

**TOWNSHIP OF HILLSIDE
COUNTY OF UNION, STATE OF NEW JERSEY**

ORDINANCE NUMBER O-18-09

**ORDINANCE AMENDING THE TOWNSHIP OF HILLSIDE TOWNSHIP CODE
BY ADDING CHAPTER 255 "EXCAVATIONS".**

WHEREAS: N.J.S.A. 48:3-11 requires public utilities to obtain the consent of a municipality prior to installing, repairing, or removing pipes or wires below the streets; and

WHEREAS the telephone utility is governed specifically by N.J.S.A. 48:17-10, the water utility is governed by N.J.S.A. 48:29-17 and gas/electric is governed by N.J.S.A.

WHEREAS statutes require that the appropriate licensed municipal code official shall be noticed at least 24 hours prior to any construction or excavation; and

WHEREAS the statutes further allows municipalities to pass legislation, specifically ordinances, establishing procedures regarding the placement, replacement or removal of poles or underground equipment of the utilities; and

WHEREAS the municipality is authorized to impose a fine up to \$100 per day until its specified requirements are met; and

NOW THEREFORE BE IT ORDAINED that the aforementioned recitals be and are hereby incorporated as if set forth fully herein; and

BE IT FURTHER ORDAINED THAT Chapter 255 be designated as "Excavations" with the body of that Chapter being set forth as follows:

Definitions:

Emergency Work: Work required to be performed by a utility company in order to preserve public safety, life and property.

Public Utility: an organization supplying a community with electricity, gas, water or sewerage:

EXCAVATIONS

§255-1 A. No person shall open, dig or excavate any street, avenue, sidewalk or public place, or take up, obstruct or disturb the pavement, curbing, guttering, flagging or other surface laid thereon, or dig, excavate or disturb the subsurface thereof in any way for any purpose whatsoever, without first obtaining from the Director of Public Works a permit therefor, provided that no such permit shall be required for opening, digging, excavating, taking up, obstructing, disturbing or other act in pursuance of some statute, franchise or grant of the state; and provided, further, that, in case of accident or emergency requiring immediate action, such permit may be obtained within 24 hours after the work thereunder is begun.

§255-1 B Certificate of insurance required.

No person shall be granted a permit to open any street unless he shall furnish a certificate of insurance from a responsible insurance company authorized to do business in New Jersey, to be filed with the Director of Public Works, showing that he is adequately insured against liability and property damage claims. The minimum amount of such comprehensive public liability insurance shall be \$1,000,000 for each claim for bodily injury, \$3,000,000 for multiple claims for bodily injury arising from a single accident and \$1,000,000 for property damage for a single accident. As such insurance shall remain in full force and effect throughout the effective period of the permit as well as any authorized extensions thereof, all such insurance shall carry an endorsement to the effect that the insurance company will provide at least 10 days' written notice to the Township prior to any modification or policy cancellation. The Township shall be named as additional insured on all such insurance certificates or the certificate shall contain adequate cross-indemnification provisions in favor of the Township. The certificate of insurance shall be in legal form satisfactory to the Township Attorney.

§255-2. Applications for permits; issuance; duration.

The Director of Public Works, upon application therefor, shall issue permits for such acts referred to in the preceding section, subject to the conditions of this chapter. All permits shall have a duration of 60 days with one thirty-day extension. No extension shall be granted which allows permits to expire past the street opening moratorium date. There shall be a street opening moratorium for nonemergency street openings beginning on November 15 of each year and ending on January 31 of the following year. In the event of an emergency, the requirements pertaining to permitted roadway openings can be waived at the sole discretion of the Director of Public Works.

§255-3. Application fee; filing of plan.

A.

Utility companies. The applicant for a permit under this chapter, if a utility company operating under the jurisdiction of the Public Utilities Commission, shall first pay to the Collector of Taxes a nonrefundable permit fee for each square foot of roadway opening, based on a chart entitled "Roadway Opening, Permit Fees, (Utility Company), Township of Hillside" which is attached hereto and made part hereof; and/or \$3 for each square foot of roadway opening involving a vault or manhole; and/or \$0.25 for each square foot of sidewalk opening; and/or \$2 for each square foot of sidewalk opening involving a vault or manhole. All such utility companies shall also provide the Township of Hillside with a performance bond in the amount of \$50,000 at the time that application to perform the roadway opening is submitted to the Township for approval. The surety shall be issued by a firm licensed to sell surety bonds in the State of New Jersey. All such utility companies shall also provide the Township of Hillside with a one-year maintenance bond for each roadway opening made in the amount of \$10,000. The surety shall be issued by a firm licensed to sell surety bonds in the State of New Jersey.

B.

Other applicants. All other applicants for a permit under this chapter shall first pay to the Collector of Taxes a nonrefundable permit fee of \$1 for each square foot of roadway opening and/or \$0.25 for each square foot of sidewalk opening.

C.

Receipt and filing of plan. All applicants, including utility companies, shall, upon paying the required fee or fees, obtain a written receipt therefor and present the same to the Director of Public Works along with a plan showing the extent and location of the work to be done and the time when it will be commenced and completed.

§255-4. Contents of permit.

The permit issued pursuant to this chapter shall state, in effect, that the receipt has been presented and plan filed as aforesaid and shall recite the time within which the work shall be completed.

§255-5. Deposit and inspection required.

No permit required by this chapter shall be issued unless, at the time of application therefor, there shall be deposited with the Collector of Taxes and Revenue such sum as shall be reasonably sufficient to cover the cost and expense to the Township of supplying the necessary material and labor or otherwise providing for repairing, repaving, replacing or otherwise restoring such street, avenue, highway or public place so opened, dug, taken up, obstructed, excavated or disturbed, and providing against future subsidence thereof. The amount of such deposit shall be \$4 for each square foot of roadway opening; \$6 for each square foot of roadway opening involving a vault or manhole; \$1 for each square foot of sidewalk opening; and \$4 for each square foot of sidewalk opening involving a vault or manhole. An inspection fee of \$50 shall be charged for all sidewalk, driveway, curb and leader drain work. For all roadway opening work, a fee of \$75 shall be charged. This fee shall be paid at the time the permit is applied for. In the event that the inspection time exceeds three hours in the aggregate, an additional charge of \$20 per hour for inspection time shall be charged.

§255-6. Return of deposit.

One hundred percent of the balance of such deposit, if any, shall, one calendar year after the date of approval of such work, be paid to the applicant for such permit upon the presentation to the Chief Financial Officer, in writing, of such approval by the Director of Public Works.

§255-7. Bond in lieu of deposit.

The Director of Public Works may accept from an applicant for a permit under this chapter, in lieu of the deposit required by this chapter, a bond in amount and with surety satisfactory to the Director of Public Works, conditioned for the payment by the applicant to the Township, upon the written demand of the Director of Public Works, of a sum sufficient to cover the cost and expense to the Township of supplying the necessary material and labor or of otherwise providing for repairing, repaving, replacing or otherwise restoring, as aforesaid, such street, avenue, highway or public

place, and of the cost of repairing any future subsidence thereof in the event of such work being caused to be done, in whole or in part, by the Director of Public Works. In the case of persons who, in the ordinary course of their business, require permits from time to time during a stated period, the Director of Public Works may accept, in lieu of the deposit or bond required by this chapter for such permit, a general bond in amount and with surety satisfactory to the Director of Public Works, covering the work, in whole or in part, to be done under any and all permits issued during such stated period and conditioned as aforesaid. All surety bonds shall have an effective date that coincides with the date of issue of the permit and a life of one calendar year.

§255-8. Restoration of surface to original condition.

Excavations or openings, after the purpose thereof is accomplished, shall consist of the excavation of the roadway surface course, intermediate course, base course and subbase, the placing of pipe or conduit in the trench and backfilling and paving.

A.

Materials. Materials shall be as specified herein and shall conform to the current version of the New Jersey Department of Transportation Standard Specifications, as amended and supplemented.

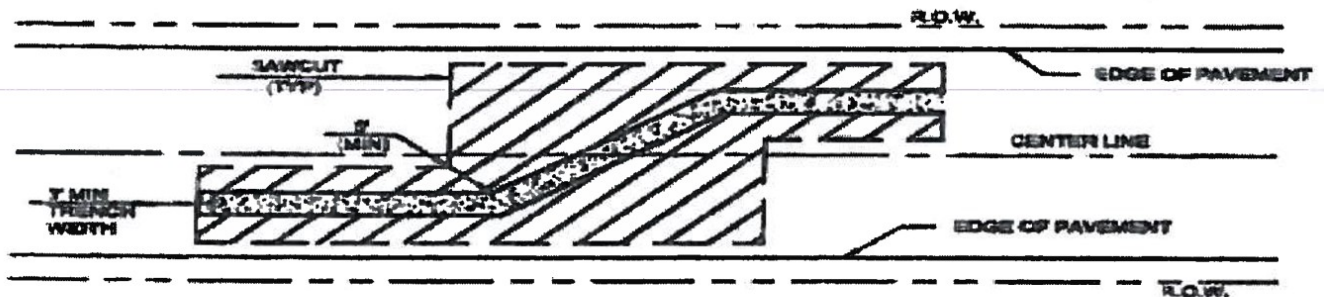
B.

Method of construction.

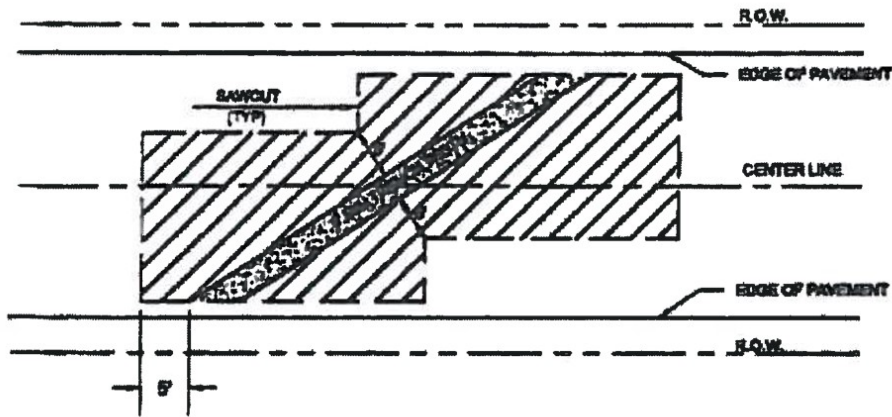
(1)

A neat line shall be saw cut in the pavement. The saw cut line shall extend five feet beyond the width of the trench on each side of the trench. See details below:

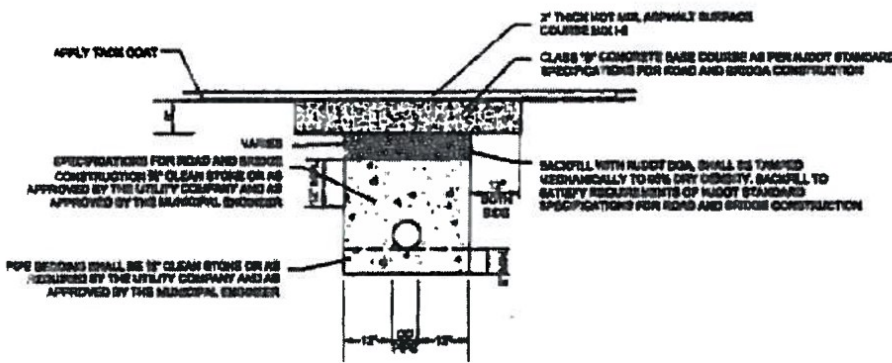
Plan View - Horizontal and Vertical Cuts



Plan View - Mixed



Plan View - Mixed Cut



Section through Trench

(2)

The existing pavement, base and subbase material shall be excavated in such manner and using such equipment so as to prevent damage to existing utility lines and conduit which are to remain. The excavation of material within the vicinity of utility lines shall be performed by hand. All material removed from the trench shall be immediately removed from the site.

(3)

The utility company/contractor shall replace/install its pipe or conduit. Prior to the installation of conduit or pipe, the contractor shall place a layer of pipe bedding, Class "B" or three-fourths-inch crush stone, six inches below the pipe. The stone shall be thoroughly compacted. Pipe should then be installed. Pipe bedding, Class "B," shall be placed a width of 18 inches on each side of the pipe and above the pipe for a distance of two feet. Work should not be performed on wet, muddy or frozen areas. All irregularities must be corrected.

C.

Backfill.

(1)

The contractor shall provide subbase as described in Section 208 of the NJDOT Standard Specifications. Material shall be free of clay, large stones and organic matter.

(2)

Backfill shall be placed in six-inch lifts and compacted to 95% dry density. Backfill shall be placed until a space of 10 inches exists between the top of the compacted backfill and the finished grade of the roadway.

(3)

A concrete base course, eight inches thick, as described in Section 305 of the NJDOT Standard Specifications, shall be poured, properly worked and allowed sufficient time to adequately cure. During the time that the concrete is setting up, the contractor shall provide adequate safeguards in the form of steel plates to cover the trench and or sufficient barricades with flashing lights and signage as necessary to warn and direct vehicular and pedestrian traffic. Next, apply tack coat, at the rate of 0.08 to 0.15 gallon per square yard to the top of the concrete base and all edges of the trench. Special care should be taken to ensure that all trench edges are thoroughly coated with tack coat prior to the placement of the Mix I-5.

(4)

Place hot mix asphalt surface course Mix I-5, two inches thick. Meet existing grade, do not exceed grade level by more than 1/4 inch at center of trench. Compact and roll thoroughly.

(5)

Permanent pavement shall be placed immediately after the concrete base is sufficiently cured. All work shall be done to the satisfaction and approval of the Director of Public Works within the time limited in the permit. Failure to complete the permitted work within the time frame shown on the permit will result in liquidated damages of \$50 per calendar day being assessed against the permittee. The applicant warrants the street opening repair for a period of one year from the date of final inspection and acceptance.

§255-9. Failure to restore.

In the event of the failure of the applicant to restore the surface to its original condition, the Director of Public Works may, at the option of the Director of Public Works, cause the excavation or opening to be filled, rammed, packed and puddled and the surface replaced and restored, either in whole or in part, and the expense thereof or incurred thereby, including the cost of any new material, shall be deducted from the deposit theretofore made. The Township shall, in addition to any sums so deducted, retain 15% of such deposit, which 15% is hereby estimated to be the cost of repairing any future subsidence of such surface, and such sums so deducted or retained shall be reported by the Director of Public Works to the Collector of Taxes.

§255-10. Guarding and safety lights required.

All excavations or obstructions shall be properly guarded or caused to be so guarded by the permittee under this chapter and shall be provided with safety lights at night from the time when the work shall be commenced until the work is completed.

§255-11. Traffic control.

All traffic control plans shall comply with the latest edition of New Jersey Department of Transportation Specifications for Roads and Bridges, Sections 617.09 and 617.10, and with the Manual of Uniform Traffic Control Devices, Part 6. All road construction, traffic control or public

safety functions required which interfere with motor vehicle traffic on Township streets (curb to curb) shall require the use of a uniformed police officer. The applicant is required to contact the Hillside Police Department, Outside Employment Unit, at least 48 hours in advance of opening to schedule traffic protection.

§255-12. Notification of impending work.

A.

Any party making an excavation in the Township's right-of-way shall notify, in writing, residents of properties abutting the proposed work area. This notification shall contain the following:

(1)

The name of the company performing the work.

(2)

The nature of the work being performed.

(3)

When the project is scheduled to commence.

(4)

Daily work hours.

(5)

When the project is scheduled to be completed.

B.

A copy of the written notice is to be provided to the Department of Public Works at the time the roadway opening permit is applied for. This notice shall be delivered to each property on the street where the work is to be done at least 24 hours before work is scheduled to commence. All contractors are to follow the Township's Noise Ordinance during the prosecution of their work. For emergency work, the notice is to be delivered on the day that work is being done.

§255-13. Violations and penalties.

There shall be a penalty of \$250 for all nonemergency street openings made without a valid permit. There will be a penalty of \$100 for failure to submit a permit application for an emergency roadway opening within 24 hours of street opening. There will be a penalty of \$100 for failure to adequately notice affected residents and the Department of Public Works of proposed work.

First Reading and Introduction: June 26, 2018

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
		Cook	X				
X		DeAugustine	X				
		Epps	X				
		Mobley	X				
		Mondella	X				
	X	Freedman, CVP	X				
		Hyatt, CP	X				

Public Hearing: July 24, 2018

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
X		Cook	X				
		DeAugustine					X
		Epps	X				
		Mobley	X				
	X	Mondella	X				
		Freedman, CVP	X				
		Hyatt, CP	X				

Final Adoption: July 24, 2018

MOTION	SECOND	NAME	YEAS	NAYS	ABSTAIN	ABSENT	EXCUSED
X		Cook	X				
		DeAugustine					X
		Epps	X				
		Mobley	X				
		Mondella	X				
	X	Freedman, CVP	X				
		Hyatt, CP	X				



Andrea Hyatt, Council President

ATTEST:



Lorraine N. Messiah, Acting Township Clerk

Approved: _____



Dahlia O. Vertresc, Mayor

8-13-2018

Date

Vetoed: X

Returned to the Township Clerk with the following statement of objections:

Ordinance exists with similar language. Reverse
original ordinance to avoid conflict or
confusion. Discussion needed to amend 265