ORDINANCE NO. 2026-2026-19 (1304)

AN ORDINANCE AMENDING CHAPTER 56, SECTION 56-6 OF THE CODE OF THE BOROUGH OF LAVALLETTE TO PERMIT STREET OPENINGS FOR NEW CONSTRUCTION AND THE RAISING OF EXISTING STRUCTURES

WHEREAS, the Borough of Lavallette ("Borough") is a body politic and corporate of the State of New Jersey authorized to adopt ordinances pursuant to N.J.S.A. 40:48-1 et seq., and to regulate the opening of and excavation in public streets pursuant to N.J.S.A. 40:67-1 et seq.; and

WHEREAS, Chapter 56 (Streets and Sidewalks), Article I (Excavations in Streets), § 56-6 of the Code of the Borough of Lavallette prohibits the issuance of a street opening permit for any excavation or opening in a paved, reconstructed or resurfaced street less than five years old unless an emergency condition exists, in order to protect the Borough's investment in its roadways; and

WHEREAS, the construction of new dwellings and the raising of existing structures, including elevations undertaken to comply with flood damage prevention requirements, frequently require new, relocated or upgraded water, sanitary sewer, gas, electric and other utility service connections that can only be made by opening the street; and

WHEREAS, a strict application of the five-year restriction may unreasonably delay or prevent lawful construction and flood-mitigation projects that the Borough wishes to encourage; and

WHEREAS, the Mayor and Council find that a narrowly drawn exception, conditioned on enhanced restoration, security and warranty requirements, will permit such projects to proceed while preserving the condition and service life of recently paved streets; and

WHEREAS, the Mayor and Council have determined that it is in the best interest of the health, safety and welfare of the Borough and its residents to amend § 56-6 as set forth herein.

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

Section 1. Section 56-6 of the Code of the Borough of Lavallette is hereby amended to read as follows (new text underlined):

§ 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 years old unless an emergency condition exists, or unless the opening is necessary to provide utility service for the construction of a new dwelling or the raising of an existing structure under a valid construction permit and the Borough Engineer determines that no reasonable alternative to opening the street exists. Openings permitted for new construction or raising shall be kept to the minimum necessary, shall be coordinated so that all utility connections for the lot are made at one time where practicable, and shall be restored at the applicant's expense in the manner directed by the Borough Engineer, which may include curb-to-curb milling and repaving. 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.

Section 2. All ordinances or parts of ordinances inconsistent with this Ordinance are repealed to the extent of such inconsistency. If any part of this Ordinance is held invalid, the remainder shall remain in effect.

Section 3. This Ordinance shall take effect upon final adoption and publication as required by law.

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 November 16, 2026. It was further considered for second reading and final passage at a meeting of the Borough Council held on the 7th day of December 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.

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Donnelly Amico
Municipal Clerk