

BOROUGH OF NORTHVALE
County of Bergen
State of New Jersey

ORDINANCE #1083-2024

AN ORDINANCE TO REPLACE ARTICLE 1 GENERAL PROVISIONS OF CHAPTER 174 OF BOROUGH CODE ENTITLED STREETS AND SIDEWALKS

WHEREAS, the Governing Body of the Borough of Northvale believes it is in the best interest of the Borough to repeal Article 1 General Provisions of Chapter 174 of the Borough Code and ordains that it be replaced it with the following:

Section 1.

Chapter 174 Streets and Sidewalks.

§ 174-1 Definitions.

Whenever used in this article, unless a different meaning clearly appears from the context, the following terms shall have the following meanings indicated:

APPLICANT

Any person, firm or entity who makes application for permit.

BOROUGH

The Borough of Northvale.

CLERK

The Borough Clerk of Northvale or her duly authorized representative.

CROSS TRENCH

Any opening at 90° to the center line of the street.

EMERGENCY

Any unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to a person or property.

MAJOR PERMIT

An opening exceeding 20 square yards.

MATERIALS

Includes pipes, fittings and appurtenances, as well as the excavation or backfill.

MINOR PERMIT

An opening of 20 square yards or less.

PERMITTEE

Any person, firm or entity who has been issued a permit and has agreed to fulfill all the terms of this article.

ROADWAY

The cartway or paved area only.

STREET

The improved portion of the right-of-way of any public street, public highway, public way, public road or public easement within the borough, including that portion of the right-of-way improved with curbs and sidewalks.

SUPERINTENDENT

The Superintendent of Public Works or his duly authorized representative.

UTILITY

Any utility, public, private or government.

§ 174-2 Permit required; restrictions.**A.**

No person, firm or corporation shall open or cause to be opened, by cutting or excavating, the surface or soil of any street, roadway or other public property for any purpose whatsoever without first obtaining therefor from the Clerk a written permit; provided, however, that any person maintaining pipes, lines or other underground facilities in or under the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided that the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the borough is open for business.

B.

It is not intended to require a permit for the opening or excavating within any county or state road for which a permit has been acquired from the proper authority.

C.

A permit shall be valid for an effective period not to exceed 30 consecutive calendar days. Such effective period may be extended, if so requested by the permittee prior to the expiration thereof, for an additional period not to exceed 30 days. An additional extension for a final period not to exceed 30 days may be requested and granted. A permit may not be extended for a period in excess of 90 days from the date the original permit was issued.

D.

No work shall proceed between November 15 and March 15 unless emergency circumstances exist.

E.

No work provided to be done under a permit shall be performed on Saturdays, Sundays or holidays except with prior approval of the Clerk or in the event of an emergency. Any work

regulated hereunder shall be performed between the hours of 8:00 a.m. and 5:00 p.m. unless an emergency exists.

§ 174-3 Notice of work.

The permittee shall not begin or carry on any part of the work provided to be done, except in the event of an emergency, without first notifying the Clerk not less than 24 hours in advance and obtaining her approval therefor.

§ 174-4 General considerations.

A.

In all cases, full consideration is required to be given to the adoption and implementation of measures reflecting sound engineering principles and economic factors necessary to preserve and protect the integrity and visual quality of the roadway, its maintenance and efficiency and vehicular and pedestrian traffic safety.

B.

Utility lines are to be located to permit servicing such lines with minimum interference with vehicular or pedestrian traffic. Efforts must be made to minimize the construction of chambers or vaults in the roadway area and to avoid their location at street intersections.

C.

Ground-mounted utility facilities shall be of a design compatible with the visual quality of the roadway section being traversed.

D.

New roadways or roadways resurfaced with a bituminous concrete surface course shall not be opened for a period of two years unless an emergency exists.

E.

If any subsequent borough facility necessitates the moving or adjusting of utility facilities located by permit, then such utilities shall bear all costs and expenses of the required move or adjustment unless the cost and expense of said move or adjustment is otherwise provided for by law.

F.

Utility line designs and construction are subject to minimum safety standards and construction requirements prescribed by the respective national or industry standard codes.

§ 174-5 Application for permit; required information.

Any person desiring a permit for street opening shall make application therefor to the Clerk for each such opening upon forms provided for that purpose. Applications for a street opening permit for work to be performed for a utility shall be made by the utility, and such permit shall

be issued to the utility and not to the contractor. A separate application shall be made and a separate permit issued for each street to be opened by the permittee.

A.

Except to the extent waived by the Clerk in the case of any emergency, the application shall show or include the following information for a minor street opening:

(1)

The name, address and twenty-four-hour telephone number(s) of the applicant. The applicant shall also provide the Police Department with at least two emergency contact telephone numbers to be called in case of emergency problems at the construction site prior to the start of any work.

(2)

The name, address and telephone number of the owner of the property in front of which or for whom the work is to be performed.

(3)

The location of the property.

(4)

The extent and nature of the work to be done.

(5)

The date or dates when the work is to be done.

(6)

Evidence that all materials, labor and/or equipment which are needed to complete such undertaking as authorized by the permit are available.

(7)

The signed statement by the applicant that he agrees to perform the work for which the permit is granted strictly in accordance with the conditions of the permit and this article.

(8)

A list of all federal, state or local government agencies having jurisdiction thereover and, if such agencies require approval, a statement whether such approval has been obtained and attachment of a copy of such approval.

(9)

A signed statement by the applicant that the borough is to be saved harmless by the applicant from any loss, injury or damage arising out of the granting of the permit or from any negligence or fault of such applicant, his servants or agents in connection with any of the work done under or in connection with such permit.

(10)

Certificate of insurance.

(a)

A certificate of insurance stating that 10 days' written notice shall be given to the borough before a policy covered thereby shall be changed or cancelled, indicating that the applicant is insured against all hazards and risks of loss which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor or anyone directly or indirectly employed by him, and shall include protection against liability arising from completed operations. This insurance shall be written in comprehensive form, and the liability limits shall not be less than the following:

[1]

Bodily injury: \$1,000,000 each person; \$3,000,000 each occurrence.

[2]

Property damage: \$1,000,000 each occurrence.

(b)

With the approval of the Clerk, public utilities subject to regulation by the Board of Public Utilities may furnish a self-insurance certificate in lieu of a liability insurance certificate.

(c)

Certificates of insurance required pursuant to this article shall name the borough as an additional insured.

B.

The application for a major street opening permit shall require the items in Subsection A(1) through (10), both inclusive, and, in addition thereto, three sets of plans and specifications, a traffic control plan in accordance with the Manual on Uniform Traffic Control Devices and/or a detour plan as required by the Clerk.

§ 174-6 Action of Clerk on application.

A.

The Clerk will have a minimum of five working days to review the application prior to issuing a street opening permit.

B.

When the Clerk approves an application, she shall at that time advise the applicant of the amount of deposit necessary to cover the work proposed in said application.

C.

The Clerk will also state the probable inspection costs that may be incurred and advise the applicant of such costs.

D.

Once the applicant meets all the requirements of this article, the Clerk will grant the permit.

§ 174-7 Permit fee; deposits.

Every person obtaining a permit shall:

A.

Pay a permit fee for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work in an amount as set forth in this article.

B.

Pay an inspection fee as set forth in this article.

C.

Make a deposit as required by §174-9 of this article.

§ 174-8 Conditions for permit.

In granting any permit under this article and to prevent danger to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance, the following conditions will apply:

A.

Only rubber-tired equipment shall be used unless approved by the Borough Engineer.

B.

Routes upon which materials may be transported are to be approved by the borough before the permit is issued.

C.

Disposal of excavated materials within the Borough of Northvale is subject to Chapter 166, Soil Removal, of the Borough Code.

D.

Dust resulting from construction procedures is to be kept to a minimum.

E.

Excessive noise shall be prohibited.

F.

Roadways and sidewalks are to be kept clear for pedestrian and vehicular traffic. All operations shall be planned with full regard to safety and to keep traffic interference to an absolute minimum. No trench shall remain open beyond the hours of work. Gas companies, however, shall be permitted to leave open small openings for the purpose of adequately venting natural gas, provided that said small openings are adequately protected with traffic control devices and that proper notice is given to the borough. Said openings shall be maintained for no longer than 48 hours. The Clerk may permit other small openings in circumstances where work cannot be completed during normal working hours, provided that said openings are properly plated so as not to interfere with the flow of traffic or to endanger the public.

G.

Construction equipment and materials shall not be left on the street overnight unless special permission is given, in writing.

H.

Traffic shall be controlled in accordance with the appropriate sections of the Manual on Uniform Traffic Control Devices, which manual includes information regarding the furnishing and erecting of traffic control devices necessary to move pedestrians and vehicular traffic safely through or around the work area.

I.

Construction shall be performed in accordance with the latest edition of the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction.

J.

Road closings and/or traffic detours shall not be permitted unless approved by the Northvale Police Department.

K.

Traffic directors shall be posted at all construction sites when determined by the Northvale Police Department that same is necessary to provide for the safety and expeditious movement of traffic. In the event that it is determined that traffic directors are required, uniformed Northvale police shall act as traffic directors, and the cost of providing uniformed police shall be the responsibility of the applicant.

§ 174-9 Required deposit.

The amount of deposit for street openings shall be \$5,000 or shall be computed in accordance with the following unit prices for pavements or other areas to be disturbed or work to be done, as determined by the Clerk, whichever is greater:

A.

Paved streets (all types): \$750 per square yard.

§ 174-10

A. Form of deposit; approval.

The deposit may be in the form of cash, a certified treasurer's or cashier's check or surety bond made payable to the borough and meeting the approval of the Clerk. The surety bond must be written by a reputable surety company licensed to do business in the State of New Jersey, and the bond shall be conditioned upon the payment of all charges required by this article. Such bond must be approved by the Borough Attorney as to form. The borough shall have the right to require the submission of the deposit in any of the above specified forms.

B. Use of deposit.

(i).

The amount of deposit shall be retained by the borough for the duration of the period of maintenance, as defined hereunder.

(ii).

Upon failure or default by the permittee of any of the terms, agreements, covenants and conditions of the permit on the permittee's part to be done or performed, said deposit may be used by the borough for any expense incurred by the borough by reason of such failure or default on the part of the permittee.

(iii).

Any balance left after the expense of such failure or default, as determined and certified by the Clerk, has been paid and deducted from the amount of the deposit shall be refunded to the permittee.

(iv). Insufficient deposit.

If the deposit made is less than sufficient to pay all fees and costs, the permittee shall, upon demand, pay to the borough an amount equal to the deficiency. If the permittee fails or refuses to pay such deficiency upon demand, the borough may recover the same by action in any court of competent jurisdiction. Until such deficiency is paid in full, additional permits shall not be issued to such permittee.

C. Annual deposits.

Whenever any public utility or municipal authority maintaining underground facilities shall contemplate more than one street opening or excavation per calendar year, it may post a surety bond in the amount of at least \$50,000 for the calendar year or part thereof to cover the estimated fees and cost of any and all work. Said bond must be written by a reputable surety company licensed to do business in the State of New Jersey or other approved surety, and the bond shall be conditioned upon the payment of all charges estimated to be required by this article during the term of the bond. Such bond must be approved by the Borough Attorney as to form.

§ 174-11 **Maintenance period; costs.**

A.

The period of maintenance shall be construed as a period of two years after the date of final completion, as determined by the Borough Engineer, of the work to be done pursuant to the terms of the permit; except, however, that in the event that the termination of said two-year period shall fall between November 1 and April 1, inclusive, then and in that event, the period of maintenance shall be considered as extending until the 15th day of May next thereafter.

B.

The permittee shall be responsible for the entire work and shall keep every portion of said work in perfect order and repair during the entire period of maintenance, and should said permittee fail

to make needed repairs to the work or to adequately maintain surfaces disturbed by said permittee, the Clerk reserves the right, and without prior notice to the permittee, to cause such repairs to be made or such surfaces to be maintained by the borough's own forces or by contract or otherwise, in which case all expenses incurred by the borough shall be deducted from the deposit as herein otherwise provided for.

§ 174-12 Notice

A. to adjoining property owners or tenants.

If the work to be undertaken by the permittee is such that it will affect the use of properties abutting or adjoining the project, the permittee shall, in writing, notify by hand delivery or mail the affected property owners or tenants of the proposed work to be done. The permittee shall submit a list of the names and addresses of the owners and/or tenants of such properties to the Clerk along with a copy of the notification.

B. Notice to police and fire officials.

The permittee shall notify the Borough Police and Fire Departments of any street opening or excavation which affects the flow of traffic in the streets within the borough. Such notification shall state the nature of the work to be done and the location of such project. He shall also notify the Police and Fire Departments when any openings or excavations have been closed, permitting traffic to flow thereon.

C. Exhibit of permit.

Any person receiving a permit as provided in this article shall cause the same to be kept in the possession of the person in charge of the work, who shall exhibit the same to any official or police officer in the borough on demand.

§ 174-13 Permission of Borough Engineer required.

Except in the case of emergency, no work shall be performed by the permittee unless the Borough Engineer shall be present or permission has been given by the Borough Engineer to proceed in his absence. Such permission should not be unreasonably denied.

§ 174-14 Inspections.

The Superintendent or Borough Engineer shall periodically inspect all road openings and the repair and resurfacing thereof for the purpose of determining compliance with the conditions imposed on the issuance of the permit and the specifications. The Borough may, upon the recommendation of either of them:

A.

Order a temporary stop to any road opening.

B.

Order that the applicant perform or correct work in accordance with the directions of the borough.

C.

Order a stop to any work and revoke the permit, in which event the Borough of Northvale shall complete the work or cause it completed and either declare the applicant's deposit forfeited or notify the applicant's surety of an intent to file claim on the bond.

D.

Authorize the correction of any work after notification to the permittee and after the neglect or the refusal of the permittee to make sure corrections within 24 hours and, after completion of the same, either declare the permittee's deposit forfeited or notify the permittee's surety of an intent to file a claim on the bond.

E.

Take any other action deemed reasonable under the circumstances to protect the borough's interests.

§ 174-15 Permit not required of borough.

Street opening permits will not be required for any contracts proposed by the borough. All guarantees are provided for within plans and/or specifications so provided by the borough.

§ 174-16 Performance of additional work.

A.

No person to whom a permit has been granted under the provisions of this article shall perform any of the work authorized by such permit in any amount or quantity greater than that specified in the permit, except that, upon the approval by the Borough Engineer and payment of the additional fee, additional work may be done under the provisions of the permit in an amount not greater than 10% of the amount specified in the permit.

B.

Any deposit and bond posted in connection with the original permit shall be deemed to cover any such additional work as may be approved pursuant to this section within the limits mentioned herein.

§ 174-17 Time period for commencement of work; renewal of permit.

A.

Work for which a permit has been issued pursuant to this article shall commence within 30 days after the issuance of the permit therefore and shall be carried out as expeditiously as possible.

B.

If not so commenced or proper time extension granted, the permit shall be automatically terminated and the permit fee, inspection fee and any cash deposit shall be refunded to the permittee, with the exception of the application fee.

C.

Permits thus terminated may be renewed upon the payment of an additional application fee and the required permit and inspection fees as defined within this article.

§ 174-18 Nontransferability.

Permits issued under this article are not transferable from one person to another, and the work shall be carried out only at the location specifically designated in the permit.

§ 174-19 Notification to owner of pipes, conduits or other structures.

It shall be the duty of the permittee to notify any company whose pipes, conduits or other structures are laid in the street in which any work is to be done by the permittee not less than 72 hours before commencing such opening or work. The permittee doing such work shall, at its own expense, carefully support, maintain in operation and protect from injury such pipes, conduits or other structures and, in case of injury, shall restore the same at its own expense or allow the company to whom the pipes, conduits or other structures belong, at its option, to make the necessary repairs, and costs thereof sustained by said company thereby shall be paid by said permittee to said company upon presentation of a bill.

§ 174-20 Excavation specifications; notice of blasting.

A.

Trenches shall be cut to have vertical faces, where soil and depth conditions permit, with a maximum width of two feet, plus the outside diameter of the pipe to be installed. Trenches shall be braced as necessary in accordance with all applicable federal, state, county and municipal laws and regulations.

B.

Pipe bedding shall be installed in accordance with the manufacturer's or industry standard instructions for the pipe or conduit being used.

C.

Prior to the excavation of the trench, the existing pavement shall be cut by pneumatic or hydraulically operated hand-held equipment or by saw cut. In no case shall large impact-type equipment be used.

D.

The integrity of the remaining pavement structure, shoulders and slopes shall be of primary concern, and construction methods shall be utilized which will keep the damages to the existing pavement and other areas to a minimum.

E.

All blasting shall be conducted in accordance with applicable state and federal laws and regulations. Prior to proceeding with blasting, twenty-four-hour notice shall be given to the Borough Engineer, owners of utilities within 50 feet and adjacent property owners.

§ 174-21 Other minimum requirements to be met.

A.

Utility installations must meet the minimum requirements of the national or industry associations, institutes or codes which recommend methods of installation and utilization.

B.

Wherever possible, the depth of bury for pipelines and conduits shall be a minimum of three feet. Sufficient vertical and horizontal clearance between pipelines or structures of another utility facility shall be provided to permit the proper maintenance of the pipeline or structure.

§ 174-22 Backfilling and Pavement Restoration

A. Inspection required before backfilling.

No backfilling shall be done by the permittee until the work being done under the permit shall have first been inspected and the backfilling authorized by the Borough Engineer. In case of nonconformity with this requirement, the Borough Engineer shall have the right to require that the work be uncovered by the permittee at the latter's own expense so that property inspection may be made.

B. Backfilling methods and materials.

1.

Backfilling must be done with a pervious material placed in two stages. The first stage includes the fill to a level of one-foot above the top of the pipe, and the second stage includes the remaining portion of the trench to finished grade. Backfill for the first stage shall be carefully deposited and compacted in six-inch layers without in any way injuring or disturbing the completed pipe or structure. The remaining portion of the trench shall be backfilled and compacted in twelve-inch layers.

2.

Backfilling must be accomplished with select material. Backfilling necessitated by an emergency opening during the period from November 15 to March 15, inclusive, shall not be made with

frozen material. In the event that backfilling is made with frozen material, it shall be removed by the permittee and replaced with stone dust or backrun sand.

3.

Compacting shall be accomplished by approved mechanical or vibratory means to achieve 95% of maximum density based on the modified proctor test.

D Pavement Restoration.

A. Temporary pavement restoration.

1.

Immediately after backfilling the excavation, the permittee shall place thereon an acceptable temporary pavement as provided herein below. Such temporary pavement shall be maintained even with the roadway surface until the permanent restoration is placed.

2.

The temporary pavement shall consist of three inches of bituminous concrete, Mix 1-5 or approved equal, when the opening was made in an existing pavement, and six inches of quarry process stone in all other cases, except that, where topsoil, seeded areas or sod have been disturbed by the excavation, the permittee shall restore the ground surface to its original condition.

E. Permanent pavement.

1.

Permanent restoration of the pavement surface over the street opening shall be made within two months, weather permitting, or within the same construction season if so noted on the permit, from the date the temporary pavement was installed.

2.

Prior to the installation of the permanent pavement, the subgrade shall be properly prepared and the existing pavement neatly cut back a minimum of six inches from the edge of the trench or pavement damage in a straight line, with vertical faces free of foreign matter. A tack coat shall be applied to the vertical faces of the existing pavement prior to the placement of the patch material.

3.

The permanent pavement shall consist of a bottom course of bituminous stabilized base, Mix 1-2, placed at a compacted thickness of four inches, and a surface course of bituminous concrete, Mix 1-5, placed at a compacted thickness of two inches.

4.

All pavement restoration, both temporary and permanent, shall be constructed in accordance with the applicable specifications of the New Jersey State Highway Department.

5.

The top or surface course of the permanent patch shall be flush with the grade of the surrounding pavement when it is compacted. The joint between the patch and the existing pavement shall be sealed with an asphalt emulsion.

6.

For lateral trenches over 100 feet in length, the top or surface course of pavement shall extend from the curblines or edge of pavement to a point three feet beyond the edge of the bottom course; however, such width shall not be less than 10 feet. If cross trenches are located less than 250 feet apart, the entire roadway shall be resurfaced.

§ 174-23 Cleanup; restoration; letter of release.

A.

The permittee shall clean up and remove promptly from the site of the work, upon completion thereof, all surplus excavated material and debris and shall leave the site of the work in a neat and orderly condition on a daily basis.

B.

Where concrete curb, asphalt berm, sidewalk or landscaped areas are disturbed in the course of the work, the permittee shall restore such surface to its original condition. A letter of release shall be furnished to the Borough of Northvale from the affected property owner prior to the release of the deposit or bond.

§ 174-24 Revocation of permit.

Any permit issued under this article may be revoked by the Clerk, after notice, for:

A.

Violation of any condition of the permit.

B.

Violation of any provision of this article or any other applicable ordinance or law relating to the work.

C.

The existence of any condition or the doing of any work constituting or creating a nuisance or endangering the lives or property of others.

§ 174-25 Petition for deviation from provisions.

Deviations from the provisions of this article may be issued by the borough upon review and approval of a written petition by the permittee which shall include, in detail, the reason why such a deviation is being requested.

§ 174-26 **Violations and penalties.**

Any person or persons, firm, partnership, association or corporation violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$1,000 and, in default of the payment thereof, may be sentenced to the county jail for a term not exceeding 30 days. Every day during which such violation continues after notice in writing shall have been served by the borough shall constitute a separate offense.

Section 2. This ordinance will take effect immediately upon passage.

Section 3. All prior ordinances that are inconsistent with this ordinance are repealed.

Joseph E. McGuire

Joseph E. McGuire, Mayor

Attest:

Frances M. Weston

Frances Weston
Municipal Clerk

Introduced: April 10, 2024

2nd Reading: May 8, 2024

Effective: May 8, 2024