TOWNSHIP OF LOWER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY

ORDINANCE #2018-08

Title: **AMENDING CHAPTER 583 – STREETS AND SIDEWALKS – OF THE CODE OF THE TOWNSHIP OF LOWER; ARTICLE I, SUBSECTION 583-4 EXCAVATION; RESTORATION AND REFILLING OF ROADS, STREETS AND ALLEYS; PARAGRAPH (8) STREET RESTORATION; ADDING NEW SECTIONS (g) (h) & (i) - FIVE (5) YEAR MORATORIUM**

WHEREAS, Chapter 583; Streets and Sidewalks of the Code of the Township of Lower governs the general provisions regarding the Streets and sidewalks located within the Township; and

WHEREAS, Lower Township Council wishes to amend the Code adding a section (g) regulating Moratoriums on repaved/re-constructed roads within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey as follows:

Section 1. Chapter 583, Subsection 583-4 (8) entitled **Street Restoration** shall have the following sections added:

583-4(8)(g) **Any Capital Improvement/Re-Paving/Reconstruction on any Street or Roadway within The Township of Lower shall be the subject of a five (5) year road/street opening MORATORIUM after the completion of said construction, reconstruction, resurfacing, repaving or overlay has lapsed, except in the event of an emergency or hardship as described below. It is understood the five-year period as described herein shall commence on December 31st of the year in which said road was constructed, reconstructed, resurfaced, repaved or overlaid and run for a period of five (5) years thereafter.**

583-4(8)(h) **EMERGENCY OPENING**

(A) In emergency situations during normal business hours, the applicant shall notify the Director of Public Works and the Police Department of the emergency prior to the opening of the street. Application must be made as soon as possible thereafter with the payment of the required fees. During nonbusiness hours, weekends and holidays, the applicant shall notify the Police Department of the emergency prior to excavating the street. On the next business day the applicant shall make application for the emergency street opening, explaining the reason for the emergency, and pay the appropriate fees.

(B) In the event that an entity shall be required to open a street as a result of an emergency, said emergency opening shall be reviewed by the Director of Public Works and if the Director shall determine that no such emergency existed, then the entity so opening the street shall have a fine imposed upon such entity in the amount of $2,500 for the first nonemergency opening, a $5,000 fine for a second nonemergency opening, and a $10,000 fine for a third nonemergency opening.

(C) A full width curb-to-curb restoration will be required on all streets constructed, reconstructed, resurfaced, repaved or overlaid by the Township within the previous five years of an opening necessitated by emergency or moratorium waiver opening. The restoration shall consist of six-inch thick dense graded aggregate base course and a six-inch thick bituminous stabilized base course, Mix I-2, or equivalent as determined by the Director, brought flush with existing grade, within the excavated area. A full width, curb-to-curb, milling two inches in depth to extend 50 feet beyond the limit of excavations shall be performed after proper settlement in the trench area. The allowable time for trench settlement shall be 45 days unless directed otherwise by the Director. The final surface course shall be a two-inch thick bituminous concrete surface course, Mix I-5, or equivalent as determined by the Director of Public Works.

(D) Trench restoration may be permitted under extraordinary circumstances and at the sole discretion of the Township of Lower and the Director of Public Works for openings having minimum impact on the integrity, longevity and serviceability of the street in question.

583-4(8)(i) **MORATORIUM WAIVER**

In the event a property owner experiences a hardship condition which requires a street opening permit to be issued contrary to the sections contained in this article, the Township of Lower may grant relief if and only if the following conditions are satisfied:

A. The property owner shall submit a letter to the Township Clerk detailing the hardship necessity to open the street in lieu of waiting the prescribed period of time.

B. Upon receipt of the letter, a public meeting date will be set for the Township Council to review the situation and justification presented for formal action.

C. The letter detailing the pertinent information necessary to review the request, such as property street address, block and lot, reason for the request, and type and size of street opening proposed.

D. The Township shall consider the request at a public meeting and review all objections, if any. Approval or denial of the request shall be through formal adoption of a resolution.

E. If Council grants a moratorium waiver request authorizing excavation of a roadway under moratorium necessitated by utility main improvements, final restoration will require a minimum of full cart-way width extending intersection to intersection. The applicant will be required to mill the existing roadway to a depth of two inches extending from intersection to intersection for the full width of the roadway (curb-line to curb-line) and install a two-inch thick lift of bituminous concrete surface course, Mix I-5, for the entire length. All edges shall be coated with an asphalt tack coat prior to a two-inch lift of bituminous concrete surface course being placed on the roadway.

F. Authorized street excavations for utility main improvements on any roadway deemed to be in good condition, as determined by the Director of Public Works, may require resurfacing the entire roadway as described in this section and as directed by the Director.

Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

Section 3. Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this Ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provision of this Ordinance are hereby declared to be severable.

Section 4. This Ordinance shall become effective 20 days after final passage and publication according to law.

Thomas Conrad

Thomas Conrad, Councilmember

David Perry, Councilmember

Roland Roy, Jr., Councilmember

Frank Sippel, Deputy Mayor

Erik Simonsen, Mayor

First Reading: June 4, 2018

Adopted: June 18, 2018

Attest: Julie A Picard

Julie A Picard, Township Clerk