

**ORDINANCE NO. 4-2020**

**AN ORDINANCE PROVIDING FOR THE PARTIAL AMENDMENT, SUPPLEMENTATION, REPEAL AND REPLACE PORTIONS OF ARTICLE 3, "STREET EXCAVATIONS AND OPENINGS" IN CHAPTER 20, "STREETS AND SIDEWALKS" OF THE "REVISED ORDINANCES OF THE BOROUGH OF MORRIS PLAINS, NEW JERSEY, 1972".**

**WHEREAS**, the Borough Council is desirous of amending Chapter 20, Streets and Sidewalks, in the "Revised Ordinances of the Borough of Morris Plains, New Jersey, 1972" to amend, supplement and repeal portions of Article 3, Street Excavations and Openings.

**NOW, THEREFORE, BE IT ORDAINED**, by the Borough Council of the Borough of Morris Plains, they being the Governing Body thereof, as follows:

**Section 1:**

Paragraphs (a), (b) and (c) in Section 20-11, "Approval of application and plan; issuance of permit" as set forth in Chapter 20 of the aforesaid Revised Ordinances are hereby amended, supplemented and revised by replacing the term "Public Works Superintendent," wheresoever used, with the phrase "Borough Engineer or Public Works Superintendent, as appropriate".

**Section 2:**

Paragraphs (b) and (c) in Section 20-12, "Limitations of permit; deviations from plans; revised plan filed upon completion" as set forth in Chapter 20 of the aforesaid Revised Ordinances are hereby amended, supplemented and revised by replacing the term "Public Works Superintendent," wheresoever used, with the phrase "Borough Engineer or Public Works Superintendent, as appropriate".

**Section 3:**

Section 20-14, currently entitled "Notice to Public Works Superintendent of commencement of work; Public Works Superintendent's authority" as set forth in Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised as follows:

- A. Section 20-14 is hereby renamed so that hereafter Section 20-

14 shall be known as “Section 20-14. Notice of commencement of work; Borough Engineer’s/Public Works Superintendent’s authority”; and

- B. Paragraphs (a) and (b) are hereby amended, supplemented and revised by replacing the term “Public Works Superintendent,” wheresoever used, with the phrase “Borough Engineer or Public Works Superintendent, as appropriate”.

**Section 4:**

Paragraph (a), “Shoulder openings” in Section 20-16, “General specifications requirements” as set forth in Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised by deleting the last sentence of paragraph (a) which reads as follows:

“All driveways shall be restored as directed by the Public Works Superintendent”

**Section 5:**

Paragraph (b), “Backfill” in Section 20-16, “General specifications requirements” as set forth in Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised as follows:

- A. Paragraph (b) is hereby renamed so that hereafter Section 20-16(b) shall be known as “(b) Backfill requirements for Shoulder Openings”; and
- B. The term “Public Works Superintendent,” wheresoever used, shall be replaced with the phrase “Borough Engineer or Public Works Superintendent, as appropriate”.

**Section 6:**

Paragraph (c), “Pavement replacement (temporary)” in Section 20-16,

“General specifications requirements” as set forth in Chapter 20 of the aforesaid Revised Ordinances hereby amended, supplemented and revised as follows:

- A. Paragraph (c) is hereby renamed so that hereafter Section 20-16(c) shall be known as “(c) Pavement replacement (temporary) and backfill requirements for pavement openings”; and
- B. Paragraph (c) is hereby amended, supplemented and revised with the addition of a new first sentence at the beginning of the paragraph which shall read in its entirety as follows:

Pavement openings are herein defined as openings in the traveled roadway or between curbs where curbs exist on a street.

**Section 7:**

Paragraph (d), “Pavement replacement (permanent)” in Section 20-16, “General specifications requirements” as set forth in Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised by deleting the following penultimate sentence:

Where the opening extends along the paved course of the street or road for a greater distance than 50 feet the pavement replacement shall be finished by seal coating the entire width of the street for the length of the opening.

And inserting the following sentence in its place and stead:

Pavement openings shall be filled, paved and seal coated the full width of the street for the length of the opening.

**Section 8:**

Section 20-16, “General specifications requirements” as set forth in Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised with the addition of new

paragraphs (e) and (f), which shall read, in their entirety, as follows:

(e) **Driveway openings.** Driveway openings shall be replaced in kind, and the appropriate specifications for shoulder openings or pavement openings shall govern the replacement of the same.

(f) **Pavement cuts in newly paved streets.** No shoulder or pavement opening or excavation shall be permitted within the surface of any public roadway, street or right-of-way under the control of the Borough upon which a permanent pavement replacement has occurred within five (5) years of the date of the permit application, except as set forth in Section 20-15.

**Section 9:**

Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised with the repeal of Section 20-18, entitled “Safeguards for protection of public”.

**Section 10:**

Chapter 20 of the aforesaid Revised Ordinances is hereby amended, supplemented and revised with the addition of a new Section 20-18, entitled “Protection of vehicular and pedestrian traffic; safe working conditions” which shall read, in its entirety, as follows:

**20-18. Protection of vehicular and pedestrian traffic; safe working conditions.**

- (a) It shall be the responsibility of the person, firm, corporation, or municipal or public utility permittee opening any street or roadway, or otherwise endangering or obstructing the normal flow of traffic or normal flow of surface water thereon, to fully protect both vehicular and pedestrian traffic from possible accident or injury by the placing of watchmen, suitable barriers, crosswalks, notices, warnings, caution signs by day, flares and flashing lights at night, at the permittee’s own expense in accordance with the provisions of Title 39 of the Revised Statutes of the State of New Jersey and in accordance with the recommendations of the Chief of Police, Borough Engineer, and/or the

Superintendent of Public Works. Upon the recommendation of the Chief of Police, Borough Engineer, and/or the Superintendent of Public Works, the Borough Council may require the permittee to provide additional safeguards at the permittee's expense when, in its opinion, such additional safeguards are necessary for the protection of the public.

- (b) The person, firm, corporation, or municipal or public utility permittee opening any street or roadway, or otherwise endangering or obstructing the normal flow of traffic or normal flow of surface water thereon, must also post a sign stating "Temporary Construction Work" and including on the sign, the name of the permittee and its phone number. The sign may only be removed upon completing the final top course of the roadway.
- (c) Any person, firm, corporation, or municipal or public utility permittee performing any street or roadway opening and excavation work in, over, or upon any public road right-of-way or easement shall be totally responsible for providing safe working conditions for its employees and the public. These conditions include but are not limited to trench safety and confined space entry. The permittee shall comply with all Occupational Safety and Health Administration (OSHA) requirements and all Manual on Uniform Traffic Control Devices (MUTCD). Furthermore, any person, firm, corporation, or municipal or public utility permittee shall comply with all applicable federal, state and local laws, statutes, ordinances, and regulations, including, without limitation, all applicable provisions of federal and New Jersey State labor laws. Observation of the work by Borough personnel or agents is solely to determine the review of the adequacy of construction and is not intended to and shall not include, or be construed to include, the review of the adequacy of the permittee's safety measures in, on or near the work site.

**Section 11:**

All other provisions of the aforesaid Chapter 20, Streets and Sidewalks of the Revised Ordinances shall be unaffected and are hereby continued.

**Section 12:**

All Ordinances and parts of Ordinances inconsistent herewith are

hereby repealed to the extent of such inconsistency.

**Section 13:**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be invalid by Court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinances.

**Section 14:**

This Ordinance shall take effect immediately after final passage and publication as required by law.

Introduced: April 2, 2020

Adopted: April 16, 2020

/s/ Jason Karr