indicating and describing in detail the work to be performed, the estimated length of time required to perform the same, and the estimated cost thereof. The completed application upon receipt will be forwarded to the Superintendent of Public Works and the Township Engineer for review to submit street opening permit.

Applications for permits shall at a minimum contain the following information:

- A. The name and address of the applicant.
- B. The name of the street where the opening is to be made and the street number, if any, of the abutting property.
- C. The Township Tax Map block and lot number of the property for the benefit of which the opening is to be made.
- D. The nature of the surface in which the opening is to be made.
- E. The character and purpose of the work proposed.
- F. The time when the work is to be commenced and completed.
- G. Each application shall be accompanied by a set of plans in quadruplicate showing the exact location and dimensions of all openings.
- H. The name and address of the workman or contractor who is to perform the work.
- I. A statement that the applicant agrees to replace, at his own cost and expense, the street, curb, gutter and sidewalk in the same state and condition in all things as they were at the time of the commencement of the work within 48 hours of the commencement of the same.

213-4. Contents of permit; filing.

Each permit shall state the identity and address of the applicant, the name of the street and the location where the excavation or tunnel is to be made, the dimensions of the opening and the period during which the permit shall be valid. The original of each permit shall remain on file in the office of the Township Clerk.

213-5. Fees.

Fees must be paid when the application is made. The applicant shall be charged a street excavation permit fee as set forth in Chapter A287, Fees.

In addition to the street excavation permit fee, the applicant shall submit an initial deposit of \$1,000, to be put in escrow to defray the cost of inspections, legal or professional review, or engineering work. If the deposit does not cover said costs, then additional fees will be required. Failure to do so shall stay the issuance of the street excavation permit fee. Any remaining moneys shall be returned to the applicant.

213-6. Deposit.

No permit shall be issued until the applicant has made a cash deposit in an amount determined to be sufficient by the Township Engineer based on current costs of restoration of the surface to be disturbed. The Township Council may waive the requirements of this section in the case of public utilities.

213-7. Insurance.

No permit shall be issued until the applicant has furnished the Township Council with satisfactory proof that he is insured against injury to persons and damage to property caused by any act or omission of the applicant, his agents, employees or subcontractors done in the course of the work to be performed under the permit. Under this policy the Township shall be a co-insuree. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the policy of insurance shall be \$100,000 for injury to any one person, \$300,000 for injuries to more than one person in the same accident and an aggregate of \$100,000 for property damage for a single incident. The Township Council may waive the requirements of this section in the case of a public utility upon the presentation of satisfactory proof that it is capable of meeting claims against it up to the amount of the limits of the insurance policy which would otherwise be required.

213-8. Conduct of operations.

All permits issued under this article shall be subject to the following rules and regulations:

- A. All excavations shall be kept 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.
- B. All work shall be done 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. The Police Department shall be informed of all street closings at least 24 hours in advance, except where the work is of an emergency nature, when notice shall be given to the Police Department when work commences. If any construction or excavation or obstruction or occupancy shall extend for the full width of the road, only 1/2 of the road shall be disturbed or obstructed at one time, which half shall be backfilled or cleared before the remaining 1/2 is excavated or obstructed in order that the public travel over said road remain unimpeded and that it remain open at all times.
- C. All refuse and material must be removed within 48 hours.
- D. All excavations shall be completely backfilled by the permittee and shall be compacted by tamping or other suitable means in a manner prescribed by the Department of Public Works. Where the Department of Public Works or Township Engineer determines that the excavated material is unsuitable for backfill, the permittee shall backfill the excavation with sand, soft coal, cinders or other suitable material which shall be placed in layers not exceeding six inches in depth and thoroughly compacted in the manner prescribed by the Department. Upon completion of the work, the permittee shall remove any excess material

and leave the premises in a clean condition. If the Department of Public Works determines that any backfilled excavation has settled or caved in, it shall so notify the permittee, who shall promptly continue backfilling until the Department determines that settlement is complete.

- E. If tunneling operations are required, the tunnel shall be backfilled with rammed concrete composed of one part cement to 10 parts sand.
- F. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.
- G. If the work is not completed within the time specified in the permit or any extension which may be granted by the Department of Public Works or is not performed in accordance with the regulations set forth in this section and any other regulations that may be established by the Department of Public Works, then the Department may complete the work itself and restore the surface of the street. The cost of completing the work and restoring the street shall be charged to the permittee and may be deducted from his cash deposit and any deficiency recovered by an action in any court of competent jurisdiction.
- H. Hours of Operation. All work must be performed during time specified in the following schedule:
 - Monday through Friday - 7:00 a.m. to 4:00 p.m.
 - No work may be performed on any Saturday, Sunday or legal holiday.

All street excavations and openings must be closed and all obstructions removed from the Township rights-of-way at all other times.

Exceptions are granted only in an emergency or when permission is obtained in advance from the Public Works Official. If a street opening or excavation is left at any incomplete stage for over 24 hours, it may be deemed contrary to the public interest by the Township.

213-9. Restoration of surface.

In all cases, the permittee shall restore the surface of the street in accordance with the following rules, regulations and requirements:

- A. The plan for restoration of surface is to be determined by the Township Engineer or Superintendent of Public Works which will be included in the approved permit.
- B. No permittee shall commence the restoration of any street foundation or surface until the Department of Public Works has determined that settlement of the subsurface is complete and the area properly prepared for restoration.
- C. The street surface shall be restored so as to extend twelve inches beyond the excavation on all sides.
- D. The street surface shall be restored to the satisfaction of the Superintendent of Public Works.

213-10. Permit conditions and regulations.

- A. Transferability. Every permit shall apply only to the person to whom it is issued and shall not be transferable.
- B. Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate, unless extended in writing by the Director of Public Works.
- C. Possession of permit. A copy of the permit together with a copy of the plan approved by the Township Council shall be kept in possession of the person actually performing the work and shall be exhibited on demand to any duly authorized employee of the Department of Public Works or to any police officer of the Township.
- D. Revocation of permit. The Township Council may revoke a permit for any of the following reasons:
 - (1) Violation of any provision of this article or any other applicable rule, regulation, law or ordinance.
 - (2) Violation of any condition of the permit issued.
 - (3) Carrying on work under the permit in a manner which endangers life or property or which creates any condition which is unhealthy, unsanitary or declared by provision of this Code to constitute a nuisance.
- E. Modification of permit conditions. In a special case, the Township Council may by resolution impose special conditions to which the issuance of the permit may be subject or may decide that any provision of this article shall not apply or shall be altered.

213-11. Additional rules and regulations.

The Township Manager may make any rules and regulations which he considers necessary for the administration and enforcement of this article, but no regulation shall be inconsistent with, alter or amend any provision of this article or impose any requirement which is in addition to those expressly or by implication imposed by this article. No regulations shall be effective unless they shall be approved by resolution of the Council. Copies of all current regulations shall be furnished to each permittee at the time of the issuance of the permit.

13-11.1. Notices of street paving and repairs; deadline.

Whenever the Township Council enacts an ordinance or resolution providing for the paving or repaving of any street or sidewalk, the Municipal Clerk shall promptly mail a written notice thereof to each person owning sewers, mains, conduits, or other utilities, in or under said street or sidewalk. Such notice shall notify such persons that any application for an excavation permit for openings, cuts or excavations for work to be done in or under said street or sidewalk prior to such paving or repaving shall be submitted promptly in order that the work covered by such excavation permit may be completed not later than 45 days from the date of enactment of such ordinance or resolution. The Municipal Clerk shall also promptly mail copies of such notice to any governmental agencies or departments or other persons who may desire to perform excavation work in said street or sidewalk.

213-11.2. Performing repairs.

Within said 45 days, every owner, person, agency or utility receiving notice as prescribed herein shall perform such excavation work subject to the provisions of this article and Article III, as may be necessary to install or repair sewers, mains, conduits, utility installations or other work in said street or sidewalk.

In the event any owner, person, agency or utility shall fail within said forty-five-day period to perform such excavation work, any and all rights of such owner, person, agency or utility or their successors in interest to make openings, cuts or excavations in said street or sidewalk shall be prohibited and forfeited for a period of five years from the date of enactment of said ordinance or resolution.

Newly constructed or resurfaced streets shall be termed "prohibition streets" within this chapter. Permission to excavate in prohibition streets will not be granted for five years after the completion of street overlays. Utilities shall plan well enough in advance to determine alternate methods of making necessary repairs to avoid excavating in newly resurfaced streets.

Exceptions to the above policy are as follows:

- (1) Emergencies that endanger life or property.
- (2) Interruption of essential utility service.
- (3) Work that is mandated by local, state, or federal law.

The Township Engineer shall maintain a list of all prohibition streets indicating the location limits, the date of the completion of construction or resurfacing and the date the prohibition expires. The list shall be made available to the public and be kept current. If an exception is granted under this subsection, the individual or entity obtaining the road opening permit shall repave the entire portion of the street that is disturbed by the street opening from the edge of the pavement to the edge of the pavement on the opposite side of the street, unless the Township Engineer directs otherwise.

Approval by the Township Engineer or his or her designee shall be obtained prior to any excavation in a prohibition street under the exceptions listed above. To request a waiver, the applicant must submit a written request to the Township Engineer immediately or within 24 hours under an eminent hazard condition where time is of the essence. In granting the waiver, the Township Engineer or his or her designee shall consider the following:

- (a) The location of the excavation.
- (b) Description of the work to be performed.
- (c) The reason(s) the work was not performed before the street was paved.
- (d) The reason(s) the work cannot be deferred until after the prohibition period.
- (e) The reason(s) the work cannot be performed at another location.
- (f) The reason(s) it is justified as an emergency to excavate the prohibition street.
- (g) The Township Engineer or his or her designee will verify that the applicant has analyzed all feasible alternatives to make the necessary repairs using a trenchless method in prohibition streets to avoid excavating a newly resurfaced street whenever possible.

Any person seeking a waiver for any other reason than those listed in the exceptions listed above shall require approval from the Township Council. The Township Council shall only grant a waiver after determining that the waiver is deemed in the best interest of the Township of Byram and that the waiver is necessary for unforeseen circumstances not anticipated in this chapter.

213-11.3. Time period.

Every Township department or official charged with responsibility for any work that may necessitate any opening, cut or excavation in said street or sidewalk is directed to take appropriate measures to perform such excavation work within said forty-five-day period so as to avoid the necessity of making any openings, cuts or excavations in the new pavement in the Township's streets or sidewalks during said five-year period.

213-11.4. Violations and penalties.

Violations of the provisions of this article shall be punishable as provided in Chapter 1, § 1-15, General penalty.


Section 2. Severability. If any part of this Ordinance is for any reason held to be invalid such decision shall not affect the validity of the remaining portion of the Ordinance. Any ordinance or portion thereof that may be inconsistent with the ordinance is hereby repealed to the extent of the inconsistency.

Section 3. Repealer. All existing Ordinances and/or parts thereof which are inconsistent with the terms of this Ordinance are, to the extent of such inconsistency, repealed.

Section 4. Effect. This Ordinance shall take effect twenty (20) days after publication in accordance with law.

BY ORDER OF THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BYRAM.

Introduced: May 21, 2024 Adopted: June 5, 2024


Cynthia Church, RMC
Township Clerk


Alexander Rubenstein
Mayor

BYRAM TOWNSHIP COUNCIL

	Councilwoman Franco	Councilman Gallagher	Councilman Proctor	Councilman Roseff	Mayor Rubenstein
Motion	✓				
2nd			✓		
Yes	✓	✓	✓	✓	✓
No					
Abstain					
Absent					

NOTICE OF ADOPTION

NOTICE is hereby given that Ordinance 008-2024 was introduced and passed first reading at a meeting of the Township Council of the Township of Byram, held at the Byram Township Municipal Building, Mansfield Drive, Byram Township, New Jersey, on the 21st day of May 2024. The said ordinance was further considered for final adoption at a meeting of the Township Council of The Township of Byram, held at the Byram Municipal Building, 10 Mansfield Drive, Byram Township, New Jersey, on the 5th day of June at 7:30 p.m. at which time all persons were given the opportunity to be heard. It was finally passed and adopted and will be in full force in the Township according to law.



Cynthia Church, RMC

Township Clerk