

## **ORDINANCE 2016-04 (1148)**

### **AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 56, ENTITLED “STREETS AND SIDEWALKS” OF THE CODE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY**

**BE IT RESOLVED**, by the Governing Body of the Borough of Lavallette that Chapter 56, Streets and Sidewalks, § 56-1 et seq. be repealed in its entirety and supplemented in its entirety to read as follows:

#### **§56-1. Permit required.**

- (1) It shall be unlawful for any person, company, firm, corporation, or other legal entity to perform any excavation work, dig up, excavate, tunnel, undermine, or in any manner break up a street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material, obstructing or tending to interfere with the free use of the street, or dig up, break, excavate or undermine or in any way affect any other public improvement without first obtaining a Street Opening Permit from the Borough Clerk.
- (2) In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health, or safety of any individual, the person owning or controlling such sewer, main, conduit, or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure to remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the Borough office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.
- (3) The Borough Clerk shall issue a Street Opening Permit to any person, company, firm, corporation or other legal entity who performs work under contract to the Borough without fee. No fee shall be charged to any of the utilities operated by the Borough.

#### **§56-2. Permit Application.**

- (1) The application shall be in writing and contain the following information:
  - (a) Name and address of the applicant
  - (b) Name of the street where the opening is to be made and the street number, if any, of the abutting property
  - (c) The Borough Tax Map Block and Lot number of the property for the benefit of which the opening is to be made.

- (d) Nature of the surface in which the opening is to be made
- (e) Character and purpose of the work proposed
- (f) Proof of insurance. Evidence of a comprehensive general liability insurance policy naming the Borough as an additional insured.
- (g) Time frame when the work is to be commenced and completed
- (h) Two complete sets of construction plans and details showing the extent of the proposed excavation work and such other construction plans as may be prescribed by the Public Works Department of the Borough Engineer including complete plan, profile and details of any proposed curb, sidewalk, pavement, drainage structure or other proposed improvement. All work shall be in accordance with N.J.A.C. 5:21 et seq. Residential Site Improvement Standards.
- (i) The name and address of the contractor and/or workman who is to perform the work.

**§56-3. Backfilling.**

The type of material used for backfill and the method of backfilling shall be specified by the Superintendent of Public Works or his/her designee so as to ensure the restoration of a street or road to its prior condition. For the purpose of establishing specifications for said restoration, the specifications promulgated by the Department of Transportation of the State of New Jersey shall serve as a guideline for a street restoration, but the ultimate decision shall be made with the consultation of the Borough Engineer and the Public Works Superintendent. All excavations shall require dewatering equipment to be present of site .

§56-4. Performance Guarantee and Inspection Fee. Street Opening Permit involving excavation and/or modification to any pavement, curb, driveway apron , drainage structure or other Borough improvements shall be accompanied with a performance guarantee and inspection fee calculated by the Borough Engineer .

§56-5. Insurance. No permit shall be issued until the applicant has furnished the Borough with satisfactory Proof of Insurance on which naming the Borough of Lavallette as an additional insured, indemnifying and holding harmless the Borough and its agencies, employees and agents against injury to persons and damage to property caused by any act or omission of the applicant, his agents, employees or subcontractors done in the course of the work to be performed under the permit. The insurance shall cover all hazards likely to arise in connection with the work, including but not limited to, collapse and explosion, and shall also insure against liability arising from completed operations. The limits of the policy of insurance shall be \$1,000,000 for injury to any one person, \$500,000 for property damage for a single incident. In cases where the character or nature of the proposed excavation work are such as to present an unusual hazard of a higher than normal risk of damage or injury the Borough may require increased amounts of liability and property damage insurance.

§56-6. Restrictions on opening new, reconstructed or resurfaced streets. No Street Opening Permit shall be issued by the Borough Clerk to any person allowing an excavation or opening in a paved,

reconstructed or resurfaced street less than five (5) years old unless an emergency condition exists. This section may be appealed to the Mayor and Council upon the recommendation of the Borough Engineer with his suggestions as to how the road can be restored to the condition prior to the excavation. This may include the utilization of infrared backfilling, if necessary.

§56-7. Barriers; lights; enforcement. It shall be the duty of every person or persons or corporation engaged in digging down any street, in paving any street or section of a street, building any sewer or drain, digging any trench for gas pipes or water pipes or making any opening or excavation in any of the public streets where such work, if left exposed, would be dangerous to passengers, to erect a fence or railing at such excavation or work in such a manner as to prevent danger to passengers who may be traveling such streets and to continue and keep up the railing or fence until the work shall be completed or the obstruction or danger removed; and it shall also be the duty of such person or persons or corporation to place upon such railing or fence, at twilight in the evening, suitable and sufficient lights and keep them burning through the night during the performance of such work under penalty as provided in the General civil fine section for every neglect or violation of any to the provisions of this section.

**§56-8. Fees and cash deposits.**

- A. No permit shall be issued by the Borough Clerk for any street opening or excavation unless the person applying thereof shall post the Performance Bond, , as provided above, with the Borough Clerk as a guaranty that the street will be promptly refilled, leveled, graded and restored to its former condition prior to the excavation, to the satisfaction of the Superintendent of Public Works. The Performance Guarantee may be replaced by the posting of a cash deposit of \$1,000 for the opening of any road or \$1,250.00 for the crossing of any road.
- B. The fee for a Street Opening Permit shall be \$100.00 for the opening of an area of 9 square feet or less. In the event the area to be opened exceeds that size the amount of the fee shall be set by the Borough Engineer.

**NOW, THEREFORE BE IT RESOLVED** that the Application for Street Opening Permit set forth above is hereby adopted.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** if any section, paragraph subsection, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subsection, and clause or provision so adjudged and the remainder of this ordinance shall be deemed valid and effective.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, all ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed as to such inconsistency.

**NOW THEREFORE, BE IT FURTHER RESOLVED**, this ordinance shall take effect immediately upon passage, publication and filing according to law.

**NOTICE OF PENDING ORDINANCE**

**ORDINANCE NO. 2016-04 (1148)**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 56, ENTITLED  
“STREETS AND SIDEWALKS” OF THE CODE OF THE BOROUGH OF LAVALLETTE,  
COUNTY OF OCEAN, STATE OF NEW JERSEY**

The ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Borough of Lavallette, County of Ocean, State of New Jersey, held on the 6<sup>th</sup> day of September, 2016. It will be further considered for final passage after the public hearing thereon, at a meeting of said governing body to be held in Council Chambers, 1306 Grand Central Avenue, Lavallette, NJ on the 19<sup>th</sup> day of September, 2016 at 7pm or soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning the same.

A copy of this ordinance has been posted on the bulleting board upon which public notices are being posted in the Administration Office of the Borough Hall located at 1306 Grand Central Avenue during the week prior to and up to and including the date of such meeting; copies of the ordinance are available to the general public of the Borough who shall request such copies, at the office of the Borough Clerk in said Borough of Lavallette, County of Ocean, State of New Jersey.

---

**Donnelly Amico**  
**Municipal Clerk**

**BOROUGH OF LAVALLETTE**

**NOTICE**

**ORDINANCE NO. 2016-04 (1148)**

**AN ORDINANCE AMENDING AND SUPPLEMENTING CHAPTER 56, ENTITLED  
“STREETS AND SIDEWALKS” OF THE CODE OF THE BOROUGH OF LAVALLETTE,  
COUNTY OF OCEAN, STATE OF NEW JERSEY**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on September 6, 2016. It was further considered for second reading and final passage at a meetings of the Borough Council held on the 19<sup>th</sup> day of September 2016 at 7:00 pm in the Lavallette Municipal Building, 1306 Grand Central Avenue, Lavallette, New Jersey at which time and place persons desiring to be heard upon the same were given the opportunity to be heard.

Said Ordinance was duly adopted on the 19<sup>th</sup> day of September 2016 and shall take effect upon publication as required by law.

(SEAL)

---

Donnelly Amico, Municipal Clerk

Mayor's Approval

---

Walter G. LaCicero, Mayor

Date: September 19, 2016