

**BOROUGH OF DEMAREST
STATE OF NEW JERSEY
ORDINANCE NO. 1091-21**

**AN ORDINANCE AMENDING
AN ORDINANCE ENTITLED
'EXCAVATIONS AND OPENINGS'
OF THE REVISED GENERAL ORDINANCES OF
THE BOROUGH OF DEMAREST,
COUNTY OF BERGEN
AND STATE OF NEW JERSEY**

BE IT ORDAINED by the Mayor and Council of the Borough of Demarest, that Chapter 150, Article I entitled "Streets and Sidewalks; Excavations and Openings, sections 1 through 12 of the Ordinances of the Borough of Demarest is hereby amended and that those portions of the aforesaid set forth below are hereby amended as follows and that those portions of the Ordinance not set forth below shall remain unchanged:

150-1 STREET OPENINGS.

150-1.1 Purpose.

The purpose of this section is to establish regulations and fees for the opening of municipal streets, and to establish a moratorium and regulation of road opening for utility work on recently paved streets, within the Borough of Demarest

150-1.2 Definitions.

As used in this section:

Extensive opening shall mean an opening, tearing up or excavating, for any purpose, of a Borough road of one hundred (100) feet or more of roadway length or where connecting lateral openings are made at average intervals of less than one hundred (100) feet along the roadway length or an opening which disturbs twenty (20%) percent or more of the pavement area.

Owner shall mean any person, family, proprietorship, partnership, limited liability company, corporation, public utility or other entity on whose behalf a street opening is performed by a permittee.

Permittee shall mean any person, firm or corporation granted a permit hereunder.

Public utility shall mean telephone, telecommunications, electric, water, gas and cable,

satellite or other mode of television companies or any other entity having a right of way easement, or either the power of eminent domain or subject to the regulations by the Public Utilities Commission of the State of New Jersey.

Small opening shall mean any opening, tearing up or excavating, for any purpose, of a Borough road, which is not an extensive opening.

Street shall mean any street, road or other public way dedicated to and accepted by the Borough of Demarest, and shall include all of the area thereof lying within the bounds of the dedicated right-of-way.

150-2 Permit Required.

a. No person, persons or proprietorship, partnership, limited liability company or corporation, municipal or private, nor any utility company, public or private, shall for any purpose open, tear up, excavate, bore, tunnel or drive under or in any way impair the surface or sub-surface within the limits of the right-of-way of any street in the Borough of Demarest without first obtaining a road permit from the Building Department of the Borough.

b. Only such persons, firms or corporations, as defined in subparagraph a, above, to whom or to which permits have been granted shall be permitted to perform such work and then only in the manner herein required and only as specifically allowed in the permit. Assignment of rights under any permit issued hereunder is prohibited, without the express written consent of the Borough of Demarest, in its sole and exclusive discretion, and permits purportedly assigned without such written consent, shall be immediately void. Contracting or subcontracting work to a person, firm or corporation to whom or to which no permit has been granted is prohibited and complying with the "Borough of Demarest Policy Requirements."

150-2.1 Work Performed By and For the Borough.

Except as otherwise specifically provided in this chapter, nothing contained in this section shall be construed as requiring the issuance of a permit for the performance of any work done by the Borough of Demarest or under a contract with the Borough for the construction of waterlines, sewer lines or street improvements.

150-2.2 Proof of Notification of Underground Utilities.

No person or corporation shall be issued a road opening permit until he presents satisfactory proof in the form of the authorization number from the One-Call Damage Prevention System as required by N.J.S.A. 48:2-73 et seq.

150-2.3 Certain Openings Restricted.

A. Unless it is determined that an emergency, as defined in Section 150-2.5 b, exists involving underground storm or drain water, gas, water, sewer, telephone, cable or electric utilities, no street opening permit will be issued for a period of 60 months after a new pavement has been constructed, or the existing pavement has been resurfaced, on the affected street. In the

event of an emergency as defined in this section, it shall not be necessary to obtain permits before commencing such repair, but the Borough Superintendent of Public Works and Code Enforcement official must be notified immediately of the occurrence, and such permit(s) shall be obtained within two days thereafter, and this section shall not be held or taken in any case to exempt the applicant from any other provisions of this article. The Superintendent of Public Works, or his designee in his absence, shall be designated the appropriate official to determine whether a bona fide emergency exists or existed to justify the emergent opening of any street covered by this section.

B. In the event that the newly paved or resurfaced street is dedicated to the Borough, the sixty-month period shall be deemed to begin on the date of acceptance by the Borough of the affected street.

C. A waiver on restrictions for street openings, unless otherwise stipulated, may be granted at the approval of the Department of Public Works Director and the Township Engineer with appropriate conditions. Such conditions shall require, at a minimum, that the party, company or entity requesting such waiver shall agree to a complete mill and paving of the affected roadway to the specifications of the Borough Engineer, within 2 weeks of the completion of the permitted work, weather permitting, and posting of a bond of sufficient amount in the sole and exclusive discretion of the Borough Engineer, to ensure faithful completion of all conditions required hereunder.

150-2.4 Marking of Utilities Required.

Certification of all underground facilities having been previously located and marked using standard color codes for gas, water and other utilities. Certification must indicate marking authorization number. Final line striping and pavement markings must be restored immediately to original or better condition. The standard for the Borough of Demarest for line striping and traffic markings is the application of 6" min. width hot extruded thermoplastic.

150-2.5 Application Requirements; Procedure; Issuance of Permit.

a. *Form.*

1. Application for a permit shall comply with the "Borough of Demarest, Department of Road Opening Permit Policy Requirements" and shall be made in writing on forms prescribed by and issued by the Building Department, or a reasonable facsimile thereof, and shall be filed at least one (1) week prior to the commencement of any work unless it is deemed an emergency as set forth and defined herein. The application shall specify the name and address of the applicant; the specific location of the proposed excavation and the width, length and depth thereof; the type of road or other surface; and the individual(s), firm or corporation for whose benefit the excavation is to be made and shall be accompanied by a nonrefundable fee for the issuance of the permit as

hereinafter provided, together with the charges as hereinafter set forth.

2. Applications for extensive openings shall require, in addition to the above, information regarding:

- (a) All improvements.
- (b) Typical details and sections of construction procedure.
- (c) Plans, profiles and other details necessary to accurately depict the work.

3. No work may commence by the permittee until the date set forth in the issued permit.

b. *Emergency Road Opening.*

1. In the event that an emergency condition exists requiring immediate action by any person, firm or corporation required to obtain a permit pursuant to this section, the person may immediately cause the roadway to be entered and emergency measures taken without first obtaining a permit, provided that:

(a) A true emergency exists and the person(s) doing the work notifies the Police Department prior to start of work; the Police Department shall log the emergency.

(b) A permit is applied for within twenty-four (24) hours of the road opening or on the next business day, whichever is more practical.

(d) The Superintendent of the Department of Public Works or the Borough Building Dept. shall be notified within twenty-four (24) hours of a road opening. If a road opening commences on a Saturday or Sunday as a result of emergency work, the Police Department of the Borough shall be notified prior to start of work, and the Superintendent of the Department of Public Works or Borough Building Dept. shall be notified on the morning of the first business day thereafter

(e) In the event of an emergency opening, the person, company, or utility shall apply for a permit no later than the next business day. Any opening that is found without a permit issued will be subject to a \$1,000.00 application fee and a \$75.00 inspection fee. No exceptions.

2. The Borough reserves the right to issue a written stop work order where same is deemed appropriate by the Superintendent of the Department of Public Works or Borough Engineer.

c. *Review of the Application of Small Openings.* Prior to the issuance of a permit, copies of the application therefor shall be referred to the Superintendent of the Department of Public Works or the Borough Engineer who shall, within five (5) working days, excluding weekends and Borough recognized holidays, note any objections to the issuance of a permit or any conditions

which shall be satisfied prior to or be imposed as conditions upon the issuance of the permit, as appropriate.

d. *Applicant.* The applicant must be a licensed contractor or agent of a public utility, whether corporate, individual or partnership, who will be actually engaged in the performance of the work to ensure the safety of the public and that the work is done in accordance with Borough specifications. The application shall be made for and on the behalf of the owner for whom such work is being done and shall be countersigned by such owner. Permits will not be issued directly to private owners or developers without specific written approval of the Mayor and Borough Council.

e. *Agreement.* Except where otherwise provided by law, the owner shall agree, as a condition of the issuance of a permit, that any facilities, pipes or poles or other object(s) to be installed within the Borough right-of-way pursuant to the permit shall be promptly relocated at the owner's expense, except where otherwise provided by law, as required by the Borough of Demarest, to accommodate the installation of Borough facilities. Such agreement shall be in writing and contained on the face of the application form and permit.

f. *Review of Application for Small and Extensive Openings.* All small and extensive openings shall first be reviewed and approved by the Building Department, and extensive openings shall subsequently be reviewed and approved by the Borough Engineer prior to the issuance of a permit.

g. *Issuance.* Street opening permits shall be issued by the Building Department once reviewed and approved as provided for herein; provided, however, that no permit shall be issued until an application fee and an engineering fee, both of which are nonrefundable, have been paid to the Building Department.

150-3.1 Work Requirements.

a. *Generally.* The New Jersey State Department of Transportation Standard Specifications for Road and Bridge Construction, with all amendments and supplements, shall govern all of the work performed under Borough of Demarest road opening permits, except as supplemented below.

1. No Borough road shall be closed to traffic without prior written consent of the Police Department. In the event that a road is closed, uniformed police may be required to act as traffic directors as provided for by ordinance. Maintenance and protection of pedestrian and traffic control is the responsibility of the applicant and must conform to NJDOT and MUTCD standards along with the requirements of the local municipality. All costs of providing uniformed police shall be the responsibility of the permittee or the owners. In the event that a detour is deemed necessary by the permittee, application shall be made to the Chief of Police, who shall determine the necessity for such detour and the route to be followed. In emergency situations, notification by phone to the Police Department shall be done prior to start of work.

2. Any work under an issued permit must be commenced within three (3) months from the date of issue and completed forty-five (45) days from commencement, or

the permit shall be deemed void, and reapplication shall be required.

3. With the exception of emergencies and weather permitting, work commenced under a permit shall be continued without interruption during normal working hours until completed.

The Borough reserves the right for "emergency" road openings to permit work to be undertaken upon a "24/7" basis.

4. The applicant shall notify the Borough Clerk; Police Chief and the Superintendent of the Department of Public Works or the Borough Engineer forty-eight (48) hours in advance of the actual commencement of any work under a permit.

5. The existing pavement must be cut with a compressor, wet saw, or an approved mechanical cutting device, in a straight line and to the full depth of pavement before excavation. All Borough storm drains and catch basins will be protected at all times. Any damage will be repaired by the applicant at his expense.

6. All fill removed from trench is to be discarded by applicant. The trench must be of suitable width to obtain proper mechanical compaction. All backfill is to be done with quarry process stone Type 1-5 or DGA, or other suitable material if approved by the Borough Engineer, for the full depth of the trench. First lift of fill, twelve (12) inches above pipe, shall be compacted using a Jumping Jack or Vibratory Tamper. Successive lifts shall be compacted by mechanical means such as tamping, vibrating or rolling. A vibra plate tamper is not acceptable.

7. For Bituminous concrete roadways, upon completion of the proper backfill, a compacted 10 inch layer of bituminous concrete stabilized Base mix 1-2 shall be utilized on lifts of no more than three (3) inches (compacted thickness) in all trench areas.

For concrete roadways, upon completion of the upon completion of the proper backfill, pavement shall be restored utilizing 10 inches of Class B concrete with double wire reinforcing.

The specific requirements relative to the restoration of concrete roadways is covered in Section 23-1.12; Construction Specifications, of this Ordinance.

For both bituminous concrete and concrete roadways, the top surface shall be flush with the adjacent pavement and be uniformly contoured to the existing surrounding surface.

For concrete roadways, the concrete material shall be "plated" in accordance with the requirements of this Ordinance for a 28 day period to assure proper curing.

If "High Early" concrete is utilized, the excavation shall be "plated" for a minimum of 14 days.

Under the provisions of this Ordinance, to assure proper curing, prior to the possibility of the Borough needing to apply de-icing materials, concrete may not be installed after October 20th.

Should a roadway opening be made after that date, the pavement shall be restored using 10 inches of bituminous concrete stabilized Base Mix 1-2 installed in accordance with the provisions of this Ordinance.

The bituminous concrete stabilized based pavement shall be removed after April 1st of the subsequent calendar year and standard concrete pavement installed.

8. Applicant must install and maintain temporary line striping and pavement markings.

9. The applicant further agrees to keep the trench filled to the level of surrounding pavement until settlement has ceased. The Borough of Demarest shall be held harmless in any and all accidents arising out of trench defects.

10. a) After the Superintendent of Public Works has determined that the excavation has had a sufficient time period for settlement, final restoration will be undertaken using 2 inches (compacted thickness) of bituminous concrete

surface course Mix 1-5 to be placed over the entire area of stabilized base as determined by this office. The surface pavement shall be "infra-red" to assure a seamless transition between existing pavement and the road opening.

b) The resulting milled surface shall then be swept and tack coat material applied before the two (2) inch compacted surface course is laid. This course shall be thoroughly compacted flush with the surrounding surface by vibratory rolling and be uniformly contoured to the adjacent pavement.

c) When using infrared resurfacing application, all stabilized base material in the road opening plus a minimum of twelve (12) inches surrounding the edge of the opening require heating and raking to a depth of one (1) inch. All raked material to be discarded and replaced by fresh hot FABC top mix.

d) All manhole frames and covers installed within the pavement area shall be set to finished grade. Any scarring or road damage to any other part of a Borough roadway caused by this permit shall be repaired as per the above conditions.

11. When necessary to cross over, or under existing bridges or culverts under the jurisdiction of the county, no work whatsoever shall be performed until the Borough engineer has approved filed plans. There shall be a minimum of 12 inches separation between the Borough drainage system and the utility line.

12. The Borough requires an extended maintenance period of up to two years after permanent restoration and an additional maintenance bond depending upon the nature of the work involved. This additional obligation will be released upon completion and acceptance of the work by the Borough. The maintenance bond shall be executed by the permittee as principle and Surety Company licensed to do business in the State of New Jersey as surety.

13. No road opening permit will be issued between November 15th and March 15th unless an emergency exists, as previously defined. In the event an emergency exists and a permit is issued during this period, the applicant, by accepting this permit, assumes all responsibility for the safe maintenance of said opening and further assumes all liability for damages resulting from or any way connected to this project.

14. The use of steel plates on Borough roadways between November 15th and March 15th is prohibited. All steel plates that are installed on Borough roadways are to be countersunk, pinned, and ramped.

15. Applicant is responsible for complete and total restoration of opening and surrounding roadway for a period of up to two years after permanent paving. There are no exceptions. All escrow monies and bonds will be released at that time when all

workmanship connected with this project is deemed acceptable.

16. Certification of all underground facilities having been previously located and marked using standard color codes for gas, water and other utilities. Certification must indicate marking authorization number. Final line striping and pavement markings must be restored immediately to original or better condition. The standard for the Borough of Demarest for line striping and traffic markings is the application of 6" min. width hot extruded thermoplastic.

17. Additional Extensive Road Opening Requirements

- (a) Permanent pavement will be milled and paved from curb line to yellow center line from start to finish. If laterals are 100' apart or less, the entire road shall be milled and paved from curb to curb start to finish. Laterals that are more than 100' apart shall have infrared paving repairs.
- (b) Traffic lines with thermoplastic glass beads must be replaced.
- (c) Backfill quarry process with dust shall be compacted every 10 inches by mechanical vibratory compactor. The utility company/contractor shall be responsible for a period of two years to make repairs related to any settlement.
- (d) Before crossing over, or under existing bridges, drainage structures or culverts under Borough jurisdiction, the applicant must notify the Borough and no work whatsoever shall be performed until the Borough engineer has approved filed plans. (Every effort must be made to have a minimum separation of 12 inches between the outside of your pipes and our drainage structures).

b. *Guard.* The applicant shall keep the work site properly guarded both day and night and shall have lights, barriers and adequate safety devices as described in the Manual on Uniform Traffic Control Devices placed thereat and maintained throughout the performance of the work and shall interfere as little as possible with traffic along the street or road within the Borough, and only that part of any such street or road as is set forth in the permit shall be opened.

c. *Minimum Cover.* All utilities shall be constructed with a minimum cover as shown in Table I set forth below to provide protection for the utilities in the event that future Borough road construction, repair or modification necessitates excavation, undercutting or installation of facilities in the area where the utility is located. This location will in no way relieve the utility owner of the responsibility of relocating the utility at the utility owner's expense in case of conflict with future construction, reconstruction or modification of related facilities, except as otherwise specified herein. The aforementioned minimum cover may be waived by the Superintendent of Public Works or Borough Engineer if the applicant prepares and files certified plans indicating the

location, extent and depth of the facilities and the plans are approved by the Superintendent of Public Works or Borough Engineer. This subsection shall apply only to new construction.

Table I

Utility Designation	Minimum Cover* (inches)
Cable television	18
Electric	18
Gas	30
Telephone	18
Water	48

*NOTE: Measured from top of pipe, conduit, duct or cable to finished pavement or ground surface.

d. *Protection of Existing Structures.* It shall be the responsibility of the permittee to give proper notice of the proposed street opening to any person, firm or corporation whose pipe, conduits or other structures are laid in the portion of the street to be opened. The notice shall be given to all utilities by calling the One-Call Damage Prevention System at telephone number 1/800/272-1000 as provided by law, and the permittee shall restore same, at his own expense, to the condition it was in prior to commencement of work.

e. All excavations shall be completely backfilled at the end of each working day unless it would constitute a hardship to the permittee or where the size of the excavation makes it impossible to backfill at the end of each working day, in which event a waiver may be granted by the Superintendent of Public Works or Borough Engineer. In the event that a waiver is granted, the contractor or owner shall cover the excavation with heavy one (1) inch thick plates secured to existing pavement to prevent rattles and movement and erect appropriate barriers and lights around the entire excavation and arrange to provide appropriate security protection, if such security is necessary, at his own cost, and such other safeguards as may be needed to protect the public from an open excavation. If plates are placed for over a weekend or for an extended period, all edges are to be macadam-sealed and sloped. In no event shall an excavation be left open for more than seventy-two (72) hours unless an emergency exists and permission has been secured from the Chief of Police, Superintendent of Public Works, Borough Engineer or their designated representatives.

150-3.2 Maintenance of Work Site; Removal of Debris.

a. The permittee shall be liable for any damage to the roadway leading to or adjacent to the work site.

b. The permittee shall, on a continuing basis, maintain all streets and other property affected

by the construction in a clean condition free from all rubbish, excess earth, rock and other debris. Upon completion of all work under the permit, the permittee shall again clean the affected property and remove all debris and unused material. In the event that the permittee fails to act as provided herein, the Borough, upon twenty-four (24) hours' notice to the permittee, may clean and remove all rubbish, excess earth, rock, debris and unused material and charge the permittee the cost thereof. If the permittee fails to reimburse the Borough for the costs incurred, the costs shall be deducted from the permittee's deposit held by the Borough Clerk.

150-3.3 Inspections; Stop Work Order; Action by Borough.

The Superintendent of Public Works or Borough Engineer shall periodically inspect all road openings and the repair and resurfacing thereof for the purpose of determining compliance with the conditions imposed on the issuance of the permit and the specifications. The Borough may, upon the recommendation of either of them:

- a. Order a temporary stop to any road opening.
- b. Order that the applicant perform or correct work in accordance with the directions of the Borough.
- c. Order a stop to any work and revoke the permit, in which event the Borough of Demarest shall complete the work, or cause it to be completed, and either declare the applicant's deposit forfeited or notify the applicant's surety of an intent to file claim on the bond.
- d. Authorize the correction of any work after notification to the permittee and after the neglect or the refusal of the permittee to make such corrections within twenty-four (24) hours and, after the completion of same, either declare the permittee's deposit forfeited or notify the permittee's surety of an intent to file a claim on the bond.
- e. Take any other action deemed reasonable under the circumstances to protect the Borough's interests.

150-3.4 Construction Specifications.

No road opening shall be permanently paved until a final inspection has been made by the Borough Engineer or Superintendent of Public Works and final approval given.

- a. For all openings:
 1. The paved roadway surfaces shall be saw-cut or blade-cut vertically on a straight line with approved pneumatic equipment before excavating.
 2. The material excavated from the trench opening shall not be replaced as backfill unless expressly authorized by the Superintendent of the Department of Public Works or Borough Engineer. Excavated materials must be removed from the work site the day of excavation.
 3. The backfill of dense graded aggregated or bank run sand, where permitted, shall

be furnished from outside sources.

4. The uncompleted length of road opening allowed under a permit at any one time shall not exceed fifty (50) linear feet unless a special need can be established by the permittee and approval to exceed this limitation is secured from the Superintendent of the Department of Public Works or Borough Engineer. Such special need shall be noted in writing to the Superintendent of the Department of Public Works or Borough Engineer before such permission is granted, except in unusual cases and/or emergencies. In that event, such special need shall be documented in writing after approval is granted.

5. Where existing manholes are located in the shoulder areas, a minimum of two (2) inches (compacted thickness) of Hot Mix Asphalt Surface Pavement, Mix I-5 shall be placed for eight (8) feet on both sides of the manhole casting on four (4) inches of compacted dense graded aggregate stone sub-base. The width of the Hot Mix Asphalt Pavement Mix #I-5, shall vary to the dimensions of the existing shoulder.

6. All backfill shall be placed in six (6) inch layers, with each layer thoroughly compacted by mechanical means to the satisfaction of the Superintendent of Public Works or Borough Engineer. The Superintendent or Borough Engineer shall have the right to require a compaction test to be performed by an independent laboratory at the expense of the permittee.

7. After proper compaction and cutback of the road, the entire width of the trench plus a four (4) inch overlap shall be paved with the temporary pavement.

b. *Asphalt Pavement Openings.*

1. For openings in bituminous concrete or penetration macadam pavements, backfill material shall be deposited in one (1) foot layers and thoroughly compacted to a level twelve (12) inches below the surface level of the adjacent paved surfaces. The opening shall be cut back six (6) inches beyond the edges of the trench opening. The sub-base course shall be dense graded aggregate four (4) inches compacted thickness. The base course shall be Hot Mix Asphalt Mix I-2 (stabilized base six (6) inches thick (compacted thickness) placed in three (3) lifts. The surface course shall be two (2) inches (compacted thickness) of Hot Mix Asphalt Surface Pavement Mix I-5 with all joints between the existing pavement and the bituminous concrete surface course to be sealed with a tack coat.

2. When road openings are in sequence or are within three (3) feet of another opening, the surface area of the combined openings will be paved to form one (1) continuous surface. The surface course shall be two (2) inches (compact thickness) of Hot Mix Asphalt Surface Pavement, Mix I-5 with all joints between the existing pavement and the bituminous concrete surface course shall be sealed with a tack coat.

3. The temporary pavement shall consist of four (4) inches (compacted thickness) dense graded aggregate sub-base and the Hot Mix Asphalt Pavement Mix I-2 (stabilized base) course described herein.

The temporary pavement shall be placed and compacted one (1) inch below the finished

surface of the existing pavement and shall be maintained at this level by the permittee by the addition of Hot Mix Asphalt Surface Pavement, Mix I-5 until final settlement has occurred. After the Borough Engineer and/or Superintendent of Public Works has determined that final settlement has occurred, the pavement shall be completed by the placing and compaction of additional Hot Mix Asphalt Surface Pavement, Mix I-5, level with the existing pavement. Prior to placing the additional Hot Mix Asphalt Pavement, the pavement shall have "tack" applied.

c. *Concrete Pavement Surface Openings.* For all openings in concrete surfaces, the trench backfill shall be compacted in one (1) foot layers to a level four (4) inches below the top of the adjacent paved surface. The openings shall be cut back six (6) inches beyond the edges of the trench opening. Four (4) inch (compacted thickness) of Hot Mix Asphalt Pavement Mix I-2 (stabilized base) temporary pavement shall then be placed in two (2) inch lifts, compacted level with the existing pavement and shall be maintained by the permittee to a pavement, level with the existing pavement by adding additional Hot Mix Asphalt Pavement material until final settlement has occurred. After the Borough Engineer and/or Superintendent of Public Works have determined that final settlement has occurred, the temporary Hot Mix Asphalt Pavement shall be removed and the opening excavated to a depth of ten (10) inches and a pavement of Class "B" concrete, ten (10) inches in depth shall be constructed level with the existing pavement surface. The Class "B" concrete pavement shall be reinforced with a double level of 6 x 6, No. 6 gauge wire mesh reinforcing and shall be placed in the opening and extend fully into the cutback shelf. The "bottom" wire reinforcing shall be set eight (8) inches from the roadway surface. The "upper" reinforcing shall be set two (2) inches from the pavement surface.

The concrete pavement shall be "finished" to "match" the roadway surface or with a "broom" finish as directed by the Borough Engineer or Superintendent of Public Works.

After the concrete has been placed and if the roadway is to be opened to traffic prior to full "curing" of the concrete pavement, the roadway shall be "plated" with standard highway plates capable of supporting H20 loading. The plate shall extend a minimum of six (6) inches beyond the limits of the new concrete pavement. The plates shall be secured and installed in accordance with current New Jersey Department of Transportation specifications including temporary ramping and shall remain in place for a minimum of twenty-eight (28) days to permit curing of the concrete.

If "high early" concrete is utilized, the plates shall remain in place a minimum of fourteen (14) days.

d. *Nonpaved Area.* All grass or graveled area or sidewalk areas disturbed within the Borough right-of-way shall be reconstructed, topsoiled, seeded and mulched within fourteen (14) days of completion of excavation. All concrete areas will be thoroughly compacted. These limits may be waived by the Superintendent of the Department of Public Works or the Borough Engineer only when abnormal temperatures or inclement weather necessitates the same.

e. All work shall be guaranteed for a period of twelve (12) months.

f. *Openings Undertaken Within Five Years of Resurfacing.* If a utility opening is undertaken less than five (5) years after a roadway has been resurfaced, the utility shall be required to profile and resurface that portion of the roadway deemed necessary by the Borough Engineer and/or

Superintendent of Public Works.

- g. All roadway excavations be "sawcut."
- h. Roadway openings shall be restored using infrared pavement restoration.

150-4.1 Insurance; Deposits.

- a. *Insurance.* The applicant shall present evidence satisfactory to the Borough Attorney or Risk Manager of insurance sufficient to indemnify and save harmless the Borough, its agents and servants against and from all suits and costs of every kind and from all personal injury or property damage resulting from negligence or from any phase of operations performed under the permit.
- b. The minimum policy limit of such insurance shall be as follows:
 - (1) Bodily injury liability coverage with limits of not less than one million (\$1,000,000.00) dollars for bodily injury, including accidental death, to any one person, and subject to that limit for each person, in an amount not less than two million (\$2,000,000.00) dollars for each accident; and property damage coverage in the amount of not less than five hundred thousand (\$500,000.00) dollars for each accident;
 - (2) One person in any one accident -- amount of one million (\$1,000,000.00) dollars;
 - (3) Two or more persons in any one accident -- amount of two million (\$2,000,000.00) dollars in the aggregate; and
 - (4) Property damage in any one accident -- amount of five hundred thousand (\$500,000.00) dollars with aggregate property damage limit of one million (\$1,000,000.00) dollars.
- c. Where there is an extensive opening, the Superintendent of the Department of Public Works or the Borough Engineer may request additional insurance if it is deemed necessary under the circumstances.
- d. *Security.*
 - 1. The Building Department shall not issue a permit unless the applicant has deposited as security for faithful performance a certified check made payable to the Borough of Demarest or filed a bond with a surety satisfactory to the Borough Attorney, the amount thereof to be based upon the security deposit fee schedule as contained in subsection 150-3.14 for the work to be performed.
 - 2. A public utility applicant may, in lieu of the security required above, deposit an annual corporate bond in the amount of at least twenty thousand (\$20,000.00) dollars. The

surety bond shall be renewed annually. In the event that a public utility applicant applies for a permit for road opening and/or road openings and the required security deposit fee set forth in subsection 23-1.14 exceeds the twenty thousand (\$20,000.00) dollars the public utility applicant shall file a surety bond in an amount equal to the difference between the twenty thousand (\$20,000.00) dollars and the required security deposit. For all nonpublic utility applicants, the surety bond shall be at least one thousand (\$1,000.00) dollars. A certified check for a lesser amount may be deposited, however, in the amount provided by subsection 23-1.14 for the work to be performed.

3. Upon satisfactory completion of all work permitted or required under the permit for extensive openings, if the security deposit is two thousand (\$2,000.00) dollars or less, the Borough of Demarest will retain one hundred (100%) percent of the security deposit as security for maintenance of the work for a period not to exceed one (1) year from the date of completion, provided that if the security deposit is in the form of a certified check, the permittee may deposit a surety bond of two thousand (\$2,000.00) dollars satisfactory to the Borough Attorney in lieu of the certified check. If the security deposit is greater than two thousand (\$2,000.00) dollars, then the Borough will release or refund sixty (60%) percent or more of the same with the approval of the Superintendent of the Department of Public Works or Borough Engineer, and the surety bond will be deposited for the maintenance as set forth above. All bonds and certificates of insurance shall contain a provision that the same shall remain in full force and effect for a period not to exceed one (1) year after the last work under any permit has been completed and accepted by the Borough.

4. In the case of a small opening, the borough shall retain the security deposit for six (6) months after satisfactory completion of all work permitted or required under the permit, provided that if the security deposit is in the form of a certified check, the permittee may deposit a security bond in lieu of the check.

e. *Application Fee and Escrow Deposit.*

1. The applicant shall also pay, by separate money order, certified check or, if the applicant is a public utility as herein defined, by a corporate check, a nonrefundable application fee as set forth in subsection 23-1.14. Applications other than a public utility shall pay, by separate money order or certified check, a refundable escrow deposit fee for inspection and professional services as set forth in subsection 23-1.14. Should the escrow deposit fee account at any time become insufficient to cover the actual or anticipated inspection and professional expenses, the fund shall be subject to increase on demand of the Building Department.

2. The Borough shall pay from the escrow deposit fee any costs incurred by its designated representatives or professional consultants for inspection or other engineering services or legal fees required in connection with the proposed opening or excavation at the

rate established.

150-5.1 Fees.

Fees shall be as follows:

a. *Application fee, Nonrefundable (Other Than Public Utilities).*

1. Road opening:

(a) Width of road opening.

(1) Two hundred fifty (\$250.00) dollars for one-half (1/2) the width of the road being opened.

(2) Five hundred (\$500.00) dollars for the full width of the road being opened.

(b) Length of road opening.

(1) Five (\$5.00) dollars per linear foot.

(c) From twenty-five (25) linear feet to fifty (50) linear feet by three (3) feet wide: an additional forty (\$40.00) dollars.

(d) Extensive openings: seventy-five (\$75.00) dollars.

2. Boring, tunneling or driving under road: lump sum minimum of seventy-five (\$75.00) dollars.

3. Curb, gutter, apron, sidewalk or driveway: lump sum of fifteen (\$15.00) dollars when affected by excavation.

4. Application fees shall be accumulated in one (1) account for each public utility, and the funds can be utilized for the payment of expenses incurred by the Borough for any work performed for the permittee without restriction as to which application the funds were originally posted for.

5. In lieu of individual application fees, public utilities may pay fees of two hundred fifty (\$250.00) dollars.

b. *Application Fee, (Utilities).*

1. Road Opening: Public Utilities shall pay an annual flat fee of two thousand Five Hundred (\$2,500.00) dollars per year, on or before January 15th of each year, beginning

January 1, 2022 and thereafter.

- c. Security deposit fee for guaranteeing restoration, pavement curbing or topsoil:
 1. Opening paved area, curb, gutter, sidewalk or driveway:
 - (a) Base charge: twenty-five (\$25.00) dollars.
 - (b) Charge for each square yard of trench opened: fifteen (\$15.00) dollars.
 - (c) Charge for each square yard of paving: five (\$5.00) dollars.
 - (d) Charge for each linear foot of curb: seven (\$7.00) dollars.
 2. Opening shoulders and roadside areas:
 - (a) Base charge: twenty-five (\$25.00) dollars.
 - (b) Charge for each square yard of trench opened: five (\$5.00) dollars.
 3. Boring, tunneling or driving under the road:
 - (a) Base charge: twenty-five (\$25.00) dollars.
 - (b) Charge per linear foot of boring: one (\$1.00) dollar.

d. *Escrow Deposit Fee for Engineering and Legal Costs.*

1. All road openings, excavations, borings and other work as stated on the permit application:

The Minimum escrow amount shall be \$2,500.00.
2. Actual payment from the escrow deposit fee fund shall be based upon the following rates:
 - (a) Professional engineering services: To be billed at the current hourly rate of the Borough Engineer.
 - (b) Attorney: minimum fee of one hundred fifty (\$150.00) dollars per hour.
 - (c) An inspection fee of \$375.00 covering a minimum of 3 inspections, (\$125.00 per hour will be charged for any additional inspections).

150-5.2 Return of Deposit Upon Completion of Work.

Upon the completion of any such work, the Superintendent of the Department of Public Works or Borough Engineer shall file a report on a form to be furnished for that purpose, which report shall contain the date of completion, the amount of deposit, the cost to the Borough for resurfacing the area so excavated or opened, if the same shall have been necessary, and the balance, if any, due to the applicant. Upon receipt of the report by the Building Department, the balance due, if

any, to the applicant on account of any deposit shall be forthwith returned.

150-6 Violations and Penalties.

Any person, who shall violate any of the provisions of this section shall, upon conviction, be liable to the penalty stated in Chapter 150, Section 12. In case of failure to restore pavements or roads or streets as hereinabove provided, after written notice by the Borough Clerk to do so, each day that such pavements, roads or streets remain unrestored shall constitute a separate offense.

REPEALER

All Ordinances or parts of Ordinances inconsistent herewith are repealed as to such inconsistencies.

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the

validity of the remaining portions thereof.

EFFECTIVE DATE

This ordinance shall take effect upon passage and publication as provided by law.

ATTEST:

BOROUGH OF DEMAREST

Susan Crosman
Susan Crosman, RMC, Borough Clerk

Melinda J. Iannuzzi
Melinda J. Iannuzzi, Mayor

Introduced:

May 24, 2021

Motion by:

Mr. Carroll

Second by:

Mrs. Fox

Introduction Roll Call:

Ayes: Mr. Carroll, Mrs. Fox, Mr. Connelly, Mrs. Kuryls, Mrs. LaPira
Nayes:
Absent:

Adopted:

June 28, 2021

Motion by:

Mrs. Fox

Second by:

Mrs. Hamilton

Adoption Roll Call:

Ayes: Mrs. Fox, Mrs. Hamilton, Mrs. LaPira, Mr. Connelly
Nayes:
Absent: Mr. Carroll, Mrs. Kuryls

I hereby certify the foregoing to be a true copy of an ordinance adopted by the Mayor and Council at a meeting held on June 28, 2021.

Susan Crosman
Susan Crosman, RMC, Borough Clerk