

ORDINANCE 2017-13

**ORDINANCE OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS,
REPEALING CHAPTER XIX OF THE REVISED GENERAL ORDINANCES
OF THE TOWNSHIP OF CHATHAM TITLED “STREETS AND SIDEWALKS”
AND REPLACING WITH A NEW CHAPTER XIX ALSO TITLED “STREETS
AND SIDEWALKS” TO REGULATE ROAD OPENING PERMITS**

BE IT ORDAINED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. **SECTION 1.** Chapter XIX of the Revised General Ordinances of the Township of Chatham titled “Streets and Sidewalks” is hereby repealed and replaced with a new Chapter XIX also titled “Streets and Sidewalks” to regulate road opening permits.

2. **SECTION 2.** New Chapter XIX shall be as follows:

CHAPTER XIX STREETS AND SIDEWALKS

Article I Streets

19-1 EXCAVATION OF STREETS AND SIDEWALKS.

19-1.1 Definitions.

As used in this chapter:

Person shall mean any individual, corporation, partnership, joint venture, firm or other legal entity, and the singular shall include the plural.

Sidewalk pavement shall mean the surface of any pedestrian walkway within a street right-of-way and parallel thereto whether such surface is of concrete, macadam, stone, gravel, flagstone, slate or other material.

Street shall mean any street or road shown upon the Tax Map of the Township and shall include all parts of the full right-of-way thereof as shown thereon.

Street pavement shall mean the surface of any street right-of-way which is available for vehicular travel whether such surface is of concrete, macadam, stone, gravel, dirt or other material.

19-1.2 Prohibited Activities.

No person shall cause:

- a. Any earth, soil, stone, rock, dirt, mud, dust, wastes, debris or other material of any kind whatsoever to be placed, spilled, dropped, thrown, scattered, blown, tracked, washed by water or otherwise deposited upon any street unless such material shall be removed as soon as reasonably practicable in a manner that will leave the street in an unobstructed, safe and clean condition;
- b. Any water to flow upon any street pavement or sidewalk pavement, subject to freezing conditions;
- c. Any damage to any tree or plantings within any street;
- d. Any bulldozer, grader, street roller, backhoe or other vehicle or equipment having metal cleated treads to be operated upon, across or along the surface of any street pavement or sidewalk pavement;

- e. Any bulldozer, grader, sheet roller, backhoe or other vehicle or equipment to be operated upon, across or along any street pavement, street curbing or sidewalk pavement, unless adequate means are used to prevent any damage to such pavement or curbing;
- f. Leaves or other material to be burned upon any street pavement or sidewalk pavement; or
- g. Any culvert, gutter, storm drain or catch basin to be blocked, obstructed or interfered with in any manner.

19-1.3 Regulated Activities.

No person shall, unless such person shall have a currently valid permit issued pursuant to the provisions of this section:

- a. Make any opening or excavation in, or disturb the surface of any street;
- b. Construct, install, repair, remove, alter or otherwise affect any street pavement, sidewalk pavement, curb, gutter, culvert, catch basin, manhole, storm sewer, sanitary sewer, pipeline, conduit, underground cable, or any connection with any of the foregoing, in, upon, over, under or along any street; or
- c. Erect, place or maintain any barricade, barrier, wire, cable or other object in, upon, across, along or above any street; unless such person shall have a currently valid permit therefor issued pursuant to the provisions of this section.
- d. Construct, install, alter or otherwise affect any utilities within a municipal easement.

19-1.4 Exempt Activities.

Notwithstanding any provision of this section, this section shall not apply to the installation of overhead electric and telephone wires, cables and poles by public utility companies, to work within a street solely for the purpose of the maintenance of earth surface, or to work related to sanitary sewer installation or maintenance, provided that the street pavement or sidewalk pavement is not affected.

19-1.5 Application for Permits.

- a. *County Roads.* Application for a permit to open or do any work upon a County road shall be made directly to the County of Morris and the applicant shall comply with all County rules and regulations and the special terms and conditions of any permit issued by the County of Morris.
- b. *Township Streets, Right-of-Ways, and Easements.*
 - 1. *Form of Application.* Every application for a permit to undertake any of the activities enumerated in subsection 19-1.3 of this chapter shall be made on forms obtained from the office of the Construction Code Official.
 - 2. Application shall be made in writing for a permit for any excavation within any roadway, the maintenance of which is the responsibility of the Township, for any purpose whatsoever. The application shall state the purpose of the excavation, namely, sewer, water, gas, telephone or any other purpose. The application shall be accompanied by an engineered plan, or sketch, drawn to scale, of the area to be disturbed, including proposed dimensions and restoration details, and shall also be accompanied by an application
 - 3. *Submission of Plans.* The permittee shall submit an engineering plan or sketch in duplicate to the Township for approval. The plan shall have sufficient details to illustrate the proposed work to be performed. All temporary stock-piling areas and equipment storage areas shall also be identified on the plan.
 - 4. *Review of Application.* The Township Engineer or Director of Public Works shall review every application and either approve the issuance of a permit, with or without modifications or conditions endorsed thereon, or disapprove the application for reasons endorsed thereon. Whenever the issuance of a permit is approved, the Township Engineer shall calculate the fee therefor in accordance with the provisions of subsection 19-1.6b. of this chapter.

5. No opening or excavation shall be permitted within the surface of any public road, street or right-of-way under the control of the Township upon which a permanent pavement has been placed within five years of the date of the application of such pavement, except in the event of an emergency. Notwithstanding the foregoing, the Township Engineer may issue a permit for a road opening or excavation on a public road, street or right-of-way upon which a permanent pavement has been placed within less than five years from the date of application upon a demonstration by the applicant that denial of the permit would cause undue hardship.
6. Street openings within the paved or improved surface of any road, street or right-of-way shall be restricted between November 1 and April 15, except that the Township Engineer, after consultation with the superintendent of public works, shall have the authority to waive these requirements in instances where he determines that suitable weather conditions exist.

19-1.6 Issuance of Permit; Fee; Expiration of Permit; Performance Guarantee.

- a. *Issuance of Permit.* Upon approval of the issuance of a permit by the Township Engineer or Director of Public Works, the Township Clerk shall issue the permit upon payment of the fee required by paragraph b., and filing of the certificate of insurance required by paragraph c., below. The application and any modifications or conditions shall constitute the terms of the permit issued.
- b. *Fee.* Application shall be made in writing for a permit for any excavation within any roadway, the maintenance of which is the responsibility of the Township, for any purpose whatsoever. The application shall state the purpose of the excavation, namely, sewer, water, gas, telephone or any other purpose. The application shall be accompanied by an engineered plan, or sketch, drawn to scale, of the area to be disturbed, including proposed dimensions and restoration details, and shall also be accompanied by an application fee of one hundred (\$100.00) dollars and an escrow deposit to cover the costs of inspections of:

1. Three hundred (\$300.00) dollars for all openings up to 50 linear feet.
2. Five hundred (\$500.00) dollars for all openings consisting of from 50 to 100 linear feet.
3. One thousand (\$1,000.00) dollars for openings more than 100 linear feet.

If a hardship waiver is obtained for a road opening permit where the road was paved within five (5) years, the permit fee shall be increased as follows:

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| a. | \$1,000.00 | If road was paved within the last two (2) years. |
| b. | \$750.00 | If road was paved three (3) to four (4) years ago. |
| c. | \$500.00 | If road was paved five (5) years ago. |

- c. *Certificate of Insurance.* Every person, including a public utility company, to whom a permit is issued pursuant to this section shall file a certificate of insurance naming the Township as an additional insured showing that the person or persons performing the work for which the permit is issued is currently insured as follows:
 1. Workers Compensation Insurance as required by the laws of the State of New Jersey.
 2. Employer's Liability Insurance with limits equal to or greater than that of the Workers Compensation Insurance.
 3. Comprehensive General Liability Insurance equal to or greater than:
 - (a) \$1,000,000.00 each occurrence
 - (b) \$2,000,000.00 general aggregate
 - (c) \$2,000,000.00 products completed operations
 - (d) \$1,000,000.00 personal injury/advertising

- (e) \$100,000.00 fire damage (any one fire)
 - (f) \$10,000.00 medical payments
4. Commercial Umbrella or Excess Liability Insurance equal to or greater than \$1,000,000.00.
 5. Commercial Automobile Liability with limits not less than \$1,000,000.00 combined single limit.
- d. *Expiration of Permit.* Every permit shall state thereon the date by which the work covered by the permit shall be completed, and the permit shall expire upon such date or six (6) months after the approval of the permit whichever occurs later.
 - e. *Performance Guarantee.* Whenever any street pavement or sidewalk pavement is to be opened or excavated, the applicant shall deposit an additional amount calculated as follows:
 1. No person shall be granted a permit to open any street or roadway or do any work within a Township right-of-way unless a restoration deposit in accordance with the following schedule has been submitted to guarantee the proper restoration, replacement or repair of property damaged or destroyed by the permittee:
 - (a) Lawn areas: \$10.00 per square yard.
 - (b) Shoulder areas: \$20.00 per square yard.
 - (c) Paved roads: \$30.00 per square yard.
 - (d) Sidewalks: \$60.00 per square yard.
 - (e) Curbs: \$25.00 per linear foot.
 - (f) Dirt or gravel roads: \$15.00 per square yard.
 2. The minimum required deposit shall not be less than five hundred (\$500.00) dollars and the Township Engineer may require deposits in excess of those listed above when, in his opinion, costs will exceed the stipulated amounts.
 3. In lieu of posting a cash guarantee for the restoration deposit, the permittee may post a combination of cash and surety bond or irrevocable letter of credit, except that the minimum deposit of five hundred (\$500.00) dollars, shall be cash only. The cash portion shall be not less than 50 percent of the total amount required and in the form of a certified check or money order. The remaining balance shall be guaranteed by the posting of a surety bond or an irrevocable letter of credit in form satisfactory to the Township Attorney. Upon written request by a permittee, the Township Engineer shall cause an inspection of the excavation to be made and shall submit his recommendations to the Township Council for determination of a satisfactory restoration deposit.
 4. In the event that a utility company or other similar entity will be regularly excavating within the Township, a restoration deposit in the form of a surety bond may be posted with the Township clerk. The form and amount of said bond shall be approved by the Township Engineer prior to the issuance of any street opening permits.

The purpose of this guarantee is to ensure the Township's ability to restore the disturbed pavement to its original or better condition upon the applicant's inability or perform same. The guarantee may be in the form of cash, certified check, or bond acceptable to the Township Attorney.

19-1.7 Notice of Issuance of Permit to Departments Concerned.

Copies of approved applications, permits and any extensions thereof shall be forwarded by the Township Clerk to the Township Engineer, the Manager of the Department of Public Works, and Chief of Police.

If any contemplated project will completely obstruct any thoroughfare or make a length of more than two hundred (200) feet of any thoroughfare inaccessible for vehicular traffic for a period in excess of twenty-four (24) hours, then a period of not less than seventy-two (72) hours shall elapse after the issuance of the permit before the operation may be started. Unless otherwise

approved by the Township Engineer, where an excavation is to extend the full width of the road, only one-half (1/2) of the excavation shall be made at one (1) time, and shall be properly backfilled in accordance with subsection 19-1.8 of this chapter before the other half is excavated.

19-1.8 Conduct of Work.

- a. *General.* A permit issued pursuant to this section does not carry with it any right to make connections with any sanitary sewer or public utility. Separate permits to make such connections must be obtained from the Township Clerk or utility company concerned.

Whenever the work done under any permit requires that water, gas or other public utility services will be interrupted, the person to whom the permit has been issued under subsection 19-1.6 of this chapter shall notify affected users of the periods of time when the services will not be available. Such notice shall be delivered in writing at least twenty-four (24) hours prior to the interruption of service.

The applicant shall notify the Township Engineer and the Department of Public Works of its intent to commence any work in the Township's right-of-way no later than forty-eight (48) hours prior to the commencement of work.

The applicant shall supply a current New Jersey "One-Call" confirmation number, to document compliance with the underground utility location law. b. *Traffic Protection.* Every person to whom a permit is issued pursuant to this section shall be responsible for protecting both vehicular and pedestrian traffic from accident or injury. Such person shall provide suitable barriers, notices, caution signs, and nighttime flashing lights. All signs and signals shall be in accordance with the provisions of Title 39 of the New Jersey Statutes and amendments and supplements thereto.

- c. *Inspection of Work.* The Township Engineer may determine that the nature of the proposed work requires inspection to insure that the approved plans and specifications are complied with. d. *Backfill and Replacement of Pavement.* Every person to whom a permit is issued pursuant to this section shall backfill any excavation with temporary or permanent pavement in accordance with Section 19-1.11.

- e. *Conformance to Residential Site Improvement Standards.* Every person to whom a permit is issued pursuant to this section shall perform any and all work to the Residential Site Improvement Standards as set forth at N.J.A.C. 5:21-1.1 et seq., the provisions of which are incorporated herein as though set forth at length.

- f. *As-Built Drawing.* If deemed necessary, upon completion of the entire work, the permittee shall file plans with the Township Engineer showing in full detail all the completed work.

19-1.9 Performance Guarantee Release.

The Township Engineer shall inspect the completed work no later than two (2) years following inspection and completion of the work and determine whether additional work is necessary to correct any construction or road condition deficiencies that may have become apparent. If additional work is deemed necessary, the Township Engineer shall notify the applicant by certified mail of the applicant's obligation to perform the additional work.

Failure of the applicant to make required repairs within ten (10) days of the date of the above-referenced certified mailing will authorize the Township to make such repairs and utilize the performance guarantees as well as to secure from the applicant any additional monies that may be needed to restore the street properly according to the Township Engineer.

The Township shall be authorized to make such immediate repairs as may be necessary to correct emergency road conditions resulting from any road opening work at the cost of the applicant.

19-1.10 Guarding.

- a. It shall be the duty of the permittee to properly guard any excavation and storage piles by erecting suitable bafflers during the day and lights during the night, or warning signs and by providing a watchman if deemed necessary by the police and/or the superintendent of public works, or his designee, and/or the Township Engineer. All traffic control devices

used on road or street construction or maintenance work shall conform to Chapter IV, "Work Zone" of the Manual on Uniform Traffic Control Devices (MUTCD). The permittee shall be liable for any neglect in safeguarding the traveling public. If the excavation extends the full width of the road, only one-half of the excavation shall be made at one time which shall be backfilled before the other half is excavated, so as not to interfere with traffic.

- b. The plan for proposed interruptions or detouring of traffic shall be submitted to the police department for approval. Permittee shall notify the municipal clerk, police department, fire department, emergency medical services and transportation coordinator of all boards of education serving the project area of approved traffic detour plans at least 48 hours prior to their implementation. Interference with pedestrian or vehicular traffic shall be reduced to a minimum and no greater part of the roadway shall be opened at any time than that approved by the Engineer. Transverse openings shall be restricted so that not more than one-half of the traveled way shall be obstructed at any time. Work shall be scheduled and executed to present a minimum of inconvenience to the public. Where feasible, transverse subsurface installations shall be made by the boring or jacking method. Steel plates shall be used as a protection on openings maintained overnight in the traveled way.

19-1.11 Restoration of Surface.

- a. Any Township road surface, sidewalk, curb, gutter, shoulder or grassed areas disturbed or destroyed by the permittee shall be restored by the permittee at his cost and expense to the same or better condition than it was before commencement of the work. No roads shall be encumbered for a longer period than is necessary to execute the work. If the work is not completed to the satisfaction of the Township Engineer within a reasonable time, and after due notice to the permittee, the Township public works department may finish the work and deduct the cost of the same from the total deposit. After the work is completed by the Township, any balance remaining from the total escrow deposit shall be returned to the permittee.
- b. The entire excavation shall be backfilled with dense graded aggregate, or other suitable, well-drained, select material. The Township Engineer shall approve all backfill material used by the permittee. The backfill material shall be placed and tamped in layers not exceeding one foot in depth.
- c. Temporary pavement replacement shall be completed daily. During the interval between completion of backfill and the time of placement of base paving, all areas shall be maintained in a safe and satisfactory condition for normal traffic use. This shall be done by the use of minimum 12-inch thickness of dense graded aggregate (DGA) or an approved equal. All new pavement replacement shall be made in kind, except that in no case shall it be less than a total of six inches compacted thickness. Unless otherwise directed by the Township Engineer, temporary pavement shall consist of 6-inch compacted thickness bituminous stabilized base course (NJDOT No. I-2) applied and rolled over a 6-inch thickness of DGA to remain permanently in place as a sub-base. The finish surface of this course shall be brought to the existing pavement elevation. Pavement replacement in areas requiring more than six inches overall thickness shall consist of a minimum of three lifts of asphalt, and in no case shall one individual lift exceed four inches compacted thickness. The temporary pavement shall remain in place for a minimum of six months.
- d. After the approved settlement period, the permittee shall complete final restoration by using a milling machine to remove the top two inches of temporary pavement and a 6-inch width of the existing pavement along either side of the road opening. The milling shall be conducted so as to produce clean and straight edges. The temporary surface shall be broom swept free of dirt and debris. The existing temporary pavements surface shall receive a tack coat of asphaltic oil, Grade RC-O, or emulsified asphalt, Grade RS-1. The surface course shall then be placed and rolled even with the existing pavement. A 2-inch thick (compacted thickness) bituminous concrete surface course of FABC Mix I-5 top (NJDOT No. I-5) shall be placed thereon, adequately crowned to provide drainage.

- e. For gravel surfaces, the surface course shall be six inches compacted thickness of Type 5, Class A, soil aggregate, or dense graded aggregate (DGABC).
- f. All materials and methods of construction shall comply with the New Jersey Department of Transportation Standard Specification for Road and Bridge Construction, dated 2007, and all revisions and amendments thereto.
- g. Unless otherwise approved by the Township Engineer, all construction details shall comply with New Jersey Residential Site Improvement Standards.
- h. When it becomes necessary to open the paved section of any road, such opening shall not be less than two feet wide nor more than three feet at the top, nor shall any opening be less than eight feet square and the sides of such opening shall be perpendicular at the top converged towards the bottom so that the width at the bottom shall be less than, but not greater than, the width at the surface of the pavement.
- i. The permittee shall cut all pavement with saw or other equipment approved by the Engineer prior to excavation. The permittee shall cut back existing pavements using a milling machine, or equal means, to produce straight and clean lines along the existing pavement prior to placing final pavement.
- j. Shoulders shall be replaced in kind or as otherwise directed by the Engineer. Where conditions require, surface treated gravel shoulders or any portion thereof shall be restored by applying two inches of bituminous material in place of the oil treatment. The base of all shoulders shall be restored as originally constructed.

19-1.12 Emergency Opening.

Street openings may be made without the necessity of a written application in emergency situations, such as broken or frozen water mains or ruptured gas mains or other situations which would endanger public life, health and safety, provided that notice shall be immediately given to the police department and department of public works and that written application for a permit shall be made to the department of public works for approval by the Township Engineer as soon as practical and, in any event, not exceeding 48 hours from the start of the excavation. The Township Engineer may impose special conditions to restore the structural integrity of the new pavement.

19-1.13 General Rules and Regulations.

- a. No person shall place material of any description whatsoever, or vehicles or other equipment of any nature, upon any road or street, so as to interfere with the flow of water along the gutters or with traffic.
- b. No excavation shall be opened for a distance of more than 200 feet at any single time. All excavations shall be backfilled and all equipment removed from the public right-of-way at the end of each day's work and at such times as may be required for noninterference with snow removal.
- c. The Township Engineer, department of public works and the police department shall be notified 48 hours in advance of the exact time of starting work on all excavations, and 72 hours in advance of the replacement of the pavement base and surface courses.
- d. All work performed and material furnished shall be in compliance with the rules, regulations and specifications of the Township.
- e. Work shall be completed to eliminate interference with subsurface utilities and their appurtenances unless permission for interference has been obtained from the proper authorities. No excavation which could endanger or damage trees or shrubbery shall be made without the Engineer's approval. Blasting is not generally approved and will only be permitted by special consent of the Township Engineer.
- f. The Township Engineer reserves the right to impose special conditions when warranted.

- g. The permittee shall indemnify and hold harmless the Township of Chatham, its officers, employees and agents against all suits and costs of every name and description and from all damages and injuries.
- h. If required by the Township Engineer, permittee shall provide adequate public notice, to all impacted roads, not later than 72 hours prior to the construction.

19-1.14 Enforcement.

The Township Engineer is hereby designated as the officers to enforce the provisions of this section. This provision shall not, however, be construed as depriving members of the Township Police Department of the power to prosecute violations of this section.

19-1.15 Penalties.

Any person who violates any of the provisions of this section or who fails to comply with any of the requirements hereof shall be liable to a fine of not more than two hundred (\$200.00) dollars or to imprisonment for not more than ninety (90) days, or to both such fine and imprisonment. Each and every day such violation continues shall be considered a separate offense.

19-2 - 19-9 RESERVED.

SECTION 3. Notwithstanding that any provision of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, all remaining provisions of the Ordinance shall continue to be of full force and effect.

SECTION 4. This Ordinance shall take effect immediately upon (1) adoption; and (2) publication in accordance with the laws of the State of New Jersey.

Introduced: October 12, 2017

TOWNSHIP OF CHATHAM, COUNTY OF
MORRIS, STATE OF NEW JERSEY

Adopted: October 26, 2017

Attest:

BY: _____
Curt Ritter, Mayor

Gregory J. LaConte, Clerk