

ORDINANCE # 2018-12

AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 326, ARTICLE I OF THE CODE OF THE TOWNSHIP OF MARLBORO CONCERNING "STREETS AND SIDEWALKS - EXCAVATIONS"

WHEREAS, the Township understands that contractors and utilities need to excavate and open roadways for purposes of installing services for Marlboro residents and businesses; and

WHEREAS, the Township invests a substantial amount of resources into the preservation and improvement of its infrastructure; and

WHEREAS, the Township desires to safeguard the public investment in infrastructure and maximize the useful life of its roadways.

NOW, THEREFORE, BE IT ORDAINED by the Township Council of the Township of Marlboro, County of Monmouth and State of New Jersey, that CHAPTER 326, ARTICLE I of the Marlboro Township Code concerning "STREETS AND SIDEWALKS - EXCAVATIONS" is hereby amended and supplemented as follows:

§ 326-1. Permit required.

It shall be unlawful for any person or persons, firm or corporation or any agent, servant or employer of any such person or persons, firm or corporation, on or after the effective date of this article, to dig up and excavate or make any opening in any street, road, avenue or highway owned or under the jurisdiction of the Township of Marlboro, or in any portion thereon, within the territorial limits of the Township of Marlboro for any purpose whatsoever without first having obtained a written permit on such forms as shall be approved by the Township and upon compliance with the provisions of this article. An application for a permit shall be made to the Municipal Engineer of the Township of Marlboro. All permits shall be approved by the Municipal Engineer and Public Works Director. Permits shall be issued for a period not to exceed six (6) months. Expired permits may be renewed upon written request.

§ 326-2. Procedure for obtaining permit.

Every applicant for a permit for a street opening in accordance with § 326-1 on a form designated by the Township, which shall contain the following information:

A. When the work shall begin, how long the trench shall be open, what distance from the center of the road, curb or edge of pavement shall the trench be dug and a diagram pertaining thereto, a description of any special conditions, the name of a person and address of one who may be served with any notice as provided in this article and such additional information as the Municipal Engineer shall require.

B. The application shall further provide that the applicant agrees to open no greater part of the road, street or highway at any time than shall be approved by the Municipal Engineer.

C. Every application shall be submitted with a fee of \$100. For services and inspections made by the Township of Marlboro, the Township of Marlboro shall be entitled to an inspection fee in addition to the permit fee of \$100. The inspection fee shall be calculated as follows: \$8 per linear foot measured along the longest section of the cut for the first 50 linear feet; \$3 per linear foot for the next 150 linear feet; \$1.50 per linear foot for the next 300 linear feet; and \$1 per linear foot thereafter [after 500 linear feet]. However, in the case of standard square openings measuring three (3) feet by three (3) feet, the fee for services and inspection shall be \$150. In addition to the application and inspection fee, a returnable deposit of the greater of \$500 or \$25 per square foot is required. Said deposits shall be paid by certified check made payable to the Township of Marlboro and shall be held until the work has been completed and approved and accepted by the Municipal Engineer for the Township of Marlboro. At the time of completion and acceptance of the final road restoration, the deposit shall be returned. The acceptance of said work and the approval thereof by the Municipal Engineer shall be indicated by his written approval and acceptance.

1. In lieu of deposit required in § 326-2C, a public utility may substitute a surety bond, cash bond or letter of credit running to the Township of Marlboro in the amount of \$20,000 for minimum deposits. Public utilities will then prepay inspection fees at the time of the filing of an application pursuant to § 326-2C.

2. New or replacement of curb curb/driveway apron: Inspection fee per opening for each curb/apron provided for in the road opening permit shall be \$150.

D. In the event that the work shall not be satisfactorily completed in accordance with the provisions of this article and

is, therefore, not accepted by the Municipal Engineer within six (6) months of completing the excavation, the Township may do the necessary work, at its election, to complete the same, and the cost thereof shall be deducted from and out of the deposit money so posted, as aforesaid required; and upon the completion of the work by the Township and within two weeks thereafter, the final charge made therefor will be billed to the permittee, and the original deposit, to the extent that it will pay the same, will be credited against the total cost, and in the event that the deposit exceeds the amount of the total cost, the amount left over, or the surplus, will be returned to the permittee.

E. The cost to the Township for doing said work shall be on the basis of and according to the following schedule of costs, namely:

1. The cost to the Township shall be on the basis of and according to a computation to be made by the Municipal Engineer, which shall include the actual cost of all material and labor incurred by the Township in connection therewith, plus an additional 10% to cover the service rendered by the Township and the overhead in connection therewith.

2. The Municipal Engineer may delay any approval and acceptance as provided herein for a sufficient period of time to allow the fill in any opening to settle, and he shall determine the time when final acceptance and approval shall be given of the fill and other work as required pursuant to this article.

F. If the work is satisfactorily performed and accepted by the Municipal Engineer, the deposit to be returned, as aforesaid mentioned, shall be returned within one week after such acceptance.

§ 326-3. Newly paved streets - emergency openings. No person shall dig up and excavate or make any opening in any street, road, avenue or highway owned or under the jurisdiction or to be ultimately dedicated and accepted for ownership and jurisdiction by the Township of Marlboro within five (5) years of completion of any reconstruction, bituminous concrete surface overlay or other construction to improve the surface for the motoring public unless the work is of an emergent nature which immediately threatens public safety or health.

A. Emergency Opening. Applications for emergency road openings shall be reviewed and approved by either the Township Engineer, the Public Works Director or the Division of Police

prior to initiating any work. Full permit application compliance in accordance with Section 326 shall be required by the Township within 24 hours, or the next business day.

B. Roadway Restoration. A full width road restoration shall be required. The restoration shall consist of six (6) inch dense graded aggregate base course, and a six (6) inch bituminous stabilized base course, Mix I-2, brought to existing grade, within the excavated area. A full width, curb to curb, milling two (2) inches in depth to extend 20 feet beyond the limit of excavations will be performed after proper settlement of the trench area. The allowable time for settlement shall be 45 days unless otherwise directed by the Municipal Engineer. The final surface course shall be a two (2) inch bituminous concrete surface course, Mix I-5.

§ 326-4. Bond requirements.

In addition to the deposit required by § 326-2, the permittee shall post a surety bond, cash bond or letter of credit for the benefit of the Township of Marlboro in an amount equal to double the amount calculated in accordance with § 326-2C. The bond required by this section shall guarantee the faithful performance of the permittee of all of the provisions of this article under which the permit is issued, and which bond shall remain and be effective during the term of the permit granted or any renewal or extension thereof and until the work has been inspected and accepted by the Township through its Municipal Engineer or his designee.

§ 326-5. Regulations and conditions for the issuance of permits.

A. Every permittee under any permit issued hereunder shall fully comply with the following rules, regulations and conditions, and in addition to any other remedies available to the Township, the Township shall have the right at any time when the interest of the public requires it, upon failure of the permittee to comply with any of said rules, regulations and conditions, to suspend or revoke any permit issued to such permittee who has violated or is violating any of such rules, regulations or conditions. Revocation may be by a written notice to that effect, served upon the person in charge of the work of the applicant or any other person and at any other address furnished in the application. A hearing on any revocation or suspension may be had before the Township Administrator upon application for same being made by the permittee and upon giving

five days' notice to that effect and by serving said notice upon the Township Clerk.

1. Protection for traveling public. The permittee may be required to submit a Traffic Control Plan subject to the review and approval by the Division of Police if directed to do so by the Municipal Engineer. At the end of each working day, all openings shall be filled with either RCA or stone such that no opening shall be permitted overnight. In doing the work there shall be as little interference as possible with travel along the road, and no greater part of the road shall be opened at any time than shall be allowed by the Municipal Engineer or Public Works Director. Transverse openings involving the full width of the highway shall be made so that only 1/2 of the highway will be obstructed at any one time. The work shall be scheduled and executed so as to present a minimum of inconvenience to the traveling public. Where feasible, pipes, mains and conduits shall be bored under all pavements. Tunnels may be driven if and where directed.

2. Protection from suits. The permittee shall save harmless the Township of Marlboro, its officers and servants from and against any loss, injury or damage resulting from any negligence or fault of the permittee, his or its agents or servants in connection with the performance of the work covered by the permit.

3. Time limit. All permits shall be valid for a period of six (6) months from the date approval by the Municipal Engineer. In case the work has not been completed before the day of expiration as shown on the permit and the permittee has not requested an extension of time, the Municipal Engineer or Public Works Director, may, if deemed advisable take steps to backfill the trench and replace a permanent pavement over the opening for which the permit has been issued at the cost of the permittee.

4. Excavation. The work shall be so conducted as not to interfere with any existing water main, sewer, gas or telephone or their connections with houses or so as to damage any existing trees or roots thereof, until permission of the proper authorities shall have been obtained. All rock within five feet of a water main or other pipe which will be damaged thereby shall be removed without blasting.

5. Backfilling and temporary paving. The permittee shall completely backfill and puddle the excavation and the

trench with sand, gravel or other proper material, acceptably compressed as required, and shall remove excess material from the premises. If tamping alone is employed, the material shall be placed in layers not exceeding six (6) inches in thickness, moistened if directed, and each layer shall be energetically tamped until thoroughly compacted to a density of not less than 95% of the established reference maximum density. Longitudinal ditches may be compacted by rolling with suitably heavy mechanical, self-powered rollers. Dual-tired trucks shall not be used for said purpose. Trenches may not be flushed except under specific permission of the road foreman or other person in charge. If, for any reason, immediate replacement of permanent pavement is not feasible, the excavation shall be backfilled and consolidated as specified above, after which not less than three (3) inches of hot patch material shall be placed to street or road grade. The permittee is required to maintain the temporary pavement in a satisfactory condition so as to not impede, obstruct, or disrupt traffic until permanent repairs are made. Once the excavation work area has been properly saw-cut and the backfill properly compacted, the permittee shall install no less than six (6) inches of bituminous stabilized base course, Mix No. I-2 to the surface of the excavation. Pavement shall be removed a minimum of six (6) inches on each side of the excavation to expose undisturbed subgrade. Excavations of less than two (2) feet from the curblines will require removal of the existing pavement from excavation to the curblines. If any curbing has been undermined during excavation, the curbing shall be removed and replaced as directed by the Municipal Engineer.

6. All excavations shall be allowed to settle for no less than 90 days and no more than 180 days. During this time period, the permittee shall be responsible for maintaining the surface of the excavation so as to not impede, obstruct, or disrupt traffic.

7. Pavement surface restorations shall be conducted as follows:

a. For existing street improvements, the permittee shall remove the bituminous stabilized base repair to a depth of 1 1/2 inches below the surface of the existing street. Milling of excavations in existing street improvements may be required on a case-by-case basis as determined by Township Engineer. Milling limits shall be in accordance with Subsection d below.

b. For new street improvements, the permittee will be required to mill all excavation work to the limits determined by the Municipal Engineer. The Municipal Engineer may waive this requirement for a minor individual opening.

c. For concrete streets with a bituminous overlay, milling will be required to the full depth of the overlay to the limits determined by the Municipal Engineer.

d. Milling of all street improvements shall conform to the following standards:

i. For all excavations in new street improvements, the Municipal Engineer, at his discretion, may require half-width or full-width milling on all excavations as deemed appropriate.

ii. The minimum width of milling shall be six (6) feet three (3) inches. Milling shall extend a minimum of six (6) inches for existing streets and 18 inches for new streets on all sides of the excavation work.

iii. All milling shall extend to the curb or edge of pavement.

iv. All milling within three (3) feet of the center line of the street shall extend to the center line.

v. For excavations which disturb 30% or more of the width of the street surface, milling shall extend from the curb or edge of pavement to the center line of the street.

vi. Excavations along the center line of the street for more than 50 linear feet will require full-width milling of the street surface.

vii. Edges of milling will generally be perpendicular and parallel to the curblines or edge of pavement and the center line of the roadway.

viii. The Township Engineer has the discretion to extend, modify or revise milling limits to accommodate existing pavement and drainage conditions.

d. All milled areas shall be treated with a tack coat and paved with a minimum of 1 1/2 inches of bituminous concrete surface course (Mix No. I-5).

e. The minimum permitted permanent repairs shall be as follows:

i. In streets constructed with concrete: replacement of an equivalent concrete pavement.

ii. In streets constructed with bituminous concrete: construction of a hot-mixed bituminous stabilized base (Mix No. I-2), six (6) inches thick, and a hot-mixed bituminous concrete surface course (Mix No. I-5), 1 1/2 inches thick. All pavement edges are to be cut and neatly matched; no overlaying existing pavements will be permitted.

iii. In streets constructed of concrete with a bituminous concrete overlay: replacement of equivalent concrete and bituminous pavement. Bituminous concrete will be hot-mix bituminous concrete surface course (Mix No. I-5), thickness to match existing, and hot-mix bituminous stabilized base (Mix No. I-2), thickness to match existing. Replacement of the cement concrete with bituminous concrete is not permitted.

iv. In streets of lesser construction: as approved by the Municipal Engineer at time of issuance of permit.

v. If the particular existing street pavements exceed these criteria, higher-type repairs may be required.

f. All materials and workmanship shall be in accordance with the New Jersey Department of Transportation Standard Specifications.

B. The Municipal Engineer or Public Works Director may authorize the removal and replacement of any defective patchwork or surface treatment work made by the permittee and charge the cost of labor and materials for such removal and replacement to the permittee, in accordance with the charges provided for under § 326-2 hereof.

C. In no event shall any opening or excavation be made in any public street, road or highway within the Township of Marlboro which shall be of a greater size or length than can be filled in and completed within 48 hours by the available material and equipment located at the site for the doing of said work.

D. If any opening herein authorized and of the type herein authorized is not completely enclosed at night or is partially completed and not finished, then, during the hours of dark that such excavation continues in existence in such manner, there shall be, in addition to any other precautions required for the safety of the public, during the daytime, sufficient barriers which shall be lighter with sufficient lighting so as to enable the public using said public street, road or highway to be warned of the presence of same therein, which lights or flares so used shall be of such size and be so constructed that they shall be visible for a distance of at least 200 feet from their location and shall be placed at each end of the excavation, so that there shall be at least one of such lights or flares at each end thereof, which shall be located at a distance not closer than 50 feet to said opening in both directions. This requirement for one of such lights or flares at each end shall be considered to be a minimum requirement in connection with any such excavation left unattended or exposed at night and shall not relieve any person from otherwise providing other adequate barriers and lights as may be reasonably required to safeguard the public.

§ 326-6. Violations and penalties.

Any person, firm or corporation who shall violate any of the provisions of this article shall, upon conviction thereof, be subject to the penalties in § 4-3 of the Code.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

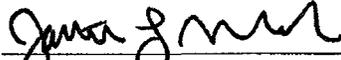
BE IT FURTHER ORDAINED, that this Ordinance shall take effect upon passage and publication in accordance with applicable law.

PASSED: MAY 3, 2018

ADOPTED: MAY 17, 2018



ALIDA MANCO,
MUNICIPAL CLERK



JONATHAN L. HORNIK,
MAYOR

DATE SIGNED: 5/17/18, 2018