

Chapter 331. Streets and Sidewalks

Article I. Excavations

§ 331-3. Application requirements.

[Amended 9-20-1984 by Ord. No. 493]

- A. Application for a permit shall be made on forms to be provided by the Borough. The application shall state the purpose of the excavation and the name and address of the person who will restore the permanent pavement when the same is not to be done by the Borough or the applicant. The application shall be accompanied by a diagram indicating the nature and extent of the excavation to be made and the work to be done, the proposed dates of commencement and completion of the excavation, which date shall be the expiration date of any permit issued pursuant to the application, and other data as may reasonably be required. If during the course of the work any major variation is required, the permittee shall file an amended diagram showing the manner in which the work is actually being done.
- B. Whenever the excavation will or may take more than one working day to complete or whenever the excavation site shall be left unattended, the permittee shall furnish to the Oceanport Police Department an emergency telephone number.
- C. No permit for a street excavation in excess of 1,000 square feet shall be issued until the application shall have been reviewed by the Borough Engineer.
- D. All street excavations in excess of 1,000 square feet shall be supervised by an inspector to be designated by the Borough Engineer, and the permittee shall be required to reimburse the Borough for the cost of such inspection.

§ 331-4. Fees.

[Amended 9-20-1984 by Ord. No. 493]

- A. The following schedule of fees is hereby fixed, determined and established as being the nonrefundable fees to be paid to the Borough of Oceanport to be drawn upon by the Borough Engineer in conjunction with the issuance and servicing of such permits, and supervision and inspection of such openings to proper restoration.

[Amended 11-7-2002 by Ord. No. 758; 11-2-2017 by Ord. No. 982]

- (1) Opening not greater than 50 square feet or occupancy only: \$75.
- (2) Opening up to 100 square feet: \$100.
- (3) Opening up to 200 square feet: \$125.
- (4) Opening up to 400 square feet: \$175.

(5) Opening over 400 square feet: \$250, plus \$0.50 per square foot in excess of 400 square feet.

- B. The Borough Clerk shall forward a copy of each application for a street opening permit to the Oceanport Police Department and, upon receipt thereof, the Chief of Police or his designee shall review the subject application to determine whether traffic control shall be needed during the period of construction. If it is determined that the permittee shall need the assistance of a law enforcement officer to control traffic in the vicinity of the construction site, then the applicant shall be required, in addition to the other fees provided for in this article, to pay to the Borough of Oceanport the prevailing police overtime rate for each hour or part thereof that a member of the Oceanport Police Department will be required to direct traffic at the site.

§ 331-5. Cash repair deposits.

[Amended 9-20-1984 by Ord. No. 493; 11-7-2002 by Ord. No. 758; 11-2-2017 by Ord. No. 982]

- A. Before any permit is granted, a refundable performance guaranty shall be deposited with the Borough to insure proper restoration of the trench, pavement surface, and any other improvements within the Borough right-of-way.
- (1) For openings and excavations, the deposit shall be \$1,000 or \$25 per square foot of the actual excavated trench size, whichever is greater. The amount of the deposit shall be computed by multiplying the trench length in feet by the trench width in feet, which produces square feet.
 - (2) For temporary occupancy of a Borough right-of-way with a residential or commercial structure, the deposit shall be \$10,000.
 - (3) For temporary occupancy of all other obstructions, the deposit shall be \$1,000 or \$25 per square foot of the actual occupied area, whichever is greater. The amount of the deposit shall be computed by multiplying the trench length in feet by the trench width in feet, which produces square feet.
- B. The guaranty shall be refunded if the surface or other improvements are replaced according to Borough specifications, and will be forfeited in lieu of restoration in the event that the Borough specifications are not met. For paved roads, the guaranty will be retained for a period of three months to one year from the date of completion of the permitted construction, at which time the guaranty will be refunded upon the written approval of the Borough Engineer. In the event the Borough Engineer does not approve the same in writing, and upon recommendation to the Borough Council, the guaranty will be forfeited.

§ 331-6. Surety bonds.

- A. If an individual cash repair deposit required by § 331-5 exceeds \$500 or if the applicant is a public utility regulated by the federal government and/or the State of New Jersey, the applicant may deposit with the Borough Clerk a surety bond in the amount of the cash repair deposit or an annual bond in the amount of \$5,000 made payable to the Borough of Oceanport. The required surety bond must be:
- (1) With good and sufficient surety.
 - (2) By a surety company authorized to transact business in the State of New Jersey.
 - (3) Satisfactory to the Borough Attorney in form and substance.
 - (4) Conditioned upon the permittee's compliance with this article and to secure and hold the Borough and its officers harmless against any and all claims, judgments or other costs arising

from the excavation and other work covered by the excavation permit or for which the Borough, the Borough Council or any Borough officer may be made liable by reason of any accident or injury to person or property through the fault of the permittee, either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition, as nearly as it can be to its original condition and to the satisfaction of the Borough Administrator, all openings and excavations made in streets and to maintain any street where excavation is made in a condition as good as before said work shall have been done, for the period of 12 months after said work shall have been done, usual wear and tear excepted. Any settlement of the surface within the said one-year period shall be deemed conclusive evidence of defective backfilling by the permittee.

- B. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the Borough if such repairs should prove defective.
- C. Recovery on such bond for any injury or accident shall not exhaust the bond, but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given.
- D. In the event of any suit or claim against the Borough by reason of the negligence or default of the permittee, any final judgment against the Borough requiring it to pay for such damage shall, upon the Borough giving written notice to the permittee of such suit or claim, be conclusive upon the permittee and his surety.
- E. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above, but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date.
- F. Public utilities may deposit a corporate bond conditioned as in the case of a surety bond in the amount of \$5,000 in lieu of said surety bond, but such corporate bond must be in addition to a cash repair deposit of \$500. Such cash repair deposit may, by Council action, be returned with interest to the utility after a twelve-month period wherein the Borough has made no charges or written demands against the deposit.