

TOWNSHIP OF VERONA
COUNTY OF ESSEX, STATE OF NEW JERSEY

ORDINANCE No. 2022-19

**REPEALING CHAPTER 460, ARTICLE II (§460-8 THROUGH 19)
"EXCAVATIONS" IN ITS ENTIRETY AND ESTABLISHING A NEW
CHAPTER 410 "ROAD EXCAVATIONS AND AMEND CHAPTER A565 OF
THE CODE ENTITLED FEES IN ORDER TO INCLUDE THE FEES FOR
ROAD OPENING"**

BE IT ORDAINED, by the Township Council of the Township of Verona, County of Essex, New Jersey as follows:

SECTION 1. There is hereby established a new Chapter 410 (Road Excavations Utilities) of the Code of the Township of Verona to read as follows:

§ 410-1. Permit required.

It shall be unlawful for any person, persons, firm or corporation to excavate any portion of a road surface of the public streets, avenues, highways or public places in the Township for the purpose of constructing surface or subsurface improvements or for the purpose of laying, examining, replacing or repairing of gas mains, water mains, sewers, sewer connections, telephone conduits, electrical conduits, or for any other purpose, except and until obtaining a permit from the Municipal Clerk.

§ 410-2. Emergency exemption.

In case of an unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to person and property, hereinafter referred to as "emergency," any utility (water, gas, electric, cable, telephone, sewer, etc.), resident, property owner or lessee shall not be required to obtain a permit in advance of the work, provided that:

- (1) A true emergency exists and the person(s) doing the excavation notifies the Township Police Department; the Police Department shall log the emergency;
- (2) An application for a permit is filed with the Municipal Clerk within 24 hours of the street opening or on the next business day, whichever is more practical;
- (3) Said utility, resident, property owner or lessee makes the payment required by §410-4(B), §410-5, for resident of property owner and §410-11(E) for a utility;
- (4) The excavation is performed in accordance with the provisions of this article.

§ 410-3. 5 Year Excavation Restriction for Newly Paved Roads.

On newly paved streets, there shall be a five (5) year restriction on the issuance of road opening permits. Exceptions shall be granted for utility emergencies, utility openings that impact the safety and welfare of property owners or if the applicant is able to prove undue hardship. Undue hardships shall be approved at the discretion of the Municipal Engineer. In the event that an exception is granted during the moratorium, the applicant shall be responsible to limit the disruption as much as possible, saw cut all excavations, and restore the trench to its original condition including, but not limited to the pavement, surface treatments, and striping. All repair paving shall be completed utilizing infra-red technology within one (1) week of the trench repair. A non-refundable fee of five hundred (\$500.00) dollars will be charged to open a road within its moratorium. The inspection fee is one hundred fifty (\$150.00) dollars and the trench must be compacted in twelve (12") inch lifts.

§ 410-4. Application.

- A. All applications for permits referred to in this article shall be made in writing to the Municipal Clerk at least five business days in advance of the excavation, unless it is an emergency, and shall:
- (1) Specify the name and address of the individual, firm, corporation or utility for whose benefit the excavation is to be made.
 - (2) Specify the name and address of the excavation, construction and/or restoration contractor(s).
 - (3) Identify the specific location of the proposed excavation and the width, length and depth thereof.
 - (4) The Township engineer shall confirm the location of the proposed road opening.
 - (5) The Township Engineer shall confirm the Township's jurisdiction of the work area

and provide a list of all federal, state, and local governmental/quasi-governmental agencies having concurrent jurisdiction and, if such agencies require approval, whether such approval has been obtained and provide copies thereof.

- (6) Identify the type of road surface.
 - (7) Identify the location of any and all utilities, storm drains, sanitary sewers or sewer mains within 10 feet of the limits of the proposed opening and compliance with the Underground Facility Protection Act (*N.J.S.A. 48:2-82*) if applicable.
 - (8) Identify the excavation start date and expected duration and method of repair.
 - (9) Identify the applicable fees for the issuance of the permit as hereinafter provided, together with the charges as hereinafter set forth.
 - (10) Include a signed statement by the applicant agreeing to indemnify the Township and hold it harmless from and against any claim, liability, damage and/or expense, including any attorney fees, arising out of the granting of the permit or from any negligence or fault of such applicant, his servants or agents in connection with any of the excavation performed under or in connection with such permit.
- B. A nonrefundable fee of \$200 shall accompany every application to offset the cost of processing the application and inspection subsequent to the road repair.

§ 410-5. Deposits required; performance guarantee.

No permit shall be granted unless the fees set forth in this Ordinance shall be paid to the Municipal Clerk. Security deposits shall be held by the Municipal Clerk until 18 months after the completion of each improvement. The security deposit shall be held to guarantee the completion of the improvement in a good and workmanlike manner and in accordance with the specifications, standards and satisfaction of the Township and to ensure maintenance thereof for the 18 month period pursuant to the terms of the application. Eighteen months after such completion, the Township shall return the deposit to the applicant, provided that the work has been properly completed and maintained. Upon failure to complete and maintain the improvement to the satisfaction of the Township, the Township may complete and maintain the improvement, using the moneys so deposited or so much thereof as is necessary for such purpose, returning the balance of the deposit, if any, to the applicant after 18 months from the date of completion. If the security deposit is insufficient to pay for the cost of remediating the work, the person or entity responsible shall be obligated to reimburse the Township for any excess costs. Security deposits shall be in the following amounts for each opening excavated, up to 100 square feet of area disturbed:

- A. For openings on any road paved with concrete: \$750, plus \$7.50 per square foot over 100 square feet.
- B. For openings on any road paved with macadam: \$500, plus \$5 per square foot over 100 square feet.
- C. For openings on any unimproved road or unpaved portion of improved roads: \$250, plus \$2.50 per square foot over 100 square feet.
- D. Regulated utilities governed by the New Jersey Board of Public Utilities, pursuant to *N.J.S.A 48, et seq.*, are exempted from this section; refer to § 460-18, Excavations by public utility corporations.

§ 410-6. Insurance.

The applicant shall present evidence satisfactory to the Township's Risk Manager of insurance sufficient to indemnify and save harmless the Township, its officials, employees, agents and servants against and from all suits and costs of every kind and from all personal injury or property damage resulting from negligence or from any phase of operation performed under the permit.

§ 410-7. Safeguards.

All excavations, earth, stone, lumber, pipe or other material shall be safely and securely barricaded and further guarded at night by at least two lights, one at each end of the excavation or material, and in any other manner as the Superintendent (or Foreman or his designee) of Public Works may deem necessary for the reasonable protection of the public from injury.

§ 410-8. Staging for excavation.

Not more than 1/2 of the trench shall be excavated at one time where the trench will run from one side of the pavement to the other, and the part so excavated shall immediately be backfilled under the supervision of and to the satisfaction of the Superintendent of Public Works.

§ 410-9. Manner of backfilling and restoration.

- A. The backfilling of the trench shall proceed in the following manner, namely: earth, sand, gravel or broken stone removed from the trench shall be replaced in layers not exceeding 12 inches in depth and shall be properly compacted. The work of refilling shall continue in this manner until the material is brought up to within 24 inches of the finished pavement; any rocks larger than six inches in diameter shall be removed. The first layer shall be three-quarter-inch quarry-processed (QP) rock. The backfilling shall be continued until the top thereof, after being thoroughly compacted, shall be one inch higher than the pavement. No animal or vegetable matter or refuse shall be used or permitted in the backfill, and all refuse or surplus material from the trench shall be removed from the work area immediately after the trench has been excavated. After the fill has thoroughly settled, the road surface shall be restored to a like-new condition.
- B. The person or entity conducting this work shall remain responsible for the repair of the resurfaced repair work for a period of five years and shall repair same if required by the Superintendent of Public Works.
- C. Roadway restoration shall be in accord with the engineering details set forth in the Appendix¹ which may be found at the end of this chapter.
- D. Any restoration of a trench or series of openings more than 15 linear feet shall include restoration in accord with the engineering details found in the Appendix, as applicable, and shall also include the milling and resurfacing of the roadway from curb to curb for the length of the opening.
- E. Any restoration of macadam which is not milled and paved shall be completed using infrared paving to ensure a smooth transition from the adjoining surface.

§ 410-10. Interference with gutter flow or traffic; fine.

It shall be unlawful for any person, firm or corporation to place any stones, earth, ashes, lumber, pipe or other materials of any description whatsoever upon any road or street so as to interfere with the flow of water along the gutters or so as to interfere with traffic on the road or street. Any unlawful exercise of this privilege shall be deemed a violation of this section and be punishable by a fine of \$50 to \$200. Nothing herein shall apply to leaves or vegetative waste. The purpose of this section is to prevent construction-related material from obstructing or interfering with the flow of water.

§ 410-11. Utility road opening.

- A. All utilities regulated by the New Jersey Board of Public Utilities under Title 48 which excavates a road in the Township shall pay a nonrefundable application fee of \$200 per opening. Said payment shall be sent to the Municipal Clerk within 24 hours of completion of the utility work related to the road opening.
- B. Roadways opened by utilities shall be returned to a like-new condition as set forth in § 410-9 Infrared heat paving shall be used to the satisfaction of the Superintendent of Public Works, or his/her designee.
- C. Roadway material shall be of the same material as the roadway, e.g., concrete roads shall be repaired with concrete and asphalt with asphalt.
- D. Within 90 days of completion of all road opening repair, the Township shall advise the utility if the closing is satisfactory or not, and if not, a directive of corrective action shall be included. Repairs made subsequent to notice from the Township of unsatisfactory repairs shall be concluded within 30 days of notice. If repairs are not made within 30 days and/or the repair is not done to the satisfaction of the Township Superintendent of Public Works (or Foreman) or his/her designee, then the Township may cause the repair work to be done and use the escrow to pay for same. In such event, the utility shall replenish the escrow within 30 days of notice from the Township.
- E. All utilities servicing the Township of Verona shall post a cash bond in the amount of \$2,500 with the Municipal Clerk to be held in a noninterest escrow account to be held in perpetuity to pay the cost of application fees and repair to road openings done in an unsatisfactory manner. If this bond is diminished by utilization for restoration or payment of application fees, the utility shall deposit additional funds sufficient to bring the balance of the cash bond to \$2,500 within 10 days of receipt of a notice of deficiency sent by the Township.

§ 410-12. Work by utility companies; disturbance of recently repaved or installed roads.

- A. Utility companies, including those engaged in the installation of gas, water and electric lines, shall report to the Department of Public Works, quarterly, their intentions with

regard to prospective work requiring future street openings in the community, for the purpose of coordinating such activity with pavement projects anticipated by the Township of Verona in accordance with this Ordinance and the requirements of N.J.S.A. 48:3-17.11 to 14, as applicable.

- B. Except in the case of an emergency, the Township of Verona shall have the right to schedule street openings with utilities companies in a manner which will create the least disturbance to pavement courses, in furtherance of which purpose the Township of Verona shall provide to the utilities a schedule of expected street construction and resurfacing.
- C. In the event an applicant seeks to disturb a road which has been repaved or installed within the preceding five years, and the municipality shall have given notice of intent to repave by ordinance or actual notice to the applicant, the fees shall be doubled for the permit and bond. In addition, the applicant shall be required to repave the entire width of the road to achieve a cosmetic and surface match.

§ 410-13. Traffic control on private construction.

Any contractor or other employer requiring additional traffic management services on any project or event occurring in the Township of Verona shall utilize the Verona Police Department for such services. A bond shall be posted for police/traffic and Department of Public Works inspections.

§ 410-14. Violations and penalties.

- A. Any person, firm or corporation violating any of the provisions of this article, or neglecting or refusing to comply with any of the terms or conditions hereof, shall, upon conviction, be liable as follows:
 - (1) Failure to deposit a performance bond: the amount set forth in § 410-5, plus \$500.
 - (2) Opening a roadway without a permit and/or failing to comply with the provisions for filing an application for emergency work within 24 hours of conducting the work or the first business day thereafter: the amount set forth in §410-5, plus \$1,000.
 - (3) Failure to restore any roadway as required: the amount set forth in §410-3, plus \$500.
- B. Each and every nonconformance of this article, or each day that any provision of this article shall have been violated, shall be construed as a separate and distinct violation thereof.

SECTION 2: Chapter A565-1 "Schedule of Fees" hereby amended as follows (deletions in ~~strike through~~, additions in **bold**):

Ch. 460, Streets and Sidewalks

Fees for road opening and storage permit:	
Bituminous pavement	\$50
Bituminous pavement on concrete base and reinforced concrete pavement, per square yard	\$75
Minimum charge	\$100
Earth shoulder opening	\$25

5 Year Excavation Restriction for Newly Paved Roads:

A non-refundable fee to open a road within its moratorium:	\$500
Inspection fee:	\$150

Application Fees:

A nonrefundable fee to offset the cost of processing the application and inspection subsequent to the road repair:	\$200
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Deposits required; performance guarantee:

Openings on road paved with concrete:	\$750, plus \$7.50 per sq ft over 100 sq ft
Openings on road paved with macadam:	\$500, plus \$5 per sq ft over 100 sq ft
Openings on unimproved road or unpaved portion of improved roads:	\$250, plus \$2.50 per sq ft over 100 sq ft

(Regulated utilities governed by the NJ Board of Public Utilities, pursuant to N.J.S.A 48, et seq., are exempt)

Interference with gutter flow or traffic; fine:

\$50 to \$200

Violations and penalties:

Failure to deposit a performance bond: the amount set forth in § 410-5, plus: \$500
Opening roadway without permit and/or failing to file an application
for emergency work within 24 hours of conducting the work or the
first business day thereafter: the amount set forth in §410-5, plus: \$1,000
Failure to restore any roadway as required: the amount set forth in §410-3, plus: \$500

SECTION 3: REPEAL OF INCONSISTENT PROVISIONS

All ordinances or parts thereof in conflict or inconsistent with this Ordinance are hereby repealed, but only to the extent of such conflict or inconsistency, it being the legislative intent that all such ordinances or part of ordinances now existing or in effect unless the same are in conflict or inconsistent with any provision of this Ordinance shall remain in effect.

SECTION 4: SEVERABILITY

The provisions of this Ordinance are declared to be severable and if any section, subsection, sentence, clause or phrase thereof for any reason be held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses and phrases of this Ordinance, but shall remaining in effect; it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

SECTION 5: EFFECTIVE DATE

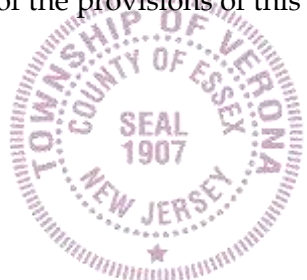
This Ordinance shall take effect immediately upon passage and publication as provided by law.

SECTION 6: CODIFICATION

This ordinance shall be a part of the Code of the Township of Verona as though codified and fully set forth therein. The Municipal Clerk shall have this ordinance codified and incorporated in the official copies of the Code. The Municipal Clerk and the Township Attorney are authorized and directed to change any Chapter, Article and/or Section number of the Code of the Township of Verona in the event that the codification of this Ordinance reveals that there is a conflict between the numbers and the existing Code, and in order to avoid confusion and possible accidental repealers of existing provisions not intended to be repealed.

SECTION 6: NOTICE TO PUBLIC UTILITIES

The Municipal Clerk shall cause any public utility that provides service in the Township to be notified of the provisions of this ordinance.



ATTEST:

Jennifer Kiernan
JENNIFER KIERNAN
MUNICIPAL CLERK

I HEREBY CERTIFY THAT THE AFOREMENTIONED ORDINANCE WAS PUBLISHED IN THE STAR LEDGER, A NEWSPAPER PUBLISHED IN THE COUNTY OF ESSEX AND CIRCULATED IN THE TOWNSHIP OF VERONA, IN THE ISSUE OF JULY 1, 2022 AND JULY 15, 2022

**JENNIFER KIERNAN
MUNICIPAL CLERK**

INTRODUCTION: June 27, 2022
PUBLIC HEARING: July 11, 2022
EFFECTIVE DATE: August 4, 2022