

**Explanation:** This Ordinance repeals and replaces Chapter 167, Streets and Sidewalks, of the Code of the Borough of Rocky Hill by repealing redundant or contradictory provisions, adding procedures, updating fees, and renumbering sections.

**Borough of Rocky Hill**

**Ordinance # 8, 2010**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 167, STREETS AND SIDEWALKS, OF THE CODE OF THE BOROUGH OF ROCKY HILL BY REPEALING REDUNDANT OR CONTRADICTORY PROVISIONS, ADDING PROCEDURES, UPDATING FEES, AND RENUMBERING SECTIONS.**

**BE IT ORDAINED**, by the Mayor and Council of the Borough of Rocky Hill, County of Somerset, State of New Jersey, that Chapter 167 of the Code of the Borough of Rocky Hill, titled “Streets and Sidewalks” is hereby amended as follows:

**Section 1.** Chapter 167, Streets and Sidewalks, is repealed in its entirety and replaced as follows:

**Chapter 167:**

**STREETS AND SIDEWALKS**

**ARTICLE I**

**Use of Streets**

**§ 167-1. Street obstructions.**

No person or corporation, except for utility companies, shall encumber or obstruct any street, sidewalk, or the space in between the street and sidewalk of the Borough, nor cause the same to be done, with any article whatever, without the consent of the Borough Engineer, and such permission shall limit the time and space to be so occupied.

**§ 167-2. Weeds, garbage and other impediments.**

All owners and occupants of property shall keep the gutters, where the road surface meets the curb, in front of and adjoining the same free and clear of all weeds, grass, debris, garbage and other impediments and a refusal to do so within forty-eight (48) hours after notice from a Constable shall be considered a violation of this Ordinance.

**§ 167-3. Removal by Borough; cost charged to property owner; collection.**

- A. In case the property owner shall neglect or refuse to eliminate the cause of the violation of §167-2 above within forty-eight (48) hours after notice to remove the same, the Borough of Rocky Hill may cause removal of the same.
- B. In all cases where said violation is remediated by the Borough of Rocky Hill under and by virtue of the provisions of this Ordinance, the Clerk of the Borough of Rocky Hill shall certify the cost thereof to the Borough of Rocky Hill Council which shall thereupon examine the certificate and, if found correct, shall cause the cost as shown therein to be charged against the property.
- C. The amount so charged shall become a lien upon such land and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

**§ 167-4. Violations and penalties.**

Violations of the provisions of Article I shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty, herein. Each violation shall be considered a separate offense. Each day's continued violation shall be treated as a separate offense subject to a separate penalty.

**ARTICLE II**

**Use of Sidewalks**

**§ 167-5. Permit required for construction.**

No sidewalk along the public right-of-way shall be constructed or altered by the property owner or occupant of property without first securing a permit from the approving authority or authorities and all walks so constructed shall comply with the rules and regulations of the Borough, including the Development Regulations Ordinance of the Borough of Rocky Hill.

**§ 167-6. Inspection; determination of need for repair by Council.**

The Borough Engineer shall be directed, as a part of the regular duties of said office, to make a periodic inspection of the sidewalks along the streets or highways in the Borough and make a report to the Borough Council listing any such sidewalk that is in need of repair or reconstruction. The Council shall, upon receipt of said inspection report, determine those sidewalks that are to be repaired or reconstructed.

**§ 167-7. Responsibility for costs.**

The cost of the repair or reconstruction of existing sidewalks along the streets or highways of the Borough shall be met out of the general revenue of the Borough, as long as the wear is the result of normal use, and is not the result of willful damage or of construction on the property adjacent to the sidewalk that was performed for, or by, the owner of the adjoining property, in which case the adjoining property owner shall be responsible for the cost of all repairs.

**§ 167-8. Violations and penalties.**

Violations of the provisions of Article II shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty, herein. Each violation shall be considered a separate offense. Each day's continued violation shall be treated as a separate offense subject to a separate penalty.

**ARTICLE III**

**Excavations**

**§ 167-9. Permit required.**

No person shall make any excavation in, or tear up the surface of, or jack or drill under, any Borough road, street, sidewalk, or public right of way in the Borough for any purpose whatever without first obtaining a permit from the Borough Engineer or the Borough Engineer's designee.

**§ 167-10. Application; statement of purpose and location sketch.**

Application shall be made in writing for the permit to excavate or tear up the surface or jack or drill under any Borough street as specified in §167-8 above. The application should include the purpose of such excavation, a location sketch and, if needed, a plan to address public or traffic safety concerns at excavation site.

**§ 167-11. Notification that work is to begin.**

No work covered by a permit shall begin until the Borough Engineer is notified. Notification shall be in writing and be received at least forty-eight (48) hours in advance of the start of work.

**§ 167-12. Deposit.**

Before any permit shall be issued, a payment or deposit as provided in §167-25 shall be made to the Borough Clerk or such other person as may from time to time be designated by resolution of the Borough Council. All money so paid or deposited shall be promptly paid to the Borough Clerk to be deposited in the name of the Borough and held for the purpose hereinafter provided.

**§ 167-13. Barricades and lights; Detours.**

- A. Unless the excavation requires the closing of a road, the permittee shall properly guard the excavation by the erection of suitable barriers by day and lights by night, and the permittee shall be liable for any neglect to the safeguard of the traveling public. The Borough Engineer must approve all plans for safeguarding excavations.
- B. When an excavation requires the closing of a road, in whole or in part, the Borough Engineer will develop or approve a traffic detour plan including specifying the times and dates of the detours, the signage required, and, if needed, the appropriate pre-notification process and signage.

**§ 167-14. Restoration of street.**

The permittee shall be required to restore the opening in accordance to Borough specifications for roadway repair, as directed by the Borough Engineer.

**§ 167-15. Tunneling prohibited.**

Tunneling shall not be permitted under any circumstances and shall be an unlawful exercise of the privilege under any such permit and a violation thereof, but this shall not be construed as preventing jacking or drilling when proper permits shall have been secured.

**§ 167-16. Placement of removed materials; trench length; closing of trenches.**

Material removed from the opening shall be so placed not to interfere with street drainage. Trenches that cut the full width of the road may only be opened 1/2 of the width of the road at a time. For all other trenches, not more than 200 feet of trench may be opened at any one time. All openings must be closed within the time specified in the permit unless an extension of time is granted.

**§ 167-17. Refund of deposit after restoration of street.**

Upon the completion of the fill and the restoration of the pavement and its approval by the Borough Engineer, the money paid or deposited shall be refunded to the applicant. Should the applicant fail to properly fill and replace the pavement to the satisfaction of the Borough Engineer, the Borough may replace the pavement and charge the cost thereof against the deposit and upon the completion thereof pay the surplus, if any, less a re-inspection fee.

**§ 167-18. Public utilities bond.**

In case of public utility openings, the Borough may accept a bond from such utility, in such form and in such amounts, as may be authorized by applicable law. Each and every opening, however, must be treated separately and shall require a separate permit. The bond shall be to guarantee proper restoration of the street on the part of the obligor.

**§ 167-19. Compliance with regulations.**

The permittee shall follow all rules, regulations and ordinances governing road openings, and the permit is given with the distinct understanding that it shall be binding the same as though these instructions were fully set forth in the permit.

**§ 167-20. Approval of restored street by Borough Council.**

The permittee shall be released from further obligation when the Borough Engineer shall certify to the Borough Council that such restoration has been completed and the Borough Council shall have approved the same.

**§ 167-21. Actions constituting violations.**

- A. Any person, making any excavation in or tearing up the surface of or jacking or drilling under any Borough street without having first secured a permit as provided herein shall be guilty of violation of this Ordinance.
- B. Any person, failing to properly guard any excavation as herein provided, placing materials removed from an excavation so as to interfere with street draining, opening a trench the full width of any street or more than 200 linear feet at any one time, shall be guilty of a violation of this Ordinance.

**§ 167-22. Permit to construct required.**

- A. No person shall construct a driveway entrance, or cut, alter or remove a curb, or part thereof, from, to, in or along any public street or right-of-way in the Borough without first having obtained a permit to do so pursuant to the provisions of this Ordinance, and then only in accordance with and during the life of such permit.
- B. Application for such permit shall be made in writing and shall be accompanied by a fee as provided in § 167-25 and a sketch showing the location and details of such installation, construction, cutting, alteration or removal. Such application shall be filed with the Borough Engineer, and such permit upon its approval by the Borough Engineer shall be valid for a period of one year from the date of issuance.

**§ 167-23. Paving of driveway entrances.**

Where necessary to facilitate drainage or to prevent cracking or crumbling of the adjacent road surface, to prevent stones or dirt washing or carrying onto the road surface, or otherwise preserve the safety of users of the road, and reduce maintenance requirements, the Borough Engineer shall require, as a condition of such permit, the paving of the first 20 feet of such driveway entrance.

**§ 167-24. Installation of conduits.**

When it becomes necessary to construct a pipe or conduit across a driveway entrance leading from a public highway, or when it becomes necessary to install a pipe or conduit in a ditch adjacent to a public highway, permission must first be obtained from the

Borough Engineer. Such installation shall be laid to the line and grade satisfactory to the Borough Engineer so proper drainage will be assured.

**§ 167-25. Water flow onto streets.**

No person shall construct any private street, lane, driveway or other means of egress so that water therefrom will flow onto any public street or highway or into any public drains without the permission of the Borough Council.

**§ 167-26. Fees.**

A. Deposits for excavation permits shall be as follows:

- (1) Deposit (per square yard): \$150.00
- (2) Minimum deposit: \$1,500.00

B. Curb removal fees shall be as follows:

- (1) Fee: \$125.00
- (2) Re-inspection fee: \$75.00

C. Road opening permit fees shall be as follows:

- (1) Permit fee: \$150.00
- (2) Re-inspection fee due to improper closure: \$150.00

**§ 167-27. Violations and penalties.**

Violations of the provisions of Article III shall be punishable as provided in Chapter 1, General Provisions, Article I, General Penalty, herein. Each violation shall be considered a separate offense. Each day's continued violation shall be treated as a separate offense subject to a separate penalty.

**ARTICLE IV**

**Snow and Ice Removal**

**§ 167-28. Time limit for removal; exception.**

The owner or tenant of any property abutting or bordering any sidewalk or public street in the Borough of Rocky Hill shall remove or cause to be removed from the sidewalks in front of or bordering on their said lands all snow or ice within twenty-four (24) hours after same shall be formed or fall thereon and the snow storm has ended, provided that if by reason of low temperature it is impossible to remove such snow and ice then said sidewalks shall be spread with salt or sand sufficient to make the same safe for pedestrians until such time as the snow and ice can be removed, when said owner or tenant shall remove or cause the same to be removed as hereinbefore provided.

**§ 167-29. Failure to remove; removal by Borough.**

In the event that said owner or tenant shall neglect or refuse to comply with the provisions of § 167-27 above, the Borough Constable may issue a notice to said party directing such compliance. In the event that said owner or tenant shall fail to comply with said notice within 24 hours from delivery thereof, the Borough, through its proper officials, may, at its sole option but without any obligation, remove or caused to be removed said snow and ice from the sidewalk in front of or bordering on said land, or cause the sidewalks to be spread with salt or sand as hereinbefore provided.

**§ 167-30. Cost to become lien.**

The cost paid and incurred by the Borough for removing such snow and ice or for spreading salt or sand, or both, as the case may be, shall be charged against the lands abutting or bordering such sidewalk. The amount so charged shall forthwith become a lien upon such lands and shall be added to and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the Borough in the same manner as taxes.

**§ 167-31. Violations and penalties.**

Such owner or tenant, for every neglect or refusal to comply with the provisions of Article IV, shall be subject to a fine of \$50 for such neglect or refusal. Each day that such neglect or refusal continues shall be considered a separate offense for purposes of calculating the fine to be paid.

**§ 167-32. Extension of time for compliance.**

The Mayor, or in the Mayor's absence the acting Mayor, shall have the authority to issue an executive order extending the time for compliance with the provisions of Article IV when, in the judgment of the Mayor, such extension is necessary and proper.

**Section 2.** Should any provision of this Ordinance be determined invalid by a court or administrative tribunal of competent jurisdiction, such determination shall not affect the remaining provisions.

**Section 3.** This Ordinance shall take effect immediately upon final passage and publication as required by law.

ATTEST:

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Rebecca P. Newman  
Acting Borough Clerk

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Edward Zimmerman, Mayor

Introduced: October 4, 2010  
Public Hearing Scheduled: October 18, 2010  
Adopted: October 18, 2010

CERTIFICATION

I, Rebecca P. Newman, Acting Clerk of the Borough of Rocky Hill, do hereby certify the foregoing to be a true and correct copy of an ordinance introduced by the Borough Council of the Borough of Rocky Hill on October 4, 2010.

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Rebecca P. Newman  
Acting Borough Clerk