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AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 20, STREETS AND SIDEWALKS, AND SUBSECTIONS 20-1 ET SEQ OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF WEST ORANGE

BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WEST ORANGE, NEW JERSEY that Chapter 20, Sections 1.1 *et seq.* of the Revised General Ordinances of the Township of West Orange be and are hereby amended as follows:

I. PURPOSE: The purpose of this ordinance is to amend and supplement Chapter 20, Section 1.1 *et seq.* of the Revised General Ordinances of the Township of West Orange (the “Township Code”).

II. CHAPTER 20, SECTION 1.1 *et seq.* SHALL BE AND HEREBY IS AMENDED AND SUPPLEMENTED TO INCORPORATE THE FOLLOWING:

§20-1.1 *et seq* BE AND HEREBY AMENDED AND SUPPLEMENTED AS FOLLOWS:

§ 20-1. EXCAVATIONS.¹

§ 20-1.1. Permit Required. [1972 Code § 22-1.1; amended 2-9-2021 by Ord. No. 2635-21]

No person shall open, dig up, or excavate any street or sidewalk, or any portion thereof for the purpose of connecting any pipe or conduit pipe with a water or gas main, or for any other purpose whatsoever, unless the applicant shall first obtain a permit from the [Municipal Engineer](#).

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§ 20-1.2. Provisions of Permit; Procedures; Fees. [1972 Code § 22-1.2; Ord. No. 729-84 § 3; Ord. No. 1328-95 § 4; amended 2-9-2021 by Ord. No. 2635-21]

a. The permit shall be in writing, signed by the Township Engineer or his/her representative and shall include:

1. A description of the work to be performed.
2. A reason for said work.
3. The street address including the nearest cross streets where the excavation is to be made.
4. A plan or sketch in proper scale indicating the size and location of the proposed openings which shall include:
 - a. The distance in feet from the nearest intersection and from the nearest curb line;
 - b. The dimensions of the opening including length and width;
 - c. The existing parking restrictions.
5. The start and estimated completion dates.
6. The type of pavement to be opened.

¹ Editor's Note: The power to regulate excavation and construction in the public streets is contained in N.J.S.A. 40:67-1. The power to provide specifications for street and sidewalk construction is part of the general Police power, contained in N.J.S.A. 40:69A-29, 30.

7. The name and address of the compaction testing company or laboratory, as required by the Municipal Engineer.
 8. Photographs of the street or roadway which will be impacted by the proposed work and the areas immediately adjacent thereto as it exists at the time of the application for the permit.
 9. A utility mark out within the area affected. Applicant is responsible for contacting the West Orange Department of Public Works for all Sanitary and/or Storm sewer utility mark outs during working hours, or to notify West Orange Police during all other hours and request a DPW Sewer employee be dispatched. Applicant must notify NJ State One-Call System (811) for all other public utility mark outs. If a utility is damaged, including service connections, immediately notify the affected Utility Company and the Municipal Engineer or Department of Engineering. West Orange Police must be notified for damages that occur during all off-hours emergency work.
 10. A written agreement to completely restore the area affected within a specified number of calendar days after the first disruption thereof to the condition it was at the time it was first completed. The selected period of time is subject to the approval of a representative of the Department of Engineering.
 11. Specifications, matching those used to construct the street or roadway in the first place, for the complete restoration of any and all bituminous paving, concrete sidewalks, concrete or block curbs, brick pavers, bollards, light poles, benches, trash receptacles, planters, sign posts, parking meters or control boxes, and any and all other aspects of the street or roadway that may be disrupted or impacted in any way by such work.
 12. All water valves, gas valves, storm and sanitary sewer castings are to be reset to grade prior to paving operations in accordance with sections 602.03.03- Set Casting, Reset Casting and Reconstructed Inlet and Manhole, 651.03.07-Reset Water Valve Box, 652.03.07-Reset Manhole Sanitary Sewer, and 653.03.04-Reset Gas Valve Box of the latest version of NJDOT Standard Specifications for Road and Bridge Construction.
 13. An itemized and detailed estimate of the cost of the proposed work, including the cost of complete restoration of the full-width of street or roadway prepared by the applicant's architect or engineer.
 14. A written agreement to submit photographs of the street or roadway once the Department of Engineering representative has approved the complete restoration of the street or roadway.
15. The Applicant must submit a copy of the Public Works Contractor Registration Certificate issued by the N.J. Department of Labor and Workforce Development to work on any public or private property that requires road opening.
- b. No trees within the Township right-of-way shall be disturbed or removed without permission of the Township Forester.

c. Application Procedures

1. Application for a permit for the installation of a main line of a utility or drainage system running parallel to the Township right-of-way shall be made to the Department of Engineering. Such application must include a detailed plan showing the limits of such an installation, the depth of the main and utility and other necessary information including full compliance with the requirements and subject to the conditions hereafter provided. Upon approval of the plan by the Municipal Engineer, a permit will be provided.
2. Applications for a permit for the installation of a house connection for water, sewer, or any other purpose where the excavation does not run parallel to the Township right-of-way shall, upon compliance with the requirements, and subject to the conditions hereafter mentioned, be granted a permit. Application for the permit for the installation of water connections that require the excavation or removal of the surface pavement, curbing, or sidewalk shall be made at the Department of Engineering. Upon Approval of the Municipal Engineer, a permit will be granted.
3. All Other Applications. Applications for all other street openings requiring the excavation or removal of the surface pavement, curbing or sidewalk not provided here before shall be made at the Department of Engineering. A permit shall be issued when it can be determined that (i) the necessary documents are acceptable in form and substance, (ii) the applicant has paid the review and inspection fee, (iii) the applicant has posted sufficient insurance, (iv) the applicant has satisfied all other requirements applicable to the issuance of permits in the Township of West Orange.
4. Fees
 - a. The applicant shall pay an application review in an amount to be set by Resolution for each individual Township Street or Roadway affected in a project.
 - b. Additionally, upon issuance of the permit, the applicant shall pay to the Township a fee, in a matter set forth by Resolution at the approval of the Township Council.

5. Authority of the Department.

a. The Municipal Engineer or Designated Representative (Department) has the authority to direct the work and the Contractor/Permittee has an obligation to proceed as directed. The Department has the authority to reject work that is not in conformance with the Contract or Permit and direct its removal and replacement. If the Contractor/Permittee fails to promptly remove or replace defective work as directed by the Department, the Municipal Engineer has the authority to direct others to remove or

replace the work. The Department has the right to recover costs incurred for such removal and replacement from the Contractor/Permittee.

b. The Municipal Engineer will decide questions that arise concerning the following:

1. Quality and Acceptability of the work.
2. Progress of the work.
3. Interpretation of the Contract or Permit
4. Modification of the Contract or Permit

6 Responsibilities of the Contractor/Permittee

- a. Provide labor and equipment sufficient to perform the work, as specified in the Contract or Permit to completion. Ensure that the labor and equipment used to perform the work does not cause damage to public or private property. Provide workers that have sufficient skill and experience to properly perform the work necessary under the Contract or Permit. Provide equipment of sufficient size and mechanical condition to meet the requirements of the job.
- b. The Contractor/Permittee shall provide an on-site Supervisor and alternate, or provide a third-party inspector that is competent, English-speaking, and experienced in the type of construction performed on the job at the Contractor's expense. This person should be agreed upon by the Department prior to starting work. Contact name and phone of the on-site Supervisor and alternate must be provided prior to the commencement of the work.

7. Risks assumed by the Contractor/Permittee

The Contractor/Permittee assumes the following distinct risks, whether they arise from acts or omissions, negligent or not, and whether such risks are within or beyond the control of the Contractor/Permittee.

- a. Damage Caused by the Contractor/Permittee- The Contractor/Permittee bears the risk of all loss or damage caused by the Contractor/Permittee, their agents or employees, subcontractors, suppliers, or delivery persons. Protect and preserve all private and public property from damage or loss in performance of the work. Promptly repair or replace such damage or loss as directed by the Department.
- b. Risks of Loss or Damage to the Construction- Until final acceptance and review of the project, the Contractor/Permittee bears the risk of all loss or damage to construction performed under the Contract/Permit. Promptly repair or replace such damage or loss. The Department will not make any payments or modify the Contract/Permit time period for such repairs.

c. Risks of Claims on Account of Injury, Loss, or Damage- The Contractor/Permittee bears the risk of claims, just or unjust, by third parties made against the Contractor, Permittee, or Township of West Orange on account of injuries, wrongful death, loss, or damage of any kind whatsoever arising or alleged to arise out of or in connection with the performance of the work.

d. Risks of Loss to Property of Those Performing the Work- The Contractor/Permittee bears the risk of loss or damage to any property of the Contractor/Permittee, and of claims made against the Contractor/Permittee or the Township for loss or damage to any property of subcontractors, workers, and others performing the work at any time before removal of said property from the project limits or Township property.

8. Suspension of Work, Suspension of Permit-

The Municipal Engineer has the right to suspend the work, wholly or in part, as deemed necessary for the following reasons:

a. Contractor/Permittee fault- including but not limited to, failure to fulfill Contract requirements, failure to comply with the provisions and procedures of the Permit, working in an unsafe or reckless manner, failure to correct unsafe conditions, and/or failure to carry out directions of the Department.

b. Convenience of the Department- this direction will be sent to the Contractor/Permittee in writing.

c. Unsuitable Weather Conditions- to be determined by the Department.

§ 20-1.3. Deposit to Cover Cost of Replacement; Bond. [1972 Code § 22-1.3; Ord. No. 1328-95 § 5; amended 2-9-2021 by Ord. No. 2635-21]

The applicant shall upon receiving the permit, in order to secure the Township, deposit with the Township a sum to be determined by the Township Engineer, based on the area of the excavation and twice the prevailing cost of replacement, for such excavation. The minimum bond shall be \$3,000 cash. The deposit shall be forwarded to the Township Treasurer, who shall use it to defray the expense of the Township in maintaining and completing the work of repairing or replacing the street or road or part thereof, if the permittee has not maintained or completed it to the satisfaction of the Engineer. In lieu of the deposit, the applicant may, at the Township's option, give bond to the Township in the sum of \$50,000 with surety or sureties as the Township Council shall approve, conditioned for the payment from time to time of the expenses of repairing or replacing any and all streets or roads or parts thereof, so torn up or excavated upon permits issued therefor.

§ 20-1.4. Deposit Payment of Additional Sum. [1972 Code § 20-1.4; Ord. No. 1328-95 § 6]

The deposit of any surplus after the completion of the work shall be returned to the applicant within 180 days, upon written authorization of the Township Engineer. If any additional sum is required, it shall be paid by the applicant upon receiving written notice to that effect from the Township Engineer.

§ 20-1.5. General. [1972 Code § 22-1.5; amended 2-9-2021 by Ord. No. 2635-21]

- a. **General.** The New Jersey State Department of Transportation 2019 Standard Specifications for Road and Bridge Construction, or latest revision, shall govern all of the work performed under Township of West Orange Road opening permits, except as supplemented below:
 1. Any work under an issued permit must be commenced within three months from the date of issue, and completed 45 days from commencement, or said permit shall be deemed void and reapplication shall be required, unless previously approved by the Municipal Engineer.
 2. The permittee shall notify the Municipal Engineer 48 hours, not including weekends and holidays, in advance of the actual commencement of any work under a permit.
 3. The permittee shall notify the Municipal Engineer at least 24 hours prior to closing any trench or excavation.
 4. The permittee shall notify the Municipal Engineer at least 24 hours prior to doing any final repair of a trench or excavation.
 5. Permittees whose work results in the closing of a moving traffic lane, or which requires traffic to be diverted to another lane shall at all times while actively working at the site, utilize an authorized traffic plan approved by the West Orange Police Traffic Bureau for the maintenance and protection of traffic. This includes the use of Police Traffic Directors to assist motorists and pedestrians to proceed safely through the site.
 6. Barricades, signs, lights, and other approved safety devices shall be displayed in accordance with the Federal latest edition of the Manual on Uniform Traffic Devices.
- b. **Protection of Excavation.** Every person, utility or corporation engaged in the digging of any street, in the paving of any street or section of a street, building any sewer or drain, digging any trench for gas, water or other pipes, or in digging and building any manhole or valve box in any public street, or in the placing of any obstruction in any public street, where the work, if left exposed, would be dangerous to vehicles or passersby, shall erect a fence or railing at such excavations or work.

The fence or railing shall be erected in a manner to prevent danger to persons travelling on the street or sidewalk. The person shall maintain the railing or fence until the work shall be completed or the obstruction or danger is removed. It shall be the duty of each person, utility or corporation who erects a railing or fence to place upon the railing or fence at sundown of each evening suitable and sufficient lighting and to keep the lights burning throughout the night during the performance of the work.

- c. **Protection of Existing Structures.** It shall be the responsibility of the permittee to give proper notice of the proposed street opening to any person, firm, or corporation whose pipes, conduits, or other structures are laid in the portion of the street to be opened. Said notice shall be given, in writing, a minimum of 72 hours before commencement of said opening, and the permittee shall, at his own expense, carefully support, maintain in operation and protect from damage such pipes, conduits, or other structures. If any damage is caused to such pipes, conduits, or other structures, the permittee shall restore the same, at his own expense, to the condition they were prior to the commencement of work, except that gas facilities must be repaired by Public Service Electric and Gas Company and water main facilities must be repaired by the New Jersey American Water Company. Conduits or pipes shall be installed at a minimum depth of 18 inches from the surface of the roadway or below the base course whichever is greater. Where conduits and pipes cannot be installed at the required minimum depth, protective plating shall be installed over the facilities upon written request from the permittee and receipt of written approval of the Municipal Engineer.

- d. **Breaking Existing Pavement.** Precutting of pavement wearing course by saw cutting shall be required. For pavement removal, the use of a "Ram Hoe" or truck mounted pavement breaker is not permitted unless otherwise authorized. Hand held tools should be used for this purpose. This applies to all streets at all times. The permittee shall be responsible for keeping the construction site clean and neat as practicable at all times during the life of the permit. No material shall restrict water flow in gutters. Every effort shall be made to keep the pavement opening dimensions to the absolute minimum. No person shall make any installation or repair between two or more street openings by means of tunnelling or jacking without approval of the Municipal Engineer or his/her representative.

1. **Sheeting or Bracing.** The sides of any open excavation five feet or more in depth shall be secured by sheeting and bracing where the earth is not sloped to the angle of repose of the material and where unsafe conditions are created due to the composition of the soil, depth of excavation, climactic conditions, or construction operations. Where sheeting or bracing has been used for the excavation, it shall be pulled when the excavation has been filled or backfilled to the maximum unsupported depth allowed by the New Jersey Department of Transportation guidelines.

- e. **Backfill or Plating.** All excavations shall be completely backfilled at the end of each working day,

unless it would constitute a hardship to the permittee or where the size of the excavation makes it impossible to backfill at the end of each working day, in which a waiver may be granted by the Township Engineer. In the event that a waiver is granted, the contractor or owner shall cover the excavation with heavy one-inch-thick plates secured to the pavement to prevent rattles and movement, and erect appropriate barriers and lights around the entire excavation and arrange to provide appropriate security protection, if such security is necessary, at his own cost and such other safeguards as may be needed to protect the public from an open excavation. If plates are placed for over a weekend or for an extended period, all edges are to be macadam sealed and sloped. In no event shall an excavation be left open for more than 72 hours, unless an emergency exists and permission has been secured from the West Orange Police Department, the Township Engineer, or their designated representative. Plates left in the roadway between November 15 and April 1 shall be recessed to allow for snowplowing, should it be necessary.

f. **Paving.** No road opening shall be permanently paved until a final inspection has been made by the Township Engineer or his representative and final approval given. For all openings:

1. All water valves, gas valves, storm and sanitary sewer castings are to be reset to grade prior to paving operations in accordance with sections 602.03.03- Set Casting, Reset Casting and Reconstructed Inlet and Manhole, 651.03.07-Reset Water Valve Box, 652.03.07-Reset Manhole Sanitary Sewer, and 653.03.04-Reset Gas Valve Box of the latest version of NJDOT Standard Specifications for Road and Bridge Construction.
2. The paved roadway surfaces shall be saw cut or blade cut vertically on a straight line before excavating.
3. The material excavated from the trench opening shall not be replaced as backfill.
4. Excavated materials must be removed from the work site on the day of excavation.
5. The backfill will be comprised of Dense Graded Aggregate (DGA) or other material approved by the Township Engineer.
6. All backfill shall be placed in twelve-inch horizontal layers, with each layer thoroughly compacted by mechanical means to the satisfaction of the Engineer. The Engineer reserves the right to require a compaction test to be performed by an independent laboratory at the expense of the permittee.
7. After proper settlement and cutback, for any portion of the road, the entire width of the trench, plus a four-inch overlap, shall be overlaid with a two-inch minimum thickness of bituminous concrete surface course (9.5M64 or 12.5M64 as designated by the Municipal

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Engineer) pavement applied to the entire length of the disturbed area and rolled in place to obtain a smooth pavement surface and sealed at all edges.

g. Asphalt Pavement Openings; Backfilling; Restoration of Surface.

1. The permittee shall assume all responsibility and hold the Township harmless for any property damage or bodily injury which may occur as a result of the work performed from the time the work commences until the permanent restoration has been completed to the Engineer's satisfaction. The permittee shall immediately backfill the opening with an approved material in layers not exceeding one foot in thickness. This fill shall be brought to an elevation of eight inches below pavement surface. Compaction shall be attained by use of plate tampers, small drum vibrators, or "jumping jack" hydraulic rammers. Hand compaction shall not be permitted except in the immediate area of the underground facility where hand compaction is permissible using as many strokes as necessary to attain maximum density.
2. Once the excavation work area has been properly saw cut, and the backfill tamped and compacted, the permittee shall install no less than eight inches of bituminous stabilized base course (19M64 or 25M64 as designated by the Municipal Engineer) to the trench surface in two lifts compacting after each application. The roadway restoration for the roadway opening shall be full curb to curb roadway restoration. The permittee shall be required to excavate to the curb and evenly install eight inches of bituminous stabilized base course (19m64 or 25M64) applied in two lifts to the entire area.
3. The partially restored pavement shall be allowed to settle for no less than 90 and no more than 180 days. If, at any time during the settlement period, the trench becomes unacceptable as determined by the Township Engineer or his representative, the permittee shall be notified of the condition requiring repair, and such repair shall be performed within 24 hours of such notification. If the repair is not made in the time specified, the Township may make the repair, and any costs thereof will be charged against the permittee's cash repair deposit and/or maintenance bond. At the end of the time of settlement required by the Township Engineer, an inspection will be made by the Engineer or his representative.
4. After the Township Engineer's inspection, the permittee shall be required to mill the excavation work area surface to a width equal to the width of the roadway with one foot wider on each side of the initial repair and install no less than two inches of bituminous concrete surface course (9.5M64 or 12.5M64 as designated by the Municipal Engineer). The permittee shall also be required to provide a tack coat on all existing bituminous and concrete surfaces and a hot poured, rubber asphalt joint sealer (per Section 914 of NJDOT Standard Specifications for Roads and Bridges).
6. Unless authorized by the Township Engineer, any excavation less than, 10 square yards shall require milling and restoration of the excavation work area extending a minimum of one foot beyond the edge of excavation to the nearest curb. Any excavation equal to or greater than 10 square yards shall require milling and restoration of the excavation work area extending from full curb to curb roadway restoration and extending a minimum of one foot beyond the outer edges of the excavation. If the excavation work area will be

within 100 feet or less of previous excavations occurring within one year of the subject excavation (by the same permittee along the ~~same~~ either side of the road), the permittee shall be required to mill and restore the roadway between the outermost excavations with full curb to curb roadway restoration.

6. The permittee shall be required to replace any facilities, including, but not limited to, curb, pavement, sidewalk, line striping, etc., that are affected by the excavation and restoration work, at the permittee's expense. Such work shall be performed according to the Township's standards.
7. Non-paved areas. All grass or graveled area or sidewalk areas disturbed within the Township right-of-way(s) shall be reconstructed, top soiled, seeded, and mulched within 14 days of completion of excavation. All concrete areas will be thoroughly compacted before restoration. These limits may be waived by the Engineer only when abnormal temperatures or inclement weather necessitates the same.
8. All work, including grassy areas, shall be guaranteed for a period of 60 months.

§ 20-1.6. Insurance. [1972 Code § 22-1.6; amended 2-9-2021 by Ord. No. 2635-21 ²]

As a condition of the issuance of a permit, the applicant shall provide the Township with evidence of General Liability, General Comprehensive and Vehicular Insurance and Worker's Compensation Insurance in an amount not less than **\$1,000,000.00** each occurrence and **\$2,000,000.00** aggregate. Such insurance policy must also name the Township of West Orange as an additional insured and be issued by a company licensed by the State of New Jersey.

§ 20-1.7 Emergencies.

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In the event that an emergency condition exists requiring immediate action by any person, utility or corporation requested to obtain a permit pursuant to this section, the person may immediately cause the roadway to be entered and emergency measures taken without first obtaining a permit, provided that:

1. A true emergency exists and the person has notified the Township of West Orange Police Department prior to the start of work, who shall log the emergency and provide information regarding traffic control and the hiring of traffic directors.
2. A permit is applied for within 24 hours of the road opening or on the next business day, whichever is more practical.
3. All work is performed in accordance with the provisions of this chapter.

4. The permittee shall commence emergency work as soon as practical, and perform such work on an around the clock basis until the emergency is abated.
5. Barricades, signs, lights, and other approved safety devices shall be displayed in accordance with the latest version of the Federal Manual on Uniform Traffic Devices.
6. No private vehicles may be kept in the work area.
7. All necessary information regarding the emergency work that is requested by the Department of Engineering Inspector or other Township representative shall be provided by the permittee or the work crew on scene.
8. Permittees whose work results in the closing of a moving traffic lane, or which requires traffic to be diverted to another lane shall at all times while actively working at the site, utilize an authorized traffic plan approved by the West Orange Police Traffic Bureau for the maintenance and protection of traffic. This includes the use of Police Traffic Directors to assist motorists and pedestrians to proceed safely through the site at the permittees expense.

§ 20-1.8 Excavations and Street Openings in Protected Streets

No street opening activity shall be allowed, except for emergency work or as authorized by the Municipal Engineer in a protected street for a period of ten years from the completion of street improvements. The Municipal Engineer shall once a year, or as often as may be appropriate, provide to the public utility providers and the general public notice of planned work on municipal roads, advising that any work requiring excavation and disruption of pavement within or about those roads will have to be completed prior to Township paving projects. Such notice shall state that no road opening permits will be issued for openings, cuts, or excavations in newly paved roads for a period of 10 years from the completion of the project.

The notice shall also provide those applications for road opening permits for work to be done prior to the Town paving project shall be submitted promptly in order that the work covered by the permit may be completed before paving. Notice to public utility providers shall be by E-Mail.

- a. **Permit Issuance.** No permit to use or open any street, except for emergency work, shall be issued to any person within a ten-year period after the completion of the construction of a capital project relating to such street requiring resurfacing or reconstruction unless such person demonstrates that the need for the work could not have reasonably been anticipated prior to or during such construction. Notwithstanding the foregoing provisions, the Municipal Engineer may authorize the issuance of a permit to open a street within such ten-year period upon a finding of necessity therefore.

b. **Conditions.** Permittees shall be responsible to contact the Department of Engineering for Municipal Engineer to determine whether a street is scheduled to be rebuilt under a street reconstruction project.

c. **Application.**

1. Permittees shall include on the application the justification for any street opening activities on protected streets.

2. The permittee shall attach the "Protected Street Opening Permit Application attachment" to the Street Opening permit application prior to obtaining the permit.

d. No backfill of any opening or excavation on a protected street shall be performed unless the permittee notifies the Department of Engineering at least 48 hours prior to the scheduled start time for the backfill. In no case shall the permittee commence the backfill prior to the scheduled start time. For the HMA base and surface course, the permittee shall fax/email its daily paving schedule to the Department of Engineering prior to commencing work. In addition, during the backfill and compaction phase of the work, permittees must provide, on site, a certified compaction tester from an approved laboratory or a licensed certified tester to test that the compaction of the backfills is in accordance with the Department of Engineering's rules and specifications. Upon completion of temporary restoration measures, a thirty-day settlement period shall be observed. Upon completion of the settlement period, final (permanent) restorations shall be completed within 10 working days, or as directed by the Department of Engineering should the final restoration period fall within the winter season.

e. The Department of Engineering may inspect any phase of the work, including but not limited to initial excavation, backfill and compaction, performance of required cut backs, and final restoration.

f. A certification issued by a New Jersey licensed professional engineer shall be provided to the Municipal Engineer within 30 days of completion of work on protected streets. The certification shall state that the type of work performed was as described in the permit application, and that all phases of the restoration were performed in accordance with the Township rules and specifications.

g. Permittees shall be responsible for the proper repair of the street opening or excavation for a period of three years from the date of completion or for the duration of the protected street guarantee period, whichever is longer.

h. Where street openings cannot be confined to within four feet of the curb line, including the required cut back, and/or within the sidewalk area, full curb to curb roadway restoration

shall be required where protected street status has been in effect for 48 months or less, unless otherwise directed by the Municipal Engineer.

i. In the event a permanent restoration pavement installed in violation of the provisions of paragraph 1 of this paragraph d settles more than two inches below the surrounding existing surface during the life of such permanent restoration, this shall be deemed a failure of the backfill compaction, in which case, the permittee shall remove all of the failed backfill, down to the subsurface facility, and install new, properly compacted backfill and the final finish should be infrared for a smooth trench.

j. In those circumstances where a non-emergency linear opening or excavation is performed on a street where protected streets status has been in effect for a period of ten years or less, then the permittee shall be required to perform full curb to curb roadway restoration on the protected street, plus curb-to-curb repaving of another street in the area, as designated by the Municipal Engineer with the consent of the Mayor and Council. The length of the repaving of the additional street shall be substantially equivalent (as determined by the Municipal Engineer) to the length of the restoration of the protected street that was opened/excavated within this ten-year period.

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§ 20-1.9 Violations and Penalties

Any person who shall violate any of the provisions of this ordinance, or take part in or assist in any violation, or who shall violate or fail to comply with any order or regulation made under the provisions of this ordinance, or shall make any excavation or store any material within the line of any municipally controlled road or street in the Township of West Orange, except as allowed by permit under the provisions of this ordinance, shall severally for each and every such violation or noncompliance, respectively, not otherwise provided for, be liable to the maximum penalty as per N.J.S.A. 40:49-5 as follows:

- The Township Council may prescribe penalties for the violation of ordinances it may have authority to pass, by one or more of the following: imprisonment in the county jail or in any place provided by the municipality for the detention of prisoners, for any term not exceeding 90 days; or by a fine not exceeding \$2,000; or by a period of community service not exceeding 90 days.
- The Township Council may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.
- The Township Council may prescribe that for the violation of any particular ordinance at least a minimum penalty shall be imposed which shall consist of a fine which may be fixed at an amount not exceeding \$100.

Should any person, firm, or corporation in violating any of the provisions of this ordinance, after notice of such violation, continue such violation, each 24 hours that the same shall be continued shall be construed to constitute a separate and distinct violation.

Any person, firm, or corporation who is convicted of violating the ordinance within one year of the date of a previous violation of this ordinance and who was fined for the previous violation, shall be

sentenced to an additional fine as a repeat offender. The additional fine as imposed upon a person, firm, or corporation for repeated offense shall not be less than the minimum or exceed the maximum fine imposed for a violation of the ordinance, but shall be calculated separately from the fine imposed for the initial conviction of violating the ordinance.

Any person, firm, or corporation convicted of the violation of any provision of this ordinance may, in the discretion of the Court by which he was convicted, and in default of the payment of any fine imposed therefore, be imprisoned by the County jail or place of detention provided by the Township, for any term not exceeding 90 days, or be required to perform community service for a period not exceeding 90 days.

III. REPEAL OF CONFLICTING ORDINANCES

Any Ordinances of the Township which are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

IV. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

V. EFFECTIVE DATE

This Ordinance shall take effect upon final passage and publication in accordance with the law.

Karen J. Carnevale, R.M.C.
Municipal Clerk

Susan McCartney
Mayor

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Joseph Krakoviak
Council President

Introduced: May 6, 2025

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Adopted: May 20, 2025

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LEGISLATIVE HISTORY

This Ordinance amends and supplements Chapter 20 Streets and Sidewalks to supplement permit procedures and general specifications for contractors to excavate streets and sidewalks in the Township. It also outlines the requirement for applicants and contractors to provide a Public Works Contractor Registration Certificate issued by the New Jersey Department of Labor and Workforce Development at the time of applying for a road opening permit. Also, additional application procedures and requirements were added to Section 20.1C to supplement the ordinance.