

ORDINANCE NO. 1000

AN ORDINANCE AMENDING CERTAIN FEES AND PROCEDURES FOR ROAD EXCAVATIONS.

BE IT ORDAINED, by the Mayor and Council of the Borough of Demarest, within the County of Bergen and State of New Jersey, as follows:

Section 1. Insurance Requirements.

Subparagraph 150-4(D)(1), "Insurance," of Paragraph 150-4(D), "Additional requirements prior to issue of permit," of Section 150-4, "Permit Procedures," of Chapter 150, "Streets and Sidewalks," of the Code of the Borough of Demarest is hereby amended by inserting the text underlined and marked in bold, and deleting the text enclosed in brackets ("[]") and marked in bold, to read as follows:

- (1) Insurance. Obtain and keep in full force and effect, for the entire term of the work to be performed, a policy or policies of insurance providing general comprehensive liability insurance **[coverage with limits of at least three hundred thousand dollars (\$300,000.) for injury to any one (1) person and five hundred thousand dollars (\$500,000.) for bodily injury for each accident, including personal injury, disease or death, and with limits of at least one hundred thousand dollars (\$100,000.) for property damage.] covering bodily injury and property damage with limits of at least \$1,000,000 per occurrence and \$2,000,000 in aggregate.** There shall be submitted a certification of insurance evidencing that such insurance is in full force and effect and will remain in full force and effect for the entire time of the proposed work. The certificate shall also state that the insurance policy or policies evidenced thereby shall not be cancelable without ten (10) days' notice to the borough.

Section 2. Road Opening Permit Fees.

Section 150-5, "Fees," of Chapter 150, "Streets and Sidewalks," of the Code of the Borough of Demarest is hereby deleted in its entirety and replaced with a new Section 150-5, "Fees," to read as follows:

§ 150-5. Fees.

- A. Prior to the issuance of a permit, the applicant shall deposit with the Borough Clerk the following:
 - (1) Permit Fee. A nonrefundable application fee in the amount of two hundred and fifty dollars (\$250.00) shall be paid to the Borough for each road opening permit.
 - (2) Escrow for Engineering Services. The applicant shall deposit with the Borough an escrow in the amount of \$500.00 to pay the cost of

engineering services and fees for inspection services by the Borough Engineer. In the even this escrow is exhausted, the applicant shall be required to replenish the escrow. Failure to submit additional escrow funds when directed by the Borough shall result in suspension and/or revocation of the permit.

(3) Performance Guarantee.

- i. No permit shall be issued until the applicant has submitted to the Borough a performance guarantee in the form of cash, certified check, or surety bond issued by a bonding or surety company licensed to do business in the State of New Jersey in an amount determined to be sufficient by the Borough Engineer, not to exceed 150% of the Borough Engineer's estimate of the cost of performing the work. Any surety bond shall be subject to approval as to form, sufficiency and execution by the borough.
- ii. The performance guarantee shall be for compliance with all provisions of this Article by the permittee, including the faithful performance of the work to be performed under the permit including the cost of backfill and replacement work as well as any damage to persons or property resulting from the work, repair of any defective work, and payment of all monies due under this Article. The performance guarantee shall remain in effect for a period of two years from the completion of the work. However, the Borough may release the performance guarantee sooner upon the Borough Engineer's determination that the work has been completed in accordance with the provisions of this Chapter and that the excavation will not settle or cave in.

(4) Annual Performance Guarantee. A public utility, as defined in N.J.S.A. 48:2-13, or a governmental agency may, in lieu of posting a separate performance guarantee for each road opening, yearly deposit and maintain the sum of fifteen thousand dollars (\$15,000) with the Borough Clerk in cash or surety bond issued by a bonding or surety company licensed to do business in the State of New Jersey. Such deposit shall ensure compliance with the applicable provisions of this Article and shall be a continuing obligation to the full amount thereof with respect to each street opening. However, this provision shall not exempt a public utility or governmental agency from the escrow fee for engineering services, nor shall it exempt a public utility from the application fee.

- B. Upon the failure of the permittee to comply with any of the requirements of this Article, after notice of noncompliance and after providing the permittee with a reasonable time in which to comply, the borough may perform or cause to be performed such work as is necessary to secure such compliance. The permittee and

any surety on said surety bond shall be liable for any cost incurred as a result thereof. The cost of any work which the borough performed or causes to be performed pursuant to this section and any damages of any sort as to which a surety bond may be given may be satisfied, in whole or in part, out of the required cash deposits or surety bond.

- C. The cash deposit or surety bond shall be subject to the review of the Borough Engineer. If the Borough Engineer determines that the amount of the deposit or bond is insufficient to secure compliance with this Article, then an amount sufficient to secure such compliance may be required.

Section 3. Renewal and Revocation of Permits.

Section 150-6, "Issuance of permit: contents; renewal; nontransferability; expiration or revocation," of Chapter 150, "Streets and Sidewalks," of the Code of the Borough of Demarest is hereby amended by inserting the text underlined and marked in bold, and deleting the text enclosed in brackets (" []") and marked in bold, to read as follows:

§ 150-6. Issuance of permit: contents; renewal; nontransferability; expiration or revocation.

- A. Terms. Upon satisfactory completion of the procedure outlined above, the Clerk shall issue the opening permit. The permit shall set forth the following data:
 - (1) The name of the permittee.
 - (2) A brief description of the location of the proposed opening and the work contemplated.
 - (3) A commencement and termination date.
 - (4) Any special conditions the borough has imposed.
 - (5) A listing of the supporting documents, plans, specifications, etc., which serve[s] as a basis for the permit.
- B. **[Renewal. An opening permit may be renewed for any part, but not exceeding the total time, of the original permit upon the payment of a renewal fee of ten dollars (\$10).]**
- C. Nontransferability. Opening permits issued under the provisions of this Article are nontransferable.
- D. **[Expiration;] [r]Revocation. [Permits issued under the provisions of this Article will expire at 12:00 midnight of the day indicated on said permit or on the day of expiration of any extension to said permit.]** Permits will **[also]** be revoked at any time it might be found by the Mayor and Council, upon recommendation of the