

APPLICATION TO OPEN BOROUGH STREET, ROAD OR RIGHT OF WAY

Application No. _____

Date: _____

This application form must be filled in quadruplicate with the Road Superintendent of the Borough of Sayreville at least forty-eight (48) Hours prior to the start of work.

1. Location of proposed opening: _____

2. Purpose of proposed opening: _____

3. Area to be excavated:

a. Pavement _____ sq. yds. @ \$40.00 \$ _____

b. Shoulder _____ sq. yds. @ \$25.00 \$ _____

c. Lawn Area _____ sq. yds. @ \$20.00 \$ _____

d. Curb _____ ft. @ \$40.00 \$ _____

TOTAL REPLACEMENT COST\$ _____

APPLICATION FEE (NON REFUNDABLE) \$ 1.00 _____

INSPECTION FEE @ \$250.00 PER DAY \$ 250.00 _____

(NON REFUNDABLE)

TOTAL \$ _____

4. Guarantee posted – check one: Cash () Certified Check () Bond ()

5. Certificate of Insurance posted: Yes () No ()

6. Name of Applicant: _____

Address: _____

Phone: _____ Email: _____

7. Upon approval of this application by the Road Superintendent, and the posting of necessary guarantees, the applicant shall submit same to the Borough Clerk who, upon payment of fees, will issue a road opening permit.

Date: _____

Road Superintendent

(Road Superintendent must notify Chief of Police of Opening Location)

PERMIT FORM 909

Application No. _____

Date: _____

Permission is hereby granted to _____ to open

_____ St., Ave., Rd., in the Borough of Sayreville for the purpose of

_____. Permittee hereby agrees to pay all costs incurred by the Borough of Sayreville in the inspection and/or replacement of facilities.

Date: _____

Permittee

Date: _____

Borough Clerk

NOTICE: MAINTENANCE BOND MUST BE POSTED WITH BOROUGH CLERK BEFORE REFUND IS ISSUED.

DISTRUBUTION OF COPIES: CLERK/SUPERINTENDENT/PERMITTEE/POLICE CHIEF

13-1 EXCAVATION AND CONSTRUCTION IN PUBLIC STREETS.

13-1.1 Permit Required; Exceptions.

- a. *Permit Required.* No person other than duly authorized servants or agents employed or engaged by the Borough of Sayreville for the purpose, shall make an excavation or place any form of construction in over or upon any public road, street, or right-of-way, under the jurisdiction of the Borough without first obtaining a written permit approved by the Road Superintendent and issued by the Clerk upon payment of a fee of one (\$1.00) dollar and other required considerations. The permittee shall submit a copy of the permit to the Chief of Police, who shall notify the appropriate volunteer fire companies and first aid squads.
- b. *Exceptions.* Street openings may be made without a written application, as provided for in Section 13-2, in such emergencies as broken or frozen water mains or other conditions which would endanger public life, health, and safety, provided that verbal notice is given immediately to the Chief of Police. Written application for a permit shall be made to the Borough as soon as convenient, but in any event within forty-eight (48) hours, all in accordance with paragraph a. above.
 1. No Road Opening Permits will be issued from December 1 to March 15 except for emergency repairs as determined by the Road Superintendent. All openings must be closed before September 15. No trenches shall be opened after December 15, even though the Road Superintendent has issued a permit prior to December 15. In no event are roads to be opened on Saturday and Sunday, except for emergency repairs, as determined by the Road Superintendent.
 2. Any road, street, or right-of-way which has been resurfaced or reconstructed shall not be reopened for a period of three (3) years, except for emergency repairs as determined by the Road Superintendent.
 3. The Mayor and Borough Council may grant exemptions to the requirements of paragraph b "Exceptions," forbidding the opening of roads from December 1 to March 15 and further forbidding the opening of roads for a period of three (3) 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 determines that the applicant has established good cause and/or undue hardship said exemption may be approved by resolution of the Mayor and Borough Council.

(Ord. #1015, § 16-1.1; Ord. #22-89, § (1); Ord. #42-89, § 1)

13-1.2 Applications for Permits. Application for permits shall be made on forms obtained at the Municipal Building, prepared by the Road Superintendent.

(Ord. #1015, § 16-1.2)

13-1.3 Certificate of Insurance. Before a permit for any excavation below pavement grade is issued, the permittee shall file a Certificate of Insurance of one million (\$1,000,000.00) dollars for bodily injury, and one million (\$1,000,000.00) dollars for property damage.

(Ord. #1015, § 16-1.3; Ord. #22-89, § (2))

13-1.4 Fees. No person shall be granted a permit to open a street unless there has been deposited with the Clerk in cash or by certified check, an amount sufficient to pay the expenses of repairing and replacing the public road or streets, or other surfaces or appurtenances within the street area as shall be determined by the Road Superintendent. The minimum amount deemed sufficient to pay the expenses of repairing and maintaining and replacing the public road or other surfaces or appurtenances shall be:

- a. Forty (\$40.00) dollars per square yard for paved openings.
- b. Twenty-five (\$25.00) dollars per square yard for shoulder openings.
- c. Twenty (\$20.00) dollars per square yard for lawn-area openings.
- d. Forty (\$40.00) dollars per lineal foot for curb replacement, provided that a minimum deposit shall be five hundred (\$500.00) dollars.

All work shall be performed and paid for by the person obtaining the permit.

Any person may file a bond, in an amount equal to or exceeding the amount determined by the Road Superintendent, to pay the expenses of repairing and replacing the public road or street or other surfaces or appurtenances within the street area. The bond shall be approved by the attorney as to form, amount and surety, prior

to being filed with the Borough Clerk. The bond shall be conditioned upon replacing any opening in the manner required in this Chapter.

The Borough shall retain ten (10%) percent of the minimum deposit to cover administrative costs in the event the road is restored to its previous condition.

(Ord. #1085, § 16-1.4; Ord. #1355, § 1; Ord. #1366, § 1; New; Ord. #22-89, § (3))

13-1.5 Permits for Public Utility Companies.

- a. Any person, firm or corporation which is a private public utility as defined by N.J.S.A. 48:2-13 its supplements and amendments, desiring to obtain permits under the provisions of this Chapter, may upon notice to the Road Superintendent elect to follow the following permit procedures.
- b. A public utility may in lieu of the provision requiring fees and deposits under subsection 13-1.4, make a bond, which may be the bond of such public utility solely, in the penal sum of twenty thousand (\$20,000.00) dollars running in favor of the Borough, and shall file the bond with the Borough Clerk. The bond shall be conditioned upon compliance with the applicable provisions of this Chapter in respect to each street opening. The posting of this bond shall be conditioned upon authorization pursuant to N.J.A.C. 14:3-3.4 its amendments and supplements.
- c. *Liability for Road Openings.*
 1. In lieu of the filing of the certificate of insurance for bodily injury and property damage in the amounts set forth in subsection 13-1.3, the public utility may file with the Clerk, at the same time the bond is filed, a letter certifying that it is a self-insurer and exempt from the necessity of obtaining an insurance policy pursuant to the provisions of the State of New Jersey.
 2. Each permittee shall, as a condition of accepting a permit, save, hold and keep harmless and indemnify the Borough, its officers, agents, servants and employees from and against any loss, damage, claim, demand or expense arising out of a suit or claim for damage or injury alleged to have been sustained as a result of any work done under the permit.
- d. *Exemptions.* A public utility, as defined by Subsection 13-1.5a shall be exempt from the restrictions under Subsection 13-1.1b,¹ which prohibits the openings of roads between December 1, and March 15, as well as prohibiting the opening of roads on Saturdays and Sundays, provided that said public utility shall notify the Road Superintendent or his designee at least ten (10) days prior to said road opening. Upon the issuance of a road opening permit by the Road Superintendent, and notice by said public utility that said road opening will take place between December 1 and March 15 and/or on a Saturday or Sunday, the Road Opening Superintendent shall notify the Mayor and Borough Council of the existence of said permit immediately. If the Governing Body shall determine that the proposed road opening constitutes a danger to the health, safety and welfare of its citizens, the Mayor and Borough Council may veto said road opening permit within ten (10) days of the issuance of said permit. In any event, if it shall be determined by a public utility that an emergency exists which requires an opening of a road, said public utility shall have full authorization to make all necessary repairs at any time without prior notice. In the event that said public utility shall make emergency repairs, it shall, as soon as reasonably possible thereafter, notify the Road Superintendent of said emergency, and shall include the nature and extent of said emergency as well as the nature and extent of said repairs.
- e. *Inspections.* A public utility as described in Subsection 13-1.5a may at the time it files its bond with the Borough Clerk, apply for an exemption from the requirements of Subsection 13-1.7a, which section requires a Borough Inspector to be on site for each day of the anticipated road opening, and Subsection 13-1.7b,³ which section requires the holding of a maintenance bond. Said application shall be considered by the governing body at its next scheduled meeting, and will be approved or denied by resolution of a majority of the member present. In reviewing said application, the Governing Body shall consider whether said public utility regularly services customers in the Borough of Sayreville, whether or not said public utility has a record of compliance with the regulations for opening and restoration of roads and rights-of-way in the Borough, and whether said public utility can be reasonably expected to comply with the spirit of these regulations. In no event shall the Governing Body approve said exemptions unless it is affirmatively shown that said public utility has in place an inspection system of its own which shall ensure compliance with the rules and regulations of this Chapter. To ensure said public utility does have an inspection program in place, all public utilities which are granted an exemption under this section shall be required to submit to the Borough, a form to be provided, by the Road Superintendent with each permit, which form shall indicate if said inspection took place, when, and by whom.
- f. *Reservation of Rights.* The Borough reserves the right to revoke any and all exemptions granted to any public utility pursuant to this section whenever it is shown that said public utility has abused the privileges to hold said exemption. In no event, however, shall any public utility be exempted from the provisions governing the restorations of said road openings, or the provisions governing the protection of persons and property. In all cases, the Borough of Sayreville reserves the right to make repairs authorized by Subsection 13-1.9.

13-1.6 Rules and Regulations.

- a. Permission to make an opening or to tear up the surface of a road or street does not carry with it any right to make drainage, sewer, water, gas, oil, steam, electric or telephone connections. A separate permit to make such connections must be obtained from the proper officials having jurisdiction of the utility.
- b. Unless otherwise expressly approved in writing by the Road Superintendent, where an excavation is to extend the full width of the road, only one-half (½) of the excavation shall be made at one time, and said excavation shall be properly back-filled pursuant to Subsection 13-1.7 before the other half is excavated. The permittee shall make certain that the road or street is open at all times to emergency vehicles.
- c. Except in cases of emergency, where water or gas installations require service of existing users to be terminated, the utility shall notify users of the period of time that the services will not be available. Notices shall be given at least twenty-four (24) hours prior to the interruption of service.

(Ord. #1015, § 16-1.6; Ord. #22-89, § (5))

13-1.7 Restoration of Surface by Permittee.

- a. The Borough shall furnish and the permittee shall pay for an inspector for each day or portion thereof, which a pavement is anticipated to be opened. The permittee shall deposit with the Clerk, a fee of two hundred fifty (\$250.00) dollars for each day or portion thereof, which fee shall be used to pay for said inspector, prior to the commencement of work. No work may be performed without an inspector on site. In the event that a permittee shall perform any work without an inspector on site, the permittee shall be held strictly responsible for any and all defects later found to be present.
- b. Unless otherwise directed by the Road Superintendent, the following specifications shall govern the back-fill to be placed in excavated trenches:
 1. All road, shoulder and driveway openings shall be permanently repaired within thirty (30) days of the initial excavation.
 2. Within one (1) working day of the initial excavation, the permittee shall be required to temporarily cover all road, shoulder and driveway openings with either two (2") inches of cold patch over a bank run gravel or four (4") inches of cold patch without a bank run gravel.
 3. Following the permanent restoration of a road, street, shoulder, etc. by the permittee, and final inspection, the reimbursement money shall be withheld until the permittee shall have posted a bond in the amount of five hundred (\$500.00) dollars with the Borough Clerk, which bond shall be held to insure the permanent replacement and maintenance of the road, street, shoulder, etc. The maintenance bond shall be withheld for a period of one (1) year. In lieu of posting the aforementioned five hundred (\$500.00) dollar maintenance bond, any person performing two (2) or more openings per calendar year in the Borough may elect to file a renewable road maintenance bond in the penal sum of ten thousand (\$10,000.00) dollars to insure the permanent replacement and maintenance of the road, street, shoulder, etc. Whether a permittee shall elect to post the aforementioned five hundred (\$500.00) dollar, maintenance bond or the alternative ten thousand (\$10,000.00) dollar renewable maintenance bond, said bond shall be irrevocable for a period of not less than one (1) year.
- c. Unless otherwise directed by the Road Superintendent, upon completion of the opening and backfill, the following specifications shall govern the maintenance and repair of street openings by the permittee:
 1. Shoulder openings shall be backfilled to within eight (8") inches of the existing shoulder surface. The remainder of the trench shall be filled with road stone and tamped or rolled with the equivalent capacity of a five (5) to ten (10) ton roller. The trench shall be maintained and kept to the existing shoulder grade by the addition of shoulder stone as required. Shoulder openings are openings within the street, any part of which are adjacent to the existing pavement.
 2. Pavement openings shall be filled as specified above for shoulder openings, except that in place of the shoulder stone used to fill in the remainder of the openings, bituminous concrete shall be used. The pavement openings shall be used and kept to the existing pavement grade by the addition of bituminous concrete as required. When, in the opinion of the Road Superintendent, settlement in the pavement opening has ceased, the bituminous concrete surface course shall be removed and the existing pavement shall be cut back to a sharp line one (1') foot on each side of the opening. After surfaces of the existing pavement are tack coated with an asphalt oil, the entire area shall be filled with bituminous concrete and rolled to present an even-riding surface. Pavement openings are openings within the traveled roadway or between curbs, where curbs exist on a street.
 3. Driveway openings shall be replaced in kind and the appropriate specifications for shoulder openings or road openings shall govern their replacement.

4. Adequate provision shall be made to maintain and restore existing draining and existing drainage facilities.
- d. If in the opinion of the Road Superintendent conditions require sheathing, the permittee shall install it on order of the Road Superintendent.
- e. After the restoration of the road by permittee and request for inspection, the reimbursement money shall be withheld for a period of ninety (90) days to ensure the permanent replacement of the road.

(Ord. #1015, § 16-1.7; New; Ord. #22-89, § (6); Ord. #165-90, § 1)

13-1.8 Permit Conditions and Regulations.

- a. *Protection of Persons and Property.*
 1. It shall be the responsibility of the person opening any thoroughfare, or otherwise endangering or obstructing the normal flow of traffic to fully protect vehicular and pedestrian traffic from possible accidents or injury by placing suitable barriers crosswalks, notices, warnings, cautions signs, flares, flashing lights, flagmen, and/or uniformed traffic officers or other manpower and equipment as required and directed by the Chief of Police, and/or Road Superintendent, in accordance with the provisions of Title 39 of the Revised Statutes of New Jersey, its amendments and supplements.
 2. In the event that the work requires a detour of the vehicular traffic, the person in possession of the permit shall submit a detour plan for review and approval to the Chief of Police, and/or Road Superintendent prior to the implementation of the work. It shall be the responsibility of the permittee to maintain the work area so it is continuously passable by all emergency vehicles during all phases of the work.
 3. It shall be unlawful to make any excavation or tunnel in any way contrary to or at variance with the terms of the permit therefor. Proper bracing shall be maintained to prevent the collapse of adjoining ground. The protection of workers shall be in accordance with the regulations of the New Jersey Department of Labor and Industry, and the Occupational, Safety and Health Administration and in excavations, the excavations shall not have any wear below the surface any portion which extends beyond the opening at the surface.
 4. No injuries shall be done to any pipe, cable or conduit in the making of such excavation or tunnel; and notice shall be given to the persons maintaining any such pipe, cable or conduit and to the appropriate Borough Departments or Officers charged with the care thereof, which are or may be endangered or affected by the making of any such excavation or tunnel, before such pipe, cable or conduit can be disturbed.
 5. No unnecessary damage or injury shall be done to any tree or shrub or roots thereof. In the event that damage or injury shall occur, the permittee shall be responsible for any and all restitution.
 6. In the event that any sidewalk is blocked by the work performed by a permittee, a temporary sidewalk shall be constructed or provided, which shall be safe for the travel and convenience of its users.
- b. If necessary and desirable in the opinion of the Road Superintendent, the permittee shall submit in duplicate plans and specifications which indicate the extent of the proposed work.
- c. Upon application, the Council may extend the time during which a permit is valid for such period as they shall deem advisable. If the work to be done by a permittee is not completed within the time stated on a permit or an extension, the Borough may complete the work and restore the surface of the road affected. The permittee shall upon demand pay to the Borough any excess of the cost to the Borough over and above the security deposit, certificate check or bond furnished by the permittee. This amount may be recovered by the Borough in a court of competent jurisdiction.

(Ord. #1015, § 16-1.8; Ord. #22-89, § (7))

13-1.9 Repairs by Borough; Cost.

- a. In the event the permittee does not restore the road, street, shoulder, etc. in the manner, and within the time provided for herein, the Borough shall be authorized to properly restore said road, street, shoulder, etc. and all charges and expenses thereof shall be deducted from any deposits, fees, bonds, etc. posted by the permittee. The deposit or balance thereof after proper compliance with this Chapter shall be returned to the applicant without interest. In the event that the Borough shall expend a greater fee than posted by the applicant, the Borough shall be empowered to collect said fees pursuant to the provisions of Title 2A, Section 58-1 et seq. of the Revised Statutes of New Jersey, its amendments and supplements, entitled the Penalty Enforcement law.
- b. The Borough of Sayreville shall not be liable for damages for any personal injuries or damage to properties sustained as a result of any excavation or opening in any road, street, shoulder, etc. made by any person by virtue of the provisions of this Chapter.

- c. Any person violating any provision of this Chapter shall, upon conviction, be punished by a fine which shall not exceed the sum of one thousand (\$1,000.00) dollars or imprisonment for a term not exceeding ninety (90) days, or both.

(Ord. #22-89, § (8))

13-1.10 Permits For Long Longitudinal Pipe Installations.

a. Restoration Requirements. Where an underground pipeline is to be installed longitudinally within an existing public road, street, or right-of-way, and where said pipeline installation requires an opening of one (1') foot or greater in width, and two hundred (200') feet or greater in length, special restoration requirements shall be followed. Said restoration requirements shall be applicable to all persons, with the sole exception of the Borough of Sayreville and their authorized agents, and shall supersede any regulation under subsection 13-1.5 entitled "Permits For Public Utility Companies."

1. All backfill requirements under subsection 13-1.7 as well as Borough design standards and/or other applicable subsections of this section shall be required. The Borough Engineer shall inspect all backfill repairs to assure that all backfilling is satisfactory under Borough standards.
2. A stabilized base course of six (6") inches of bituminous base shall be required as specified in subsection 13-1.7. The Borough design standards, and other applicable ordinances shall be complied with for the installation of base course repairs. The Borough Engineer shall inspect all base course installation to insure that said base course installation meets Borough standards.
3. Final restoration of the roadway shall include a one and one-half (1 ½") inch pavement overlay of the entire existing roadway. Prior to the placement of the overlay of roadway pavement, the existing roadway shall be milled for the entire width of pavement (curb to curb) and length of disturbance. The depth of the roadway milling shall be one and one-half (1 ½") inches. The final restoration of the roadway shall include a one and one-half (1 ½") inch pavement overlay of the milled area in order to match the previously existing pavement height. Said final restoration shall conform with Borough design standards and other applicable ordinances.
4. A permit applicant shall be entitled to submit an alternative plan for final restoration of the roadway than the specifications in subsection 13-1.10a,3. Said alternative plan shall have the same intended results as subsection 13-1.10a,3, and shall conform to Borough design standards and other applicable ordinances. Said alternative restoration plan shall be reviewed by the Borough Engineer, who shall thereafter file his recommendations with the Mayor and Borough Council for prior approval. The Mayor and Borough Council may approve any alternate plan and/or waive any requirements of restoration by resolution of the Borough Council.
5. All paving work shall be performed by a paving contractor experienced and recognized by the Borough of Sayreville, and having state-of-the-art equipment.
6. Any public utility may petition the Mayor and Council for exemptions of the restoration requirements for longitudinal pipe installations. The Mayor and Council will review each and every request for exemption and shall render their decision by resolution approving or denying said request within ninety (90) days of the receipt of said request. In the event the Mayor and Council shall fail to act within ninety (90) days, said request shall be deemed to be denied. In considering a request for an exemption by a public utility, the Mayor and Council shall consider, but not be limited to, the following factors:
 - (a) The length, width and location of the opening;
 - (b) The type of roadway restoration required;
 - (c) Condition of the roadway;
 - (d) The past restoration record of the utility company;
 - (e) The cost of restoration relative to the overall cost of the project.

b. Inspections. All inspection work pursuant to subsection 13-1.10a. above, shall be performed by the Borough Engineer or his designated representative. Inspection fees for this work shall be estimated in accordance with the procedures set forth herein. Said fees shall be posted as a deposit with the Borough Clerk at the time of the request of the road opening. A public utility may petition the Mayor and Council for a waiver of inspection fees as provided in subsection 13-1.10b. at the same time as requesting a waiver of the road restoration projects pursuant to the procedures set forth in subsection 13-1.10a., herein.

1. Inspection fees shall be posted by the applicant based upon the total cost of the installation of the underground pipeline.
2. In all cases where the cost of installation shall be between zero (\$0) dollars and ten thousand (\$10,000.00) dollars, eight (8%) percent of the estimated cost of construction, as estimated by the Borough Engineer, shall be required.

3. In all cases where the cost of installation is estimated between ten thousand one (\$10,001.00) dollars and fifty thousand (\$50,000.00) dollars, the inspection fee required shall be eight hundred (\$800.00) dollars plus seven and one-half (7 ½%) percent of the estimated cost over ten thousand (\$10,000.00) dollars.
 4. In all cases where the cost of installation is estimated between fifty thousand one (\$50,001.00) dollars and one hundred thousand (\$100,000.00) dollars, the inspection fee required shall be three thousand eight hundred (\$3,800.00) dollars plus seven (7%) percent of the estimated costs over fifty thousand (\$50,000.00) dollars.
 5. In all cases where the cost of installation is estimated one hundred thousand one (\$100,001.00) dollars and two hundred thousand (\$200,000.00) dollars, the inspection fee required shall be thirteen thousand eight hundred (\$13,800.00) dollars plus six (6%) percent of the estimated costs over one hundred thousand (\$100,000.00) dollars.
 6. In all cases where the cost of installation is estimated to be greater than two hundred thousand (\$200,000.00) dollars, the inspection fee required shall be twenty-five thousand (\$25,000.00) dollars plus five (5%) percent of the estimated costs over two hundred thousand (\$200,000.00) dollars.
 7. In addition to all other requirements herein, the Borough Treasurer shall be empowered to notify the applicant and require the applicant to deposit an additional fee equal to fifty (50%) percent of the original fee, if and when professional charges to the Borough are greater than eighty (80%) percent of the original filing fee as required herein, except that the Borough Treasurer shall be authorized to require less than fifty (50%) percent additional fee if the Borough Engineer's estimate of additional charges so warrants said reduction.
 8. Prior to the beginning of work for installation of an underground pipeline, in which the inspection fees exceed ten thousand (\$10,000.00) dollars, an applicant may request that the Mayor and Council establish an inspection fee payment schedule in lieu of the deposit of the total inspection fees. Requests shall be reviewed by the Borough Engineer, and the Borough Mayor and Borough Council for approval. The Mayor and Council shall render their decision by resolution approving or denying said request at the next regularly scheduled Council Meeting.
- c. *Performance and Maintenance Guarantees.* Prior to the beginning of any installation work for underground pipelines herein, performance guarantees shall be required in an amount equivalent to the reasonable cost of the proposed installation as determined by the Borough Engineer. Improvements included within the performance guarantees shall mean and include construction and installation costs, backfill costs, base course installation, milling work, final pavement restoration, and all other reasonable costs of the proposed underground pipeline installation. In addition, the Mayor and Borough Council may require the posting of performance guarantees for temporary and permanent site improvements which are determined by the Borough Engineer to be necessary to the health and safety of the residents of the Borough of Sayreville. The form and sufficiency of a bond shall be subject to the approval of the Borough Attorney, and the terms shall be for the life of the road opening permit between the Borough of Sayreville and the permittee. Performance bonds shall be expressly conditioned upon the applicant's full compliance with all Borough Ordinances and regulations governing the installation of underground pipelines, and faithful performance of the terms of the agreement with the Borough. Performance guarantees may equal but shall not exceed one hundred twenty (120%) percent of the cost of the installation of the underground pipeline.
- Prior to commencement of any project involving long longitudinal installations, a public utility company may petition the Mayor and Borough Council for a waiver of the requirements for the posting of a performance and maintenance guarantee as provided herein. In no event shall said request be approved unless said public utility company has first complied with the provisions of subsection 13-1.5b. In considering the request for a waiver of the requirements for performance and maintenance guarantees, the Mayor and Council shall consider the restoration record of the utility company in question, and the scope of the project in question relative to performance and maintenance guarantees presently filed with the Borough. Each request shall be considered on a case-by-case basis and shall be approved or disapproved by resolution of the Mayor and Borough Council within ninety (90) days of the receipt of said request by the public utility. In the event said request is not approved within a period of ninety (90) days, said request shall be deemed denied.
- d. Following the installation, restoration and inspection of the underground pipeline, maintenance guarantees shall be required in a sum equal to fifteen (15%) percent of the amount of the original performance guarantee for installation of said underground pipeline. The maintenance guarantee shall be in a form and sufficiency approved by the Borough Attorney. The maintenance guarantee shall be posted upon final release of the performance guarantee by the Borough and shall be expressly conditioned upon the maintenance by the permittee of all such improvements for a period of two (2) years and particularly shall guarantee the remedy of any defects in such improvements which occurred during that period. The maintenance guarantee shall further provide for the replacement of any vegetation which is required for the restoration of any Borough right-of-way and found not to be healthy two (2) years after its planting.
 - e. *Violations, Penalty.* Any person violating any provision of this Chapter shall, upon conviction, be punished by a fine which shall not exceed the sum of one thousand (\$1,000.00) dollars or imprisonment for a term not exceeding ninety (90) days, or both. Each day a violation occurs shall be considered to be a separate violation.

