

**ORDINANCE NO. 2018-7**

**AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF ELMER,  
SALEM COUNTY, STATE OF NEW JERSEY, AMENDING CHAPTER 20  
ENTITLED "STREETS AND SIDEWALKS" OF THE CODE OF  
THE BOROUGH OF ELMER**

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**WHEREAS**, the Mayor and Council of the Borough of Elmer have determined that certain amendments to Chapter 20 entitled "Streets and Sidewalks", at §20-3 entitled "Street Openings; Pavement Cuts", are necessary; and

**WHEREAS**, in all other respects Chapter 20 entitled "Streets and Sidewalks" shall remain in full force and effect;

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Borough of Elmer, County of Salem and State of New Jersey, and it is hereby enacted and ordained by the authority of same as follows:

**Section 1.**

The existing text of §20-3 entitled "Street Openings; Pavement Cuts" shall be deleted in its entirety and replaced with the following:

**§20-3 STREET OPENINGS; PAVEMENT CUTS.**

**§20-3.1. Permit required.**

No person, firm or corporation shall cut, break into, excavate or tunnel under any street, sidewalk or other public right-of-way in the Borough of Elmer, or any portion thereof, whether the proposed work is new construction or replacement of existing conditions (curb, depressed curb, driveway aprons, utilities, etc.), without having first secured a permit from the Borough Clerk for each such opening in accordance with the provisions hereof.

**§20-3.2. Application for permit; insurance required.**

Application for such a permit shall be made on a form provided by the Borough for such purpose, which application shall contain a description of the purpose and exact size and location of each such proposed opening. Said application shall also contain such other information as may be necessary to effectively carry out the intent and provisions of this Article. Openings for new work (new development, new water-sewer connections, extensions to water and sewer mains, etc.) require drawings by a state-registered and licensed professional engineer to accompany the permit applications. All applications shall also be accompanied by an insurance certificate showing that the applicant carries a minimum of \$500,000 public liability insurance.

**§20-3.3. Moratoriums on road openings following reconstruction or resurfacing.**

The Borough hereby establishes a five-year ban on road openings following the reconstruction or resurfacing of any road. A listing of current streets with moratoriums is maintained by the Borough Clerk. Applicants for road openings on streets listed as having a current moratorium must have Borough Council approval prior to applying for a road opening permit, provided, however, if it is determined by the Borough Engineer that the road opening is to address an emergent situation requiring immediate attention, the Borough Engineer may grant permission to make emergency repairs. The Borough Engineer shall immediately advise the Mayor and Council that permission was so granted and shall further provide information as to the nature of the emergency addressed and the manner in which it was addressed.

**§20-3.4. Fee for permit.**

- A. Each applicant for a permit (per excavation) shall pay a fee of \$100.00 for such permit application and \$250.00 for the permit review and inspection. Said permit fee shall be non-refundable and shall be utilized to defer the administrative costs of the Borough.
- B. Exemptions. Any Borough of Elmer public utility shall be exempt from the requirement of paying the permit fee. The State of New Jersey and any political subdivision thereof shall also be exempt from paying the permit fee.

**§20-3.5. Cash deposit or bond required; exemptions.**

- A. Cash deposit or bond. In addition to the foregoing, the applicant shall also deposit with the Borough Clerk, prior to the issuance of the permit, a sum based upon the following schedule:

<b>Type of Road or Surface</b>	<b>35 Square Feet or Less</b>	<b>Additional Per Square Foot in Excess of 25 Square Feet</b>
Blacktop	\$600	\$12
Concrete	\$500	\$10
Sidewalks	\$500	\$10
Driveway aprons	\$600	\$12

- B. Exemptions. Any Borough of Elmer public utility shall be exempt from the requirement of posting a bond. The State of New Jersey and any political subdivision thereof shall also be exempt from posting a bond.

**§20-3.6. Applicant to restore surface.**

The Applicant for a permit shall be required to restore the original surface in such a manner as to conform to the current requirements and specifications of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction Manual, to the extent they would be applicable.

### **§20-3.7. Backfilling and resurfacing.**

- A. All street openings shall be backfilled and temporarily resurfaced in a commercially reasonable manner as soon as possible after completion of the work which necessitated the opening.
- B. All excavations shall be backfilled and compacted by the permit holder or the holder's contractor, with suitable granular material or flowable fill to a depth of 12 inches below street surface grade. The next 10 inches shall be backfilled with DGA and a temporary two-inch minimum thick compacted asphalt base course applied. (If flowable fill is utilized to the subgrade of the required permanent patch, a temporary patch is not required, but rather final surface course restoration shall be completed.) Tack coat shall be applied to the flowable fill surface and exposed sawcut vertical surfaces of the original roadway material.
- C. Within three (3) months of the temporary resurfacing, but no sooner than four (4) weeks thereafter, a permanent restoration shall be made. The permanent restoration shall consist of sawcutting (A jackhammered edge is not acceptable.) the original road surface two inches outside of the temporary patch, removing the temporary patch to a minimum depth of six inches, removing the sawcut fringe material, and backfilling as follows: Compact the newly exposed DGA surface within the newly formed excavation; place and compact a minimum four-inch thick hot asphalt base course material; place and compact a minimum two-inch thick layer of hot asphalt wearing course to match grades of the original roadway. Prior to placement of the wearing surface, all vertical edge and exposed surfaces of the original asphalt roadway shall receive an application of tack coat material. Asphalt joint sealer shall be applied at all joints between patch and existing roadway.
- D. All sidewalk openings shall be backfilled and resurfaced in a commercially reasonable manner as soon as possible after completion of the work which necessitated the opening.
- E. Concrete sidewalks shall be replaced with minimum 4,000 psi concrete, minimum four inches thick, on top of a minimum four-inch compacted layer of granular material. The replacement shall be to the next undisturbed sidewalk joint on either side of the excavation.
- F. Concrete driveway aprons shall be replaced with minimum 4,000 psi concrete, minimum six inches thick, on top of a minimum four-inch compacted layer of granular material.
- G. All traffic markings obliterated and/or damaged by the road opening work shall be restored in a commercially reasonable manner to match the original pattern(s).
- H. The permit holder is responsible for maintaining any temporary patch until proper permanent restoration of the road surface. Permanent restoration is weather dependent. Waivers designating the Borough as responsible for the final restoration of a road opening permit issued to a private entity are only permitted if the Borough has a road reconstruction project in the bidding stage or under contract for the road area in question, and upon the Borough Engineer's approval.

### **§ 20-3.8. Commencement and completion of work.**

The opening shall be commenced within thirty (30) calendar days after the issuance of the permit, and temporary backfilling and resurfacing shall be completed immediately following the work, and final permanent restoration shall be completed as outlined in §20-3.7C above.

### **§20-3.9. Inspection of site; correction of work; costs.**

Within thirty (30) days after notice to the Borough of the temporary backfilling and resurfacing, and in any event within sixty (60) days after the opening of the street, the designated Borough Official shall inspect the site; and if the opening has not been backfilled and/or resurfaced, or has been insufficiently or incorrectly completed, the Borough Official shall proceed to correct the work either by Borough forces or by contractor, with all costs thereof, including inspection, to be charged against the bond deposit described in §20-3.5, and the balance of such deposit shall be refunded.

### **§20-3.10. Reinspection; disposition of deposit.**

Within sixty (60) days after completion of the final permanent resurfacing, whether by the grantee of the permit or by the Borough, the designated Borough Official shall again inspect the site. If the condition of the backfilling and/or resurfacing is such as to meet with the requirements hereof, the designated Borough Official shall authorize a refund of the remaining amount of the cash or bond deposit. If the designated Borough Official determines that the backfilling and/or resurfacing do not meet such requirements, the designated Borough Official shall notify the grantee of the permit by ordinary mail to the address shown on the application; and if such surface is not corrected within fourteen (14) calendar days after the sending of such notice, the balance of such bond deposit shall thereupon be forfeited to the Borough.

### **§20-3.11. Inspection of excavations made by public utilities.**

As to any public utility which has a bond filed with the Borough as provided for herein, the designated Borough Official shall make an inspection of the site within thirty (30) days after notice to him of completion of the temporary backfilling and/or resurfacing, and in any event within sixty (60) days after the opening of the street; and if such work is incorrectly or insufficiently done, he shall so notify the public utility, which shall promptly correct the condition. If final permanent backfilling and resurfacing are not completed to his satisfaction within ninety (90) days after the issuance of the permit, he shall certify such condition to the governing body for such action as may be appropriate. If the backfilling and resurfacing are found by him to be satisfactory, he shall so notify the public utility.

### **§20-3.12. Limit of extent of excavation.**

Unless written permission is obtained from the designated Borough Official, no permit holder shall be permitted to break into, excavate or tunnel under any street, sidewalk or other public right-of-way for a greater distance than 200 feet at one time, or keep the same excavation opened for a longer period than seven (7) calendar days. During the period which such street or other public right-of-way is being cut, broken into, excavated or opened by the permit holder, there shall be provided by the permit holder a space of street level of at least ten (10) feet in width for the purpose of allowing vehicles free and unimpeded use of the same.

### **§20-3.13. Manner of making excavation.**

All breaks, excavations or tunneling shall conform in size to the application specifications on which the permit was approved and shall be performed in neat, even and rectangular sections. All excavations shall be completed in compliance with all Occupational Safety and Health Administration (OSHA) standards.

### **§20-3.14. Guarding of excavations.**

All permit holders shall, whenever any cut, excavation or opening would be dangerous if left exposed, erect a suitable barricade or railing around the same in such manner as to prevent danger to pedestrians or vehicles, and place upon such fence or railing and upon any building materials and appliances suitable and sufficient warning lights during the periods of darkness. Such work shall be executed in compliance with OSHA and the New Jersey Manual on Uniform Traffic Control Devices (MUTCD).

### **§20-3.15. Removal of debris.**

All permit holders shall keep the area of their work clear of dirt and debris at all times and shall carry away and dispose of all excess dirt, debris and other material resulting from their work daily.

### **§20-3.16. Emergency excavations.**

In case of an emergency involving any underground gas, water, sewer, telephone or electric facility, where immediate repair is imperative to protect the health, safety and welfare of the general public from immediate hazards posed by delay in completing the repair; prevent loss or damage to streets or property or discontinuance of service, it shall not be necessary to obtain a permit before commencing such repair, but such permit shall be obtained within two (2) days thereafter; and this section shall not be held or taken in any case to exempt the person, partnership, association or corporation repairing said facility from any other of the provisions of this Article. Notification of the emergency repair work shall be made to the Borough Police Department and Borough Engineer, and may require a site visit prior to the start of emergency construction.

### **§20-3.17. Work zone traffic control.**

All permit holders are responsible for the safe and expeditious movement of traffic through the construction and/or maintenance zone. The permit holder shall protect the pedestrian and traveling public by employing work zone measures consistent with the Manual on Uniform Traffic Control Devices (MUTCD) and civilian flagmen or off-duty police officers.

### **§20-3.18. Stop work.**

The Borough of Elmer Police Department shall have the authority to stop work being performed within the Borough, and to require the removal of equipment, vehicles and/or stored material within the public right-of-way, or the backfilling of any open excavation and/or other related work, in order to abate any nuisance and/or safety hazard, and/or for any violation of this Article.



## **NOTICE**

The Ordinance published herein was introduced and passed upon first reading at a meeting of the Mayor and Council of the Borough of Elmer, in the County of Salem and State of New Jersey, held on May 9, 2018. It will be further considered for final passage, after public hearing hereon, at a meeting of said Mayor and Council to be held in the Borough Hall, 120 South Main Street, Elmer, New Jersey 08318, on June 13, 2018 at 7:30 P.M. During the week prior and up to and including the date of such meeting, copies of said Ordinance will be made available at the Clerk's office at Borough Hall, 120 South Main Street, in the Borough, to the members of the general public who shall request the same.

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Sarah D. Walker  
Registered Municipal Clerk