

**TOWN OF WESTFIELD
WESTFIELD, NEW JERSEY**

GENERAL ORDINANCE NO. 2139

**AN ORDINANCE AMENDING AND SUPPLEMENTING “THE CODE OF THE
TOWN OF WESTFIELD, NEW JERSEY,” REGARDING STREET PAVING**

WHEREAS, the Mayor and Town Council of the Town of Westfield (the “Town”) is charged with establishing and maintaining safe passage and safe conditions within the Town; and

WHEREAS, work has been undertaken throughout the Town that has left numerous streets with only partial trench repairs or uneven and/or inconsistent repaving of varying quality; and

WHEREAS, this situation has left numerous streets in an unsightly and unsafe condition; and

WHEREAS, the Mayor and Town Council have therefore determined that an ordinance further delineating the responsibilities of individuals and/or utilities who seek to excavate the streets and roadways of the Town is in the best interests of the health, safety, and welfare of the residents of the Town.

NOW, THEREFORE, BE IT RESOLVED:

SECTION I. Chapter 24, “Streets and Sidewalks,” of the Town Code shall be and is hereby amended, in part, as follows:

Sec. 24-9. Application procedures.

(l) The registration number from the underground locations services “New Jersey One Call” indicating that they have been properly notified and will locate underground facilities in the area of the proposed opening or tunneling operation.

Sec. 24-11. Requirements for Issuance of Permits.

All permits issued under this Article shall require the applicant to comply with the following:

(a) All excavations shall be kept properly barricaded at all times and, during the hours of darkness, shall be provided with the proper warning lights. The applicant shall provide such signs, controls, barricades, warning lights, and personnel necessary for safe operation and compliance with applicable federal and state laws at its own cost and expense.

(b) All excavations or tunneling shall be sheeted, shored, or braced in accordance with applicable safety codes and Occupational Safety and Health Administration (“OSHA”) standards.

(c) All work shall be done in such a manner as to cause a minimum of interference with travel on the street affected. No street shall be closed to traffic unless the closing is approved by

the chiefs of both the Police and Fire Departments. The Police and Fire Departments shall be notified of all street closings at least 24 hours in advance, except where the work is of an emergent nature, when notice shall be given to the Police and Fire Departments at the time work commences.

(d) All refuse and material shall be removed within forty-eight hours in accordance with applicable federal and state laws.

(e) All excavations shall be completely backfilled with a Controlled Low Strength Material (CLSM), more commonly referred to as flowable fill, to a level six inches below the adjacent roadway surface. A temporary patch must immediately be installed until such time as the final topcoat can be applied. After installation of flowable fill, the applicant shall create a final topcoat consisting of a 4-inch compacted thickness of Bituminous Stabilized Base Course, and a 2-inch compacted thickness of Bituminous Surface Course. The topcoat shall be installed no sooner than 24 hours and no later than 48 hours from the installation of the flowable fill. When filled, the opening shall be flush with the existing contour of the road. Permanent patches must have all edges sealed. CLSM shall have a twenty-eight-day minimum compressive strength of 120 psi, and the applicant shall submit a mix design to the Town Engineer for approval prior to use.

(f) In the event of cold weather that prevents the use of flowable fill, the applicant shall fill and tamp the opening with clean fill and install cold patch or other temporary patch material. Within a period of not more than six months, the applicant shall remove the temporary fill, install flowable fill, and replace the temporary patch with permanent pavement. In the event only that the permanent asphalt material is unavailable, flowable fill shall be at a finished level six inches below the existing contour of the road and followed by six inches of cold patch or other temporary patch material. Within a period of not more than six months, the applicant shall remove the temporary patch and shall create a final topcoat consisting of 4-inch compacted thickness of Bituminous Stabilized Base Course, and a 2-inch compacted thickness of Bituminous Surface Course thoroughly tamped and rolled to create a permanent patch. If tunneling operations are required, the tunnel shall be backfilled with rammed concrete composed of one-part cement to ten-parts sand.

(g) If blasting is required in the course of any excavation, it shall be done in strict compliance with all applicable federal and state laws and regulations.

(h) Restoration of any street foundation or surface shall not commence until the Town Engineer or his/her designated representative has determined that settlement of the subsurface is complete and the area properly prepared for restoration.

(i) Except as described in subsection (j) below, and except for residential property owners in which the sole work being performed is repair or replacement of an existing utility line, the street surface shall be restored (milling and repaving) for the full width of the roadway (curb-to-curb) for a distance of one hundred (100) feet around the area of the opening. The Town Engineer shall specify the distance on either side of the opening based on the proximity to other roadways or utility concerns and may limit the cumulative distance from one hundred (100) feet based only on these limited factors. For example, if there is an excavation on a small cul-de-sac of less than one hundred (100) feet in length within the Town, or if such a distance will unreasonably

interfere with an existing utility, the Town Engineer may use his/her discretion in requiring the overall distance of the restoration. All sidewalks, when being restored or replaced as part of the operations hereunder, must also be restored pursuant to the Town Engineer's standards. All curbside stormwater drains must be replaced, at the applicant's expense, if necessary and as directed by the Town Engineer to ensure compliance with current state and federal law.

(j) In the case of utility work undertaken by a public or private utility, which work involves placing new or replacing/repairing existing utility infrastructure, including, but not limited to, gas lines, water lines, electrical lines, and sewer lines, where the area to be trenched is greater than fifty (50) linear feet, upon completion of same, the applicant shall restore (milling and repaving) the entire street surface from edge-to-edge, or curb-to-curb, for the full length of the excavation as described herein. In all such instances, the applicant shall install ramps that are compliant with the Americans with Disabilities Act of 1990 ("ADA"), and as directed by the Town Engineer, at every street intersection that is restored, in whole or in part, pursuant to this subsection.

(k) All street patch repairs and/or trench restoration described in subsection (i) and (j) hereto must use the infrared paving method pursuant to the most recent standards promulgated by the Town Engineer so as to blend uniformly with the adjacent existing roadway. All backfilling and patching operations of any such excavation project must be supervised by the Town Engineer or his/her designated representative to ensure compliance with the Town Engineer's standards.

(l) The street surface shall be restored to the satisfaction of the Town Engineer that it has been restored to its original condition.

(m) All materials and work shall be in accordance with Town regulations, specifications, and details in the office of the Town Engineer.

Sec. 24-12. Other Conditions Applicable to Permits.

The following conditions and regulations shall apply to all permits issued under this Article:

(a) *Transferability.* All permits shall apply only to the applicant to whom it is issued and for the purposes described in the application and shall not be transferable.

(b) *Commencement of Work.* Work under a permit shall commence within 30 days from the date of issuance of the permit, which shall be valid for thirty days therefrom. If work is not commenced within that time, the permit shall automatically terminate, unless extended in writing by the Town Engineer. The Town Engineer shall be notified at least twenty-four (24) hours prior to the work commencing, except where the work is of an emergent nature, when notice shall be given to the Town Engineer no later than at the time work commences.

(c) *Possession of Permit.* The applicant shall keep a copy of the permit and same shall be exhibited on demand to any duly authorized employee or police officer of the Town at the location where the work is occurring.

(d) *Revocation of Permit.* The Town Engineer may revoke a permit for any of the following:

- (1) Violation of any provisions of this Article or any other applicable rules, regulations, laws, or ordinances.
- (2) Violation of any condition of the permit issued.
- (3) Carrying on work under the permit in a manner which endangers life or property, or which creates any condition which is unhealthy, unsanitary, or a nuisance, in the sole discretion of the Town Engineer.

(e) *Modification of Permit Conditions.* In a special case, the Town Council may, by resolution, impose special conditions to which the issuance of the permit may be subject, or may decide that any provision of this Article shall not be applicable or may be modified.

(f) *Rules and Regulations.* The Town Engineer may make and implement any and all rules and regulations that he/she considers necessary for the administration and enforcement of this Article, but no regulation shall be inconsistent with, alter, or amend the intent of any provision of this Article, or impose any requirement that is in addition to those expressly or by implication imposed by this Article. Copies of all current regulations shall be furnished to each permittee at the time of the issuance of the permit.

(g) *Five-Year Road Opening Moratorium*

- A. Prior to the start of any paving or repaving work on any street of the Town of Westfield, the Town Engineer shall notify each utility company of said work so any excavations may be completed before paving is started. Such notice shall provide that no excavation permit shall be issued for openings, cuts, or excavations in said street for a period of five years from the date of such paving. The notice shall also provide that applications for excavation permits for work to be done prior to such paving or repaving shall be submitted promptly so that any work may be completed not later than 90 days from the date of such notification.
- B. During such five-year period, no permit shall be issued to open, cut, or excavate in such a Town street unless, in the judgment of the Town Engineer, an emergency exists that makes it absolutely essential that the permit be issued. In the event that an emergency exists which shall require a road opening within such five-year period, the permit fees in accordance with Section 24-13 shall apply. Additionally, the Town Engineer shall ensure that any street opening on any street paved within five years is restored satisfactorily, which restoration must include pavement restoration (milling and repaving) for the full-width of the roadway to a distance of approximately 100 feet around the area of the opening.
- C. The distances in either direction of the opening will be determined by the Town Engineer based on proximity to other roadways or utility concerns.

(h) *Proof of Insurance.* Any contractor hired to perform a street excavation in the Town shall provide proof that it is licensed and bonded with the State of New Jersey.

Sec. 24-13. Permit Application Fees.

(a) Prior to issuance of any permit pursuant to this Article, the applicant shall file an application for said permit at least 48 hours prior to the requested time of issuance and shall pay for said permit in accordance with the following schedule:

(1) Permit Fee:

- a. Excavation up to 25 square feet: \$100.00.
- b. Excavation between 25 and 50 square feet: \$150.00.
- c. Excavation larger than 50 square feet: \$150.00 plus \$1.00 per square foot in excess of 50 square feet. For example, if an application is made for an excavation of 75 square feet, the permit fee would be \$175.00.
- d. Excavations made within five years of previous paving (in addition to the fees described above):
 1. Within the preceding year: \$1,000.00.
 2. Within the preceding two (2) to three (3) years: \$750.00.
 3. Within the preceding four (4) to five (5) years: \$500.00.

(2) Cash Bond: The Town Engineer is authorized to demand a bond in an amount not less than \$1,000.00 to assure that any road opening on roadways is restored satisfactorily.

(b) All permit fees are nonrefundable, and said permit, once issued, is valid for a period of 60 days.

(c) The fee and cash bond will be waived for work done by Union County, provided Union County files an application prior to any work being done.

(d) Public utilities will be allowed to establish an escrow account with the Town of Westfield for the required cash bonds. A maximum of \$25,000.00 shall be deposited in this account, unless a single project requires the posting of a larger amount as determined by the Town Engineer.

(e) The Town shall have the authority and right to use the escrow funds or cash bond to restore or maintain the work covered by the permit if the applicant fails to do so within 24 hours of notification by the Town.

SECTION II. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

SECTION III. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

SECTION IV. This Ordinance shall take effect after passage and publication in the manner provided by law.