

Article I:Excavations and Openings

[Adopted 10-2-1995 by Ord. No. 17-1995]

§ 605-1Prerequisites to opening streets.

No person, firm, partnership or corporation shall open or excavate a trench in any public road, street, right-of-way or highway of this Township without having first done each of the following:

A.

Make a written application therefor to the Township of Greenwich, in the County of Gloucester, on forms to be provided; supply a map or sketch of the project showing the location of the opening to be made, the size of said opening, the purpose(s) of said opening; and state whether it is new construction or repairs.

B.

Paid the proper fee said Township for such opening or trench in the amount specified by **§ 605-6.**

C.

Received from the Township a written permit for the specific opening or trench.

§ 605-2Definitions.

As used in this article, the following terms shall have the meanings indicated:

EMERGENCIES

The event of any sudden and emergent break of any water, sewer, gas, oil or other underground lines which endanger the life, health and safety of the public or people of the Township or their property.

[Added 2-21-2012 by Ord. No. 2-2012]

ROAD or STREET

Applies to any and all roads, highways, streets, courts, alleys or avenues owned or under control of the Township of Greenwich for the full right-of-way width thereof.

[Amended 2-21-2012 by Ord. No. 2-2012]

§ 605-3Written permit required.

No person, firm, partnership or corporation shall direct or cause any employee, agent or contractor of such person, firm, partnership or corporation to open or dig a trench in any public road, street or highway until a written permit for such opening or trench has been issued by the Township.

§ 605-4Newly surfaced streets.

[Amended 2-21-2012 by Ord. No. 2-2012; 8-18-2014 by Ord. No. 13-2014]

A.

When any street has been constructed or reconstructed within five years from the date on which a permit to open it is requested, no permits to open the surface of the same shall be granted except upon the approval of the Public Works Supervisor after presentation and consideration of the application therefor and the Public Works Supervisor being satisfied that one or more of the following reasons exist making it necessary to grant the permit:

(1)

An emergency situation, such as set forth in **§ 605-2** above, exists. If said emergency exists, a permit is still required, but the opening or excavation can occur immediately.

(2)

The necessity and purpose for opening the surface of the street could not have been and was not discovered by the applicant for the permit prior to the time the hard surface was installed, and the applicant is bound by the actions of any predecessor in title to his lands in this respect.

(3)

An excavation permit shall be issued to open or excavate in said street for the purpose of providing utility or other service to a newly constructed residence or other newly constructed structure adjacent to a newly paved street.

(4)

An excavation permit may also be issued to open or excavate in said street for the purposes of providing utility or other service to a preexisting residence or structure, but only upon application to the Mayor and Council and for good cause shown.

B.

A bond or security in a from approved by the Solicitor as referenced in § **605-6D** shall be required for all newly surfaced streets approved to be open or excavated.

(1)

As a newly surfaced street, this amount of bond may be increased upon the recommendation of the Township Engineer based upon the street opening or excavation work to be performed or after any inspection by the Township Engineer.

(2)

The performance bond shall be available to the Township in the event that any backfilling or permanent pavement restoration is not performed in accordance with the provision hereof or should such backfilling or permanent pavement restoration be unacceptable to the Township Engineer or Public Works Supervisor after inspection thereof.

§ 605-5 Duties of permittee.

Each permittee shall do each of the following things with respect to each opening or trench for which the permittee is responsible:

A.

Have the trench or opening dug promptly after the permit aforesaid is granted.

B.

Have the material which is taken from the opening or trench placed so as not to interfere with the public use of the highway.

C.

Have proper and ample guards, barricades, signs and lights maintained on the site to sufficiently warn users of the road, street or highway of the dangers attendant to the project from the time the opening or trench is started until the road, street or highway is completely restored and completely reopened to public travel and in this respect shall carry out, at his own expense, any orders of the Township Road Department, Township Engineer or Township Police Department. The contractor or permittee is responsible for following the guidelines published in the "Manual on Uniform Traffic Control Devices."

D.

Maintain proper and sufficient drainage facilities to prevent accumulation of water or other substance or material upon the road to ensure an adequate and safe passage for the traveling

public and, in this respect, shall carry out, at his own expense, any orders of the Township Road Department or Township Engineer.

E.

Assume full liability for any and all injuries caused by the negligence of the permittee or the employees or agents of the permittee in constructing such opening or trench, as well as in its maintenance or closing.

F.

Keep said opening or trench open a minimum period of time to accomplish the purpose of the permittee and close such opening or trench as soon as possible thereafter.

G.

Comply with the following standards hereby adopted in the Township for such openings and trenches in public roads, streets and highways:

(1)

All utility road crossings shall be made at right angles 90° to the road center line. For stormwater drainage pipes 15 inches or larger in diameter and which will flow by gravity, road crossing may be constructed using conventional methods and open cuts. The method of construction for all other utility road crossing shall be at the discretion of the Public Works Supervisor who shall take into account the purpose of the crossing, the size of the crossing, pipe material, existing roadway conditions, traffic volume and detour routes.

[Amended 2-21-2012 by Ord. No. 2-2012]

(2)

Protection for traveling public. The permittee shall keep such opening or trench properly guarded and at night have lights placed thereat and in doing the work interfere as little as possible with the travel along the road and open no greater part of the road at any time than shall be allowed by the Public Works Supervisor. At no times will excavations be permitted to remain open overnight, unless one-inch thick steel plate with rounded edges is used to cover the excavated opening. If a steel plate is used, all edges of the steel plate must extend a minimum of 18 inches beyond the outer edges of the excavated opening.

[Amended 2-21-2012 by Ord. No. 2-2012]

(3)

If the excavation is to extend the full width of the road, and the road is to remain open to traffic as determined by the Public Works Supervisor, no more than 1/2 of the road shall be opened (excavated) at one time, and such half shall be backfilled and deemed travelable for vehicular traffic by the Public Works Supervisor. If the Public Works Supervisor deems that a road can be temporarily closed and detoured, and if directed by the Public Works Supervisor, road crossings shall be constructed, where possible, using a single length of pipe or casing pipe across the entire width of the paved cartway so that no pipe joints are contained within the paved section of the roadway.

[Amended 2-21-2012 by Ord. No. 2-2012]

(4)

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

(5)

Time limit. The opening or trench shall be backfilled and semi-permanently patched immediately, and the permanent pavement shall be restored within 15 days, absent hardship shown by the permittee.

[Amended 2-21-2012 by Ord. No. 2-2012]

(6)

Maintenance. The restoration of the opening or trench shall be maintained for two years after completion.

(7)

Excavation.

(a)

The applicant shall give a twenty-four-hour notice to the Public Works Supervisor or his duly authorized assistant prior to making an opening, except in case of emergency.

[Amended 2-21-2012 by Ord. No. 2-2012]

(b)

No opening shall be commenced on a Saturday, Sunday or holiday, except in case of an emergency.

(c)

On a bituminous-surface-treated road, the edges of the opening shall be sawcut straight or milled through the bituminous surface before the trench is excavated.

(d)

The work shall be so conducted as not to interfere with the existing water, sewer or gas mains, and any other utility which may be present, or any connections with buildings 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. No excavation which will damage trees shall be made without the approval of the Public Works Supervisor. Any tree removed or damaged by the permittee shall be replaced at his expense, if required by the Public Works Supervisor.

[Amended 2-21-2012 by Ord. No. 2-2012]

(8)

Backfilling. The permittee shall completely backfill the excavation and replace as great a portion as possible of the material excavated, compacting it by tamping or other suitable means, and supply additional material when there is a deficiency. Whenever the Public Works Supervisor or his duly authorized representative shall deem the material unsatisfactory for backfill, the permittee shall backfill the trench with sand, gravel, stone, or other proper, acceptable material, compacted as required, and shall remove all excess material from the premises. If tamping alone is employed, the material shall be placed in layers not exceeding six inches in thickness, moistened if directed, and each layer energetically tamped until thoroughly compacted.

[Amended 2-21-2012 by Ord. No. 2-2012]

(9)

Restoration of surface paving and surface paving foundation. After the backfilling of the opening or trench has been completed as above specified, the restoration of the pavement shall be governed by the following applicable rules:

(a)

In the case of an opening or trench in the earth shoulder, the permittee shall restore the top four inches of the trench or opening with topsoil capable of supporting the growth of grass and shall fertilize and seed the surface with grass seed. All seedings, including hydroseedings, shall be mulched.

(b)

In the case of a gravel pavement, the permittee shall fill in the top 12 inches of the excavated trench or opening with compacted broken stone or washed gravel, approximately aggregate size No. 2 as defined by the NJDOT, spread in a uniform layer conforming to pre-excavation and adjacent grades.

(c)

In the case of a penetration macadam road which consists of broken stone or various sizes, the permittee may salvage the broken stone and replace it in the top of the trench as a road subbase and then apply a four-inch thick bituminous stabilized base course (mix I-1) and two-inch bituminous concrete surface course (mix I-5). The edges of the trench patch shall be tack coated.

(d)

In the case of a gravel-based bituminous concrete road, the permittee shall restore the surface with six inches of compacted dense graded aggregate as a road subbase and then apply a four-inch thick bituminous stabilized base course (mix I-1) and two-inch bituminous concrete surface course (mix I-5). The edges of the trench patch shall be tack coated.

(e)

In the case of an oil and chip road, the permittee shall restore the surface with six inches of compacted dense graded aggregate as a road subbase and then apply a four-inch thick bituminous stabilized base course (mix I-1) and a two-inch bituminous concrete surface course (mix I-5). The edges of the trench patch shall be tack coated.

(f)

In the case of a concrete surface, the permittee shall construct a concrete base and shall restore the reinforcement and the concrete pavement in accordance with NJDOT specifications and as directed by the Public Works Supervisor.

[Amended 2-21-2012 by Ord. No. 2-2012]

(g)

In the case of any special condition, the permittee shall restore the trench or opening as directed by the Public Works Supervisor. If the Township is required by law or necessity to restore the pavement, the final charges, based on the schedule of costs, shall be billed to the permittee on the completion of the work by the Township.

[Amended 2-21-2012 by Ord. No. 2-2012]

(10)

Jacking, tunneling or boring. A permit, as set forth in this article above, shall be required for any jacking, tunneling or mechanical boring under any road for any purpose whatsoever. Any such activity shall be performed only under the direct supervision of the Public Works Supervisor or his duly authorized assistant. By supervising this work, the Township assumes no responsibility whatsoever for any damages which may occur during the jacking, tunneling or boring.

[Amended 2-21-2012 by Ord. No. 2-2012]

H.

The permittee is required to contact all utilities for mark outs, using the One-Call system. The phone number for the One-Call Concepts is 811.

[Added 4-1-1996 by Ord. No. 10-1996; amended 2-21-2012 by Ord. No. 2-2012]

§ 605-6 Fees; performance bond.

[Amended 4-1-1996 by Ord. No. 11-1996]

A.

The following schedule of fees is hereby fixed, determined and established as being the fees to be paid the Township for the issuance of permits and for other municipal services in connection with the servicing of such permits and the proper restoration of such openings and trenches:

Schedule of Fees

Type of Opening

Fee

All openings in paved roadway or shoulder per square foot up to 10 square feet

\$3 per square foot

All openings in paved roadway or shoulder per square foot over 10 square feet

Additional \$1 per square foot

All openings in unpaved roadway, shoulder or planting strip per square foot up to 10 square feet

\$1.50 per square foot

All openings in unpaved roadway, shoulder or planting strip per square foot over 10 square feet

Additional \$0.50 per square foot

1 jacking, boring or tunneling, unlimited length

\$25

Multiple jackings, borings, or tunnelings, unlimited length

\$15 each

B.

Such fees shall accompany the applications when filed with the Township or its representative. The fee for jacking, boring or tunneling is in addition to the fee for all of the openings, associated with the jacking or boring.

C.

Inspection fee: \$600 for the inspection by the Township Engineer for each permit.

[Added 2-21-2012 by Ord. No. 2-2012¹¹]

[1]

Editor's Note: This ordinance also redesignated former Subsection C as Subsection E.

D.

Bond. A performance bond in the amount of \$2,500 shall be posted by the applicant for the permit for street excavation. The Public Works Supervisor may, in his discretion, order that a maintenance bond for one year be posted by the holder of the permit following work completion. Any bond posted shall not be released until the Public Works Supervisor deems the work completed in accordance with all regulations.

[Added 2-21-2012 by Ord. No. 2-2012]

E.

Fees. The fees referred to in Subsections **A** and **C** above shall be paid to and become the property of the Township and shall be turned over by the Township Clerk to the Township Chief Financial Officer within 48 hours accompanied by a written statement of the source of each fee.

[Amended 2-21-2012 by Ord. No. 2-2012]

§ 605-7 Duties of Public Works Supervisor and Township Clerk.

[Amended 2-21-2012 by Ord. No. 2-2012]

A.

The Township Clerk shall receive all applications, fees and bonds hereunder, and forward the application to the Public Works Supervisor for review.

B.

The Public Works Supervisor shall be the agent and representative of the Township to:

(1)

Review each application, request additional information if necessary, and issue permits.

(2)

Arrange for inspection by the Township Engineer.

(3)

Inspect openings or trenches, warning guards, barricades, signs and lights maintain or to be maintained at the respective sites by the permittee.

(4)

Inspect the closing of openings or trenches and the restoration of public roads, streets or highways.

(5)

Notify the permittee or the Township, or both, of any failure, refusal or neglect on the part of permittee or his employees or representatives to comply herewith.

(6)

Make complaint of and prosecute for and on behalf of the Township any offense under this article.

(7)

Administer the provisions of this article for and on behalf and in the name of this Township under the direction of and for the Township Council.

(8)

Inspect the trench opening at the end of the maintenance period and report any discrepancies.

§ 605-8 Responsibility for damages.

Nothing in this article shall be understood or construed by any permittee or other person to absolve any permittee or his employees, agents or contractors of any responsibility for any damage done to any person or property in opening or digging a trench in any public road, street or highway.

§ 605-9 Violations and penalties.

Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be punishable by a fine of not more than \$1,000 or by imprisonment for a term not to exceed 90 days, or up to 90 days of community service or by any combination of such fine, imprisonment and community service, in the discretion of the Judge. The continuation of such violation for each successive day shall constitute a separate offense, and the person or persons allowing or permitting the continuation of the violation may be punished as provided above for each separate offense.

Article II:Curb and Sidewalk Construction

[Adopted 9-18-2006 by Ord. No. 18-2006]

§ 605-10 Standards for construction.

All curbs and sidewalks constructed in accordance with the provisions of this article shall be constructed in accordance with specifications established by a resolution adopted by the Township Council after recommendation by the Township Engineer. The Township Engineer shall provide the specifications at the request of the property owner and shall inspect any construction of curbs and sidewalks to determine the correctness of the line and grade and the compliance with the specifications.

§ 605-11 Circumstances requiring construction of curbs and sidewalks.

A.

Construction required with new building.¹¹

(1)

Curbs and sidewalks. Except as provided in § 605-12, no person shall erect any building in any district zoned R-1, R-2, R-2A, R-3, R-10, R-20, C-1, SC under Chapter 700, Zoning, as amended, and as it may be amended in the future, on any lot fronting on a public street in the Township of Greenwich, without constructing in front of the property on which the building is located curbs and sidewalks. With respect to corner properties, the "front of the property" shall be deemed to mean both lines of the property fronting on both public streets.

(2)

Application to include location of sidewalks and curbs. Every applicant for a building permit shall, on the plot plan submitted therewith, indicate therein the location of curbs and sidewalks. The Construction Code Official shall not include the cost of the said sidewalks and curbs in determining the cost of the total improvement and in determining the cost of the building permit.

(3)

Lines, grades, waiver requests; cost.

(a)

Except as hereinafter provided in § 605-12, before making application for a building permit, each applicant governed by the provision of this article shall obtain lines and grades from the Township Engineer, and all sidewalks and curbs shall be constructed in conformance with such lines and grades.

(b)

Each applicant shall be responsible for payment of the cost of establishing the said lines and grades. At the time of his or her request to have the lines and grades established, the applicant shall post the appropriate sum to cover the cost of the Township Engineer's services with the Township Clerk, which said sum shall be established by a resolution of the Greenwich Township Council and which said sum shall be held in escrow by the Clerk pending the completion of the work of the Township Engineer. Upon completion of the establishment of the lines and grades, the Township Engineer shall properly submit his bill or voucher to the Township Clerk and the Township Clerk shall remit payment to the Engineer and return the balance of the escrow money, if any, to the applicant. In the event the cost of establishing the lines and grades exceeds the initial sum deposited, the applicant shall nonetheless be responsible for the payment of such excess sum for the subject engineering work and shall pay the same before a building permit is issued.

(c)

Each applicant requesting a permanent waiver in conjunction with § **605-12B** shall be responsible for payment of the cost of the Township Engineer establishing the conditions that exist that would allow for such waiver. At the time of his or her request, the applicant must post the sum required by the Township Council resolution with the Township Clerk, which said sum shall be held in escrow by the Clerk pending the completion of the work of the Township Engineer. The Township Engineer shall properly submit his bill or voucher to the Township Clerk and the Clerk shall remit payment to the Engineer and return the balance of the escrow money, if any, to the applicant.

(4)

Construction required prior to certificate of occupancy. Except as provided in § **605-12**, no certificate of occupancy for any building shall be granted by the Township Construction Code Official and the Zoning Officer unless and until the construction of curbs and sidewalks is completed and approved as to location, grade, material and workmanship after inspection thereof by the Township Engineer or other official designated by the Township Council.

[1]

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

B.

Upon a determination of need by the Township Council; costs. The Township Council may, from time to time and by ordinance or resolution, concurred in by at least 2/3 of the membership of the Township Council, require the installation of sidewalks and curbs on any public street within the Township of Greenwich upon the Council's determination of the need for such installation as a matter of public health and safety, proper flow of surface waters or for any other good cause. The cost of such construction shall be borne by the property owners affected. Such notice as may be required by N.J.S.A. 40:65-3 et seq. shall be given to the property owners affected, and the requirements of the said statute with regard to notice and hearing shall be given whether the action taken is initiated by ordinance or resolution. Before any construction may be performed by the Township of Greenwich causing a lien against affected properties, the owners of such properties shall be given 30 days after service of notice of the final action of the Township Council to construct the required improvements. Upon failure of such owner or owners to so construct within the time aforesaid, the municipality shall construct such curbs and sidewalks within the terms of N.J.S.A. 40:65-1 et seq.

C.

When repair or reconstruction is necessary. The Township Council may, from time to time, by resolution concurred in by at least 2/3 of the membership of the Township Council, require the repair and reconstruction of any sidewalks and curbs in the Township deemed to be in a dangerous or deteriorating condition. Upon receipt of notification of such determination by a property owner, said property owner shall repair or reconstruct the subject curb and sidewalk within 30 days, and upon failure to do so the municipality may perform such repair or reconstruction and assess the said property in accordance with N.J.S.A. 40:65-1 et seq. The Township Council may also, from time to time, by resolution concurred in by at least 2/3 of its entire membership, provide for the repair or reconstruction of sidewalks on the streets or roads of the Township at the public expense, provide that the conditions required by N.J.S.A. 40:65-9.1 through 40:65-9.6 are complied with.

§ 605-12 Variances and/or waiver of requirements.

[Amended 7-7-2008 by Ord. No. 11-2008]

Any property owner or party under contract to purchase a property may seek a variance from the provisions set forth above by making application to the Planning/Zoning Board of the Township of Greenwich under the following terms and conditions.

A.

Variance seeking relief from the requirement of installing sidewalks and curbs. A property owner or party under contract to purchase a property, seeking relief from the requirement of installing or replacing sidewalks or curbs as required by this article, may make application to the Planning/Zoning Board of the Township of Greenwich for a variance. The application shall be treated and reviewed in accordance with and under the same laws and criteria as apply to a variance sought under the provisions of N.J.S.A. 40:55D-70d, commonly referred to as "D" variance. In addition to the criteria applied by law to such a variance, the applicant must meet each of the following conditions:

(1)

The lack of sidewalks comports with the nature and character of the area or neighborhood where the property is located;

(2)

The lack of sidewalks does not detrimentally impact the surrounding properties; and

(3)

The lack of sidewalks does not constitute a hazardous condition.

B.

Variances seeking relief from the curb and sidewalk specifications. A property owner or a party under contract to purchase a property, seeking relief from the curb and sidewalk specifications required by this article, may make application to the Planning/Zoning Board of the Township of Greenwich for a variance. The application shall be treated and reviewed in accordance with and under the same laws and criteria as apply to a variance sought under the provisions of N.J.S.A. 40:55D-70c, commonly referred to as a "C" variance. In addition to the criteria applied by law to such a variance, the applicant must meet each of the following conditions:

(1)

The variance from the specifications comports with the nature and character of the area or neighborhood where the property is located;

(2)

The variance from the specifications does not detrimentally impact the surrounding properties; and

(3)

The variance from the specifications does not or will not create a hazardous condition.

C.

Fees, costs, and escrows in connection with sidewalk and curbing variance applications.

(1)

Any applicant seeking a variance under this section shall be responsible for the payment of all fees, costs, escrows and that are required in an application for a variance before the Planning/Zoning Board of Greenwich Township.

(2)

All appeals from decision of the Planning/Zoning Board pursuant to this article must be taken to the Superior Court of New Jersey by an Action in Lieu of Prerogative Writ brought within 45 days of the publication of the notice of decision.

§ 605-13 **Enforcement agencies.** [1]

The Construction Code Official in the Construction Code Office and the Department of Public Works are hereby designated as the enforcing agencies for this article.

[1]

Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).