

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20, STREETS AND SIDEWALKS, AND  
SUBSECTIONS 20-1 ET SEQ OF THE REVISED GENERAL ORDINANCES OF THE  
TOWNSHIP OF WEST ORANGE**

**BE IT ORDAINED**, by the Township Council of the Township of West Orange, in the county of Essex, State of New Jersey as follows (*italic type denotes deletion, bold type denotes addition*):

Section 1. Subsection 20-1.1. Permit Required.

No person shall open, dig up, or excavate any street or sidewalk, or any portion thereof for the purpose of connecting any pipe or conduit pipe with a water or gas main, or for any other purpose whatsoever, unless the applicant shall first obtain a permit from the Township Engineer. In the event that an emergency condition exists.

- 1. In the event that an emergency condition exists requiring immediate action by any person, utility or corporation requested 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 has notified the Township of West Orange Police Department prior to the start of work, who shall log the emergency.**
  - b. A permit is applied for within 24 hours of the road opening or on the next business day, whichever is more practical.**
  - c. All work is performed in accordance with the provisions of this Chapter.**

Section 2. Subsection 20-1.2. Provisions of Permit; Fee.

The permit shall be in writing, signed by the Township Engineer or his/her representative and shall state, as nearly as practicable, where the opening, digging up or excavating is to be done. The permit shall contain the further stipulation that it is issued with the express understanding and agreement that the applicant theretofore shall pay the expense of repairing and replacing the street or part thereof, so

opened, dug up or excavated, to the satisfaction of the Township Engineer. Upon issuance of the permit, the applicant shall pay to the Township a fee, in accordance with the following schedule, for the cost and expense of issuance and inspection.

<b>Fee Schedule</b>	
<b>Road Opening Permit</b>	
<b>Area of Opening</b>	<b>Fee</b>
Less than or 50 square feet	( <i>\$25.00</i> ) <b>\$50.00</b>
More than 50 square feet	( <i>\$0.50 per square foot</i> ) <b>\$1.00 per square foot</b>
Minimum Fee	( <i>\$25.00</i> ) <b>\$50.00</b>
Maximum Fee	( <i>\$500.00</i> ) <b>\$1,000.00</b>

Section 3.      Subsection 20-1.3. Deposit to Cover Cost of Replacement; Bond.

The applicant shall upon receiving the permit, in order to secure the Township, deposit with the Township a sum to be determined by the Township Engineer, based on the area of the excavation and twice the prevailing cost of replacement, for such excavation. The minimum bond shall be (*\$500.00*) **\$1,500.00** cash. The deposit shall be forwarded to the township Treasurer, who shall use it to defray the expense of the Township in maintaining and completing the work of repairing or replacing the street or road or part thereof, if the permittee has not maintained or completed it to the satisfaction of the Engineer. In Lieu of the deposit, the applicant may, at the Township's option, give bond to the Township in the sum of (*\$10,000.00*) **\$50,000.00** with the surety or sureties as the Township Council shall approve, conditioned for the payment from time to time of the expenses of repairing or replacing any and all streets or roads or parts thereof, so torn up or excavated upon permits issued therefor.

Section 4.      Subsection 20-1.4. Deposit; Payment of Additional Sum.

The deposit of any surplus after the completion of the work shall be returned to the applicant within 180 days, upon written authorization of the Township Engineer. If any additional sup is required, it shall be paid by the applicant upon receiving written notice to that effect from the Township Engineer.

Section 5. Subsection 20-1.5. Fence or Railing Required.

*Every person engaged in the digging of any street, in the paving of any street or section of a street, building any sewer or drain, digging any trench for gas pipes or other pipes, or in digging and building any manhole in any public street, or in the placing of any obstruction in any public street, where the work, if left exposed, would be dangerous to persons who might be passing by, shall erect a fence or railing at such excavations or work. The fence or railing shall be erected in a manner to prevent danger to persons who are traveling on the street or highways. The person shall maintain the railing or fence until the work shall be completed or the obstruction or danger removed.*

Section 6. Subsection 20-1.6. Lighting.

*It shall be the duty of each person who erects a railing or fence, in accordance with subsection 20-1.5., to place upon the railing or fence, at sundown of each evening, suitable and sufficient lights, and to keep the lights burning throughout the night during the performance of the work.*

Section 7. Subsection 20-1.7. Filling In.

*The Department of Public Works shall not approve any work of filling in any excavation, unless the same is pounded, and the macadam or pavement and other surface material, over and around the excavation, are left in as good condition as they were before the excavation.*

Section 8. Subsection 20-1.8. Insurance.

*As a condition of the issuance of a permit, the applicant shall provide the Township with evidence of General Liability, General Comprehensive and Vehicular Insurance in an amount not less than \$1,000,000.00. Such insurance policy must also name the Township of West Orange as an additional insured and be issued by a company licensed by the State of New Jersey.*

**Section 9. Subsection 20-1.5. Road Opening, Construction and Restoration Requirements**

**a. General**

**The New Jersey State Department of Transportation 1989 Standard Specifications for Road and**

**Bridge Construction, or latest revision, shall govern all of the work performed under Township of**

**West Orange road opening permits, except as supplemented below:**

- 1. No Township road shall be closed to traffic without prior written consent of the Township of West Orange Police Department. In the event that a road is closed and/or traffic is impeded, uniformed policemen or flagmen may be required to act as traffic directors, and the proper traffic control devices shall be erected and maintained in accordance with standards described in the Manual of Uniform Traffic Control Devices. All costs of providing uniformed police or flagmen shall be the responsibility of the permittee or the owner(s). In the event that a detour is deemed necessary by the permittee, application shall be made to the Police Chief or his/her designee, who shall determine the necessity for such detour and the route to be followed. In emergency situations, notification by phone to the Police Desk shall be done prior to the 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 said permit shall be deemed void and reapplication shall be required, unless previously approved by the Township Engineer.**
- 3. The applicant shall notify the Township Engineer forty-eight (48) hours, not including weekends and holidays, in advance of the actual commencement of any work under a permit.**

**b. Protection of Excavation**

Every person, utility or corporation engaged in the digging of any street, in the paving of any street or section of a street, building any sewer or drain, digging any trench for gas, water or other pipes, or in digging and building any manhole or valve box in any public street, or in the placing of any obstruction in any public street, where the work, if left exposed would be dangerous to vehicles or passersby, shall erect a fence or railing at such excavations or work. The fence or railing shall be erected in a manner to prevent danger to persons travelling on the street or sidewalk. The person shall maintain the railing or fence until the work shall be completed or the obstruction or danger is removed. It shall be the duty of each person, utility or corporation who erect a railing or fence, to place upon the railing or fence at sundown of each evening, suitable and sufficient lighting and to keep the lights burning throughout the night during the performance of the work.

**c. 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 pipes, conduits, or other structures are laid in the portion of the street to be opened. Said notice shall be given, in writing, a minimum of seventy-two (72) hours before commencement of said opening, and the permittee shall, at his own expense, carefully support, maintain in operation and protect from damage such pipes, conduits, or other structures. If any damage is caused to such pipes, conduits, or other structures, the permittee shall restore the same, at his own expense, to the condition they were prior to the commencement of work, except that gas facilities must be repaired by Public Service Electric and Gas Company and water main facilities must be repaired by the New Jersey American Water Company.

**d. Backfill**

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 a waiver may be granted by the Township 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 the 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 West Orange Police Department, the Township Engineer, or their designated representative. Plates left in the roadway between November 15 and April 1 shall be recessed to allow for snowplowing, should it be necessary.

e. Paving

No road opening shall be permanently paved until a final inspection has been made by the Township Engineer or his representative and final approval given.

For all openings:

1. The paved roadway surfaces shall be saw cut or blade cut vertically on a straight line before excavating.
2. The material excavated from the trench opening shall not be replaced as backfill. Excavated materials must be removed from the work site on the day of excavation.
3. The backfill will be comprised of Dense Graded Aggregate (DGA) or other

material approved by the Township Engineer.

4. All backfill shall be placed in twelve (12) inch layers, with each layer thoroughly compacted by mechanical means to the satisfaction of the Engineer. The Engineer reserves the right to require a compaction test to be performed by an independent laboratory at the expense of the permittee.
5. After proper settlement and cutback, for any portion of the road, the entire width of the trench, plus a four (4) inch overlap, shall be overlaid with a two (2) inch minimum thickness of bituminous concrete surface course (Mix I-5, or Superpave equivalent) pavement applied to the entire length of the disturbed area and rolled in place to obtain a smooth pavement surface and sealed at all edges.

**Asphalt pavement openings; backfilling; restoration of surface.**

1. The permittee shall assume all responsibility and hold the Township harmless for any property damage or bodily injury which may occur as a result of the work performed from the time the work commences until the permanent restoration has been completed to the Engineer's satisfaction. The permittee shall immediately backfill the opening with an approved material in layers not exceeding one (1) foot in thickness. This fill shall be brought to an elevation of six (6) inches below pavement surface.
2. Once the excavation work area has been properly saw cut, and the backfill tamped and compacted, the permittee shall install no less than six (6) inches of bituminous stabilized base course to the trench surface. If the distance from the edge of the excavation work area to the existing curb is less than two feet, the permittee shall be required to excavate

to the curb and evenly install six (6) inches of bituminous stabilized base course in the entire area.

3. The partially restored pavement shall be allowed to settle for no less than ninety (90) and no more than one hundred eighty (180) days. If, at any time during the settlement period, the trench becomes unacceptable as determined by the Township Engineer or his representative, the permittee shall be notified of the condition requiring repair, and such repair shall be performed within twenty-four (24) hours of such notification. If the repair is not made in the time specified, the Township may make the repair, and any costs thereof will be charged against the permittee's cash repair deposit and/or maintenance bond. At the end of the time of settlement required by the Township Engineer, an inspection will be made by the Engineer or his representative.
4. After the Township Engineer's inspection, the permittee shall be required to mill the excavation work area surface to a width equal to one (1) foot wider on each side of the initial repair and install no less than two (2) inches of bituminous concrete surface course, Mix I-5 or Superpave equivalent. The permittee shall also be required to provide a tack coat on all existing bituminous and concrete surfaces and a hot poured, rubber asphalt joint sealer (per Section 908 of DOT Standard Specifications for Roads and Bridges).
5. Unless authorized by the Township Engineer, any excavation less than ten (10) square yards shall require milling and restoration of the excavation work area extending a minimum of one (1) foot beyond the edge of excavation to the nearest curb. Any excavation equal to or greater than ten (10) square yards shall require milling and restoration of the excavation work area extending from the center line of the road to the curb and extending a minimum of one (1) foot beyond the outer edges of the excavation.



If the excavation work area will be within one hundred (100) feet or less of previous excavations occurring within one (1) year of the subject excavation (by the same permittee along the same side of the road), the permittee shall be required to mill and restore the roadway between the outermost excavations.

6. The permittee shall be required to replace any facilities, including, but not limited to, curb, pavement, sidewalk, line striping, etc., that are affected by the excavation and restoration work, at the permittee's expense. Such work shall be performed according to the Township's standards.
7. Non-paved areas. All grass or graveled area or sidewalk areas disturbed within the Township right-of-way shall be reconstructed, top soiled, seeded, and mulched within fourteen (14) days of completion of excavation. All concrete areas will be thoroughly compacted before restoration. These limits may be waived by the Engineer only when abnormal temperatures or inclement weather necessitates the same.
8. All work, including grassy areas, shall be guaranteed for a period of sixty (60) months.

**Section 10. Subsection 20-1.6. Insurance**

As a condition of the issuance of a permit, the applicant shall provide the Township with evidence of General Liability, General Comprehensive and Vehicular Insurance and Worker's Compensation Insurance in an amount not less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate. Such insurance policy must also name the Township of West Orange as an additional insured and be issued by a company licensed by the State of New Jersey.

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**Robert D. Parisi, Mayor**

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**Cindy Matute-Brown, Council President**

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**Karen J. Carnevale, R.M.C.  
Municipal Clerk**

**Introduced: January 26, 2021**

**Adopted: February 9, 2021**

**LEGISLATIVE HISTORY**

This Ordinance amends and supplements West Orange Revised General Ordinance, Chapter 20, Subsections 20-1 et seq for Road Openings. It raises permit fees, escrow fees for road restoration and insurance requirements. It also codifies the procedures and specifications for restoring roadway excavations. Furthermore, it requires additional roadway restoration where road openings are issued to the same applicant that are within 200 feet of each other within a year of each other. This will require the roadway to be milled and resurfaced from the outer edge of one trench to the outer edge of the other. Depending on the trench opening this may be curb to curb but at least curb to centerline of the street. This will eliminate the appearance of multiple openings and provide a smoother riding surface. Nearly all the impacts of these new regulations will be on the utility companies namely the Gas Division of Public Service Electric and Gas Company and the New Jersey American Water Company. In 2019 and 2020 a total of 299 road opening permits were issued: 288 to utility companies and 11 to residential property owners.