

# ORDINANCE

O-15-2020

BOROUGH OF NORTH CALDWELL, ESSEX COUNTY, NEW JERSEY

**AN ORDINANCE TO AMEND AND SUPPLEMENT THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NORTH CALDWELL, COUNTY OF ESSEX, STATE OF NEW JERSEY, CHAPTER 88, ARTICLE V, ENTITLED "STREET EXCAVATIONS"**

**WHEREAS**, the Governing Body of the Borough of North Caldwell wishes to protect its investment in the reconstruction of roadways throughout the Borough; and

**WHEREAS**, it is prudent to prohibit non-emergency work by those who wish to cut, trench, or otherwise perform construction within a newly paved or reconstructed roadway.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of North Caldwell, County of Essex, State of New Jersey as follows:

1. **Chapter 88. Streets and Sidewalks**, of the Borough of North Caldwell is amended and supplemented as stated below:

(All other subsection of Chapter 88 "Streets and Sidewalks" will remain unchanged.)

**§88-24.1 EXCAVATIONS IN STREETS.**

**§88-24.2 Excavations in excess of 35 yds<sup>2</sup>.**

No such permit will be granted under this article by the Borough Clerk for openings in excess of thirty-five (35 yds<sup>2</sup>) square yards until the application for the permit is approved by the Borough Council. Payments and fees shall be made in accordance with the schedule set forth in **§88-27**, below. In addition to such fee, the applicant shall make a cash deposit, or at the Borough's option give a surety bond to the Borough in accordance with **§88-24.4**, below, with such surety as may be approved by the Borough Attorney, conditioned for the filling in of the excavation and restoration of the road surface to the satisfaction of the Borough Council, or for the payment of all expenses of doing such work upon certification by the Borough Engineer of the cost thereof.

All restoration of the street excavation shall conform to the New Jersey Department of Transportation (NJDOT) "Standards Specifications for Road and Bridge Construction," latest edition, as amended.

The provisions of this subsection shall apply as well to public service corporations having franchises to maintain pipes, tracks, or other works on or under the streets of the Borough as to all other persons.

**§88-24.3 Two-year moratorium.**

There shall be a two (2) year moratorium on the issuance of road opening permits for newly paved streets. Exceptions shall be granted for utility emergencies or road openings that impact the safety and welfare of property owners (e.g. electric service to new home). Any emergency work or undue hardship shall be approved by the Borough Administrator or their designee.

- a. In the event that exception is granted during the moratorium period, the applicant shall be responsible for limiting the area of disturbance, saw cut all excavations and restore the trench to its original condition, including but not limited to the pavement, surface treatments and striping.
- b. The Borough Administrator or their designee may require a larger area of the roadway to be restored to avoid trench marks across the roadway. This will be done in a manner that creates a rectangular patch across the entire width of the roadway.
- c. An initial fee of \$500.00 will be charged to open a road within its moratorium.
- d. All restoration must be done in accordance with specifications provided in the permit.

**§88-24.4 Application for permit; surety bond required for excavations in excess of 35 yds<sup>2</sup>.**

Before any such street is opened or improved, the owner or developer shall make application in writing for a permit, specifying the nature and location of the opening or improvement which is to be made; and if the street is to be improved, shall furnish the Mayor and Council with a surety bond. Such application shall be accompanied by a surety bond to the borough, in form and amount satisfactory to the borough, conditioned for the improvement of such street in accordance with the requirements of this article. The bond shall be issued by a responsible indemnity or guaranty company authorized to do business in the State of New Jersey, and shall be in an amount satisfactory to the Borough Council. Should the applicant be denied a permit, said applicant shall have the right to appeal the denial directly to the Borough Council.

**§88-24.5 Materials and Construction**

All materials and construction shall conform to and be as directed by the Borough Engineer. All drains, plates and grates shall be of cast iron. If not specifically indicated by the Borough Engineer, all materials and methods of construction shall conform to the New Jersey Department of Transportation (NJDOT) "Standards Specifications for Road and Bridge Construction," latest edition, as amended.

**§88-24.6 Advance Notice of Construction Required.**

A minimum of three work days' advance notice, in writing, is required to the appropriate Borough Department prior to commencement of any construction or mobilization of equipment or forces.

**§88-24.7 Duty of Permittee to Guard and Light Excavation;  
Permittee to Save Borough from Suit.**

Whenever a permit shall issue to any person for the opening or excavation of any street, it shall be his duty to properly guard and light the same, and to save harmless the Borough from prosecution or suit by indictment or otherwise for negligence in connection with such excavation or the guarding thereof, and to save harmless the Borough from all liability for damages and costs by reason of negligence. It shall be the duty of the permittee to guard and illuminate the excavation site, and where applicable for confined spaces, to perform the work under the safety standards mandated by New Jersey State law.

**§88-24.8 Provisions of This Section Construed as Contained in Permits.**

All permits issued under this section shall be construed as if the provisions hereof were fully and at large contained therein.

1. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
2. If any section, paragraph, subdivision, clause or provision of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.
3. This Ordinance shall take effect immediately upon passage and publication in accordance with law.

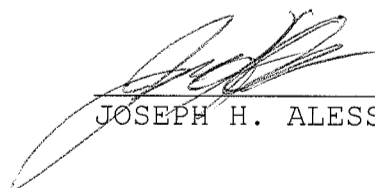
INTRODUCED: November 24, 2020

APPROVED: December 15, 2020

ATTEST:

APPROVED:

  
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TAMI MICHELOTTI, BOROUGH CLERK

  
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JOSEPH H. ALESSI, MAYOR