

**ORDINANCE 2025-14**

**AN ORDINANCE OF THE BOROUGH OF MANTOLOKING, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 17 OF THE CODE OF THE BOROUGH OF MANTOLOKING ENTITLED “STREETS AND SIDEWALKS”**

**NOW THEREFORE, BE IT ORDAINED** by the Council of the Borough of Mantoloking in the County of Ocean, State of New Jersey that Chapter 17 of the Code of the Borough of Mantoloking is hereby amended as follows;

**SECTION 1.** The Borough Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend § 17-1.9A entitled, “Excavator fees,” so as to read in its entirety as follows:

**§ 17-1.9. Excavator fees.**

- A. Basic fee. For every opening or excavation, the basic permit fee shall be two hundred fifty (\$250.00) dollars.
- B. Fee for technical review and services. In addition to the basic fee of two hundred fifty (\$250.00) dollars, the applicant shall be obligated to pay the Borough's actual cost for technical review of the application. The Borough Clerk shall obtain an estimate of the review fee from the Borough Engineer and advise the applicant of the fee estimate. The application shall not be complete for review until all information in the nature of plans, specifications and survey and/or soil borings, if required, together with funds (cash or check acceptable to the Clerk) sufficient to pay the estimated review fee have been delivered to the Clerk. Upon completion of the technical review, the applicant shall receive a refund or credit for any unearned review fees. In the event that the actual cost of review exceeds the cost estimated, the applicant shall pay such documented increase, if any, before any permit will issue.
- C. The permittee shall, upon completion and before discharge of surety or refund of cash bond, pay all fees and disbursements of the Borough Engineer incurred in conjunction with the work for which the permit was granted. Permittee shall receive credit for all sums paid on account at issuance of permit.

**SECTION 2.** The Borough Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend § 17-1.11 entitled, “Road openings for individual connections of utilities,” so as to read in its entirety as follows:

**§ 17-1.11. Road openings for individual connections of utilities.**

- A. Purpose. The purpose of this subsection is to provide a process for and to regulate openings and excavations and restoration of the public streets, easements, highway roads and rights- of-way in the Borough of Mantoloking for the purpose of installation, replacement or repair of utilities to and for the benefit of individual lots (one (1) or more),

known as "minor" openings.

B. Definition. As used in this subsection, MINOR OPENINGS — Shall mean any excavation, cut or removal of pavement of less than seventy-five feet necessary to install, replace or maintain a service connection to one or more individual lots.

C. Regulations.

- (1) No person, firm or entity shall excavate, cut or remove any pavement, curb, sidewalk or like facility within the public right-of-way without first obtaining a municipal road opening permit for such work.
- (2) The Borough Clerk shall provide, to any person interested, a Municipal Road Opening Permit application form. Upon receipt of a complete application and the required fee, of two hundred and fifty (\$250.00) dollars, the application shall be forwarded to the Borough Engineer for review. The form of application shall be as specified in § 17-1.2 of this chapter, together with a competent written rationale, which sets forth the applicant's need for and justification of the proposed road opening.
  - a) Whenever, in the reasonable discretion of the Borough Engineer, the application requests approval of a project which can reasonably be completed without undermining, cutting and/or excavating a paved road roadway surface, the permit issued for work within the right way shall prohibit such disturbance of paved roadway surfaces.
  - b) Whenever, in the reasonable discretion of the Borough Engineer, the application requests approval of a project which requires undermining, cutting, or excavating a paved roadway surface to accomplish a legitimate goal, the permit issued shall allow the specific disturbance of a paved roadway surface necessary to complete the project.
- (3) The Municipal Road Opening Permit shall be conditioned upon the posting of cash surety in a sum sufficient to cover the cost of roadway restoration. The surety shall be released upon preliminary inspection of the restored roadway by the Borough Engineer.
- (4) The permit shall be conditioned upon the permittee's undertaking, by accepting the permit, to guarantee to the Borough that the restoration will, in all respects, comply with performance specifications of this subsection as amended. The guarantee shall expire one (1) year following the restoration of the paved surface. In the event of the appearance of defective work within the one (1) year period the owner of the property shall, upon the written direction of the Code Enforcement Officer, promptly take such action as shall be necessary to achieve compliance with the specified standards. In the event that the owner shall fail to, within one hundred twenty (120) days following notice, completely correct the deficient condition to the reasonable satisfaction of the Code Enforcement Officer, the Borough may, at its cost, do so and in that event, all costs, direct and indirect, shall be charged against the lot or lots, as a municipal lien, subject to collection in the manner permitted by law. The failure of

any owner to provide the corrective work and/or pay the reasonable cost of such corrective work, upon demand, shall be a violation of this section and the owner shall be subject to the penalties set forth in § 17-5.

- (5) In the event of circumstances of emergency and wherein the Borough Clerk and Borough Engineer are not available to process applications in the ordinary course of business, the Mayor, or in his or her absence, the President of Council, may issue an emergency road opening permit and such emergency permit shall be subject to all of the conditions of this section.

D. This amendatory Subsection 17-1.11 is supplementary to and not in derogation of any of the provisions of Ordinance 281, codified as § 17-1, Subsections 17-1.1 through 17-1.10. All of the provisions of Ordinance 281 which are not eclipsed by or in clear conflict with this subsection shall remain in full force and effect. This subsection shall be construed, interpreted and enforced to the attainment of the goal that disturbance of paved roadways shall be minimized (avoided) whenever to do so is reasonably practicable. The requirements of the installation, replacement or repair of utility "main" lines is not impacted by this subsection, all of which remain subject to the provisions of Ordinance No. 281 (codified as Subsections 17-1.1 through 17-1.10) as initially adopted.

**SECTION 3.** The Borough Code of the Borough of Mantoloking is hereby amended and supplemented so as to amend § 17-3.1 entitled, "Removal of obstructions on sidewalks; height of brush and trees at intersections," so as to read in its entirety as follows:

**§ 17-3.1 Removal of obstructions on sidewalks; height of brush and trees at intersections.**

In order to provide for the free and unobstructed use of sidewalks and in order to prevent any visual obstructions to the streets of the Borough, the Code Enforcement Officer may serve written notice upon any owner or tenant of lands in the Borough, requiring that such owner or tenant shall within ten (10) days of such notice remove from or over the sidewalks abutting his property, impediments of any nature whatsoever and cut all brush, hedges and other plant life growing within ten (10) feet of any road and within twenty-five (25) feet of the intersection of two (2) roadways to a height of not more than two and one-half (2.5) feet where it shall be necessary and expedient for the preservation of the public safety as such notice may specify. It is the intention of this section that the sidewalks shall be clean and unobstructed full width and to an elevation not less than eight (8) feet over the sidewalks, and that the streets of the Borough shall be free from all visual obstructions caused by brush, hedges and other plant life growing within ten (10) feet of any street and within twenty-five (25) feet of the intersection of two (2) streets.

**SECTION 4.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 5.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by a 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 hereof.

**SECTION 6.** This ordinance shall take effect after second reading and publication as required by law.

