

STREETS AND SIDEWALKS

Chapter 50

STREETS AND SIDEWALKS

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[HISTORY: Adopted by the Mayor and Council of the Borough of Helmetta as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 47.
Vehicles and traffic — See Ch. 55.

§ 50-1

STREETS AND SIDEWALKS

§ 50-1

ARTICLE I
Street Openings and Excavations
[Adopted 4-8-1981]

§ 50-1. Permit required. [Amended 6-15-1988; 6-19-1991
by Ord. No. 7-1991]

- A. No person, company, firm or corporation shall disturb the surface of or make any opening or excavation of any kind in any portion of the street, avenue, road or highway under the jurisdiction of the Borough for the laying of gas, water or sewer pipes, or for any other purpose, without first obtaining a permit for the same as set forth in this Article. Said permit shall be issued through the office of the Borough Clerk upon the approval of the Construction Code Official.
- B. Any road, street or right-of-way which has been resurfaced or reconstructed shall not be reopened for a period of five years, except for emergency repairs as determined by the Chairman of the Streets and Roads Department.
- C. The Mayor and Borough Council may grant exemptions to the requirements of Subsection B forbidding the opening of roads for a period of five years after a road has been resurfaced and/or reconstructed, upon written request of the applicant. Said written request should indicate on its face that there is good cause to grant said exemption and/or that the applicant will suffer undue hardship if said exemption is not granted. Said request will be considered at the next regularly scheduled session of the Mayor and Borough Council. If the Mayor and Borough Council determine that the applicant has established good cause and/or undue hardship, said exemption may be approved by resolution of the Mayor and Borough Council.

(Cont'd on page 5003)

§ 50-2. Application for permit.

No person, company, firm or corporation shall disturb the surface of or make any opening or excavation as described in § 50-1 without first obtaining a permit from the Borough Clerk, containing the following information:

- A. The name and address of the applicant.
- B. The name of the street where the opening is to be made and the names of the abutting property owners.
- C. The township Tax Map block and lot number for the property for the benefit of which the opening is to be made.
- D. The nature of the surface in which the opening is to be made.
- E. The character and purpose of the work proposed.
- F. The time when the work is to be commenced and completed.
- G. Each application shall be accompanied by a set of plans in quadruplicate showing the exact location and dimensions of all openings.
- H. The name and address of the workman or contractor who is to perform the work.
- I. A statement that the applicant agrees to replace at his own cost and expense, the street, curb, gutter and sidewalk in the same state and condition in all things as they were at the time of the commencement of the work.

§ 50-3. Contents of permit.

Each permit issued under the provisions of this Article shall contain such particulars as may be required by the provisions of this Article, the dimensions and size of opening permitted, the time within which such work shall be done, a statement that the opening or excavation must be adequately guarded to prevent damage to life or property until the opening or excavation is filled in an approved manner and shall be signed by the Borough Clerk.

§ 50-4. Conditions attached to permits. [Amended 6-15-88]

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

- A. Limitations on the period of the year in which the work may be performed.
- B. Restrictions as to the size and type of equipment.
- C. The designation of routes upon which materials may be transported.
- D. The place and manner of disposal of excavated materials.
- E. Requirements as to the laying of dust, the cleaning of streets and other things offensive or injurious to the neighborhood, the general public or any portion thereof.
- F. Regulations as to the use of streets in the course of the work.

§ 50-5. Insurance requirements.

Each applicant, prior to receipt of a permit, shall provide the borough with an acceptable certificate of insurance indicating that he is insured against claims for damages for personal injury, as well as against claims for property damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosive hazards and underground work by equipment on the street and all operations, including labor, equipment, materials and all else involved in work under the permit and shall include protection against liability arising from completed operations. The liability insurance for bodily injury in effect shall be in an amount not less than three hundred thousand dollars (\$300,000.) for each person and five hundred thousand dollars (\$500,000.) for each accident or incident and for property damages an amount not less than three hundred thousand dollars

(\$300,000.) with an aggregate of five hundred thousand dollars (\$500,000.) for all accidents or incidents. Said insurance shall also contain a clause holding the Borough of Helmetta and its agents and servants and employees harmless against any claim or damages which may arise out of any liability resulting from the applicant's work.

§ 50-6. Bond requirements. [Amended 6-15-88]

- A. Each applicant, prior to the issuance of the permit, shall file with the Borough Clerk a performance bond in an amount to be determined in advance by the Construction Code Official and which amount shall be sufficient for the purposes set forth in Subsection B hereinafter. A certified check or cash shall be satisfactory in lieu of said bond. In the event that a bond is provided, the form and content of such bond shall be approved by the Borough Attorney prior to the issuance of any permit.
- B. Said bond shall be in favor of the Borough of Helmetta, made with a good and solvent bonding company licensed to do business in the State of New Jersey, as surety, and shall be conditioned on payment to the Borough of Helmetta for all moneys representing damages which may be sustained by the Borough of Helmetta for all sums necessary to complete or correct the improvement of the street which is opened and for all other requirements made of the applicant under the applicable sections of this Article. The liability under said bond shall not be terminated until a certificate of approval has been obtained from the Construction Code Official to the effect that all provisions of the Article have been complied with. Each public utility desiring to obtain permits pursuant to this Article shall file each year with the Borough Clerk one (1) certificate of insurance and one (1) performance bond for the entire year in the amount of five thousand dollars (\$5,000.), which bond shall be conditioned upon the public utility complying with the applicable sections of this Article.

§ 50-7. Replacement of street surfaces; tunneling restricted.

- A. All street surfaces disturbed under a permit issued in compliance with this Article shall be replaced by the person to whom such permit is issued, the cost of which shall be borne by the person to whom such permit is issued.
- B. The Construction Code Official shall have full rights to supervise the replacement of surfaces, and the person to whom the permit is issued agrees to be bound by his requirements in furtherance of restoration. [Amended 6-15-88]
- C. All types of finished pavement shall be completely broken and removed to a minimum distance of six (6) inches back from all sides of the excavation or trench to the level of the surface upon which the pavement rests.
- D. No tunneling shall be permitted, except that, where practicable, an earth drill may be used to bore a hole of the same diameter as the pipe or conduit being installed, such drilling to be permitted only with the approval of and under the supervision of the Construction Code Official. [Amended 6-15-88]

§ 50-8. Limits to excavations.

When the excavation involves passing the center line of the roadway, no opening or excavation in any street shall extend beyond the center line of the street until the previously opened section has been backfilled and the surface of the street temporarily restored in a safe and acceptable condition. No more than two hundred fifty (250) feet measured longitudinally shall be opened in any street at any one (1) time, except by specific approval of Borough Council. No person to whom a permit has been issued under the provisions of this Article shall disturb more pavement than the permit provides for without first applying for and receiving permission to do so.

§ 50-9. Backfilling and restoration.

- A. All pavement cuts, openings and excavations shall be properly made, backfilled and temporarily surfaced by the permittee

according to the requirements of this Article and the instructions of the Construction Code Official. [Amended 6-15-88]

- B. The Construction Code Official must be notified by the permittee, during the forty-eight-hour period preceding the beginning of backfilling, of the date and approximate time at which backfilling will begin. [Amended 6-15-88]
- C. No backfilling shall be started prior to inspection and approval of the installed work by the proper borough officials and unless and until the Construction Code Official or a Borough Inspector designated by the Construction Code Official is present. [Amended 6-15-88]
- D. If the Construction Code Official finds that paving surfaces adjacent to the street opening may be damaged where a number of trenches are laid in close proximity to one another or where the equipment used may cause such damage, he may require a negotiated contribution from the permittee for the resurfacing in place of patching of such street if the total area of the proposed patch or probable damaged area exceeds fifteen percent (15%) of the total pavement surfacing between curb faces or between concrete gutter edges in any block. Such negotiations shall be carried on and contributions agreed upon prior to the issuance of a permit. [Amended 6-15-88]
- E. After excavation is commenced, the work of making and backfilling the same shall be prosecuted with due diligence.
- F. In no case shall any opening made by a permittee be considered in the charge or care of the borough, or any of its officers or employees, and no officer or employee is authorized in any way to take or assume any jurisdiction over any such opening, except in the exercise of police power when it is necessary to protect life and property.

§ 50-10. Protection of facilities; claims for damage.

- A. All utility facilities shall be exposed sufficiently ahead of trench excavation work to avoid damage to those facilities

and to permit their relocation, if necessary, and all utility companies shall be notified by the permittee at least three (3) working days before work is started.

- B. Pipe drains, pipe culverts or all other facilities encountered shall be protected adequately by the permittee.
- C. Any person whose facilities are damaged by the permittee may make the necessary repairs and file a claim against the permittee with the borough for the fair and proper cost of such repairs. The Construction Code Official shall not authorize the release of the performance bond until the claim has been resolved. In the event of damage, responsibility for repair or replacement shall be assumed by the permittee. [Amended 6-15-88]

§ 50-11. Monuments to be preserved. [Amended 6-15-88]

Monuments of concrete, iron or other lasting material set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point or a permanent survey bench mark within the borough, shall not be removed or disturbed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Construction Code Official after consultation with the Borough Engineer. Permission shall be granted only upon the condition that the permittee shall pay all expenses incident to the proper replacement of the monument.

§ 50-12. Commencement of work; hours. [Amended 6-15-88]

Work for which a permit has been issued shall commence within ten (10) days after the issuance of the permit therefor. If not so commenced, the permit shall be automatically terminated. Permits thus terminated may be renewed upon the payment of an additional permit fee as originally required. All work shall be completed within thirty (30) days from the date of issuance of the permit. Work authorized by a permit shall be performed between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, unless the permittee obtains written consent from the Construction Code Official to do the work at an earlier or later hour. Such permission shall be granted only in case of emergency.

§ 50-13. Safety devices.

- A. Every permittee shall place around the project and maintain in proper operating condition such barriers, barricades, lights, warning flags and danger signs as shall be determined by the Construction Code Official in consultation with the Borough Engineer to be necessary for the protection of the public. Additional safety requirements may be prescribed by the Construction Code Official. **[Amended 6-15-88]**
- B. Whenever any person fails to provide or maintain the safety devices required by the Construction Code Official, such devices shall be installed and maintained by the borough. The cost incurred shall be paid by the permittee prior to the release of the performance bond. **[Amended 6-15-88]**
- C. No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or notice erected, placed or posted in accordance with the provisions of this Article.

§ 50-14. Drainage. [Amended 6-15-88]

When work performed by the permittee interferes with the established drainage system of any street, provision shall be made by the permittee to provide proper drainage to the satisfaction of the Construction Code Official. No person shall divert or discharge water into, upon or across any street, avenue, road, highway or sidewalk in the borough so that a nuisance is created or a hazardous or dangerous condition is created or the pavement or road surface is damaged thereby.

§ 50-15. Excavated material. [Amended 6-15-88]

When any earth, gravel or other excavated material is caused to roll, flow or wash upon any street, the permittee shall cause the same to be removed from the street within eight (8) hours after deposit. In the event that the earth, gravel or other excavated material so deposited is not removed, the Construction Code Official shall cause such removal, and the cost incurred shall be paid by the permittee prior to the release of the performance bond.

§ 50-16. Access to private driveways and fire hydrants.

Access to private driveways shall be provided except during working hours when construction operations prohibit provision of such access. Residents shall be notified by permittee at least twelve (12) hours before the start of the operation requiring the closing of normal access or accesses to property. Free access must be provided at all times to fire hydrants.

§ 50-17. Traffic. [Amended 6-15-88]

Excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Construction Code Official may require the permittee to provide toe boards or bins; and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the permittee as directed by the Construction Code Official. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, the permittee shall keep a passageway at least one-half ($\frac{1}{2}$) of the sidewalk width open along such sidewalk line.

§ 50-18. General safety.

All excavating work shall be done in a manner conforming to the safety requirements of the New Jersey Department of Labor and any other applicable state and federal laws and regulations.

§ 50-19. Expiration of permits; nontransferability. [Amended 6-15-88]

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 the expiration of the permit, present in writing to the Construction Code Official a request for an extension of time, setting forth therein the reasons for the requested extension. If, in the opinion of the

Construction Code Official, 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. Permits are not transferable from one (1) person to another, and the work shall not be done in any place other than the location specifically designated in the permit.

§ 50-20. Rights of borough.

Every permit shall be granted subject to the right of the borough or of any other person entitled thereto to use the street for any purpose for which such street may lawfully be used, not inconsistent with the permit.

§ 50-21. Revocation of permits.

- A. [Amended 6-15-88] Any permit may be revoked by the Construction Code Official after notice to the permittee for:
- (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) The existence of any condition or the doing of any act constituting or creating a nuisance or endangering the lives or properties of others. A permittee may be granted a period of three (3) days from the date of the notice to correct the violation and to proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.
- B. Written notice of any such violation or condition shall be served upon the permittee or his agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified or by certified United States Mail addressed to the person to be notified.

- C. When any permit has been revoked and the work authorized by the permit has not been completed, the Construction Code Official shall cause such work to be accomplished as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the borough shall be recovered from the bond the permittee has made or filed with the borough. [Amended 6-15-88]

§ 50-22. State highways.

Provisions of this Article shall apply in those instances where the highway is maintained by the State of New Jersey, subject to the provisions of any agreement between the borough and the State of New Jersey. The permittee shall notify the Borough Clerk and the Police Department twenty-four (24) hours before any work is commenced. Said notice shall be in writing.

§ 50-23. County highways.

Where a county road is involved, an applicant shall apply for and secure a permit from Middlesex County. The Borough Clerk and Police Department shall be notified twenty-four (24) hours before work is commenced. Said notice shall be in writing.

§ 50-24. Effect on other contracts.

The provisions of this Article shall not apply to public utility companies having contracts with the borough or operating under special ordinances or statutes nor to any person constructing sidewalk, pavement or public sewers or doing any other work in or on any of the streets, avenues, roads or highways under and in pursuance of a contract entered into between such person and this borough, provided that these provisions or the equivalent are incorporated in any said contract, specification or requirements. In the event that these provisions or the equivalent are not incorporated in any said contract, specification or requirements, then the provisions of this Article shall apply.

§ 50-25. Sewer connections; definitions.

- A. No permit for a street opening shall be given by the Borough Clerk for the purpose of installing a connection between a building or a private sewer, and a public sewer, unless the applicant has a sewer connection permit granted by the Plumbing Code Official. Copies of all permits issued by the Borough Clerk shall be transmitted to the Police Department of the Borough and the Building Code Official.
- B. The definition of "street," "avenue," "road" or "highway" herein shall include any sidewalk area and the area between property lines as such street, avenue, road or highway as laid out on the appropriate Borough maps and subdivisions.

§ 50-26. Violations and penalties.

Any person, company, firm or corporation who or which shall violate any of the provisions of this article shall, upon conviction thereof by the Judge of the Municipal Court, be subject to a fine not exceeding \$500 or by imprisonment for not more than 90 days, or both such fine and imprisonment as shall be deemed necessary at the court's discretion. Each day that the offense occurs shall be deemed to be a separate occurrence and offense.

§ 50-27. Fees. [Added 7-8-1981]

The Mayor and Council shall from time to time fix the fees to be charged and collected with the permit application. Said fees shall be fixed by resolution of the governing body.

ARTICLE II
Snow and Ice Removal
[Adopted 11-7-2001 by Ord. No. 20-2001]

§ 50-28. Duty to remove.

- A. The owner, occupant or tenant of premises abutting or bordering on any street in the borough shall remove all snow and ice from the abutting sidewalks of such streets, or in the event of ice which may be so frozen as to make removal impracticable, shall cause the same to be thoroughly covered with sand or ashes, within 12 hours of daylight after the same shall fall or be formed.
- B. The owner, occupant or tenant of premises used by the public or business invitees shall remove all snow and ice from the sidewalks, streets and parking areas used by the public in the transaction of business, and in the event of ice which may be so frozen as to make removal impractical, shall cause the same to be thoroughly covered with sand or ashes, within 12 hours of daylight after the same shall fall or be formed.

§ 50-29. Casting of snow or ice.

No owner, tenant or occupant of any premises abutting any street shall throw, place or deposit any snow or ice into or on any street, it being the intent and purpose of this provision to prohibit all persons from throwing, casting, placing or depositing snow and ice which accumulates within the private property belonging to that person on the sidewalks or streets of the borough.

§ 50-30. Authority to remove.

If snow or ice is not removed from the sidewalks or is cast or deposited there or placed on the sidewalks or the street by the owner, tenant or occupant of any premises, it shall be removed under the direction of the Director of Public Works, and the cost

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of the removal as nearly as can be ascertained shall be certified by the Director of Public Works to the Chief Financial Officer. The governing body shall examine the certification and if it is found to be correct, shall cause the cost to be charged against the real estate abutting or bordering on such sidewalks, and the amount so charged shall become a lien and a tax on the real estate or land and be added to, recorded and collected in the same manner as the taxes next to be levied and assessed on the premises, and shall bear interest and be enforced and collected by the same officers and in the same manner as other taxes. The imposition and collection of fines or any other penalty for violation of any of the provisions of this article shall not constitute any bar to the right of the borough to collect the cost, as certified, for the removal of snow or ice in the manner herein authorized.