

ORDINANCE NO. 2026-09 (1294)

**AN ORDINANCE OF THE BOROUGH OF LAVALLETTE, OCEAN COUNTY,
NEW JERSEY, AMENDING CHAPTER 56 (STREETS AND SIDEWALKS),
ARTICLE I (EXCAVATIONS IN STREETS) OF THE CODE OF THE
BOROUGH OF LAVALLETTE TO TRANSFER STREET OPENING PERMIT
AUTHORITY TO THE CLERK OF THE DEPARTMENT OF PUBLIC WORKS
AND TO ESTABLISH ROAD RESTORATION STANDARDS**

WHEREAS, the Borough of Lavallette ("Borough") is a body politic and corporate constituting a political subdivision of the State of New Jersey and as such is a municipal corporation duly organized and existing under the laws of the State of New Jersey, with authority to adopt ordinances pursuant to N.J.S.A. 40:48-1 et seq.; and

WHEREAS, the Borough Code currently regulates excavations in streets in Chapter 56 (Streets and Sidewalks), Article I (Excavations in Streets), which requires persons and entities to obtain a street opening permit before performing any excavation, tunneling, or other disturbance of a Borough street or public improvement; and

WHEREAS, Chapter 56, Article I currently designates the Municipal Clerk as the officer responsible for receiving applications, issuing street opening permits, accepting performance bonds, and performing related administrative functions under that Article; and

WHEREAS, the Borough Council has determined that the administration of street opening permits is more appropriately handled by the Clerk of the Department of Public Works, whose office is directly responsible for the oversight of Borough roads, infrastructure, and public works operations; and

WHEREAS, the Borough Council further finds that the existing Article I does not prescribe specific road restoration standards following a street opening, and that establishing minimum restoration requirements — specifically requiring either full curb-to-curb milling and repaving or infrared thermoplastic backfill and repair — will ensure the structural integrity, safety, and uniform appearance of Borough roadways following excavation; and

WHEREAS, the Borough Council desires to amend Chapter 56, Article I to reflect the transfer of administrative permit authority to the Clerk of the Department of Public Works and to add road restoration standards consistent with accepted municipal public works practice;

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Lavallette, Ocean County, New Jersey, as follows:

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the “Lavallette Street Opening Permit and Road Restoration Standards Ordinance.”

SECTION 2. AMENDMENT TO CHAPTER 56, ARTICLE I — TRANSFER OF PERMIT AUTHORITY TO CLERK OF THE DEPARTMENT OF PUBLIC WORKS

Chapter 56 (Streets and Sidewalks), Article I (Excavations in Streets) of the Code of the Borough of Lavallette is hereby amended as follows:

(A) Each and every reference in Chapter 56, Article I to the “Borough Clerk” or “Municipal Clerk,” in connection with the receipt of applications, issuance of street opening permits, acceptance or return of performance bonds or cash deposits, or any other administrative function under Article I, is hereby deleted and replaced with “Clerk of the Department of Public Works.”

(B) Without limiting the generality of subsection (A), the following specific provisions are amended to read as set forth below:

(1) The prohibition on street openings and excavations in § 56-1 is amended to require that the street opening permit be obtained from the **Clerk of the Department of Public Works** rather than from the Borough Clerk.

(2) The provisions of § 56-2 governing insurance requirements are amended so that proof of insurance shall be furnished to, and kept on file with, the **Clerk of the Department of Public Works**.

(3) The provisions of § 56-4 governing performance bonds and cash deposits are amended so that all performance bonds and cash deposits required thereunder shall be posted with, held by, and returned by the **Clerk of the Department of Public Works**, in lieu of the Borough Clerk.

(4) The provision of § 56-5 authorizing the issuance of a street opening permit to contractors performing work under contract to the Borough is amended so that such permit shall be issued by the **Clerk of the Department of Public Works**.

(5) The fee provisions of § 56-6 are amended so that permit fees shall be paid to, and collected by, the **Clerk of the Department of Public Works**, who shall remit all fees collected to the Borough Chief Financial Officer in accordance with standard Borough financial procedures.

(C) The term “Clerk of the Department of Public Works” as used in this Ordinance and in Chapter 56, Article I as amended hereby, means the administrative clerk or designee assigned to the Borough’s Department of Public Works by the Borough Administrator, who shall have authority to receive applications, issue permits, collect fees, accept and return performance bonds and cash deposits, and perform all other administrative functions under Article I as amended.

SECTION 3. AMENDMENT TO CHAPTER 56, ARTICLE I — ROAD RESTORATION STANDARDS

Chapter 56, Article I (Excavations in Streets) is hereby further amended by adding a new section, § 56-7, to read as follows:

§ 56-7. Road Restoration Standards.

(A) General Requirement. Upon completion of any excavation, street opening, or other permitted disturbance of a Borough road surface, the permittee shall restore the road surface to a condition equal to or better than its condition immediately prior to the excavation, in

accordance with the standards set forth in this section. All restoration work shall be performed to the satisfaction of the Superintendent of Public Works or his designee.

(B) Required Restoration Methods. The permittee shall restore the road surface using one of the following two approved methods, as determined and directed by the Superintendent of Public Works or his designee based on the extent of the opening, the condition of the surrounding pavement, and the location of the excavation:

(1) Curb-to-Curb Milling and Repaving. Where the Superintendent of Public Works or his designee determines that the structural integrity, grade, drainage, or surface uniformity of the road requires it, the permittee shall mill and repave the full width of the roadway from curb face to curb face for the full length of the disturbed area, plus a minimum of five (5) feet beyond each end of the excavation, in accordance with New Jersey Department of Transportation standard specifications for roadway construction in effect at the time of restoration. The paved surface shall be restored with a minimum of two (2) inches of NJDOT Hot Mix Asphalt (HMA) Surface Course over a properly compacted base course.

(2) Infrared Thermoplastic Backfill and Repair. Where the Superintendent of Public Works or his designee determines that a localized repair is appropriate, the permittee shall restore the road surface using an infrared asphalt restoration process, which shall include: (i) heating the existing pavement surrounding the excavation area using infrared heating equipment to a sufficient depth and temperature to achieve thorough bonding; (ii) scarifying and blending the heated existing material; (iii) adding new compatible hot mix asphalt as needed to achieve proper grade and compaction; and (iv) compacting the restored area to achieve a seamless, smooth, and waterproof bond with the surrounding pavement. The restored area shall extend a minimum of twelve (12) inches beyond the edges of the excavation on all sides. No cold-patch or temporary asphalt repair shall be accepted as a final restoration method.

(C) Timing of Restoration. Permanent road restoration shall be completed within thirty (30) calendar days of the completion of the permitted excavation work, unless the Superintendent of Public Works or his designee grants a written extension due to weather conditions or other circumstances beyond the permittee's reasonable control. Temporary cold-patch repair may be used only to protect public safety during the interim period and must be replaced with a permanent restoration as required by this section.

(D) Inspection. All road restoration work shall be subject to inspection by the Superintendent of Public Works or his designee before the performance bond or cash deposit required under § 56-4 is released. The Superintendent of Public Works or his designee shall not approve release of the bond or deposit until the restoration work complies fully with this section.

(E) Warranty Period. The permittee shall warrant all road restoration work performed under this section for a period of two (2) years from the date of acceptance by the Superintendent of Public Works or his designee. If any defect, settlement, cracking, or failure of the restored area appears within the warranty period, the permittee shall make all necessary repairs at its sole expense within thirty (30) days of written notice from the Borough.

(F) Borough Restoration at Permittee's Cost. If the permittee fails to complete required restoration within the time specified in subsection (C), or fails to correct warranty defects within the time specified in subsection (E), the Borough may perform or cause to be performed such restoration work, and the cost thereof shall be charged to the permittee, deducted from

any performance bond or cash deposit, and/or recovered by the Borough through any legal remedy available.

SECTION 4. COORDINATION WITH EXISTING PROVISIONS

All provisions of Chapter 56, Article I not expressly amended by this Ordinance shall remain in full force and effect. The amendments made by this Ordinance shall be read in harmony with the existing provisions of Article I, and to the extent of any conflict, the provisions of this Ordinance shall govern.

SECTION 5. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is declared unconstitutional or invalid by any court of competent jurisdiction, such declaration shall not affect the validity of the remaining portions. The Borough Council declares that it would have passed this Ordinance irrespective of the fact that any one or more provisions might be declared invalid.

SECTION 6. REPEALER

All ordinances and parts of ordinances inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 7. EFFECTIVE DATE

This Ordinance shall take effect upon final adoption and publication in accordance with N.J.S.A. 40:49-2 and all other applicable provisions of New Jersey law.

Mayor

Municipal Clerk

NOTICE

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NOTICE IS HEREBY GIVEN that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on the March 23, 2026. It will be further considered for second reading and final passage at a meeting of the Borough Council held on the 6th day of April 2026 at 7:00 pm at the Council Chambers in the Municipal Building Complex located at 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.

Donnelly Amico
Municipal Clerk