

HAMPTON TOWNSHIP ORDINANCE #2021-04

AN ORDINANCE TO AMEND CHAPTER 88, ENTITLED "STREETS AND SIDEWALKS", OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF HAMPTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY

BE IT ORDAINED by the Township Committee of the Township of Hampton, County of Sussex, State of New Jersey, that Chapter 88, entitled "Streets and Sidewalks", of the Revised General Ordinances of the Township of Hampton, shall be and is hereby amended as follows:

SECTION 1. Article I, entitled "Excavations and Openings", is deleted in its entirety and replaced with the following:

**Article I. Excavations and Openings.**

**Section 88-1. Permit required.**

- A. It shall be unlawful for any person to construct, reconstruct, repair, pave or repave any driveway, curb, road, street or any structure intersecting with or entering upon a public road or street in the Township of Hampton which the township maintains without submitting a detailed construction plan of the same to the Township Road Supervisor and without obtaining his approval, evidenced by a written permit, nor without posting such bond or deposit or other such guaranty against damage to the road or street as set forth in this chapter. The Township Road Supervisor is authorized to review and approve applications for permits in accordance with sections 88-14 and 88-10.
- B. It shall be unlawful for any person, firm or corporation to make any excavation in, or tear up the surface of, any road or street in the Township of Hampton (for the maintenance of which the Township of Hampton is responsible) for any purpose whatsoever, without a written permit first had and obtained from the Township of Hampton as hereinafter provided.

**Section 88-2. Application for permit; limited effect; expiration, extensions, denial, exemptions, conditions.**

- A. Application must be made, in writing, by the firm, corporation or persons for a permit for an excavation on any road, the maintenance of which is chargeable to the Township of Hampton, for any purpose whatsoever. Said application shall state the purpose of such excavation, whether for sewer, water, gas, telephone or for any purpose not specified herein. Permission to make an excavation or tear up the surface of the road does not carry any right to make sewer, water or gas connections. A separate permit to make gas, water or sewer connections must be obtained from the proper officials.
- B. Expiration of permit; extensions. Every permit shall expire at the end of the period of time which shall be stated in the permit. If the permittee shall be unable to complete the work within the specified time, the permittee shall, before expiration of the permit, present, in writing, to the Township Road Supervisor a request for an extension of time, setting forth

therein the reasons for the requested extension. If the Township Road Supervisor determines such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time for the completion of the work.

- C. Denial of permit. Without limitation, the Township Road Supervisor may refuse the issuance of a permit if such refusal is in the interest of public safety, public convenience or public health.
- D. Exemptions. Road excavations required under contracts with the Township and/or performed by municipal departments are exempt from the requirements of this article.
- E. Permit conditions and regulations.
  - (1) Non-transferability. Every permit shall apply only to the person to whom it is issued and shall not be transferable.
  - (2) Commencement of work. Work under a permit shall commence within 45 days from the date of issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate, unless extended, in writing, by the Township Road Supervisor.
  - (3) Possession of permit. A copy of the permit, together with a copy of the plan endorsed with the approval of the Township Road Supervisor, shall be kept in possession of the person actually performing the work and shall be exhibited on demand for the Township and its representatives and agents.
  - (4) Revocation of permit. The Township may revoke a permit for any of the following reasons:
    - (a) Violation of any provision of this section or any other applicable rules, regulations, laws or ordinances.
    - (b) Violation of any condition of the permit issued.
    - (c) Carrying on work under the permit in a manner which endangers life or property, or which creates a condition which is unhealthy, unsanitary or declared by any provision of this Code or applicable law to constitute a nuisance.

**Section 88-3. Cash deposit, bonds and fees; insurance requirements; hold harmless and indemnification.**

- A. No person, firm, corporation or utility shall be granted a permit to open any street until deposit shall be made to the Township of Hampton in an amount determined by the Township Road Supervisor to be sufficient to pay the expenses of repairing and replacing such public road or street surface, which work shall be performed and paid for by the person, firm or corporation obtaining the permit to the satisfaction of the Township Road Supervisor. The amount deemed sufficient to pay the expenses of repairing and replacing the surface of said public road or street shall in no case be less than \$1,000 whenever the pavement is to be opened or a trench is to be dug longitudinally or laterally nor less than \$150 otherwise; and, subject to the Township Road Supervisor's authority to set the required payment higher than listed herein and/or below when in his/her opinion costs will exceed the stipulated amounts, shall include the following minimum charges:

- (1) Lawn areas within the Township's right of ways: \$3 per square yard.
  - (2) Shoulder areas: \$6.50 per square yard.
  - (3) Improved roads: \$6.50 per square yard.
  - (4) Sidewalks: \$30 per square yard.
  - (5) Curbing: \$20.00 per linear foot.
- B. Funds collected by the Township from an applicant per section 88-3(A) which shall be unused for work and maintenance after the passage of one year from completion of applicant's project shall be returned on applicant's written request. Any such funds left on deposit more than five years after completion of applicant's project shall be forfeited and deposited in the general treasury of the Township of Hampton.
- C. In lieu of making the payment as provided for in section 88-3(A), any person, firm or corporation may file a bond, satisfactory to the Township in form, amount and surety, with the Township Clerk, which bond shall be conditioned on repairing any such opening or openings in the manner required herein to the satisfaction of the Township Road Supervisor. The work shall be performed and paid for by the person, firm or corporation obtaining the permit. The bond shall also remain in effect as a maintenance bond for a period of one year after completion of the restoration of the existing materials. Said bond shall, by its terms, provide for payment of any damages by or from the acts of the applicant, its agents, servants or subcontractors, and save the Township of Hampton harmless from damages sustained by any persons or property as a result directly or indirectly of the work performed under the permit. Public utility corporations of the State of New Jersey may file a corporate bond on a yearly basis in the amount of \$5,000 in lieu of cash or construction bonds. The filing of a bond shall not relieve any person, firm or corporation of the necessity of securing a permit and complying with all of the terms and conditions of this chapter. The cash payment and/or bond shall also guarantee that the applicant will pave the driveway for a distance of 25 feet from its intersection with the Township street or road in accordance with the specifications of this chapter. If the applicant fails to install this pavement within one year after the date of the driveway permit, the Township may use the deposit and/or bond and install the pavement. The applicant shall be liable for the excess cost, if any.
- D. The application fee for the permits herein specified shall be \$50.00 per each section of road disturbed by the road opening which shall be paid on submission of the application together with the payment and/or bond required per paragraphs (A) and (C) hereof. In addition, the following fee must be submitted with each application for a permit to open a newly paved road: \$500 for a road paved one year or less, \$300 for a road paved for more than one year but less than two years, and \$100 for a road paved for more than two years but less than three years. Said periods of time shall be calculated from the date of the new pavement was accepted as complete by the Township.
- E. A fee of \$25 shall be paid to the Township Clerk for the issuance of a driveway permit under section 18-14.
- F. If the Township Road Supervisor requires a review by the Township Engineer of an application submitted per this article or with regard to a driveway permit, the Township

Engineer shall review the application and rule on it. If the Township Engineer reviews the application, the applicant shall post an initial escrow fee with the Township Clerk in the amount of \$150 and shall reimburse the township in full for the cost of the review.

- G. Insurance requirements. No applicant shall be granted a permit to open any road unless the applicant shall furnish a certificate of insurance from a responsible insurance company authorized to do business in New Jersey, to be filed with the Township Clerk, showing that the applicant is adequately insured against liability and property damage claims. The minimum amount of such comprehensive public liability insurance shall be \$1,000,000 for each claim for bodily injury, \$3,000,000 for multiple claims for bodily injury arising from a single accident and \$500,000 for property damage for a single accident. Such insurance shall remain in full force and effect throughout the effective period of the permit as well as any authorized extensions thereof; all such insurance shall carry an endorsement to the effect that the insurance company will provide at least 10 days' written notice to the Township prior to any modification or policy cancellation. The Township shall be named as additional insured on all such insurance certificates or the certificate shall contain adequate cross-indemnification provisions in favor of the Township. Failure by the Township to enforce the requirements of this paragraph will not void a permittee's obligation to comply with said requirements nor relieve a permittee of any other obligations. In lieu of filing a certificate of insurance as provided herein, a public utility or governmental agency may file with the Township Clerk a proper certification that it is qualified as a self-insurer pursuant to law.
- H. Hold harmless and indemnification. In consideration of being granted a permit, the permittee is deemed to agree to hold harmless and indemnify the Township, its employees, agents and representatives from and against all damage, harm, injury, death, expense, cost, loss, claim, dispute, suit and attorney's fees resulting from the negligence, acts and/or omissions of the permittee, its contractors, subcontractors, employees, agents and/or representatives in connection with or in the course of designing, planning, performing and concluding the project in question.
- I. Guarantee against defects. The permittee shall be responsible for and guarantee all such work and replacement thereof against all defects of workmanship and materials for a period of three years from the date of permanent replacement. If a permittee shall fail to perform any corrective or restorative work on demand of the Township or if the work is not completed within the time specified in the permit or any extension granted by the Township, or is not performed in accordance with the requirements set forth in this article and otherwise by the Township, then the Township may have the work completed and the surface of the street restored, whereupon the cost of completing the work and restoring the street shall be charged to the permittee and may be deducted from the deposit, charged against any applicable bond and/or recovered by an action in any court of competent jurisdiction.

#### **Section 88-5. Adequate safeguards and warning signals.**

It shall be the duty of the permittee to properly guard any excavation or storage piles by the erection of suitable barriers by day and lights by night or warning signs and watchmen, if deemed necessary

by the Township Road Supervisor or other designated person. The permittee shall be liable for any neglect to safeguard the traveling public. If the excavation is to extend the full width of the road, only 1/2 of the road shall be excavated at one time and such excavation shall be backfilled before the other 1/2 is excavated, so as not to interfere with traffic. In any other case, there shall at all times be maintained a carriageway of at least 18 feet in width. All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by the Township. The Township Road Supervisor shall be informed of all street closings at least 24 hours in advance, except where the work is of an emergency nature, in which case notice shall be given to the Road Supervisor when work commences. All refuse and material shall be removed within 48 hours. The requirements of this section shall not excuse the permittee from taking other precautions as reasonably necessary for the protection of persons and property.

**Section 88-6. Backfill; blasting; restoration of surface.**

- A. All excavations shall be completely backfilled by the permittee and shall be compacted by tamping or other suitable means by the permittee in a manner prescribed by the Township Road Supervisor or other designated person. Where the Township Road Supervisor determines that the excavated material is unsuitable for backfill, the permittee shall backfill the excavation with sand, soft coal, cinders or other suitable material which shall be placed in layers not exceeding six inches in depth and thoroughly compacted in the manner prescribed by the Township. Upon completion of the work, the permittee shall remove any excess material and leave the premises in a clean condition. If the Township determines that any backfilled excavation has settled or caved in, it shall notify the permittee who shall promptly continue backfilling until the Township determines settlement is complete. If tunneling operations are required, the tunnel shall be backfilled in accordance with the requirements of the Township. If blasting is required to be done in the course of any excavation, it shall be done in strict compliance with all applicable state laws and regulations.
- B. The surface of any township road and any pavement or flagging taken up by the permittee in its construction work shall be restored at the permittee's expense to as good or better condition as it was before the commencement of the work thereon and shall be maintained at the expense of the permittee in said condition for one year after the completion of same; and no road shall be encumbered for a longer period than shall be necessary to execute the work. In all cases, the permittee shall restore the surface in accordance with the following requirements:
  - (1) No permittee shall commence the restoration of any street foundation or surface until the Township has determined that settlement of the subsurface is complete and the area properly prepared for restoration. During the settlement period, the permittee shall keep the trench filled to the level of pavement.
  - (2) The permittee shall be required to replace the permanent pavement when ordered to do so by the Township within a period of three months following the completion of construction, should any additional settlement occur. If the permittee does not replace the permanent pavement to the satisfaction of the Township, the permittee shall be required to pay the Township the cost of making said repair, but not less than \$150 for each time such repair is made. If payment to the Township is not made at the time of repair by the Township, the Township may satisfy payment plus any additional fees through the provisions of section 88-4.
  - (3) The street surface shall be restored so as to extend six inches beyond the excavation on all sides. For longitudinal trenches, the roadway shall be milled from the shoulder to the centerline

of the road. Road striping shall be repainted by the permittee where striping is removed by the milling process.

(4) The street surface shall be restored to the satisfaction of the Township.

**Section 88-7. Enforcement of provisions.**

The Township Road Supervisor or other designated person is charged with the enforcement of all the provisions of this article and is the agent acting for the Township Committee of the Township of Hampton.

**Section 88-8. Liability for damages; violations and penalties.**

- A. Liability for damages. Any person violating a provision of this article which results in damage to or obstruction of any public road, gutter, storm drain, ditch, basin, inlet or culvert shall be responsible for all expenses incurred by the Township in repairing such damage or removing the construction, in addition to the penalties herein provided.
- B. Any person violating or failing to comply with any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than \$2,000 or imprisonment for a term not to exceed 90 days, or both. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected thereby but shall remain in full force and effect.

SECTION 3. All ordinances or parts of ordinances inconsistent with or contrary to the provisions of this Ordinance are hereby repealed to the extent of such inconsistency or contrariness.

SECTION 4. This Ordinance shall take effect upon its passage and publication as provided by law.

**CERTIFICATION**

I hereby certify that Ordinance #2021-04 was adopted by the Hampton Township Committee at their regular meeting held on April 27, 2021 at the Hampton Township Municipal Building, Baleville, Sussex County, New Jersey.

Date: \_\_\_\_\_

\_\_\_\_\_  
Kathleen Armstrong, RMC  
Township Clerk

**HAMPTON TOWNSHIP  
NOTICE**

**NOTICE IS HEREBY GIVEN** that the attached Ordinance #2021-04 was introduced at a regular meeting of the Township Committee of the Township of Hampton, Sussex County, New Jersey, held on the 30th day of March 30, 2021 and passed on first reading, and that such Ordinance will be further considered for final passage and adoption at the regular meeting of the Township Committee to be held on April 27, 2021 at 7:00p.m. at a remote Township Committee Meeting. To attend the meeting use the following link: <https://us02web.zoom.us/j/4919500389> or to attend the meeting by phone, dial 929 205 6099 (Meeting ID: 491 950 0389) Formal action may be taken.

Kathleen Armstrong, RMC  
Township Clerk

**HAMPTON TOWNSHIP  
NOTICE  
ORDINANCE 2021-04**

**NOTICE IS HEREBY GIVEN** that the foregoing Ordinance #2021-04 was adopted at Final Reading at the regular meeting of the Township Committee of the Township of Hampton, County of Sussex held on Tuesday, April 27, 2021, at the Hampton Township Municipal Building, Baleville, N.J.

Date:

\_\_\_\_\_  
Kathleen Armstrong, RMC  
Township Clerk