

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

ORDINANCE #2025-21

Title: **AN ORDINANCE AMENDING CHAPTER 583, STREETS AND SIDEWALKS, ARTICLE I, EXCAVATION OF STREETS, SUBSECTION 4(B)(8), STREET RESTORATION, 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**, § 583-4 of the Township Code of the Township of Lower, establishes procedures and standards governing the excavation, refilling, and restoration of roads, streets, and alleys within the Township of Lower; and

**WHEREAS**, in accordance with § 583-4B(8) of the Township Code of the Township of Lower, the Township of Lower has codified specific standards governing the restoration of roads, streets, and alleys that were the subject of excavations; and

**WHEREAS**, in an effort to address issues that have arisen in connection with multiple street excavations occurring within close proximity to one another, and to ensure that the restoration of roads, streets, and alleys are accomplished in a manner to promote public safety, the Township Council of the Township of Lower finds that it is necessary and appropriate to enact street restoration standards associated with excavations that are either less than or greater than 100 square feet;

**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, Subsection 4(B)(8), Street Restoration, be and hereby is amended as follows:

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

583-4(B)(8) Street restoration.

- a) The trench restoration in the street will consist of a six-inch gravel base course; four-inch bituminous stabilized base course, Mix I-2, and FABC 1 Type surface course, Mix I-5, two inches thick. Gravel base course and bituminous stabilized base course shall be applied immediately upon completion of the purpose for the opening.
- b) The six-inch gravel base course shall be Soil Aggregate Type I-5 as noted in Section 900, Article 901.9, of the Standard Specifications of the New Jersey Department of Transportation, as amended.
- c) The materials for bituminous stabilized base course shall conform to Section 900, Article 903. Bituminous surface course shall conform to Section 900, Article 903, of the Standard Specifications of the New Jersey Department of Transportation, as amended.
- d) The final surface course shall not be placed for at least 30 days after initial compaction and placement of the stabilized base course. The final surface course shall be completed no more than 60 days after initial compaction and placement of the stabilized base course.
- e) The method of construction of the six-inch gravel base course, the four-inch bituminous stabilized base course, Mix I-2 and the two-inch FABC-1 surface

course, Mix 1-5, shall conform to the requirements of Section 300 and Section 400 of the Standard Specifications, as amended. The bituminous stabilized base course shall be constructed in two lifts as required by said specifications.

- f) All work shall be inspected by the Director of Public Works. The contractor shall notify the Township Director of Public Works 24 hours in advance of performing any work under street restoration.
- g) Any capital improvement/repaving/reconstruction on any street or roadway within the Township of Lower shall be the subject of a five-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 31 of the year in which said road was constructed, reconstructed, resurfaced, repaved or overlaid and run for a period of five years thereafter.
- h) Emergency opening.

[1] 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.

[2] 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 fine of \$5,000 for a second nonemergency opening, and a fine of \$10,000 for a third nonemergency opening.

[3] In the event that an emergency street or road opening of a street or roadway subject to a five-year moratorium is required/approved, 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, 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 1-2, or equivalent as determined by the Director of Public Works or the Township Engineer, 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 of Public Works or the Township Engineer. The final surface course shall be a two-inch-thick bituminous concrete surface course, Mix 1-5, or



equivalent as determined by the Director of Public Works or the Township Engineer.

- [4] 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.
- 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 curblineline to curblineline. 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 (curblineline to curblineline) 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.

j) Final Restoration.

[1] Less than 100 square feet.

- i. For openings less than 100 square feet, the final restoration will involve the removal of the top two inches of bituminous stabilized base course. All edges shall be saw cut six inches beyond the actual trench width disturbed to produce a clean edge, and said edges shall be prepared with an asphaltic tack coat. A two-inch lift of hot mix asphalt surface course, Mix I-5, shall then be placed to a level even with the existing road grade.
- ii. No surface water shall be entrapped or ponded on the resurfaced areas. If any ponding occurs, the permittee will be responsible for performing whatever remedial action is required by the Director of Public Works.

[2] Greater than 100 square feet.

- i. For openings greater than 100 square feet, the trenches shall be milled to a depth of two inches to a distance of at least 12 inches beyond the actual trench width to produce a clean edge. All edges shall be coated with an asphaltic tack coat prior to a two-inch lift of hot mix asphalt surface course, Mix I-5, being placed to a level even with the existing road grade.
- ii. No surface water shall be entrapped or ponded on the resurfaced areas. If any ponding occurs, the permittee will be responsible for performing whatever remedial action is required by the Director of Public Works.

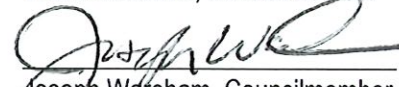
- k) If more than two individual excavations would be required within a 100-foot length, a single trench must be used rather than the individual excavations. Final restoration will require a minimum of 1/2 width of the cartway. The trench shall be milled to a depth of two inches to a distance of at least 12 inches beyond the actual trench limit from the centerline of the cartway to the curbline. All edges shall be coated with an asphaltic tack coat prior to a two-inch lift of hot mix asphalt surface course, Mix I-5, being placed to a level even with the existing road grade.

**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.

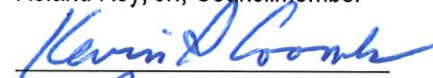
  
Thomas Conrad, Councilmember

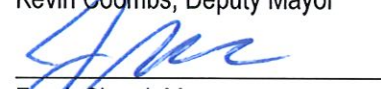
  
Joseph Wareham, Councilmember

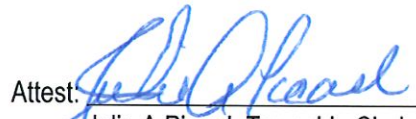
First Reading: Sept 3, 2025

Roland Roy, Jr., Councilmember

Adopted: *October 6, 2025*

  
Kevin Coombs, Deputy Mayor

  
Frank Sippel, Mayor

Attest:   
Julie A Picard, Township Clerk