

[Borough of Eatontown, NJ / Part II, General Legislation / Streets and Sidewalks](#)

[Article II Street Excavations](#) [Adopted 9-13-1989 by Ord. No. 17-89; amended in its entirety 5-13-2009 by Ord. No. 05-2009]

[§ 285-4 Permit required; exceptions.](#)

A. No person, company, firm or corporation shall remove, excavate, dig or in any way disturb the surface of any street for any purpose without first obtaining a written permit for so doing from the Borough Engineer, countersigned by the Borough Clerk. This shall not apply for emergency work performed in the interest of public safety, provided that permit requirements are met on the next regular business day.

B. The permit requirements shall not apply to the State Department of Transportation doing routine minor maintenance work on state highways and the County Department of Transportation doing routine minor maintenance work on county highways.

[§ 285-5 Application for permit; fees.](#)

Permit forms shall be obtained from the Borough Clerk and shall contain a clear and definite description of the location, together with the approximate size of the opening to be made. The application shall be accompanied by a sketch which will clearly show the location of the proposed opening, together with a nonrefundable application fee of \$75. The application shall also be accompanied by an inspection fee in the amount of \$100 for openings of 100 square feet or less, and \$1.50/square foot for openings greater than 100 square feet. All applications shall be approved by the Borough Engineer before a permit is issued.

[§ 285-6 Permit regulations.](#)

A. The work on any opening to be made under the permit provided for in this article shall be commenced within 30 days from the date of said permit and the work prosecuted with due diligence until its completion. If for any reason the work is not commenced within said period of 30 days, the permit shall be void unless within such period of 30 days the applicant shall present the permit to the Borough Clerk who shall thereupon either arrange for the return of the restoration guarantee or extend the time for the beginning of said work for another period of 30 days by endorsement of the permit.

[Amended 9-20-2012 by Ord. No. 27-2012]

B. Transferability. Every permit shall apply only to the person to whom it is issued and shall not be transferable.

C. Revocation of permit. The Borough may revoke a permit for any of the following reasons:

(1) Violation of any condition of the permit issued.

(2) Carrying on work under the permit in a manner which endangers life or property or which creates any condition which is unhealthy, unsanitary or declared by any provision of this article to constitute a nuisance.

D. The contractor/subcontractor shall have in his possession at the scene of the construction a copy of the permit.

[§ 285-7 Fees; performance guarantee.](#)

A. In addition to the required nonrefundable application and inspection fees, before any permit is granted, the applicant shall submit to the Borough Clerk the sum of \$20 for each and every square foot of trench area disturbed; however, a minimum guarantee of \$500 shall be posted for any permit of 25 square feet or less. This amount shall be retained by the Borough as a performance guarantee to insure proper restoration of the trench and pavement surface. The guarantee shall remain on file with the Borough Clerk until approval of the restoration by the Borough Engineer or designee as outlined herein. The performance guarantee shall be in the form of cash, letter of credit, bond or other form acceptable to the Borough.

B. No part of said money shall be refunded until the required inspections have been made and approval is received from the Borough Engineer or designee; and provided, further, that if the excavation or opening is of unusual length, said cost may be increased at the recommendations of the Borough Engineer. The applicant shall completely backfill the area, tamp and prepare the ground for the resurfacing and complete the pavement resurfacing in accordance with the specifications herein.

C. Upon completion of the final pavement surface course, the applicant shall request an inspection by the Borough Engineer or designee. Requests shall be made by phone or fax to the Borough Engineer. After the inspection, if restoration has been completed to the satisfaction of the Borough Engineer, the Borough Engineer will notify the Borough Clerk in writing that the performance guarantee may be released.

D. Requiring an additional fee as work progresses. If the Borough Engineer determines that an excavation for which a permit has been issued is of greater dimensions than those stated in the permit, he shall notify the permittee, who may be required to pay an additional fee before continuing with any work in connection with the excavation.

[§ 285-8 Performance guarantees for public utilities.](#)

A. The Borough Council may waive the requirements of [§ 285-7](#) in the case of public utilities that deposit yearly performance guarantees to insure proper restoration of their work throughout the year. The utility company must present satisfactory proof that it is capable of meeting any claims against it up to the amount of the guarantee which would otherwise be required. The guarantee shall be executed by the applicant as principal and a surety company licensed to do business in the State of New Jersey as surety and shall be conditioned as follows:

(1) To indemnify and hold harmless the Borough and its professionals from all loss, damage, claim or expense, including expenses incurred in the defense of any litigation arising out of injury to any person or property resulting from any work done by the applicant under the permit.

(2) To indemnify the Borough and its professionals for any expense incurred in enforcing any of the provisions of this section.

(3) To indemnify any person who shall sustain personal injuries or damage to his property as a result of any act of omission of the applicant, his agents, employees or subcontractors, done in the course of any work under the permit.

(4) The guarantee shall also be conditioned upon the applicant's restoring of the street for which the permit is granted in accordance with [§ 285-9](#), Excavation and backfilling requirements. [Amended 9-20-2012 by Ord. No. 27-2012]

B. The amount of the performance guarantee shall be calculated by the Borough Engineer in light of historical volume and anticipated projects. Guarantees shall remain in force for a period of one year or a period to be determined by the Borough Council.

[§ 285-9 Excavation and backfilling requirements.](#) [Amended 9-20-2012 by Ord. No. 27-2012]

A. Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be two feet or more in depth, the base pavement shall be removed to at least 12 inches beyond the outer limits of the trench. The face of the remaining pavement shall be approximately vertical.

B. All trench openings shall be neatly saw cut unless specifically requested in writing by the permittee and subsequently permitted, in writing, by the Borough Engineer. All such requests shall be made a minimum of 48 hours prior to the commencement of work.

C. Whenever an opening is made in a pavement that has a concrete base, the pavement shall be cut out 18 inches wider than the width of the trench, that is to say, nine inches wider on each side thereof and the edge of the old concrete shall be beveled so as to make the concrete cut four inches wider at the top than at the bottom.

D. No trench shall remain open overnight. The backfilling and installing of pavements shall be made immediately after the completion of the work for which the opening was made. The backfilling and replacement of the subbase and installation of bituminous stabilized base pavement shall be completed within 24 hours of the commencement of work, except that the Borough Engineer, at his discretion, may make exceptions if, in his opinion, it is impractical to complete the work within the time above mentioned.

E. Unless otherwise allowed, the contractor shall backfill all trenches at the end of each working day with suitable materials from the trench excavation or with granular borrow material. Stones larger than four inches may not be included in backfill. Backfill material shall be deposited in layers no greater than eight-inch lifts and mechanically compacted to a minimum ninety-percent modified proctor density.

§ 285-10 Surface restoration specifications. [Amended 9-20-2012 by Ord. No. 27-2012]

A. Prior to surface restoration, all trenches shall be backfilled by depositing therein dense graded aggregate, crushed concrete, or other suitable fill material in layers of not more than eight inches in depth; each layer thoroughly mechanically compacted to a minimum ninety-percent modified proctor density, and, if required by the Borough Engineer, flushed with water.

B. Whenever an opening is made in a pavement that has a concrete base, the new concrete pavement or foundation shall be made three inches thicker than the original concrete and a minimum of eight inches. New concrete shall be NJDOT Class B, 4500 psi and shall be reinforced with three-eighths-inch round reinforcing steel rods spaced six inches on center or equivalent thereof. In addition, the new concrete pavement or foundation shall be doweled into the surrounding concrete using No. 4 reinforcing steel rods drilled and set a minimum of six inches into the existing concrete on twelve-inch centers and protruding a minimum of 12 inches into the newly poured concrete base.

C. All pavement surfaces shall be replaced in accordance with the Borough's specifications governing new construction of such pavements. Said finished pavement surface layers shall conform to the following materials and minimum thicknesses:

(1) Major and minor collectors (through streets).

(a) Dense graded aggregate subbase course, six inches thick.

(b) Hot mix asphalt, 19M64 base course, six inches thick.

(c) Hot mix asphalt, 9.5M64 surface course, two inches thick.

(2) Local roads (interior subdivision streets).

(a) Dense graded aggregate subbase course six inches thick.

(b) Hot mix asphalt, 19M64 base course, four inches thick.

(c) Hot mix asphalt, 9.5M64 surface course, two inches thick.

D. Following the completion of the work for which the permit is issued, the following procedure for permanent surface restoration shall be strictly adhered to:

(1) Following proper compaction, the permittee shall install no less than six inches of dense graded aggregate subbase course followed by:

(a) Major and minor collectors (through streets): eight inches of bituminous stabilized base course to a height even with the surface of the existing pavement.

(b) Local roads (interior subdivision streets): six inches of bituminous stabilized base course to a height even with the surface of the existing pavement.

(2) If the distance from the edge of the excavation work area to the existing curb or roadway edge is less than two feet, the permittee shall be required to excavate to the curb and evenly install six inches of dense graded aggregate followed by eight inches of bituminous stabilized base course in the entire area.

(3) The partially restored pavement shall be allowed to settle for no less than 90 days and no more than 180 days. It shall be the responsibility of the permittee to monitor and maintain the trench to ensure that a depression does not develop. If at any time during the settlement period the trench becomes unacceptable in the view of the Borough Director of Public Works or Borough Engineer, the permittee shall be notified of the condition requiring repair, and such repair shall be performed by the permittee within 24 hours of such notification. In the absence of such repair, the Borough reserves the right to use bond fees to repair said trench.

(4) Following the period of settlement, the permittee shall be required to mill the excavation work area surface as specified in Subsection E below and install no less than two inches of hot mix asphalt 19M64 surface course. The permittee shall also be required to provide a tack coat on all existing bituminous concrete surfaces and hot-poured rubber asphalt joint sealer per Section 908 of the NJDOT Standard Specifications for Road and Bridge Construction.

E. All excavations shall require milling and restoration of the excavation work area extending a minimum of one foot beyond the outer edges of the excavation.

F. All excavations performed within a roadway that has been constructed and/or resurfaced in the last five years shall be repaired using infrared thermal bond seamless bituminous pavement patching.

G. All excavations less than 100 square feet shall be repaired using infrared thermal bond seamless bituminous pavement patching. If, in the opinion of the Borough Engineer, the condition of the existing road surface does not warrant infrared repair, this requirement may be waived.

H. 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.

§ 285-11 Safety; adoption of traffic manual.

A. The excavation and all piles of excavated materials or any material used in the work to be performed in the opening for which a permit is issued shall be carefully guarded and lighted by the applicant, who shall be liable for damages caused in the prosecution of the work or failure to properly guard or maintain the same.

B. Traffic directors and/or police officers shall be provided by the applicant for traffic control if required by the Chief of Police or his designee. The applicant shall pay all costs associated with the use of Eatontown Police personnel, if they are required.

C. The Borough Council hereby finds and declares that problems of traffic control occur when traffic must be moved through or around road or street construction, maintenance operations and utility work above or below ground which requires blocking the roadway and obstructions are or can become dangerous when not properly controlled. In order to better promote the public health, safety, peace and welfare, it is necessary to establish controls and regulations directed to the safe and expeditious movement of traffic through construction and maintenance zones and to provide safety for the work forces performing these operations.

D. The Borough of Eatontown in the County of Monmouth, State of New Jersey, does hereby adopt the current manual on Uniform Traffic Control Devices, latest edition, hereafter known as "MUTCD," except as hereby supplemented and amended, as it controls and regulates whenever construction, maintenance operations or utility work obstructs the normal flow of traffic. Any person, contractor or utility who fails to comply with the provisions of MUTCD while performing such work is in violation of this section.

E. Preconstruction meetings. It shall be the responsibility of the person, contractor or in the case of a public utility as required under the Public Utility Agreement, Section 16:25-9.2, wishing to conduct work on, under or above the roadway to contact the Chief of Police and/or his Traffic Bureau designee, hereafter referred to as the "Eatontown Police Department," in order to arrange a preconstruction meeting and to submit a copy of the construction/permit plans, as well as plans for the safe movement of traffic, during such period of construction or work. Any person, contractor or utility who fails to comply with this section prior to the start of such work or whose plans are not approved by the Eatontown Police Department is in violation of this section.

F. Emergency contact phone numbers. The person, contractor or utility shall provide the Eatontown Police Department with at least two emergency contact phone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work. If for any reason emergency contacts cannot be reached or if the emergency contact person does not respond to a call from the Police Department to correct a hazardous condition, the Borough may respond to correct such hazardous condition. The reasonable fees for such emergency services by the Borough shall be charged to the person, contractor or utility responsible for such condition.

G. Safety specifications.

(1) All work shall be done in such a manner as to cause a minimum of interference with traffic. There shall be no construction, maintenance operations or utility work on any roadway in the Borough before the hour of 9:00 a.m. or after 4:00 p.m. This time limit may be adjusted to permit work prior to 9:00 a.m. or after 4:00 p.m. by the Eatontown Police Department. If it is determined by the Eatontown Police Department that the construction or maintenance operations prior to 9:00 a.m. or after 4:00 p.m. would substantially delay traffic or cause a safety or health hazard, the work shall then be permitted only between 9:00 a.m. to 4:00 p.m.

(2) All excavations shall be kept properly barricaded at all times and during the hours of darkness shall be provided with proper warning lights. This regulation shall not excuse the permittee from taking any other precaution reasonably necessary for the protection of persons or property.

(3) No work shall be done in such a manner as to interfere with any water main or sewer line or any connection with either of the same from any building unless that is the purpose of the excavation or permission has been obtained in advance from the Director of Public Works, Borough Engineer or Eatontown Sewerage Authority. No work shall be carried on in such a manner as to result in damage or destruction of any property of the Borough of Eatontown or Sewerage Authority unless this is necessary for completion of the work and permission has been obtained in advance from the head of the Borough department or agency having jurisdiction over such property.

H. Road closings and/or traffic detours shall not be permitted unless approved by the Eatontown Police Department. A twenty-four-hour minimum advance notice is required.

I. Traffic directors, trained by the Eatontown Police Department, shall be posted at all construction or maintenance sites when determined by the Eatontown Police Department that the same is necessary to provide for the safe and expeditious movement of traffic.

J. The Eatontown Police Department shall have the authority to order work stopped, including the removal of equipment and vehicles, stored material within the street right-of-way, backfilling of open excavations and/or other related work, in order to abate any nuisance and/or safety hazard or for any violation of this section.

K. Traffic control devices and materials.

(1) The contractor shall present to the Eatontown Police Department Traffic Safety Bureau all traffic control devices and materials necessary to execute proper maintenance and protection of traffic operations for the project. The number and type of traffic control devices deemed necessary shall also be reviewed by the Eatontown Police Department Traffic Safety Bureau. The contractor shall have all traffic control devices and materials present for examination at least five working days prior to the start of work.

(2) All traffic control devices supplied are to be new. Traffic devices damaged under the work contract as a result of carelessness or mishandling by the contractor, i.e., running over cones or barrels with their equipment or splashing tar on traffic control devices, etc., shall be replaced by the contractor within five working days.

(3) The Eatontown Police Department Traffic Safety Bureau reserves the right to reject any traffic control device which in its sole opinion does not satisfy the criteria of MUTCD specifications, is damaged or otherwise incapable of providing the function for which it was intended. The contractor shall replace the deficient traffic control devices and all materials within two working days of notification by the Eatontown Police Department Traffic Safety Bureau. Upon completion of the municipal contract project, all traffic control devices and materials become the property of the Borough of Eatontown.

§ 285-12 Certificates of insurance. [Amended 9-20-2012 by Ord. No. 27-2012]

By making of an application of a permit, the permittee agrees to save harmless the Borough of Eatontown, its officers, agents and servants from and against any loss, injury or damage resulting from any negligence or the fault of the permittee in the case of work covered by the permit. The permittee where the permittee is a commercial owner or tenant or commercial/residential developer shall file with the Borough Clerk a certificate of insurance in the amounts to be determined by the Borough Engineer, in accordance with the practice of the trade, naming the Borough of Eatontown as the named insured, which coverage shall run to the benefit of the Borough, its officers, agents and servants. A certificate of insurance is not necessary with regards to a permittee who is acting as a residential homeowner or tenant.

§ 285-13 Violations and penalties.

A. For the violation of the provisions herein contained, the permit may be revoked and the excavation or opening may be filled by the Borough of Eatontown and the street restored at the cost and expense of the permittee.

B. Any person, contractor or utility who commits a violation of this article shall, upon conviction thereof, be subject to a fine not exceeding the amount authorized in N.J.S.A. 40:49-5, a term of imprisonment not exceeding the term authorized in N.J.S.A. 40:49-5 or a period of community service not exceeding the period authorized in N.J.S.A. 40:49-5, or any combination thereof.

C. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.