

ORDINANCE 2013-10

**AN ORDINANCE OF THE BOROUGH OF BEACHWOOD, OCEAN COUNTY, NEW JERSEY
AMENDING CHAPTER XIV ENTITLED "STREETS AND SANITATION" AS IT APPLIES TO STREET
EXCAVATIONS TO ESTABLISH RULES AND REGULATIONS FOR REPAVING OF STREETS PAVED
WITHIN THREE (3) YEARS OF AN EXCAVATION REQUEST**

BE IT ORDAINED by the Borough Council of the Borough of Beachwood, County of Ocean and State of New Jersey, as follows:

SECTION 1. Section 14-1 of the Code of the Borough of Beachwood entitled, "Street Excavations" shall be supplemented by the inclusion of the following sub-section:

"Section 14-1.2(a) Openings in Municipal Roadways.

When the Borough improves or paves any street or a person or representatives of a person improves or paves any street, the Borough engineer's office shall first give notice to all persons owning property abutting the street about to be paved or improved, and to all public utilities and authorities operating in the Borough, and all such persons, utilities and authorities shall make all connections as well as any repairs thereto which would necessitate excavation of the street within 30 days of the giving of such notice. The time shall be extended if permission is requested in writing and approved by the Borough engineer."

SECTION 2. Section 14-1.3 of the Code of the Borough of Beachwood, entitled, "Application for Permit", shall be supplemented by the inclusion of the following sub-sections:

a. No street opening permit shall be issued by the Borough engineer's office to any person given notice under this section or their assignees or successors which would allow an excavation or opening in paved and improved street surface less than three years old unless the applicant can clearly demonstrate that public health or safety requires that the proposed work be permitted or unless an emergency condition exists.

b. If by special action of the Borough council a permit is approved to be issued by the Borough engineer's office to open any paved or improved street surface less than three years old, a penalty charge shall be made for opening, except that the penalty fee shall be waived by the Borough engineer in the event the work is of an emergency nature.

c. The penalty charge shall be on a sliding scale determined as follows:

The penalty charge shall be prorated based upon the unelapsed portion of the three year (36 month) restricted period. The total penalty charge shall be the prorated penalty factor multiplied by the base penalty charge.

Penalty factor is 3.33 percent of the above total for each unelapsed month or fraction thereof of the three year (36 months) restricted period. Maximum penalty shall be 120 percent of above total and a minimum penalty shall be five hundred (\$500.00) dollars.

Base penalty charge shall be \$1,000 plus \$5 per square foot of disturbed roadway.

d. Inspection and permit fees are payable in addition to the penalty charges set forth herein in accordance with Chapter XIV Streets and Sanitation, Subsection 14-1.

e. No portion of the penalty charge shall be refundable and penalty charges do not relieve the permit holder from the required performance and maintenance cash bond or the required insurance. Restoration of all road openings in "New Street" pavement shall be to a "newly paved" condition. The restoration shall be according to the "deep patch" method described in Asphalt Institute Booklet MS - 16.

SECTION 3. Section 14-1.7 of the Code of the Borough of Beachwood entitled, "Rules and Regulations for Excavations" is supplemented by the inclusion of the following subsections:

(i) Every person owning, using, controlling or having an interest in pipes, conduits, ducts, utilities or other structures under the surface of any street used for the purpose of supplying or conveying gas, electricity, water, sanitary waste, communication impulses, or any other utility or communications service, to or from the Borough, or to or from its inhabitants, or for any other purpose shall file with the engineer's office within two years after the adoption of this chapter accurate information showing the location, size and description of all such installations.

(j) Within 30 days after the first day of January of each and every year, such person shall file with the engineer's office additional information showing installation, including all those made or abandoned during the previous years; provided, however, if no additions have been made to its installation during the previous years, a utility or authority may file with the engineer's office a written statement to that effect, within the period of time specified above. A utility or authority may at its own option elect to provide additional information throughout the year as it is available rather than proceed as above noted.

SECTION 4. This Ordinance repeals any inconsistent ordinance or ordinances or part or parts thereof.

SECTION 5. This Ordinance shall take effect immediately.

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Clayton</i>			X			
<i>Councilman Feeney</i>			X			
<i>Councilman Komsa</i>			X			
<i>Councilman LaCrosse</i>		X	X			
<i>Councilman Miserendino</i>						X
<i>Councilman Zakar</i>	X		X			

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed on first reading at the special meeting of the Borough Council of the Borough of Beachwood, in the County of Ocean, held on the 17th day of October, 2013 and will be considered for second reading and final passage at a regular meeting of said governing body to be held on the 6th day of November, 2013 at 7:00 p.m. at the Beachwood Municipal Complex, 1600 Pinewald Road, Beachwood, New Jersey at which time and place any person desiring to be heard upon the same will be given an opportunity to be so heard.

Susan A. Minock, RMC
Municipal Clerk

COMMITTEE	MOTION	2ND	AYES	NAYS	ABSTAIN	ABSENT
<i>Councilwoman Clayton</i>						X
<i>Councilman Feeney</i>	X		X			
<i>Councilman Komsa</i>		X	X			
<i>Councilman LaCrosse</i>			X			
<i>Councilman Miserendino</i>			X			
<i>Councilman Zakar</i>			X			

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was adopted and passed on second reading at the meeting of the Borough Council of the Borough of Beachwood, in the County of Ocean, held on the 6th day of November, 2013 and was adopted for second reading and final passage at a regular meeting of said governing body to be held on the 6th day of November, 2013 at 7:00 p.m. at the Beachwood Municipal Complex, 1600 Pinewald Road, Beachwood, New Jersey at which time and place any person desiring to be heard upon the same will be given an opportunity to be so heard.

Ronald F. Roma, Jr., Mayor

Susan A. Minock, RMC
Municipal Clerk