

ORDINANCE AMENDING MONTCLAIR CODE CHAPTER 297, ARTICLE II –
EXCAVATIONS IN STREETS

January 12, 2016
(date of introduction)

Be it ORDAINED by the Township Council of the Township of Montclair that the Montclair Code Chapter 297, Article II is amended as follows:

1. § 297-25 is amended by deleting the text shown:

§ 297-25 General regulations.

A. No openings or excavations in any street shall extend beyond the center line of the street until the surface of the street is restored to a condition safe and convenient for travel.

B. The work of excavation shall be so conducted as not to interfere with any utility lines or connections or other underground facilities, unless permission of the proper authorities in connection with such facilities shall have been obtained.

C. The permittee shall expose all utilities facilities, including sewers, storm drains, gas mains, water mains, telephone and electrical conduits, and other utility obstructions, sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation if necessary.

D. Where a pipe drain, pipe culvert or other structure or facility is encountered, it shall be replaced, restored, straightened or protected by the permittee.

E. If, in the process of his work, the permittee damages any public or private utility property, the utility may make the necessary repairs and file a claim against the permittee with the Township for the cost thereof. If the claim is not paid promptly by the permittee, the amount may be withheld by the Engineer from the deposit or charged against the permittee's performance bond.

F. Any monument of granite, concrete, iron, steel, brass or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision or a precise survey reference point or a permanent survey bench mark within the Township shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission, in writing, from the Engineer to do so. Permission shall be granted only upon the condition that the permittee shall pay all expenses incidental to its proper replacement.

G. If any work performed under the permit interferes with the established drainage system of any street, provisions shall be made by the permittee to provide proper drainage to the satisfaction of the Engineer.

H. When any earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any street so as to create a nuisance or endanger life or property, the person responsible therefor shall cause the same to be removed immediately from the street upon notification to do so by the Engineer. In the event that it is not removed within eight hours after notification, the Engineer shall cause such removal, and the cost of such removal shall be paid by the permittee or deducted from his deposit.

I. To protect the public, every permittee shall place around the project such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Montclair Police Department. All safety requirements and precautionary measures shall be based upon and in conformance with law and specifically, where applicable, the Manual on Uniform Traffic Control Devices, including all amendments (latest edition). Whenever any person fails to provide or maintain the safety devices required by the Police Department, such devices shall be installed and maintained by the Township. The amount of the cost incurred shall be paid by the permittee or deducted from his deposit. No unauthorized person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this article.

J. While work is in progress and while workmen are on the site, every permittee shall maintain safe crossing for vehicle traffic at all street intersections and safe crossings for pedestrians at intervals of not more than 300 feet.. While work is in progress and workmen are not on the site, all excavations, whether at intersections or elsewhere, shall be covered by steel plates. All plates must lie firmly secured and, when necessary and practical, embedded in bituminous material, so as to withstand the normal flow of traffic on the street. When the size and character of the excavation make it impractical to use steel plates, the permittee shall so advise the Engineer at the time when he applies for his permit and shall not proceed with the work until he obtains the Engineer's consent not to use steel plates.

K. Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Free access must be provided at all times to fire hydrants.

L. All materials excavated shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel.

M. In the case of any leak, explosion or other accident in any subsurface pipe, line or other facility, it shall be lawful for the person owning or responsible for such facility to commence an excavation to remedy such condition before securing a permit, provided that application for a permit shall be made immediately and not later than the next business day thereafter and that all other provisions of this article are fully complied with. If any such emergency condition shall not be immediately attended to by the owner or person responsible for such facility, the Engineer, after such notice as he shall deem

necessary under the circumstances of the particular case, shall proceed to do the same on the basis of cost plus 15% to such person.

N. In granting any permit under this article, the Engineer may attach such other conditions thereto as may be reasonably necessary to prevent danger to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:

- (1) Limitations on the period of the year in which the work may be performed.
- (2) Restrictions as to the size and type of equipment.
- (3) Designation of routes upon which material may be transported.
- (4) The place and manner of disposal of excavated materials.
- (5) Requirements as to the laying of dust, the cleaning of streets, the prevention of noises and other results offensive or injurious to the neighborhood, the general public or any portion thereof.
- (6) Regulations as to the use of streets in the course of the work.

2. § 297-26 is amended by deleting the text shown and adding the underlined text:

§ 297-26 Pavement cuts; restoration.

A. All pavement cuts, openings and excavations shall be properly made and backfilled according to Township specifications.

B. The Engineer must be notified by the permittee not more than 48 hours, nor less than 24 hours, prior to the beginning of work or the date and approximate time at which work will be begun.

C. No work shall be performed by the permittee unless or until the Engineer shall be present or permission has been given by the Engineer to proceed in his absence.

D. Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four feet or over in depth, the pavement in the base shall be removed at least one foot beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a one-foot shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver may be used in breaking up the pavement.

E. No tunneling shall be allowed without the express approval of the Engineer and permission therefor endorsed upon the permit. The backfilling of a tunnel excavation shall be made only in the presence of the Township Engineer and shall be done only in a method approved by him.

F. The work of restoration to be carried out by the permittee, including both paving surface and paving base, shall be performed as follows:

(1) Every person who opens or excavates any street in the Township shall thoroughly and completely refill the opening or excavation, the surface shall be restored to the same condition as it was before the opening, and such restoration shall be in accordance with the requirements of the Township and specifications of the Department of Transportation of the State of New Jersey, which specifications are hereby adopted as specifications of the Township for restoration of surfaces of public streets in the Township. As restored, the surface shall conform to the part of the street immediately adjoining the opening. If, after the restoration of the surface as herein provided, defects shall appear therein, resulting from defective workmanship by the permittee, he shall reimburse the Township for the cost of all necessary repairs to the permanent paving plus 15%.

(2) Backfilling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compaction shall be done by mechanical tampers or by rolling in layers. Backfill material to be used shall only be densely graded aggregate (DOA) conforming to New Jersey Department of Transportation specifications. The use of excavated material or any other material to backfill the trench is allowed only when specifically permitted by the Township Engineer, in writing.

(3) Backfilling up to the first 18 inches above the top of the utility pipes or similar installations shall be done with thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand-tamped shall not exceed six inches in thickness. Layers that are power-tamped shall not exceed six inches in thickness. The same requirements shall apply to the remainder of the backfilling if tamping is the method used for backfilling. Backfilling of all pipes of over 24 inches in diameter shall be carried up to the spring line of the pipe in three-inch layers, with each layer moistened and thoroughly tamped with suitable mechanical equipment. The backfill around all pipes 24 inches or less in diameter shall be tamped as specified above to a depth of 18 inches above the tops of the pipe before any additional backfilling is placed thereon.

(4) Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six inches above the rock bottom of the trench, and the space under, around and six inches above the pipe shall be backfilled with clean river sand, noncorrosive soil or 1/4 inch minus gravel. Broken pavement, large stones and debris shall not be used in the backfill.

(5) Backfilling of the trench shall be in 12-inch or less lifts (layers) and mechanically tamped at each lift (layer). This compaction shall be completed for the full depth of the trench.

(6) On improved streets, a temporary paving of bituminous concrete, Mix 1-2, six inches thick, placed in two layers, each thoroughly bound and compacted, shall be installed flush with the surface of the adjoining pavement.

(7) Permanent restoration of pavement shall be completed within seven days and shall be in accordance with the Township of Montclair's Pavement Restoration Detail on file in the office of the Township Engineer. Except for restoration of streets and roadways that have been resurfaced or reconstructed within five years prior to the date of the excavation, the restoration of the trench shall be in accordance with the Special Trench Restoration Standard Detail issued by the Township of Montclair Engineering Department and on file in the office of the Township Engineer. This requirement shall apply to all permittees, including, but not limited to, public utilities, contractors, property owners and tenants.

G. In the event that any work performed by or for a permittee shall be, in the opinion of the Engineer, unsatisfactory and the same shall not be corrected in accordance with his instructions within the time fixed by him or in the event that the work for which the permit was granted is not completed within the time fixed by the Engineer, the Township may proceed to correct such unsatisfactory work or complete any such work not completed and charge the cost thereof, plus 15%, to the permittee or his surety.

H. Where trenches are parallel to the street or where a number of cross trenches are laid in close proximity to one another by the permittee or where the equipment used may damage adjacent paved surfaces, it shall be the prerogative of the Engineer to require a negotiated contribution from the permittee for the resurfacing in place of patching of such streets if the total area of the proposed patch or probable damaged area exceeds 15% of the total pavement surfacing between curb faces or between concrete or stone gutter edges in any block. Such negotiations shall be carried on and contributions agreed upon prior to issuance of a permit.

I. After such excavation or opening is commenced, the work of making and backfilling the same shall be prosecuted with due diligence and so as not to obstruct the street more than is actually necessary. If the work is not so prosecuted or if the work does not, in the judgment of the Engineer, comply with the terms of this article, he shall so notify the person named in the permit and shall require such person, within three days after the service of such notice, to proceed with the diligent prosecution of such work or property to complete the same, as the case may be. If such notice is not complied with, the Township shall do such work as may be necessary to backfill such excavations and to restore the street or part thereof excavated to the same condition as before such excavation was made. All expenses incurred by the Township shall be recovered from the permittee's deposit or surety, plus an administrative charge of 15%. No further permit shall be granted any person unless and until any opening or excavation already made by him has met all requirements of this article. The Engineer shall be the sole judge of proper performance, and his opinion shall be final.

J. The Engineer or his authorized agents shall make daily inspections of all work authorized by permits issued pursuant to this article. The Engineer is empowered to employ an inspector if the Engineer is of the opinion that the work to be performed pursuant to a permit authorized by this article is such that an inspector is necessary to ensure compliance with the various provisions of this article.

K. Upon completion of all work accomplished under the provisions of the permit, the permittee shall notify the Engineer, in writing, on a form prescribed by him. A certificate of final inspection shall be issued by the Engineer to the permittee no sooner than two years after the permanent restoration of the opening or excavation has been made, provided that the work authorized by the permit has been performed according to Township specifications. Prior to the issuance of a certificate, the Engineer shall make a final inspection of the restoration to determine whether Township specifications have been adhered to.

L. If any settlement in a restored area occurs within a period of two years from date of completion of the permanent restoration, it shall in general be as conclusive evidence of defective backfilling. Any expense which may be incurred by the Township in correcting such settlement shall be paid by the permittee or recovered from his bond, plus 15%.

M. Unless part of the work is being performed by the Township, no opening or excavation made by a permittee shall be considered in the charge or care of the Township or of any officer or person employed by the Township, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening or excavation, except in the exercise of police power, where and when it is necessary to protect life and property.

N. If, in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest requires that the excavation work be performed as emergency work, the Engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.

3. § 297-30 is amended by deleting the text shown and adding the underlined text:

§ 297-30.7 Fees.

A. Excavations.

(1) Road opening permits, application fee: pay an application fee of \$75 upon receiving an application form from the Township Engineer. This fee is nonrefundable.

(2) Road opening permits, permit fees:

(a) On streets constructed, reconstructed or resurfaced not more than five (5) years prior to the issuance of the excavation permit, the following fees will be charged in addition to any application fee related to the proposed opening:

i. To public utility companies: \$500.

ii. To all other permittees: \$300..

(b) On streets constructed, reconstructed or resurfaced more than five years prior to the issuance of the excavation permit, the following fees will be charged in addition to any application fee related to the proposed opening:

i. To public utility companies: \$400.

ii. To all other permittees: \$200

(e) In addition to the fee set forth above, any person subject to § **297-16** shall also pay the cost of inspections conducted on behalf of the Township by third-party professionals. The Township shall require the estimated cost of such inspection(s) to be deposited in escrow at the time of issuance of a permit.