

**TOWNSHIP OF CEDAR GROVE
ESSEX COUNTY NEW JERSEY**

AGENDA ITEM #3(d)

DECEMBER 4, 2023

PASSED ORDINANCE NO. 23-923

**AN ORDINANCE AMENDING CHAPTER 230 ARTICLE V OF THE CODE OF THE
TOWNSHIP OF CEDAR GROVE REGARDING THE RIGHT-OF-WAY
CONSTRUCTION AND/OR MAINTENANCE**

Article V: Right-of-Way Construction and/or Maintenance

§ 230-27. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AUTHORIZED PERSONNEL – A representative from the Township authorized to grant or allow modifications of the permit or working requirements. These shall be Township Engineer, Director of Public Works, Superintendent of Water and Sewer, or an authorized deputy.

EMERGENCY CIRCUMSTANCE — Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to persons or properties.

~~**ENGINEER or TOWNSHIP ENGINEER** — The Township Engineer person in charge of the Public Works Department and street operations in the Township or his authorized deputy, representative or inspector.~~

PERSON — Includes any natural person, partnership, firm, association, utility, corporation or authority created pursuant to statute.

ROAD - means any township street, highway, roadway, alley, avenue, other public way or right-of-way or public grounds in the township.

§ 230-28. Application procedure; accompanying documents; fees.

Application for a permit under this article shall be made, in writing, to the Authorized Personnel on such form as prescribed by the Township. The application shall be accompanied by the following:

- A. A plan, in triplicate ~~duplicate~~, showing the work to be performed under the said permit, one copy of which shall be returned to the applicant if the application and plan are approved at the time the permit is issued.
- B. A traffic control plan, as deemed necessary by the Township Police Department.
- C. An agreement, signed by the applicant, to hold the Township, its officers, employees and agents harmless of and from any and all costs, charges and liabilities which may accrue or be claimed to accrue by reason of any work performed under the said permit; provided, however, that notwithstanding the absence of such accompanying agreement, the acceptance of a permit issued under this article shall be deemed to constitute and effect such an agreement by the applicant.
- D. ~~Fees of \$5 as described below~~; provided, however, that public utilities or authorities may elect to be billed monthly for such fees as they accrue.

Fee Type	1- or 2- Family Residential	Commercial/Multifamily & Utility Companies
Excavation within Public Right-of-Way		
Application Fee	\$100	\$250
Review Fee	\$100 per opening	<50 SF: \$250 51 SF – 200 SF: \$500 201 SF – 1,000 SF: \$1,000 >1,000 SF: \$1,000 + 0.50/SF Over
Inspection Fee	\$200 + \$125/hour for over 4 hours	\$125/hour (2 hour minimum)
	Escrow \$2,000 for up to 500 SF \$5,000 for excavations >500SF	Bond Fee \$2,000 for up to 500 SF \$5,000 for excavations >500SF
Borings/Monitoring Wells/ Geo Probes		
Application Fee	\$100	\$250
Review Fee	\$100 per boring/well/probe	\$150 per boring/well/probe
Inspection Fee	\$200 + \$125/hour for over 4 hours	\$125/hour (2 hour minimum)
	Escrow \$2,500 for up to 2 borings \$500 each add'l boring	Bond Fee \$5,000 for up to 2 borings \$1,000 each add'l boring

§ 230-29. Conditions required for issuance of permit.

No permit, described in § 230-32, shall be issued by the Authorized Personnel ~~Township Engineer~~ and no work authorized by such permit shall be commenced, unless and until:

- A. The Authorized Personnel has approved the application and accompanying plan.
- B. The Cedar Grove Police Department has reviewed and approved the traffic control plan or waived a traffic control plan.
- C. The applicant has paid the prescribed fees set forth in accordance with §230-28.
- D. The applicant has posted a deposit in accordance with the requirements of §230-28 hereof.
- E. The applicant has furnished a performance bond or escrow in accordance with §230-28 hereof.
- F. The applicant has furnished a certificate of liability insurance in accordance with the requirements of § 230-32-I hereof.

§ 230-30. Permits restricted to person to whom issued and to location for which issued.

No permit issued under this article shall be transferable from one person to another, nor shall the work to be performed under said permit be made in any place other than the location specifically designated in the permit.

§ 230-31. Notice to affected property owners.

If the work to be undertaken by the applicant is such that it will affect the use of properties abutting or adjoining the project or subsurface installations in the vicinity of the proposed work for which a permit is sought, the Authorized Personnel ~~Township Engineer~~ shall require the permittee to submit evidence in affidavit form that the permittee has served a notice of the proposed opening upon the owners and tenants of such properties and subsurface installations personally or by registered or certified mail, return receipt requested.

§ 230-32. Application for Permit. ~~Deposit requirements and regulations.~~

~~A. Use and purpose of deposit. The purpose of requiring a deposit under this article, and the use to be made thereof, is:~~

- ~~A. To cover the Township's cost of inspecting the work authorized by the permit.~~
- ~~B. To reimburse the Township for the cost of any labor and materials furnished by it in connection with restoration or repairs of any street damaged by the work authorized by the permit.~~
- ~~C. To cover the Township's cost and expense of maintenance of the work, authorized by the permit, for one year following completion thereof.~~

~~B. Application Requirements:~~

- A. Application for a right-of-way construction and/or maintenance permit shall be made in writing on forms as prescribed by the Township. Such application shall be filed at the Engineering Department by the applicant or his authorized agent at least 5 working days prior to the proposed commencement of any work. Applications will not be reviewed until a complete application, application fee, and review fee are submitted. Application fees are set forth in §230-28.
- B. Plans, profiles and other details necessary to accurately depict the work to be performed shall be submitted with the application. No Township Road shall be closed to traffic

without the prior consent of the Cedar Grove Police Department and approval of a submitted detour plan.

- C. When application is made for a permit for construction or repair of a sidewalk, repair of an existing curb, construction of a driveway curb opening or the installation of a house leader drain to the curb, the Construction Official may waive the requirements for submission of plans. Restoration must be made in accordance with Township construction details, provided herein.
- D. The applicant will be directly responsible for the performance of the work in accordance with the provisions of the permit and the proper restoration of the right-of-way. The applicant shall be directly responsible for the health, safety and welfare of the public and shall agree to comply with all ordinances and laws relating to the work to be performed.
- E. The applicant must specify the exact date and time of the day that such person intends to commence said excavation, removal or disturbance, as well as the period during which such work is to be performed, and the date and time of day at which the same will be opened and closed, as well as the time during which the permanent repairs will be made.
- F. Issuance of permit.
 - (1) A permit will not be issued until the applicant has deposited an inspection fee as provided in § 230-28, posted a performance bond or escrow, and provided a certificate of insurance for comprehensive general liability insurance identifying the Township and its representatives as additional insureds.
 - (2) The applicant shall comply with all applicable statutes pertaining to notification of any person or corporation engaged in the distribution or transmission of any underground utilities in the area of the proposed excavation. The applicant shall be solely responsible for ascertaining the location of all utilities in the vicinity of the proposed excavation and for the repair of the same if damaged as a result of work for which the excavation permit is issued.
- G. Emergency excavation.
 - (1) Notwithstanding the provisions of this article, any person may open up any Township right-of-way to repair any utility, provided that it is an emergency and any delay in obtaining the required permit would result in endangering the health and general welfare of the inhabitants of the Township; provided, however, that a permit as required herein is obtained within 72 hours after the emergency is discovered. However, notice of the emergency must be made immediately upon discovery of the emergency via telephone to the Township through its Police Department or other designated representative. If not done so, an additional fee of \$500 per day will be assessed on the project and added to the nonrefundable application fee. Once the call is made, the person shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals.
 - (2) Utility companies cannot classify work that was discovered and/or reported over 72 hours prior to construction occurring as emergency work.
 - (3) All emergency construction and maintenance operations shall be performed with full regard to safety and to keep traffic interference to an absolute minimum. During such emergency repair work, the person, contractor or utility shall comply with the provisions of the M.U.T.C.D. while performing such emergency repair work.
- H. Performance & Maintenance guarantee.

- a. A utility company, as defined in this chapter, can opt to file a bond with the Township in the form and manner prescribed in §230-41 of this chapter.
- b. Any person, other than a utility company, must provide a personal guarantee in a form acceptable to the Township Attorney that the requirements of this chapter will be met and that the applicant will reimburse the Township for all costs incurred by the Township if the applicant fails to perform in the manner prescribed. The Township may place a lien on the property, which shall be considered a Township lien for the purposes of N.J.S.A. 54:5-9 with the rights and status of a Township lien pursuant thereto.

I. Insurance required.

- a. No permit shall be issued for right-of-way construction and/or maintenance until the applicant shall have placed on file with the Township a certificate of insurance specifically naming the "Township of Cedar Grove, its officers, employees, agents and assignees" as an additional insured under the applicant's general liability policy. The policy must be a comprehensive general liability form with minimum liability limits of \$500,000 per occurrence.
- b. Such insurance must remain in force from the date of the permit until the termination of the period of maintenance as herein defined.
- c. In lieu of the above insurance requirement, the owner of a one- or two-family dwelling or any other project not requiring any Township Board approval who is performing work within the right-of-way adjacent to his, her or its property can substitute a certificate of insurance from their property liability carrier acknowledging liability coverage for the work to be performed and providing a minimum liability limit of \$100,000 per occurrence.
- d. The applicant shall indemnify and save harmless the Township, its officers and employees from all suits, actions or claims of any character brought because of any injuries or damage received or sustained by any person, persons or property on account of the operations of said applicant; or on account of or in consequence of any neglect in safeguarding the work; or through use of unacceptable materials in constructing the work; or because of any act of omission, neglect or misconduct of said applicant.

J. Maintenance and protection of vehicular and pedestrian traffic. The following shall be required in addition to any and all other requirements and standards set forth in this chapter:

- a. The Township Council hereby finds and declares that problems of traffic control occur when traffic must be moved through or around road or street construction, maintenance operations and utility work, above or below ground, which requires blocking the roadway and obstructing the normal flow of traffic and that such obstructions are or can become dangerous when not properly controlled. In order to better promote the public health, safety, peace and welfare, it is necessary to establish controls and regulations directed to the safe and expeditious movement of traffic through construction and maintenance zones and to provide safety for the workforces performing these operations.
- b. The Township of Cedar Grove does hereby adopt the current Manual on Uniform Traffic Control Devices, known as M.U.T.C.D. (current edition), except as supplemented and amended in this division, as it controls and regulates

whenever construction, maintenance operations or utility work obstructs the normal flow of traffic. Any person, contractor or utility who fails to comply with the provisions of the M.U.T.C.D. while performing such work is in violation of this ordinance.

- c. All traffic control measures must be provided by the applicant and approved by the Township Police Department's Traffic Bureau. A traffic control plan and details must be provided for any applicant proposing to close any portion of a Township roadway.
- d. It shall be the responsibility of an applicant wishing to conduct work on, under or above the roadway to contact the Cedar Grove Police Department to arrange a preconstruction meeting in order to submit plans for the safe movement of traffic during such period of construction work. The applicant shall identify all traffic control requirements necessary to complete the job in accordance with NJDOT and MUTCD standards.
- e. The applicant shall provide the Cedar Grove Police Department with at least two emergency contact phone numbers to be called in case of emergency problems at the construction or maintenance site prior to the start of any work. If, for any reason, the emergency contact cannot be made or if the emergency contact person does not respond to the call from the Cedar Grove Police Department to correct a hazardous condition, the Township of Cedar Grove may respond to correct such hazardous condition. The reasonable fees for such emergency service by the Township of Cedar Grove shall be charged to the person, contractor or utility responsible for such condition.
- f. There shall be no construction, maintenance operations or utility work on any roadway in the Township of Cedar Grove between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 8:00 a.m. on Saturdays. No work shall occur on Sundays or Federal Holidays. This time limit may be adjusted by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) only upon a showing of good cause by the applicant.
- g. Each applicant under this article shall conduct and carry out the road or street construction, maintenance operations and utility work, above or below ground work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The applicant shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work noise, dust and unsightly debris.
- h. No Township road or sidewalk shall be closed to traffic without the prior consent of the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) and approval of a submitted detour plan.
- i. Any person, contractor or utility looking to utilize Township roads as part of a detour route in connection with any other road or street construction, maintenance operations and utility work, above or below ground shall contact the Cedar Grove Police Department to arrange a preconstruction meeting in order to submit plans for the safe movement of traffic during such period of construction work.

- j. It shall be unlawful for the applicant under this article to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and to be hazardous to their safety or health.
- k. The applicant shall provide and maintain suitable barricades, warning signs, warning flags, amber flasher lights and other generally accepted safety and warning devices as determined by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) during the period of construction work.
- l. Off-duty Cedar Grove police officers shall be posted at all construction or maintenance sites, when determined by the Chief of Police or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) that same is necessary to provide for the safe and expeditious movement of traffic. The Township of Cedar Grove shall be fully reimbursed for the cost of the provision of said police officers by the applicant and the rate of pay for said police officers shall be that established by the Township of Cedar Grove, inclusive of the administrative/vehicle use fee.
 - i. For the purposes of this section, a traffic director is that individual who is responsible for traffic control at a roadway worksite and is either a Cedar Grove Township Police Officer or a civilian flagger who meets the qualifications as set forth in Section 6E of the Manual on Uniform Traffic Control Devices and is certified as a flagger by the American Traffic Safety Services Association, Rutgers University or comparable organization, approved by the Chief of Police.
 - ii. Traffic directors shall be posted at all construction or maintenance sites when determined by the Cedar Grove Police Department that same is necessary to provide for the safety and expeditious movement of traffic.
 - iii. Civilian flaggers shall not be used as traffic directors in any work zone which contains an intersection with a traffic control device. In those situations, only a police officer will be used as a traffic director.
- m. Any person, corporation or other entity who violates any provision of this subsection shall be subject to penalties. Additionally, the Chief of Police of the Cedar Grove Police Department or, in the absence of the Chief, other chief law enforcement officer (or his or her designee) shall have the authority to stop work, including the removal of equipment and vehicles, stored material within the street right-of-way, backfilling of open excavations and/or other related work, in order to abate any nuisance and/or safety hazard or for any violation of this section. The cost to abate any hazardous conditions shall be borne by the person, contractor, or utility responsible for such condition.

K. Safeguards required.

- a. Proper bracing shall be maintained to prevent the collapse of adjoining ground and in excavations. The excavation shall not have any excavated portion which extends beyond the opening at the surface.

- b. It shall be the duty of the applicant to give notice of the proposed right-of-way excavation to any company whose pipes, conduits or other structures are laid in the portion of the street to be excavated. The applicant shall, at his own expense, carefully support and protect from injury such pipes, conduits or other structures.
- c. No unnecessary damage or injury shall be done to any tree or shrub or the roots thereof. Should a tree be damaged during construction operations, the escrow or bond shall be held until one-year after final completion of the work. The Applicant shall be responsible for the replacement of the tree should it die within the year.
- d. If any sidewalk is removed or blocked by any work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for pedestrian usage.
- e. Inspection provisions enforced. All work shall be subject to inspection by the Township's authorized representative. The contractor shall give 72 hours' notice prior to commencement of work. For all projects an inspection fee will be established by the Township in accordance with the fee schedule and anticipated length of construction.

§ 230-393. Additional restrictions on work on recently paved or improved streets.

- A. No permit which would authorize an excavation or opening in a paved or improved street surface less than five years old shall be issued by the Authorized Personnel to any person, including a public utility or authority unless the applicant therefor can demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency circumstance or condition exists. In the event that such permit is issued, an additional penalty charge shall be made for the opening, except that the penalty shall be waived in the event that the work is of an emergency nature. The penalty charge shall be on a sliding scale and shall be equal to 2% of the cost of restoring the opening for each unelapsed month or fraction thereof of the five-year restricted period.
- B. Restoration shall be in accordance with Section 230-42-C.

§ 230-3534. Non applicability to state or county highways.

The provisions of this article shall not be applicable in those instances where the highway is maintained by the State of New Jersey or by the County of Essex.

§ 230-35. Violations and penalties. [~~Amended 12-17-1962~~]

- a) Any person, contractor or utility who commits a violation of this ordinance shall, upon conviction thereof:
 - a. For a first offense, pay a fine of not less than \$100.00 nor more than \$500.00 and/or be imprisoned for a term not exceeding 90 days;

- b. For a second offense, pay a fine of not less than \$250.00 and/or be imprisoned for a term not exceeding 90 days; and
- c. For a third or subsequent conviction, pay a fine of not less than \$500.00 and/or be imprisoned for a term not exceeding 90 days.
- b. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

§ 230-36. Time within which work must be commenced.

- A. Except as otherwise provided in § 230-32 hereof, the work for which a permit has been issued under this article shall commence within 45 days of the issuance of said permit, in default of which the permit shall be automatically terminated, unless the said time for the commencement of the work shall be extended by the Authorized Personnel upon an application therefor in writing, made prior to the expiration of the forty-five-day period, setting forth the reasons for the requested extension.
- B. Permits terminated pursuant to the provisions of Subsection A hereof may be renewed upon the payment of an additional permit fee as described in Section 230-28.

§ 230-37. Work limited by permit; allowable extension.

No person to whom a permit has been granted shall perform any of the work authorized by such permit in any amount of quantity greater than that specified in the permit; except that, upon the approval by Township Authorized personnel, additional work may be done under the provisions of the permit in any amount not greater than 10% of the amount specified in the permit. Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the aforesaid ten-percent limitation.

§ 230-38. Display of permit at site.

Every permittee shall, at all times, keep or cause to be kept the permit and an approved copy of the plan at the location for which said permit was granted and while the work authorized by such permit is in progress. The permittee shall produce and exhibit said permit and plan upon demand of a representative of the Public Works Department or of the police authorities.

§ 230-39. Expiration of permit; extensions.

Every permit shall expire at the end of the period of time which shall be set out in the permit. If the permittee shall be unable to complete the work within the specified time, he shall, prior to expiration of the permit, present in writing to the Authorized Personnel a request for an extension of time, setting forth therein the reasons for the requested extension. If such an extension is necessary and not contrary to the public interest, the permittee may be granted additional time by the Authorized Personnel for the completion of the work.

§ 230-40. Revocation of permit; completion of work by Township.

- A. Any permit issued under this article may be revoked by the Authorized Personnel, after giving notice as provided in Subsection B hereof, upon any of the following grounds:
- (1) Violation of any condition of the permit or of any provision of this article.
 - (2) Violation of any provision of any other applicable ordinance or law relating to the work.
 - (3) Existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or property of others.
- B. When the permit has been revoked and the work authorized by the permit has not been completed, the Township shall do such work as may be necessary to complete such work as was authorized by the permit and to restore the street or part thereof to as good condition as before the opening was made. All expenses incurred by the Township shall be recovered from the escrow or bond the permittee has made or filed with the Township.

§ 230-41 Utility company guarantees.

- A. Annual performance guarantees. A utility company shall annually provide the Township by no later than January 31 with a performance bond in an amount calculated based on the aggregate excavations planned by the utility company for the year in a form approved by the Township Attorney guaranteeing that all excavations shall comply with the provisions of this chapter and that the full restoration of the street or right-of-way surface shall be to the satisfaction of the Township. The amount of the performance bond shall be as follows:

Aggregate Planned Excavations (square feet)	Amount of Performance Bond
Up to 1,000	\$50,000
Greater than 1,000 and less than 5,000	\$100,000
Greater than 5,000	\$250,000

- B. Annual performance bonds will only be released in accordance with Subsection C below.
- C. Annual maintenance guarantees. A utility company shall annually provide the Township by no later than January 31 with a maintenance bond in an amount equal to 20% of the previous year's posted performance bond in a form approved by the Township Attorney. The term of the maintenance guarantee shall be a period of two years from the date of approval of work.
- D. Release of performance guarantees.
- 1) Resolution required. Annually, the governing body shall, by resolution, either approve or reject the utility company improvements based on the recommendation of the Township Engineer. The resolution shall authorize the release of the performance bond only as to improvements approved and for which a maintenance bond has been tendered. The governing body may not authorize release of the performance bond for any improvement that has not been

approved by the Township Engineer or for which fees are outstanding. The utility company may only obtain a release of the performance bond for rejected work after the work is approved in full.

- 2) Review and recommendation by the Township Engineer.
- 3) Upon substantial completion of all excavation improvements, the utility company shall forward a set of as-built plans. Upon receipt of the as-built plan information, the Township Engineer shall inspect all bonded excavations and shall prepare written list of approved excavations and a separate written list of uncompleted or unsatisfactory completed improvements.
- 4) With respect to each improvement determined to be incomplete or unsatisfactory, the Township Engineer shall state in detail the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of and remedy for the unsatisfactory state of each completed improvement determined to be unsatisfactory.

E. Miscellaneous.

- 1) The utility company will be required to post both a performance bond and maintenance bond annually regardless of the previous year's performance bond being withheld for rejection of improvements or outstanding application fees.
- 2) Nothing herein, however, shall be construed to limit the right of the utility company to contest by legal proceedings any determination of the governing body or the Township Engineer.
- 3) The utility company shall reimburse the Township for all inspection fees for the foregoing inspection of improvements. The Township shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

F. Yearly notice and report of proposed activities.

- 1) Once, yearly, all utility companies and contractors working for utility companies, including, but not limited to, those engaged in the installation of gas, water, electric, cable/telecom, etc., shall report to the Township Manager, Superintendent of Public Works, and Township Engineer their intentions with regard to the prospective work requiring road openings for the purpose of coordinating such activity with resurfacing projects anticipated by the Township, and obtain acknowledgement by each of the Township Departments of reported, proposed activities. This report shall include all prospective work for the following year and should be provided by November 15.
- 2) Once, yearly, the Township shall notify utility companies and neighboring municipalities of planned work on Township roads and that any upcoming construction activities planned by said utility companies and neighboring municipalities shall be completed before paving is to start. Such notice shall state that no excavation permits shall be issued for openings, cuts or excavations in such Township roads for a period of five years after date of paving. The notice shall also notify applicant that applications for excavation permits, for work to be done prior to such paving shall be submitted promptly in order that the work covered by the permit may be completed before paving.

§ 230-42. Specifications for excavations, backfilling and street repairs.

- A. All excavation, backfill, and street repairs shall be performed in accordance with the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, latest edition.
- B. Standards for Township rights-of-way constructed, reconstructed or resurfaced more than five years prior to the requested excavation permit:
 - 1. Excavation.
 - a) The use of power excavating equipment is prohibited within the pavement limits until each edge of the trench has been cut through the entire thickness of the pavement to even uniform line.
 - b) Excavated material shall not be stored within Township rights-of-way unless otherwise approved by the Authorized Personnel. Unless otherwise authorized, the work of passing under sidewalks and curbing shall be done by tunneling.
 - c) No excavation shall remain open overnight unless specifically approved by the Authorized Personnel. Steel plates are prohibited unless specifically approved by the Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.
 - 2. Backfilling.
 - a) The material excavated from the opening shall not be used as backfill, unless specifically permitted by the Authorized Personnel. Backfill material shall be soil aggregate (I-5) or dense graded aggregate. Recycled concrete aggregate (RCA) or recycled asphalt (RAP) is not permitted within the Township right-of-way.
 - b) All opening cuts are to be squared and cut on a vertical plane to a width and length of not less than 12 inches greater than the original cut/opening. The surface restoration shall extend 12 inches wider and longer than the area of the base.
 - c) Backfill materials shall be deposited in thoroughly compacted layers by mechanical tamper. At no time shall the thickness of each layer exceed 12 inches.
 - d) When the trench is brought to grade, all surplus material shall be immediately removed by the permittee.
 - e) Applicant must notify the Authorized Personnel one hour prior to the start of backfill operations. If a Township official is not present and the applicant has backfilled the road opening, the applicant must re-excavate the opening and backfill again with the presence of a Township official.
 - f) Temporary repairs to streets. Immediately after backfilling the excavation, the permittee shall repair any pavement disturbed with a temporary surface consisting of not less than six inches or compacted aggregate base course [soil aggregate (I-5) or dense graded aggregate] and six inches of compacted bituminous stabilized base 19M64. This temporary surface shall be set at the final grade of the permanent repair. Temporary pavement shall be regularly monitored by the contractor and maintained at this grade until the permanent repairs are made. The

temporary pavement shall remain for at least 30 days to allow for settlement.

- g) Temporary striping and markings shall be applied prior to re-excavation of any roadways. Apply latex traffic stripes and latex markings when they are required for 14 days or less. Apply thermoplastic markings when they are required for more than 14 days.

3. Permanent repairs to streets.

- a) Any single excavation that is less than 50 square feet in area shall be repaired by extending a square vertical plane to a width of not less than 12 inches greater than the original cut/opening in all directions. The surface restoration shall extend 12 inches wider and longer than the area of the temporary restoration.
- b) Any application that is equal to or greater than 50 square feet, whether continuous or separate, permanent restoration shall consist of milling up to two-inch-thick of the existing pavement for 25 feet past the trench on each end from curb to centerline. For any single excavation that crosses the centerline, same shall apply from curb to curb rather than curb to centerline.
- c) Permanent pavement restoration shall consist of milling up to two inches of the temporary pavement 12 inches beyond the original trench and applying an overlay of two inches surface course 9.5M64 compacted in place, finished level with adjacent pavement. A tack coat shall be used to bind the new pavement to all edges of the existing adjacent pavement. The permanent pavement restoration shall be completed within 90 days of the completion of the temporary repairs. Prior to placing the permanent pavement, any failure of the temporary repairs must be corrected to the satisfaction of the Township.
- d) All disturbed pavement line striping or markings shall be replaced by the applicant utilizing Thermoplastic and be in accordance with the MUTCD and the New Jersey Department of Transportation Standards Specifications for Roadway and Bridge Construction, latest editions.

4. Other repairs.

- a) Where excavations are made in unpaved shoulder areas, the trench backfill shall be compacted to a level six inches below the top of the adjacent shoulder surfaces. A six-inch compacted depth of dense graded aggregate base course shall be constructed.
- b) All excavations beyond the shoulder areas shall be brought to grade with compacted backfill. A minimum thickness of four inches of topsoil shall be spread in the trench area and fertilized, seeded and mulched or sodded. Should a proper growth not be achieved, the area shall be fertilized, reseeded and mulched or sodded, as necessary.
- c) All other emergency improvements within the Township right-of-way but outside the roadway shall adhere to the requirements applicable to all openings listed above.
- d) No excavation shall remain open overnight unless specifically approved by the Authorized Personnel. Steel plates are prohibited

unless specifically approved by the Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.

- e) Under no circumstance shall utility mains/services be abandoned in place. All mains/services that are no longer in use shall be removed in their entirety, whether newly abandoned or previously abandoned and uncovered during excavation.

C. Roadway restoration for Township roads constructed, reconstructed, or resurfaced within the last five years if allowed under § 230-33.

1. Excavation.

- a) The use of power excavating equipment is prohibited within the pavement limits until each edge of the trench has been cut through the entire thickness of the pavement to even uniform line. All cuts are to be squared and cut on a vertical plane.
- b) Excavated material shall not be stored within Township rights-of-way unless otherwise approved by the Township Authorized Personnel. Unless otherwise authorized, the work of passing under sidewalks and curbing shall be done by tunneling.
- c) No excavation shall remain open overnight unless specifically approved by the Township Authorized Personnel. Steel plates are prohibited unless specifically approved by the Township Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.

2. Backfilling.

- a) The material excavated from the opening shall not be used as backfill, unless specifically permitted by the Authorized Personnel. Backfill material shall be soil aggregate (I-5) or dense graded aggregate. Recycled Concrete aggregate (RCA) or recycled asphalt (RAP) is not permitted within the Township right-of-way.
- b) Backfill materials shall be deposited in thoroughly compacted layers by mechanical tamper. At no time shall the thickness of each layer exceed 12 inches.
- c) When the trench is brought to grade, all surplus material shall be immediately removed by the permittee.
- d) Applicant must notify the Authorized Personnel one hour prior to the start of backfill operations. If a Township official is not present and the applicant has backfilled the road opening, the applicant must re-excavate the opening and backfill again with the presence of a Township official.
- e) Temporary repairs to streets. Immediately after backfilling the excavation, the permittee shall repair any pavement disturbed with a temporary surface consisting of not less than six inches of compacted aggregate base course [soil aggregate (I-5) or dense graded aggregate] and six inches of compacted bituminous stabilized base 19M64. This temporary surface shall be set at the final grade of the permanent

repair. Temporary pavement shall be regularly monitored by the contractor and maintained at this grade until the permanent repairs are made. The temporary pavement shall remain for at least 30 days to allow for settlement.

- f) Temporary striping and markings shall be applied prior to re-excavation of any roadways. Apply latex traffic stripes and latex markings when they are required for 14 days or less. Apply thermoplastic markings when they are required for more than 14 days.

3. Permanent repairs to streets.

- a) For all applications in roadways paved within the past five (5) years, permanent restoration shall consist of milling up to two-inch-thick of the existing pavement from curb to curb and street corner to street corner. For excavation that extends into an intersection (beyond the closest curb return) the entire intersection to the next curb return should be included. For excavation that does not extend into an intersection, the extent of pavement shall end at the nearest curb return of the adjacent intersections. All joints with existing pavement shall be treated with infrared thermal technology.
- b) Permanent pavement restoration shall consist of milling up to two inches of the temporary pavement and applying an overlay of two inches surface course 9.5M64 compacted in place, finished level with adjacent pavement. A tack coat shall be used to bind the new pavement to all edges of the existing adjacent pavement. The permanent pavement restoration shall be completed within 90 days of the completion of the temporary repairs. Prior to placing the permanent pavement, any failure of the temporary repairs must be corrected to the satisfaction of the Township.
- c) All disturbed pavement line striping or markings shall be replaced by the applicant utilizing thermoplastic and be in accordance with the Manual on Uniform Traffic Control Devices and the New Jersey Department of Transportation Standards Specifications for Roadway and Bridge Construction, latest editions.

4. Other repairs.

- a) Where excavations are made in unpaved shoulder areas, the trench backfill shall be compacted to a level six inches below the top of the adjacent shoulder surfaces. A six-inch compacted depth of dense graded aggregate base course shall be constructed.
- b) All excavations beyond the shoulder areas shall be brought to grade with compacted backfill. A minimum thickness of four inches of topsoil shall be spread in the trench area and fertilized, seeded and mulched or sodded. Should a proper growth not be achieved, the area shall be fertilized, reseeded and mulched or sodded, as necessary.
- c) All other emergency improvements within the Township right-of-way but outside the roadway shall adhere to the requirements applicable to all openings listed above.

- d) No excavation shall remain open overnight unless specifically approved by the Township Authorized Personnel. Steel plates are prohibited unless specifically approved by the Township Authorized Personnel. This approval will have time limitations and can only be given if the public safety and general welfare of the community is not at risk.

5. Cleanup Operations

- a) All streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris remaining from the work.
- b) All cleanup operations at the location of the excavation shall be accomplished at the expense of the applicant and shall be completed to the satisfaction of the Authorized Personnel.
- c) The Authorized Personnel may order at any time, and in any event immediately after completion of the work, the applicant, at his own expense, to clean up and to remove all refuse and unused materials resulting from the work.
- d) Upon failure to do so within 24 hours after having been notified to do so, weather permitting, and the absence of any other unnatural hardship which prevents immediate compliance, the work may be done by the Township. The cost thereof shall be charged to the Applicant and the Applicant shall also be liable for the cost under the bond or escrow provided.

§ 230-43. Public Utilities Placement, replacement or removal of public utility pole or underground facility; required notice, restoration and pole removal.

- 1. Before a public utility places, replaces or removes a pole or an underground facility located in the Township of Cedar Grove, the public utility shall notify the Engineering Department in writing, which may be by email, personal service or certified mail, at least, but not less than, 24 hours before undertaking any excavation related to the placement, replacement or removal of the pole or underground facility.
- 2. Any public utility placing, replacing or removing a pole or an underground facility located in the Township shall provide for adequate traffic control during the course of said work, including any barricades, cones and/or officers necessary in order to safely divert the flow of traffic.
- 3. After completing the placement, replacement or removal of a pole or an underground facility pursuant to this chapter, the public utility shall remove from such right-of-way any pole or underground facility no longer in use as well as any other debris created from such placement, replacement or removal and restore the property, including, but not limited to, the installation of same material as removed as needed to restore the property within the right-of-way to its previous condition as much as possible. In the case of removal or replacement of a pole or an underground facility utilized by two or more public utilities, the public utility last removing its pipes, cables, wires, lines or other structures shall be liable for the removal and restoration required under this section.

4. Under emergency conditions which significantly impact the placement of a pole or underground facility resulting from natural forces or human activities beyond the control of the public utility, or which pose an imminent or existing threat of loss of electrical, power, telephone, or other telecommunication service, or which pose an imminent or existing threat to the safety and security of persons or property, or both, or which require immediate action by a public utility to prevent bodily harm or substantial property damage from occurring.
5. The provisions of § 230-43.1 of this chapter shall not apply when a public utility undertakes any construction or excavation related to the placement, replacement or removal of a pole or an underground facility in response to such an emergency, provided that the public utility undertaking such construction or excavation notifies the Authorized Personnel at the earliest reasonable opportunity.
6. In the event a public utility does not satisfy the debris removal and restoration requirements of § 230-43.3 above within 90 days of the date of such placement, replacement or removal of a utility pole or underground utility facility, the municipality shall be authorized to impose a fine up to an amount not to exceed \$100 each day until the requirements of § 230-43.3 are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November-through-April period.
7. Public utilities shall remove from such right-of-way any pole no longer in use, or sought to be replaced by the placement of a new pole, 90 days after the abandonment of the use of the pole or 90 days after placement of the new pole. Any poles currently not in use, or intended to be replaced based upon the placement of a new pole that has already been installed, must be removed within 90 days of the effective date of this chapter. The municipality shall be authorized to impose a fine up to an amount not to exceed \$100 each day until the pole is removed and requirements of § **230-43.3** are met, except that if the public utility is unable to complete the installation of a hot patch due to the unavailability of asphalt material during the period of time from November through April, the public utility shall not be required to complete the hot patch installation until 60 days immediately following the end of the November-through-April period.
8. At least five business days prior to the end of the ninety-day or sixty-day period established pursuant to § **230-43.6** as applicable, the Township shall notify the public utility that the penalties authorized by such section shall begin to be assessed against the utility after the end of the applicable period unless the utility complies with the requirements of § **230-43.3** hereof.
9. § **230-43** is not intended to replace or conflict with N.J.S.A. 48:3, Art. 3e Infrastructure Projects, et seq.,^{[III](#)} and where those statutory provisions are applicable those provisions must also be followed.

Severability. Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase, and finding or

holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason shall not affect any other portion of this Ordinance.

Effective Date: This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

Underlines are additions and ~~strikeouts~~ are deletions.

INTRODUCED BY: Councilwoman Mega
SECONDED BY: Deputy Mayor Skabich

ROLL CALL VOTE				
COUNCILMEMBER	YES	NO	ABSTAIN	ABSENT
Maceri	X			
Mega	X			
Zazzali	X			
Skabich	X			
Peterson	X			

I HEREBY CERTIFY the foregoing to be a true copy of an ordinance adopted by the Township Council of Cedar Grove, in the County of Essex, following public hearing, at its meeting held on December 4, 2023.



Dale A. Forde
Township Clerk