

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

ORDINANCE #2025-15

Title: **AN ORDINANCE AMENDING CHAPTER 583, STREETS AND SIDEWALKS, ARTICLE I, EXCAVATION OF STREETS, OF THE CODE OF THE TOWNSHIP OF LOWER**

WHEREAS, as outlined within Chapter 583, Streets and Sidewalks, Article I, Excavation of Streets, the Township has established regulations governing the excavation and repaving of streets and roadways under its jurisdiction; and

WHEREAS, pursuant to § 583-4B(8)(g) of the Township Code of the Township of Lower, any capital improvement, repaving, or reconstruction on any street or roadway within the Township of Lower is subject to a five (5) year road/street opening moratorium after the completion of construction, reconstruction, resurfacing, repaving or overlay; and

WHEREAS, in accordance with § 583-4B(8)(i) of the Township Code of the Township of Lower, the Township has established an exception for which a street or roadway that is subject to the aforementioned five (5) year moratorium on street openings may be excavated/opened, limited to claimed hardships asserted by a property owner, and such requests are currently subject to the review and approval of the Township Council; and

WHEREAS, in accordance with § 583-4B(8)(i) of the Township Code of the Township of Lower, in the event a street or road opening is permitted in connection with the approval of a hardship, individuals are required to repave the roadway, in accordance with the requirements of Chapter 583 of the Township Code; and

WHEREAS, in an effort to expedite the review of individual applications requesting a waiver on the grounds of a hardship, the Township Council of the Township of Lower finds that it is appropriate to designate the Township Manager as the representative from the Township who should review and either approve or deny individual hardship waiver requests;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Township Council of the Township of Lower, County of Cape May, State of New Jersey that Chapter 583, Streets and Sidewalks, Article I, Excavation of Streets, be and hereby is amended as follows:

Section 1. Chapter 583, Streets and Sidewalks, Article I, Excavation of Streets, Subsection 4(B)(8)(i), is hereby restated as follows:

- 583-4(B)(8)(i) In the event a property owner experiences a hardship condition which the owner believes justifies the issuance of a street opening permit contrary to the sections contained in this article, the Township of Lower may grant relief, in its sole discretion, if and only if the following conditions are satisfied:
- [1] The property owner shall submit a letter to the Township Clerk detailing the hardship they are experiencing and outlining the necessity to open the street in lieu of waiting until the expiration of any moratorium currently in effect.
 - [2] Upon receipt of the letter, the Township Clerk will forward a copy to the Township Manager for review.
 - [3] The letter must include all 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.
 - [4] The Township Manager, in consultation with the members of the Township Council, shall consider the request and any objections received, and determine whether a hardship in fact exists that justifies the issuance of a moratorium waiver to authorize the excavation of a street or roadway that is the subject of a five (5)

year moratorium. Approval or denial of the request shall be issued in writing by the Township Manager. The Township is under no obligation to grant a hardship waiver, and each request will be reviewed on a case-by-case basis.

- [5] In the event the Township Manager approves a moratorium waiver request authorizing excavation of a street or roadway under a five (5) year moratorium necessitated by utility main improvements, final restoration will require a minimum restoration of the full width of the street or road, extending 50 linear feet in each direction from any road or street opening, from curbline to curbline. 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 (curbline to curbline) 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.
- [6] 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.

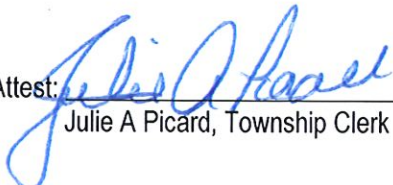
Section 2. All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

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.

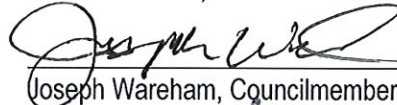
First Reading: June 16, 2025

Adopted: July 7, 2025

Attest: 
Julie A. Picard, Township Clerk



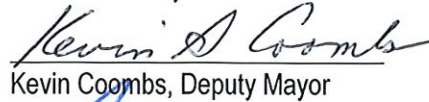
Thomas Conrad, Councilmember



Joseph Wareham, Councilmember



Roland Roy, Jr., Councilmember



Kevin Coombs, Deputy Mayor



Frank Sippel, Mayor