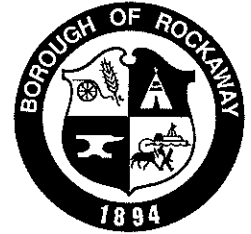


# Borough of Rockaway



MUNICIPAL BUILDING • 1 EAST MAIN STREET • ROCKAWAY, NEW JERSEY 07866

## APPLICATION FOR ROAD OPENING PERMIT

Name of Applicant (Please Print): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: Home: \_\_\_\_\_ Business: \_\_\_\_\_

Location of Road Opening: \_\_\_\_\_

Purpose: \_\_\_\_\_

Type/Size of Opening: Street  Curb  Sidewalk  Length: \_\_\_\_\_ Width: \_\_\_\_\_ Depth: \_\_\_\_\_

Starting Date: \_\_\_\_\_ Closing Date: \_\_\_\_\_

Other: \_\_\_\_\_

You MUST attach the following:

- a detailed plan of the proposed opening, indicating dimensions;
- a check for the \$50 fee;
- a certificate of insurance designating the specific project and guaranteeing notification to the Borough of Rockaway in the event of cancellation with the following coverages: Comprehensive general public liability insurance against claims for bodily injury, death and property damage occurring on, in or about the Project and the adjoining streets, sidewalks and passageways, including contractual liability coverage, in an amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate; workers compensation limits shall be \$1,000,000 each accident, \$1,000,000 disease-policy limit, \$1,000,000 disease - each employee; and commercial automobile policy limit shall be a minimum of \$1,000,000 each accident. All liability insurance shall include the Borough of Rockaway, its departments, agencies, boards, commissions, officers, officials, agents, servants, administrators, and employees as additional insureds, on a primary and non-contributory basis.
- Pursuant to Chapter 173, Licenses and Permits, if the applicant is the owner of the aforementioned property, the applicant must provide proof from the Borough of Rockaway Tax Collector that taxes and assessments have been paid through the current quarter prior to the issuance of this permit.

I have received and read a copy of Chap. 217, Streets and Sidewalks, Article III, Excavations, and the applicable section of Chap. A263, Fees, of the Code Book of the Borough of Rockaway and agree to fully comply with all its provisions.

\_\_\_\_\_ Date

\_\_\_\_\_ Applicant/Title (signature required)

You will be informed of the amount of cash deposit and performance bond (to be determined by the Borough Engineer).

### (FOR BOROUGH USE ONLY)

Supt., Public Works:  Approved  Denied \_\_\_\_\_ Date: \_\_\_\_\_

Borough Engineer:  Approved  Denied \_\_\_\_\_ Date: \_\_\_\_\_

Cash Deposit: \_\_\_\_\_ Check No.: \_\_\_\_\_ Performance Bond: \_\_\_\_\_ Check No.: \_\_\_\_\_ Date: \_\_\_\_\_

Insurance Policy Approved:  Yes  No Taxes/Assessments Paid  Yes  No

Borough Permit No.: \_\_\_\_\_ Date: \_\_\_\_\_

Date of Final Inspection: \_\_\_\_\_ By: \_\_\_\_\_

Return Deposit to Applicant?  Yes  No Amount: \_\_\_\_\_ Resolution: \_\_\_\_\_

Copies to: Applicant Borough Clerk Borough Engineer Police Chief Supt., Public Works

## CHAPTER 217, STREETS AND SIDEWALKS

ARTICLE III, Excavations [Adopted 10-14-1971 by Ord. No. 5-71 as Ch. 25, Art. IV, of the 1971 Code of Ordinances; amended in its entirety 5-27-1982 by Ord. No. 21-82]

### § 217-9. Definitions.

As used herein, the following terms shall have the meanings indicated:

ADMINISTRATOR -- The Administrator of the Borough of Rockaway.

APPLICANT -- A person applying for a permit hereunder.

CHIEF OF POLICE -- The Chief of Police of the Borough.

CLERK -- The Clerk of the Borough.

ENGINEER -- The Engineer of the Borough.

HOLIDAY -- Any day designated as such by the State of New Jersey and the Borough of Rockaway.

INSPECTION FEES -- The cost of supervising and inspecting the work by the Superintendent of Public Works or his representative at prevailing per diem rates on file with the Clerk.

OPEN, OPENING or STREET OPENING -- The opening, excavation, digging or other such activity under, over or through any street, as well as any appurtenances thereto, within the Borough.

OSHA -- The Occupational Safety and Health Regulations prescribed by the Occupational Safety and Health Administration, United States Department of Labor.

PERMIT -- A street opening permit.

PERMITTEE -- A person, either natural or created by law, to whom a permit has been granted.

PERMITTER -- The Borough of Rockaway.

STREET -- The right-of-way of any municipal street, road, highway, alley or other public thoroughfare or easement within the Borough.

SUPERINTENDENT OF PUBLIC WORKS -- The Superintendent of Public Works of the Borough.

WEEKEND -- Saturday and Sunday.

### § 217-10. Permit required.

No person shall open, dig up, excavate or disturb any street or any portion thereof within the Borough without first having obtained a permit thereof in accordance with the provisions of this article.

### § 217-11. Permit application.

A person desiring to open, dig up, excavate or disturb any street or portion thereof shall make written application for a permit to do so to the Clerk on forms provided by the Clerk. The application shall state the purpose of the proposed street opening and the type and depth of the installation, if any, to be accomplished and shall include a statement by the applicant agreeing to undertake all work in accordance with the provisions of this article. The application shall be accompanied by a detailed plan showing both the proposed street opening and the proposed work to be undertaken and

shall include the estimated time of the job and the estimated time of completion and any other information deemed necessary by the permitter.

§ 217-12. Processing of application.

- A. Upon receipt of an application for a permit, the Clerk shall make a notation of the filing date and then submit the same to the Superintendent of Public Works and the Borough Engineer.
- B. The Superintendent of Public Works and Engineer shall determine if the application and plan have been properly and adequately prepared and completed. If not so prepared and completed, both shall be returned to the Clerk, who shall return the same to the applicant. If properly and adequately prepared and completed, the Superintendent of Public Works and the Engineer shall, within seven working days, signify their disapproval or approval thereof upon the application and return the application and plan to the Clerk, along with:
  - (1) A statement of the amount of the cash deposit required by § 217-14A(1) herein.
  - (2) A statement of the amount of the bond required by § 217-14A(2) herein.
- C. The Clerk shall execute and deliver the permit to the applicant when the applicant submits to the Clerk the cash deposit and the bond in the amounts fixed by the Engineer and Superintendent and the certificate of insurance required by § 217-14A(3) herein.

§ 217-13. Regulations and restrictions.

- A. The complete blocking of a street during street opening work is expressly prohibited, unless approved by the Borough Engineer or his designated representatives.
- B. Each opening shall be accomplished in accordance with:
  - (1) Regulations adopted by resolution of the Mayor and Council, as recommended by the Borough Administrator with the advice of the Superintendent of Public Works and the Borough Engineer, as may from time to time be amended or supplemented, and which shall contain specifications and requirements for work necessary or incident to street openings, including but not limited to:
    - (a) Pavement cutting methods.
    - (b) Backfilling methods and materials.
    - (c) Disposal of excess excavated material.
    - (d) Restoration of the surface of the land within embankments.
    - (e) Seeding of slopes and embankments.
    - (f) Repair or replacement of disturbed, damaged or destroyed roadway installations, utility lines, drainage or septic systems and other property or improvements.
    - (g) Methods and materials for temporary pavement replacement.
    - (h) Methods and materials for permanent pavement replacement.
  - (2) Regulations adopted by resolution of the Borough Council, as recommended by the Borough Administrator with the advice of the Chief of Police and Fire Chief, as may from time to time be amended or supplemented, and which shall contain specifications and requirements relating to the work from the standpoints of pedestrian and vehicular traffic control and the general public safety, including but not limited to:

- (a) Blasting.
  - (b) Regulations concerning traffic flow.
  - (c) Pedestrian safety.
  - (d) Parking of contractor personnel vehicles, contractor's work vehicles and storage of equipment.
  - (e) Flagmen, as well as warning and traffic control signs, barricades and devices.
  - (f) Street accessibility to the passage of fire apparatus, police vehicles, ambulances and other emergency or essential equipment.
- (3) The advice and instructions of the Shade Tree Commission as may be deemed appropriate by the Borough to any work which may involve trimming, pruning or removal of trees or shrubs within the right-of-way or the cutting of tree roots.
- (4) In the event that regulations are not promulgated, the ordinary, reasonable and prudent requirements shall apply to all work done.
- C. The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other means suitable for the purpose. Where, in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protection measures, the permittee shall obtain written permission from the owner of such private property for such purpose, unless such permission cannot be obtained, in which event the permitter shall have the right to waive this requirement. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from his failure to protect and carry out such work. All construction and maintenance work shall be done in a manner calculated to leave the area clear of earth and debris and in a condition as nearly as possible to that which existed before such work began.
- D. The permittee shall conduct and carry out any excavation work in such manner as to avoid unnecessary inconveniences and annoyances to the general public and occupants of nearby property. In the performance of the excavation work, the permittee shall take appropriate measures to reduce to the fullest extent practicable noise, dust and unsightly debris. The permittee shall not use heavy construction equipment between the hours of 7:30 p.m. and 7:00 a.m. or on holidays or weekends, except with the express written permission of the Superintendent of Public Works or in the case of any emergency as herein otherwise provided, nor otherwise disturb the sleep or repose of the occupants of neighboring property.
- E. The regulations set forth in § 217-14 notwithstanding, the permittee shall be solely and fully responsible for the proper and adequate performance of all work and for providing proper and adequate safety measures and precautions promulgated by OSHA or any other federal, state or local agency. The permittee shall, and by the acceptance of the permit does agree to, indemnify the Borough as well as its agents, servants and employees against and save them harmless from any and all liability, damage, claims, suits, causes of action or other demands which may arise from or be occasioned by the street opening and all work or activity relating thereto, including any injury to person or persons and any damage to or destruction of property. Should any suit, action, claim or demand be brought against the Borough, the permittee, at his own cost and expense, shall immediately take charge of, handle and defend the same, upon and after being notified by the Borough of the suit, action, claim or demand, and failing such, the Borough may defend such action at the expense of the permittee and/or require the permittee to stop work on the project until such matter has been defended to the satisfaction of the Borough.

§ 217-14. Performance guarantees; insurance requirements.

- A. A permit shall not be issued unless and until the applicant has delivered to the Clerk:
- (1) A cash deposit, in accordance with a schedule of fees established by the Borough Administrator with the advice of the Superintendent of Public Works and Borough Engineer, sufficient to defray and satisfy all

expenses to the Borough for inspection fees and attendant cost. If deemed necessary or advisable by the Superintendent of Public Works, a full-time inspector may be assigned to the project, and the cash deposit shall then include such item of cost.

- (2) A performance bond in the form of an irrevocable letter of credit issued by a New Jersey bank or such other bond form as may be approved by the Borough Attorney, in the amount fixed by the Borough Administrator and Borough Engineer, which shall provide for the following conditions:
    - (a) That the work shall be performed in accordance with the provisions of this article and with all regulations adopted under it.
    - (b) That when a street opening is made in the pavement and/or shoulder, all restoration work shall be done in accordance with standards established by the Superintendent of Public Works and Engineer and be guaranteed against all failures which are the result of defective material and/or poor workmanship furnished by the applicant for a period of one year after the date of completion of final pavement and/or shoulder restoration.
    - (c) That when a street opening is made outside of the pavement and shoulder area, all restoration work shall be guaranteed against all failures which are the result of defective material and/or poor workmanship furnished by the applicant for a period of one year after the date of completion of the restoration.
    - (d) That if, in the judgment of the Superintendent of Public Works, any corrective work shall be done during the specified guaranty period due to defects and/or failures which are the result of defective materials and/or poor workmanship furnished by the applicant, the applicant shall, upon receipt of notice, in writing, from the Superintendent of Public Works and/or Engineer, complete such corrective work in a good and workmanlike fashion within such reasonable time as may be specified by the Superintendent of Public Works.
  - (3) A certificate of insurance evidencing that the applicant has obtained a Comprehensive General Liability policy, a Workmen's Compensation and Employer's Liability policy and a Commercial Automobile policy guaranteeing notification to the Borough of Rockaway in the event of cancellation thereof. All of the policies shall be subject to the approval of the Borough Attorney and shall name the Borough of Rockaway as an additional named insured by endorsement designating the specific project. The Comprehensive General Liability policy shall have limits of at least \$1,000,000 Each Occurrence and \$2,000,000 General Aggregate. The Workers Compensation limits shall be \$1,000,000 Each Accident, \$1,000,000 Disease-Policy Limit, \$1,000,000 Disease - Each Employee. The commercial automobile policy limit shall be a minimum of \$1,000,000 each accident. [Amended 12-17-2007 by Ord. No. 24-07]
  - (4) Any or all of the requirements set forth in this section may be waived by the Borough Administrator with the advice of the Superintendent of Public Works or Borough Engineer and with a duly adopted resolution of the Mayor and Council.
- B. No work shall be performed under any permit unless and until the permittee has complied with the provisions of N.J.S.A. 2A:170-69 et seq., and Article 12 of the Fire Prevention Code, on the use of explosives, if and as applicable, and has delivered to the Clerk a copy of the written notice of intention referred to in and called for by N.J.S.A. 2A:170-69.4(b).
- C. The balance, if any, of the cash deposit provided for in Subsection A(1) above, after completion of the work and after deducting the expenses therein specified, as well as any expenses which may have been incurred pursuant to Subsection A(1), shall be returned to the permittee upon a resolution duly adopted by the Mayor and Council. If the expenses exceed the cash deposit, the permittee shall forthwith pay the excess amount to the Borough. The permittee shall also pay and satisfy the cost of material testing, if and when such testing is ordered by the Superintendent of Public Works or the Engineer.
- D. The fee to be paid by each applicant at the time of submitting an application for a license shall be as provided in Chapter A263, Fees. [Added 12-17-2007 by Ord. No. 24-07]

§ 217-15. Deviations from plans; correction of violations.

- A. Subsequent to the issuance of the permit, no change or deviations from the work described in the application and plan shall be permitted without the written approval of the Borough Engineer. Any deviation from the original plan will require the permittee to file an amended plan with the Clerk.
- B. If at any time work is not being performed in accordance with the description thereof in the application and plan or with either the provisions of this section or any regulations adopted hereunder, the Superintendent of Public Works or his agent shall issue a stop order to the permittee or the person actually in charge of the work at the location thereof. Upon the issuance of the stop order, the progress of the work shall cease until all matters have been corrected and further work is authorized to proceed by the Superintendent of Public Works or his agent.
- C. If, after notification by the Superintendent of Public Works, the permittee fails to correct any violations of this article or of any regulations promulgated hereunder, the Borough shall take or have taken by others any and all corrective action deemed necessary, and the cost thereof shall be borne by the permittee. Such action shall in no way relieve the permittee of any responsibility and/or liability.

§ 217-16. Exemption.

The departments of the Borough of Rockaway shall be exempt from this article.

§ 217-17. Disturbance of monuments unlawful.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until authorized to do so by the Superintendent of Public Works or Borough Engineer.

§ 217-18. Excavated materials; guarding of excavations.

All material excavated from the trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Superintendent of Public Works shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and to make all necessary arrangements for all required storage and disposal sites. No permittee shall suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device which may be hazardous to the safety and health of persons passing upon or near said site.

§ 217-19. Property lines and easements.

Property lines and limits or easements shall be indicated on the plan of excavation and submitted with the application for the permit, and it shall be the permittee's responsibility to confine excavation work within these limits. Protective devices, such as snow fences, shall be provided when required by the Superintendent of Public Works or Engineer.

§ 217-20. Removal of debris from Site.

As the excavation work progresses, all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. Upon failure to do so, the work may be done by the Borough and the cost thereof charged to the permittee.

§ 217-21. Protection of watercourses, drains and sewers.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the Superintendent of Public Works or Borough Engineer may direct. The permittee shall not obstruct the gutter of any street but shall provide for free passage of surface water.

§ 217-22. Tunnels.

Tunnels under pavement shall not be permitted except by permission of the Superintendent of Public Works or Engineer.

§ 217-23. Excavations in or under sidewalks.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge with rail, which shall be at least three feet wide and secured on each side so that pedestrians can pass over at all times.

§ 217-24. Emergencies.

A street opening may be made without a permit in cases of emergency, such as a broken gas main or other like event which would endanger public life, health and safety, provided that notice of the emergency and the necessity for the opening thereof is immediately given orally to the Clerk, who in turn will notify the Borough Engineer, the Superintendent of Public Works, the Chief of Police, the Borough Administrator and/or the Fire Chief that written application for a permit is made as soon thereafter as reasonably can be done but, in any event, not later than the end of the next succeeding day during which the Clerk's office is open for business and that permanent repairs shall not be made without first obtaining a permit hereunder.

§ 217-25. Liability of Borough.

The provisions of this article shall not be construed as imposing on the Borough or any official or employee any liability or responsibility for damage to any person injured by the performance of any excavation work for which a permit is issued hereunder nor shall the Borough or any official or employee thereof be deemed to have assumed any liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

§ 217-26. Enforcement officer designated.

The enforcement officer of the Borough shall be the Borough Administrator, unless otherwise designated by the governing body. When a safety violation shall occur, the Borough Administrator, the Superintendent of Public Works, the Chief of Police or Fire Chief or the Borough Engineer shall have the authority to stop work until the subject deficiency or safety hazard is corrected.

§ 217-27. Violations and penalties.

Any person who shall, after notice to abate has been served upon said person, violate the provisions of this article shall, upon conviction, be subject to the penalties set forth in the Code of the Borough of Rockaway dealing with penalties not otherwise set forth in a particular section of this article. Each such violation shall constitute a separate and distinct violation for each day, if said violation is left unabated.

## CHAPTER A263, FEES

[HISTORY: Adopted by the Mayor and Council of the Borough of Rockaway 11-14-1991 by Ord. No. 23-91. Amendments noted where applicable.]

§ A263-1. Fees established.

The following fees are hereby established:

R. Chapter 217, Streets and Sidewalks.

- (1) The fee to obtain permission to open, dig up, excavate or disturb any street or portion thereof shall be \$50. [Added 12-17-2007 by Ord. No. 24-07]