

**TOWNSHIP OF EDGEWATER PARK
ORDINANCE NO. 2015-1
NOTICE OF INTRODUCTION**

**AN ORDINANCE TO AMEND THE CODIFIED ORDINANCES OF THE TOWNSHIP
OF EDGEWATER PARK, TITLE 12 ENTITLED: STREETS, SIDEWALKS AND
PUBLIC PLACES, CHAPTERS 12.04 ENTITLED: STREET EXCAVATIONS**

WHEREAS, the Township Committee of the Township of Edgewater Park believes that the township residents will be better served if Title 12 Entitled *Streets, Sidewalks and Public Places*, Chapter 12.04 Entitled *Street Excavations* and Ordinance No. 2012-1 Section 12.040 Entitled *Issuance of permit is amended to read:*, Section 12.04.050 Entitled *Fees is amended to read:*, Section 12.040.70 Entitled *Application by public utility is amended:*, Chapter 20, Section 20.430 Entitled *Street Excavations* be amended:

BE IT ORDAINED by the Township Committee of the Township of Edgewater Park, County of Burlington and State of New Jersey, as follows:

Section 1. TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES, CHAPTERS 12.04 STREET EXCAVATIONS is hereby repealed and any subsequent amendments are hereby repealed and rescinded.

Section 2. TITLE 12 STREETS, SIDEWALKS AND PUBLIC PLACES, CHAPTERS 12.04 STREET EXCAVATIONS is hereby created as follows:

Chapters:

12.04 STREET EXCAVATIONS

Sections:

12.04.010	Definitions.
12.04.020	Permit required.
12.04.030	Application for permit.
12.04.040	Issuance of permit.
12.04.050	Fees.
12.04.060	Guarantee bond in place of deposit.
12.04.070	Application by public utility.
12.04.080	Waiver of requirements for certain applicants.
12.04.090	Work to be performed with least possible public inconvenience.
12.04.100	Actions required to prevent accidents.
12.04.110	Property to be protected.
12.04.120	Due diligence required.
12.04.130	Restrictions on time period to perform work.
12.04.140	Restoration of sidewalks, curbs or gutters.
12.04.150	Failure of permittee to properly restore street.
12.04.160	Regulation of ditches.
12.04.170	Emergency street openings.
12.04.180	New Street Improvements; Excavations.
12.04.181	Notice to Utilities, Abutting Owners and State Agencies.
12.04.182	Permits for Excavations Prior to Commencement of Improvements.
12.04.183	Time for Completion of Work; New Permits Prohibited After Completion of Improvements

12.04.184	Emergency Excavations
12.04.190	Violation—Penalty.
12.04.200	Insurance and liability claims.

12.04.010 Definitions.

As used in this chapter:

“Applicant” means any person who makes application for a permit.

“Clerk” means the clerk of the township of Edgewater Park or his duly authorized deputy.

“Emergency” means any unforeseen circumstances or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

“Engineer” means the person duly appointed township engineer, his authorized deputy, representative or inspector.

“Permittee” means any person who has been issued a permit and is obligated to fulfill all the terms of this chapter.

“Person” means and includes any natural person, partnership, firm, association, utility, corporation or authority created pursuant to statute. Whenever used in any section prescribing and imposing penalty, the term person as applied to associations shall mean the partners and members thereof and as applied to corporations, the officers thereof.

“Standard specifications” means the New Jersey State Highway Department Standard Specifications for Road and Bridge Construction, 1961.

“Street” means and includes the public street, public easement, public right-of-way, public highway, public alley, public way or public road accepted or maintained by the township and any state or county road over which the township may have acquired jurisdiction by agreement.

“Township” means the township of Edgewater Park, county of Burlington, state of New Jersey. (Prior code § 14:1-1)

12.04.020 Permit required.

It is unlawful for any person to tear up, dig into, break up, displace or excavate any of the streets, sidewalks, curbs or gutters in the township without first obtaining a permit therefor from the township clerk. (Prior code § 14:1-2)

12.04.030 Application for permit.

A. The application for a permit to make an opening or excavation in any street shall be in writing, dated and signed by the applicant, and shall state the road or street proposed to be opened or excavated and the object and purposes thereof and shall also indicate the exact location, by length, width and depth, of said intended excavation.

B. In cases where the proposed opening involves construction of a longitudinal pipe main serving more than one property, the township may also require the applicant to submit plans showing the information required above and also the relationship of the proposed installation to the existing pavement, other utilities, the street right-of-way lines, and any other physical features which might be affected by the proposed construction. (Ord. 6-97 § 3 (part); prior code § 14:1-3)

12.04.040 Issuance of permit.

A. Before the issuance of any such permit, the applicant shall deposit with the clerk of the township the following amounts:

1. A minimum cash guarantee of Five hundred dollars (\$500.00) which shall cover an excavation no larger than fifty (50) square feet in area;
2. An additional amount for all street openings in excess of fifty (50) square feet to be computed as follows:
 - a. Paved streets, including shoulders, Ten Dollars (\$10.00) per square foot;
 - b. Gravel streets with no treatment or pavement, Eight Dollars (\$8.00) per square foot;
3. An additional amount, based on the unit prices in the preceding subsection (A)(2) of this section, if the area actually excavated exceeds that estimated at the time application was made.

This amount guarantee shall be retained by the township for a period of one year from the date of the reconstruction of the road to guarantee the proper performance of the work done by the applicant and the maintenance thereof in good condition by the applicant during this time period. (Prior code § 14:1- 4)

B. Applications for excavations less than one hundred (100) square feet and not proposing new storm, potable water or sanitary mains or structures require a sketch plan prepared by an individual knowledgeable in roadway and utility construction indicating all existing and proposed improvements within the township right of way. The plan shall address the method, materials and means by which the excavation is to be restored.

C. Application for excavations exceeding one hundred (100) square feet or proposing new storm, potable water or sanitary sewer mains or structures require a design plan signed and sealed by a licensed engineer. The plan shall indicate all existing and proposed improvements within the township right of way, provide the method, materials and means by which the excavation is to be restored and include the requisite design data and calculations to support the proposed design.

12.04.050 Fees.

In addition to the above cash guarantee, the applicant shall pay a nonreturnable fee in the following amounts:

- A. One hundred dollars (\$100.00) for the first twenty (20) square feet or part thereof of any opening.
- B. One hundred and fifty dollars for openings over twenty (20) square feet up fifty (50) square feet.
- C. One hundred and fifty dollars (\$150) plus 10% of the cash guarantee determined in section 12.04.040 A 1. & 2. above, for all openings exceeding 50 square feet.

Said fee to be used to pay the cost of personnel employed to process the applications and permits and to inspect the work performed. If at any time it becomes evident that the fees are or will be insufficient to cover the costs, the permittee shall pay to the clerk such additional fees as certified by the township engineer as required to meet the costs of the processing and inspection. (Prior code § 14:1-5)

12.04.060 Guarantee bond in place of cash guarantee.

When the amount of the cash guarantee as determined under Section 12.04.040 would exceed one thousand dollars (\$1,000.00), the applicant may, at his option, furnish a guarantee bond with corporate surety for the full amount of such cash guarantee instead of making the required cash guarantee. Said bond will unconditionally guarantee that the applicant will make the proposed street opening, backfill same and restore the pavement in accordance with requirements of the township and maintain same for a period of one year from the date of the resurfacing of said road. (Prior code § 14:1-6)

12.04.070 Application by public utility.

When the applicant is a public utility as defined by the statutes of the state of New Jersey, the township may accept, in lieu of the required cash guarantee previously set forth herein, a guarantee bond to the township in the sum of twenty thousand dollars (\$20,000.00) plus a permit as set forth in 12.04.050 above. Such bond shall guarantee payment of the amount that would have been deposited in the event of failure of the applicant to comply with this chapter. Such bond shall guarantee that the public utility will make the proposed street opening, backfill the same, and restore the pavement in accordance with the requirements of the township. Such bond shall also include the one-year guarantee set forth in Section 12.04.040. The township, at its option, may accept a corporate bond. Where the estimated cost of restoration exceeds twenty thousand dollars (\$20,000), the public utility shall supply an additional bond to cover such expenses. Said bond shall not be considered to be filed until it is approved and accepted by resolution by the township committee. In the event that after proper filing of a bond by a public utility as aforesaid, said public utility shall fail to abide strictly by the provisions of this chapter, the township committee may, by resolution without prior notice to the public utility, revoke any privileges for street opening which may have previously been granted under its guarantee bond, and revoke said bond and return it to the public utility, and require cash guarantees for all future street openings made by said public utility as well as cash guarantees for all openings not properly restored as of the date of revocation of said bond. (Prior code § 14:1-7)

The public utility shall restore any road opening in accordance with section 12.04.140 herein. In those cases where the township engineer, upon inspection, determines that the opening, based upon his experience and expertise, will be one out of the ordinary due to the underground conditions or work involved, or where the proposed opening involves construction of a longitudinal pipe main serving more than one property, or in any case where the area to be opened exceeds five hundred (500) square feet, applicant shall also pay the actual cost of inspection or inspections. The utility company shall post a cash escrow for any inspections. The cash escrow shall be determined by the Township Engineer.

12.04.080 Waiver of requirements for certain applicants.

A. When the applicant is a township municipal utility authority or sewerage authority, the township committee may waive any or all of the requirements of this chapter.

B. When the applicant is a subdivider, where escrow funds or other suitable guarantee for complete reconstruction of any existing road has been provided and where proper approvals for all proposed work have been obtained, the township committee may waive the requirements of this chapter.

C. When the applicant is a contractor performing work for the township or the Edgewater Park sewerage authority, the township committee may waive the requirements of this chapter. (Prior code §§ 14:1-8, 14:1-9, 14:1-10)

12.04.090 Work to be performed with least possible public inconvenience.

Any person making any opening or excavation in any street in the township shall carry out the work as expeditiously as possible and in such manner as to cause the least possible public inconvenience and to permit the use of the sidewalks by pedestrians, the roadway by vehicles and the flow of water along the gutters. (Prior code § 14:1-11)

12.04.100 Actions required to prevent accidents.

All openings, diggings, excavations, piles of material, equipment and barricades, including earth, dirt, and stone or other materials removed from the excavation, shall be carefully guarded at all times to prevent accidents, and a sufficient number of lighted lanterns, flares or torches shall be maintained between sunset and sunrise by the contractor or persons to whom such permit has been granted, to designate such openings or obstruction during the hours of darkness. Where any excavation or trench is to extend across any road or street, only one-half of the same shall be made at one time, and it shall be properly back-filled before the other one-half is excavated so as not to interfere with traffic. (Prior code § 14:1-12)

12.04.110 Property to be protected.

All existing pavements, road surfaces, sidewalks, curbs, gutters, pipes, manholes, drains, conduits or other installations or fixtures and property likely to be injured, damaged or destroyed shall be properly protected by the person doing any work for which a permit has been granted, during the time when such work is being performed. (Prior code § 14:1-13)

12.04.120 Due diligence required.

The work on any opening to be made under any such permit shall be commenced within ten days from the date of such permit and the work prosecuted with due diligence to its completion. If for any reason work is not commenced within said period of ten days, the applicant shall present the permit to the township clerk who shall thereupon either return the cash guarantee required under Section 12.04.040, or extend the time for the beginning of the said work for another period of ten days by endorsement on the permit, and no permit so extended shall be valid unless the work is not commenced within the extended period of time; the cash guarantee required under Section 12.04.040 shall be returned to the applicant. (Prior code § 14:1-14)

12.04.130 Restrictions on time period to perform work.

In the case of any opening which restricts vehicular traffic to less than two ten-foot wide travel lanes, excavation and backfill shall be made within a single eight-hour period, except under special occasions or circumstances where underground conditions or structures warrant a longer period of time. In other cases, it shall be made within one week's time except where underground conditions or structures warrant a longer period of time. Street openings shall be resurfaced within the period of time designated by the township engineer at the time he inspects the backfilling operation, having due regard to the type of street involved and the volume of vehicular traffic which uses the same. Prior to resurfacing, the backfill shall be maintained in order to prevent depressions or bumps in the street surfaces and suitable material shall be applied thereto to keep down dust. (Prior code § 14:1-15)

12.04.140 Restoration of sidewalks, curbs or gutters.

A. Whenever any sidewalk, curb or gutter is broken up or excavated, it shall be restored to its proper condition as soon as practicable by the person having broken up or excavated, at his or her own expense, to the satisfaction of the township engineer.

B. Any person making any opening or excavation shall resurface all such openings and backfill them in accordance with the following procedure, so the roadway or surface is replaced in a condition as near as possible as it was prior to the opening or excavation.

1. All fill material shall be deposited in layers not exceeding twelve (12) inches and each layer shall be rammed or tamped with pneumatic or power-driven mechanical tampers approved by the township engineer.
2. Broken or crushed stone to be used in replacing the stone base shall be cast in separate piles and kept clean and separate from other excavation material and shall be carefully replaced to a minimum thickness of eight inches. The stone base shall be tamped and keyed with mineral filler.
3. The trench shall be, when filled, level and flush with the finished grade of the street adjacent to the opening. A temporary patch shall be constructed by the permittee, consisting of two inches compacted thickness of cold patch material, Grade A or Grade B, as defined in the standard specifications. The temporary patch shall be constructed within twenty-four (24) hours after tamping of the backfill.
4. No permittee shall commence the restoration of any street until the engineer or his representative has deemed that settlement of the subsurface is complete and the area properly prepared for restoration. All foundations shall be restored to a width six inches wider than the width of the excavation and six inches longer than the length of the

excavation. The street surface shall be restored to a width six inches wider than the width of the restored foundation and six inches longer than the length of the restored foundation. All foundations and surfaces shall be restored with the same type of material and to the same depth as existed prior to making the excavation in accordance with the requirements of the standard specifications, except that the minimum repair for any street where existing base consists of gravel or native soil shall be six inches of compacted soil aggregate, Type 2, Class A and B, and two inches of cold patch material, Grade A or B, as defined in the standard specifications. (Prior code § 14:1-16)

C. For all road openings exceeding 25ft, a special restoration including, but not limited to, a full width mill and overlay or half width mill and overlay may be required at the discretion of the Township.

12.04.150 Failure of permittee to properly restore street.

In the event that the permittee shall fail to properly excavate, backfill or restore the street, sidewalk, curb or gutter involved to its proper condition as soon as practicable and within three days after the service or mailing of a notice from the township engineer so to do, then the township engineer may cause such restoration to be made and pay the cost thereof from said cash guarantee or, in case a bond has been filed in lieu of a cash guarantee, the township shall collect the cost of such restoration from the permittee. If, during such period of one year, the filling of the opening shall require repairing and the permittee shall fail to make such repairs as are required within three days after the service or mailing of a notice from the township engineer so to do, then the township engineer may cause such repairs to be made and pay the cost thereof from said cash guarantee or, in case a bond has been deposited in lieu of a cash guarantee, the township shall collect the cost of such repairs from the permittee. When the work has been completed in accordance with the requirements and regulations as contained herein and as may from time to time be adopted by the township to implement this chapter, the cash guarantee or such portion of the cash guarantee which may remain will be refunded to the permittee. (Prior code § 14:1-17)

12.04.160 Regulation of ditches.

A. No ditch shall be dug within ten feet of any street without first obtaining the approval of the engineer, which approval shall not be given unless, in his opinion, the ditch will not endanger the construction of the road which it will adjoin.

B. No existing ditch adjoining a street and within ten feet thereof shall be excavated to a depth lower than that now existing without first obtaining the approval of the engineer, which approval shall not be given unless, in his opinion, the lowering of the depth of the ditch will not endanger the construction of the road which it adjoins. (Prior code § 14:1-18)

12.04.170 Emergency street openings.

In the event of an emergency where circumstances will not warrant delay to first secure a street opening permit, a street may be opened without a permit, provided, however, that such opening shall be confined in size to the area necessary to take care of the emergency. A street opening permit for said emergency opening plus any additional area that it may be necessary to open shall be secured before the close of business on the next business day of the township following the opening. Each day's delay in securing the street opening permit following an emergency street opening shall be deemed a distinct and separate violation of this chapter. (Prior code § 14:1-19)

12.04.180 New Street Improvements: Excavations.

All newly reconstructed, resurfaced or repaired township roadways are subject to a five year road opening moratorium as stipulated in sections 12.04.181 to 12.04.184 below.

12.04.181 Notice to Utilities, Abutting Owners and State Agencies.

When the Township Committee enacts any ordinance or resolution providing for the paving or repaving of any street, the Township Clerk shall promptly mail a written notice thereof to each person owning sewers, mains, conduits or other utilities in or under such street or any real property, whether

improved or unimproved, abutting such street. Such notice shall advise such persons that no excavation permit shall be issued for openings, cuts or excavations for a period of five years from the date of completion of such improvements.

The township shall also promptly mail copies of such notice to the occupants of all houses, buildings and other structure abutting such street for their information and to state agencies and departments or other persons who may desire to perform excavation work in such street.

12.04.182 Permits for Excavations Prior to Commencement of Improvements.

Permits for work to be done prior to any paving or repaving shall be submitted promptly in order that the work covered by the excavation permits may be completed no later than 45 days from the date of enactment of such ordinance or resolution.

12.04.183 Time for Completion of Work; New Permits Prohibited After Completion of Improvements.

Within 45 days, every public utility company receiving notice, as prescribed herein, shall perform such excavation work, subject to the provisions of this section, as may be necessary to install or repair sewers, mains, conduits or other utility installations.

In the event any owner of real property abutting such street shall fail within 45 days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner, or his/her successors in interest, to make openings, cuts or excavations in such street shall be forfeited for a period of five years from the date of enactment of such ordinance or resolution. During such five year period no excavation permit shall be issued to open, cut or excavate in such street, except as provided for in accordance with Section 12.04.184.

12.04.184 Emergency Excavations.

- a. *Excavation Permitted.* If, in the judgement of the township, an emergency, as described in paragraph (b) below, exists which makes it absolutely essential that the repairs be undertaken, excavation may be permitted.
- b. *Emergency Defined; Approval Required.* In the event of any emergency in which a sewer or water main, sewer or water lateral, conduit or underground utility of any kind or description in or under any street, breaks, bursts or otherwise is in such conditions as to immediately endanger property, life, health or the public safety, the person owning or controlling such utility shall obtain the verbal approval of the township before taking emergency measures to cure or remedy the dangerous condition.
- c. *Permit Required; Time for Application; Repairs Pending Issuance.* The person owning or controlling the utility shall apply for an excavation permit, as provided herein, on the first business day on which the township clerk's office is open for business after the occurrence of the emergency. Permanent repairs shall not be made until an excavation permit has been obtained.
- d. *Special Restoration.* In the event that emergency excavation of any road, street, avenue or highway of the township or any portion of the right-of-way is required within the five year period following paving or repaving of such, special restoration of the roadway may be required, including but not limited to full width milling and overlay of the road as determined by the township engineer.
- e. *Additional fees.* An additional fee of \$150.00 for emergency excavation of any road, street, avenue or highway of the township or any portion of the right-of-way, will be required to be paid in addition to the standard application fee as defined in Section 12.04.050.

12.04.190 Violation—Penalty.

Any person who shall violate any provisions of this chapter, or any rule, regulation or standard

promulgated hereunder, shall, upon conviction, be liable to a penalty of not more than two thousand dollars (\$2,000.00) or imprisonment in the county jail for a term not exceeding ninety (90) days, or both, in the discretion of the court. (Prior code § 14:1-20)

12.04.200 Insurance and liability claims.

The applicant shall maintain such insurance as will protect him and the township from claims under the Workmen's Compensation Acts and from claims for damage to property and injury or death to persons. Such property damage insurance shall be written for not less than twenty-five thousand dollars (\$25,000.00) and for personal injuries or death not less than one hundred thousand dollars (\$100,000.00) per person and three hundred thousand dollars (\$300,000.00) per occurrence. Evidence of such insurance shall be presented to the township clerk before any permit may be issued.

The applicant shall agree by acceptance and receipt of the permit to save and indemnify and keep harmless the township against all liability claims from accidents to persons or property arising from the road opening or reconstruction of the road and to defend any suit that may be brought against the township relating to the opening of the road or resurfacing of same. (Prior code § 14:1-21)

Section 3. All ordinances, or parts of ordinances, which are inconsistent herewith are hereby repealed to the extent of their inconsistency.

Section 4. This Ordinance shall take effect immediately after final passage, approval and publication, as provided by law.

NOW THEREFORE BE IT ORDAINED, by Township Committee of the Township of Edgewater Park in the County of Burlington.

NOTICE OF INTRODUCTION

The foregoing was introduced by the Edgewater Park Township Committee at its meeting held on March 3, 2015. This ordinance will be consider for adoption of final reading and public hearing to be held on March 24, 2015 at 7:00 PM, or shortly thereafter, and place to which such meeting may be adjourned, in the Municipal Building, 400 Delanco Road, Edgewater Park, New Jersey. At which time and place all persons interested will be given an opportunity to be heard concerning said Ordinance. During the week prior to and up to and including the date of such meeting, copies of said ordinance will be made available at the Clerk's office to the members of the general public who shall request the same.

Linda M. Dougherty, RMC
Municipal Clerk/Administrator