

STREETS AND SIDEWALKS

Chapter 66

STREETS AND SIDEWALKS

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BARNEGAT CODE

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[HISTORY: Adopted by the Township Committee of the Township of Union (now Barnegat): Article I, 2-4-74 as Ord. No. 1974-5; Article II, 8-4-75 as Ord. No. 1975-21; Article III, 4-4-77 as Ord. No. 1977-11. Amendments noted where applicable.]

GENERAL REFERENCES

Property maintenance — See Ch. 63.

Be it ordained by the Township Committee of the Township of Barnegat, in the County of Ocean and State of New Jersey:

ARTICLE I

(Reserved)¹

[Adopted 2-4-74 as Ord. No. 1974-51;
amended 1-15-80 by Ord. No. 1980-39;
repealed 3-19-84 by Ord. No. 1984-4]

§ 66-1—66-17. (Reserved).

ARTICLE II

Street Closings for Recreation Purposes

[Adopted 8-4-75 as Ord. No. 1975-21]

§ 66-18. Approval required to close streets.

The residents of any street located in Barnegat Township, Ocean County, New Jersey, which street is a municipal street, as opposed to a state or county roadway, may, upon petition to the governing body of Barnegat Township and receipt of approval from that body, close off such street for purposes of community recreation for a limited period of time in accordance with the provisions hereinafter set forth.

§ 66-19. Application for permission.

When all of the owners or occupants of occupied property on both sides of a section of a municipal roadway in Barnegat Township, at least one (1) block in length, desire to exercise the privileges granted hereby, they shall, at least fifteen (15) days prior to the desired time for closing said street, make application

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¹Editor's Note: Former Article I, Street Openings, previously codified herein, was repealed by Ordinance No. 1984-4. For street opening regulations see Article IV of this chapter.

to the Clerk of Barnegat Township for such street closing. The application shall state the exact section of street which is desired to be closed and shall set forth the names and addresses of all persons joining in the application. The application shall provide the purpose for which the street is desired to be closed, the date on which the closing is sought, the hour at which the closing shall commence and the hour at which traffic shall be permitted to resume in the normal course.

§ 66-20. Review and decision.

Immediately upon receipt of the application, the Clerk shall forward copies thereof to the Chief of Police, the First Aid and Fire Chief, advising the officials that the application shall be acted upon by the Barnegat Township Committee. The Barnegat Township Police Chief and Fire Chief shall have their report and recommendations to the Clerk at least forty-eight (48) hours before action by the Barnegat Township Committee. If the Barnegat Township Police Chief and Fire Chief shall recommend the granting of the

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closing license, the Barnegat Township Committee shall give petition to the petitioners authorizing the closing of the street during such hours as the Barnegat Township Committee may deem proper and under such terms and conditions as it deems proper to preserve the peace, order and dignity of Barnegat Township.

§ 66-21. Standards.

- A. The Barnegat Township Police Chief and Fire Chief, in making their recommendations on the application, shall consider at least the following subjects, but their consideration shall not be limited to those matters:
- (1) Alternate flow of traffic.
 - (2) Impact or overall traffic during the closed period.
 - (3) Fire protection availability during closed period.
 - (4) Other emergency vehicle access during the closed period.
 - (5) Overall impact upon the community.
 - (6) Purpose for which the closure is sought and its impact on the public safety and welfare of the community.
- B. If the said officials find that the closure may be granted without adverse impact to the community, then approval shall be recommended to the Barnegat Township Committee.

ARTICLE III

Street Closings

[Adopted 4-4-77 as Ord. No. 1977-11]

§ 66-22. Power of Mayor.

The Mayor of the Township of Barnegat is hereby authorized to provide, by regulation, for the closing of any street or portion thereof to motor vehicle traffic on any day or days during

specified hours on any day or days whenever he finds that such closing is necessary for the preservation of the public safety, health or welfare.

§ 66-22 Posting of signs required.

Any regulations promulgated by the Mayor under and in accordance with § 66-22 shall provide for the posting of proper warning signs of such closing in any street or portion thereof during the time the same is closed in pursuance thereof.

§ 66-24. Violations and penalties.

Any violation of this ordinance or of any regulation promulgated thereunder shall be punishable by a fine not to exceed one hundred fifty dollars (\$150.).

§ 66-25. When regulations effective.

Any regulation adopted under this ordinance shall not become effective unless and until it has been submitted to and approved by the Commissioner of Transportation of the Department of Transportation.

ARTICLE IV

**Regulations for Street Openings
[Adopted 3-19-84 by Ord. No. 1984-4]**

§ 66-26. Permits required; fee.

- A. No person, firm, partnership or corporation shall open or dig a trench in any public road, street or highway of this municipality without first having obtained a permit from the Construction Official or other designated agent therefor, on forms provided and received from the Construction Official for the specific opening or trench.
- B. The following schedule of fees is hereby fixed, determined, and established as being the fees to be paid the

municipality for the issuance of permits in connection with the servicing of permits and supervision and inspection of openings and drainages to proper restoration.

Openings up to 50 feet in length \$50.00.

Openings over 50 feet but less than 500 feet \$100.00.

Openings over 500 feet but less than 1,500 feet \$150.00.

Openings over 1,500 feet \$200.00.

Such fees shall accompany the application when filed with the Construction Official or other designated agent.

- C. No person shall open or dig a trench in any public road, street or highway in this municipality without having given the municipality a cash or surety company bond to guarantee that the opening or trench made by the permittee will be properly closed and the road, street or highway over same reconstructed so that it will remain in good condition for at least one (1) year after the closing by the permittee. The minimum amount of each bond shall be one thousand five hundred dollars (\$1,500.) If the opening or trench is over one hundred (100) feet in length, the amount shall be ten dollars (\$10.) per foot of the length thereof. A utility company and developer shall, in lieu of giving a separate maintenance bond on each project, annually, once in January in each year, give a cash bond or surety company bond in the amount of twenty thousand dollars (\$20,000.); provided, that when the total lineal footage of openings or trenches made by such utility company reaches two thousand five hundred (2,500) feet, such utility company shall give either an additional bond or deposit cash security in the amount of ten dollars (\$10.) per foot of length of additional opening or trenches it desires to make in the calendar year. [Amended 11-19-07 by Ord. No. 2007-22]

- D. All cash or surety bonds shall remain on deposit with the township for a period of one (1) year following the satisfactory completion of all roadway reconstruction work. Upon the expiration of the one (1) year period, the street or trench opening shall be inspected by the Township Engineer. If found to be in acceptable condition, then the bond will be released. If the reconstruction work is found to be unsatisfactory, then all required repairs must be completed to the satisfaction of the Township Engineer before the bond will be released. **[Added 10-5-87 by Ord. No. 1987-31]**
- E. Inspection fees in the amount of two hundred fifty dollars (\$250.) shall be posted by the permittee prior to construction. **[Added 11-19-07 by Ord. No. 2007-22]**
- F. It shall be the responsibility of the permittee to consult with the Barnegat Township Police Department to obtain a determination from the Department whether there is a need for police traffic control needed at the site of the street opening. **[Added 11-19-07 by Ord. No. 2007-22]**
- G. In the event that the township does not have in hand the inspection fee of two hundred fifty dollars (\$250.), the inspection fee shall be deducted from the cash or surety bond held by the township in accordance with Section 66-26C. **[Added 9-8-09 by Ord. No. 2009-27]**

§ 66-27. Protection for traveling public.

The permittee shall keep the opening properly guarded and at night have lights placed thereat. In doing the work, there shall be as little interference as possible with travel along the road and no greater part of the road shall be opened at any time than shall be allowed by the Township Engineer. Transverse openings involving the full width of the highway shall be made so that only one-half (1/2) of the highway will be

obstructed at any one (1) time. The work shall be scheduled and executed so as to present a minimum of inconvenience to the traveling public. Where feasible, pipes, mains, and conduits shall be bored under all pavements. Tunnels may be driven if and where directed.

§ 66-28. Protection from suits.

The permittee shall save harmless the Township of Barnegat, its officers and servants, from and against any loss, injury or damage resulting from any negligence or fault of the permittee, his agents or servants, in connection with the performance of the work covered by the permit.

§ 66-29. Time limit.

After any opening is made, the work shall be diligently prosecuted and final restoration of the disturbed surface shall be completed as soon as weather conditions permit. In case the work has not been completed before the expiration date set forth in the permit and the permittee has not requested an extension of time, the Township Engineer, if he deems it advisable, may take steps to backfill the trench and replace a permanent pavement over the opening for which the permit has been issued. If any extension of time beyond the date is needed for the completion of the work, a new application must be filed. Permits will not be issued for a period in excess of twelve (12) months. Expired permits may be renewed on written request.

§ 66-30. Excavation.

The work shall be conducted so as not to interfere with water, gas and sewer mains, other subsurface structures or their connections to abutting properties until permission has been obtained from the proper authorities. Rock within five (5) feet of subsurface structures liable to be damaged shall be removed without blasting. No excavation which will damage trees shall be made without approval of the Township Engineer.

§ 66-31. Backfilling and temporary paving.

The permittee shall completely backfill the excavation and shall replace as great a portion of material excavated as possible, compacting it by mechanical tamping or otherwise directed, and shall supply additional material where there is a deficiency. Whenever the inspector deems the material unsatisfactory for backfill and the Township Engineer or his duly authorized agent concurs with this decision, the permittee shall backfill the trench with sand or other proper material acceptably compressed as required and shall remove excess material from the premises. If tamping alone is employed, the material shall be placed in layers not exceeding six (6) inches in thickness, moistened if directed, and each layer shall be tamped until thoroughly compacted. Longitudinal ditches may be compacted by rolling with dual-tired trucks of not less than twenty-eight thousand (28,000) pounds net weight fully loaded with stone or gravel. Trenches may not be flushed except under specific permission of the Township Engineer. If for any reason immediate replacement of permanent pavement is not feasible, the excavation shall be backfilled and consolidated as specified above, after which not less than two (2) inches of cold patch material shall be placed to highway grade. The permittee is required to maintain the temporary pavement in a satisfactory condition until permanent repairs are made.

§ 66-32. Replacement of pavement on concrete base.

To prepare for restoration of the original pavement, the following rules shall govern.

The foundation shall first be restored to a width of not less than twelve (12) inches wider than the width of the trench and not less than twelve (12) inches longer than the length of the trench. The surface pavement shall extend twelve (12) inches wider than the width of the foundation and twelve (12) inches longer than the length of the foundation. The foundation or base shall be composed of cement concrete of a mixture by volume of one (1) part cement, two (2) parts concrete sand and four (4) parts coarse aggregate. The cement concrete foundation replacement shall be squared up horizontally and the edges of the cut trimmed to an approximately vertical plane. In no case shall the concrete base be less than nine (9) inches in depth. All surface replacements shall duplicate as closely as possible the original pavement in type, material, color and texture of surface. Reinforcement, if any, in concrete base shall be restored in accordance with instructions under "Replacement of Concrete Surface."

§ 66-33. Replacement of concrete surface.

To prepare for the restoration of concrete pavement the following requirements shall be observed.

The hole shall be squared with the sides truly parallel and perpendicular in the center line of pavement and not closer than eighteen (18) inches to any expansion joint. All concrete reinforcement shall be replaced. The type of reinforcement and its spacing may be ascertained while the old concrete is being removed: this reinforcing and spacing shall be duplicated in the restoration. New reinforcing shall be lapped at least thirty (30) diameters and tied to the reinforcing which shall be bent back while the work is being done. Where restorations are made in pavement not reinforced, reinforcement of a type and spacing to be determined by the Township Engineer may be required. The concrete mixture to be used shall be

determined by the size of restoration. For general work, this proportion shall range between 1:1½:2 and 1:1¾:3½, the former mix being used for patches averaging two (2) square yards or less. A three-quarter (¾) inch coarse aggregate shall be used in the former mix and a larger coarse aggregate shall be used in replacement of three (3) square yards or more. Commercial high early strength cements shall be used in all restorations unless permission for the use of standard Portland cements with additives to produce high early strength is granted by the Township Engineer. Central or transit mix concrete is acceptable where approved by the Township Engineer or his authorized agent. Unless otherwise specifically authorized, concrete pavement openings shall be at least two (2) feet from the sides and ends of slabs. If necessary to make an opening adjacent to a joint, a reinforcing sill or bolster, twelve (12) inches by twelve (12) inches shall be constructed under the edge of the adjacent slabs.

§ 66-34. Improved shoulders.

Improved shoulders shall be replaced in kind whether such improvement consists of stone, gravel, or other higher type material. When treated with bituminous material by either penetration or surface method, the bituminous surface shall be restored as originally constructed except that two (2) inches of bituminous cold patch material prepared with asphaltic material as specified may be used in lieu of road oil on surface treated shoulders after stone or road gravel base of proper thickness has been replaced.

§ 66-35. Backfill in tunnels.

In cases where it becomes necessary to resort to tunneling operations to reach the point of connection with the main line, the backfill in such tunnel shall be rammed lean cement concrete of proportions specified by the Township Engineer or his authorized agent.

§ 66-36. Special conditions.

The Township Committee shall have the power and duty to impose special conditions in special cases.

§ 66-37. Responsibility for damage.

Nothing in this Article shall be understood or construed by any permittee or other person to absolve any permittee or his employees, agents or contractors of any responsibility for any damage done to any person or property in opening or digging a trench in any public road, street or highway.

§ 66-38. Gutters and ditches.

A. Findings. It appears that it is necessary to construct and maintain gutters or ditches for drainage purposes along one or both sides of certain public municipal highways or roads in the township and further that in certain instances unauthorized persons have filled in part or parts of the gutters or ditches and that such action has interfered with the proper drainage of the public highways or roads, has damaged the roads or highways and has made public travel thereon hazardous or dangerous and has necessitated the needless expenditure of public funds to clear out the gutters and ditches in order to preserve and protect the public roads and highways and make them serviceable to the general public for public travel. The gutters and ditches referred to are within the right-of-way of the public highways or roads and are public property.

§ 66-39. No filling of gutters.

No unauthorized person shall partially or totally fill in any drainage gutter in any public municipal highway or road within the right-of-way of the highway or road in the township.

§ 66-40. No filling of ditches.

No unauthorized person shall partially or totally fill in any ditch in any public municipal highway or road within the right-of-way of the highway or road in the township.

§ 66-41. Interference with drainage system.

No unauthorized person shall interfere with the public drainage system of any public highway or road of or in the township in any manner which will lessen the efficiency of the drainage of such public road or highway.

§ 66-42. Exceptions.

Nothing in this section shall be construed to include:

- A. Any municipal official or employee who has the duty and responsibility of constructing, renovating, draining, improving or working upon any public highway in the township as a municipal employee for the governing body while working upon and improving the highway for the township.
- B. Any person who has authority given by the township to provide suitable substitute drainage facilities for all or a part of a public highway or road, such as but not limited to the placing of an approved pipe in the drainage ditch for entrance or exit to private property, after approval for same has been obtained from the township.
- C. Notwithstanding any provision in this chapter, no fee or bond shall be required in connection with the issuance of a permit for the opening of a public road, street or highway by the Township of Barnegat or any of its agencies. All other provisions of this chapter pertaining to the protection for the traveling public, the protection of the township from suits, and the restoration of the streets, shall remain in full force and effect.

§ 66-43. Municipal consent to New Jersey Bell Telephone Company.

In accordance with terms of an ordinance finally passed on March 10, 1966, permission and consent have been granted to the New Jersey Bell Telephone Company, its successors and assigns to erect, construct, reconstruct, lay, maintain and operate its underground conduits and subways, cables, poles, posts, wires, manholes, loading coil vaults, loading coils, including the necessary street openings and lateral connections to curb poles and property lines, and its other fixtures and appurtenances, in through, upon, along, over, under and across all of the various streets, roads, avenues and highways and parts thereof, throughout their entire length, in the township for its local and through lines and systems, in connection with the transaction of its business, and all of the various streets, roads, avenues and highways and parts thereof, throughout their entire length, in the township are hereby designated and prescribed for the uses and purposes of the company as aforementioned.

§ 66-44. Street openings of township roads within five (5) years of installation of a topcoat of paving prohibited. [Added 7-18-05 by Ord. No. 2005-46]

- A. The township finds that substantial costs and expenses are incurred by the township and its taxpayers for properly paving township roadways.
- B. The township hereby imposes a five (5) year moratorium after the laying of a topcoat of paving on a township road, for road opening purposes. No person shall be allowed to open a township roadway within five (5) years of the installation of a topcoat, unless sufficient evidence and support is provided to the Township Committee to do so.
- C. In the event that the Township Committee approves a road opening permit for a township street that has been

paved within five (5) years, the road must be milled and paved by the applicant and restored to an as new condition, as approved by the Township Engineer.

- D. The Township Engineer shall certify the cost estimate to adequately perform the work in question, in order that the work will be fully compliant with Chapter 66 of the Codified Ordinances of the Township of Barnegat.
- E. The applicant shall pay all appropriate and reasonable inspection fees to be incurred by the township for the inspection and approval of the road opening as requested.
- F. After the road opening has been completed, and the road properly paved and restored to an as new condition, the applicant shall post a maintenance guarantee equal to fifteen percent (15%) of the original cost estimate, as certified by the Township Engineer. Said maintenance guarantee shall be held by the township for one (1) year following the satisfactory completion of all roadway reconstruction work. Upon the expiration of the one (1) year period, the street shall be reinspected by the Township Engineer. If found to be in an acceptable condition, the maintenance guarantee will be released. If the reconstruction work is found to be unsatisfactory, all required repairs must be completed to the reasonable satisfaction of the Township Engineer before the bond will be released.
- G. Waiver of moratorium. **[Added 12-19-05 by Ord. No. 2005-64]** In the event that a property owner wishes to open a township road within the five (5) year moratorium the following terms and conditions shall be adhered to:
 - (1) The property owner must demonstrate to the satisfaction of the Mayor and Township Committee that compliance with the five (5) year moratorium on street openings would result in a hardship or would affect the health, safety and welfare of the

residents. The Mayor and Township Committee will have sole authority to grant a waiver from the requirement of the five (5) year moratorium.

- (2) Once a waiver has been granted, the property owner will be required to repair the road to "as new" condition. In order to insure that the road is properly restored, the property owner must comply with the following requirements:
 - (a) The trench above the pipe embedment zone must be backfilled with dense graded aggregate, quarry blend or excavatable concrete.
 - (b) Following completion of the backfilling operations, the pavement must be restored to the full depth in accordance with the township ordinance requirements.
 - (c) Depending upon the location(s) of the affected utilities, the roadway restoration must either extend to the center of the roadway or for the full width of the roadway as determined by the Township Engineer.
 - (d) Multiple pavement repairs will not be permitted in front of a single property. The pavement restoration must encompass all of the road openings required for the various utilities serving the affected property.
 - (e) Initially, the base pavement shall be installed to the existing roadway grade. The road must then be allowed to settle for a minimum of thirty (30) days and a maximum of ninety (90) days at which time the pavement will be milled to a depth of two (2) inches and extending a minimum of one (1) foot beyond the boundary of the trench in all directions.

- (f) Immediately following the milling operations, the final pavement course must be installed. All of the seams in the final pavement course must be infrared treated to insure that the pavement repair blends thoroughly with the existing pavement. The timing of the infrared treating operations must conform to the manufacturer's recommendations.
- (3) The applicant shall be responsible for maintenance of any defects in the pavement restoration for a period of one (1) year following completion of the final pavement operations.

§ 66-45. Requirement to install sidewalks and curbing for all new residential construction.

- A. Notwithstanding any provision to the contrary, in particular but not limited to Section 55-119.1 sidewalks and curbing shall be required along all street frontages as a condition to issuance of building permits for the construction of a new dwelling in Barnegat Township, whether or not the dwelling is being constructed after receipt of approvals from the Barnegat Township Planning Board or Barnegat Township Zoning Board of Adjustment. The proposed curbing shall be designed and constructed in accordance with the requirements of Chapter 55 and proposed sidewalks shall be designed and constructed in accordance with the requirements of Chapter 55, all as set forth in the Codified Ordinances of the Township of Barnegat.
- B. The intent of this section is to require installation of curbing and sidewalks for all new construction of residential dwellings, notwithstanding the fact that the approval may not be required by the Planning Board or Zoning Board of Adjustment because of the issuance of a building permit is not as a result of approval from

either the Planning Board or Zoning Board of Adjustment.

C. Payment in lieu of sidewalk and curbing:

- (1) Any property owner may request a waiver of the requirement to install curbing and sidewalks along all street frontages of the subject property by agreeing to pay a sum to the Barnegat Township Pedestrian Safety Fund equal to the cost of said curbing and sidewalk. Said cost shall be determined by the Township Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality.
- (2) In determining whether to grant the requested waiver and accept a payment in lieu of the installation of curbing and sidewalks, the Township Engineer shall consider the following factors:
 - (a) The presence or absence of curbing and sidewalks in the general vicinity of the subject property.
 - (b) The practical difficulty as established by the applicant of installing such improvements in or adjacent to the subject property due to exceptional topographic conditions, drainage concerns and/or the deleterious impact to surrounding properties as a result of the installation of such improvements.
 - (c) The recommendation of the Township Construction Code Office.

D. Exemption from these requirements as to certain properties in the Pinelands Management Zone:

- (1) For those building lots in Pinelands Management Zone, wherein at least seventeen (17) acres of property are required for one (1) building lot, the Township Committee acknowledges that the

financial impact of requiring sidewalks and curbs in the rural area of the township would be an unnecessary financial burden, and unnecessary planning concept. Therefore for those building lots seeking to be approved in Barnegat Township located in the Pinelands Management Zone which building lots are a minimum size of seventeen (17) acres, the applicant can either agree to install curbing and sidewalks in accordance with this section or pay twenty percent (20%) of the cost determined by the Township Engineer for the requirement to install curbing and sidewalks as if set forth in Subsection C. hereinabove.

E. Barnegat Township Pedestrian Safety Fund.

- (1) In the event that the Township Engineer recommends and the Township Committee approves the recommendation that a payment to the Pedestrian Safety Fund can be made by the property owner in lieu of installing the sidewalks and/or curbing, said funds shall be deposited by the property in accordance with the provisions set forth in Chapter 55-119.1 and shall be deposited into said Fund.
- (2) Said Fund shall be dedicated to pay for the cost of designing and constructing various pedestrian safety projects within Barnegat Township.
- (3) All monies paid by developers in accordance with this section shall be deposited into said Fund.
- (4) The Chief Financial Officer of the Township is hereby directed to establish and maintain the Fund and to make disbursements upon the request of the Township Engineer for designated pedestrian safety improvements.