

ORDINANCE NO. 2024-13

ORDINANCE AMENDING AND SUPPLEMENTING
CHAPTER 170, “STREETS AND SIDEWALKS,” ARTICLE IV, “OPENINGS,”
SECTION 170-20 “REPAIR DEPOSITS” TO INCLUDE MORE SPECIFIC
RESTORATION STANDARDS AND REQUIREMENTS

WHEREAS, it is critical to the health, safety and welfare of residents and visitors to the Borough of Kenilworth (the “Borough”) that all sidewalks and roads be properly maintained and repaired; and

WHEREAS, N.J.S.A. 40:65-14 authorizes municipalities throughout the State to adopt a sidewalk maintenance ordinance that requires property owners whose properties abut public sidewalks to maintain and repair those abutting sidewalks; and

WHEREAS, the Mayor and the Borough Municipal Council find it to be in the best interest of the Borough to provide more specific restorative requirements in order to preserve the fiscal integrity of the Borough and its residents; and

WHEREAS, this section of the Code was recently amended to address sidewalk maintenance to take full advantage of the current law for the repair of sidewalks for residential and non-residential properties by abutting property owners in order to protect the health, safety and welfare of the residents and taxpayers of the Borough, but the Mayor and Council wish to extend to moratorium on road openings on recently paved roads.

NOW, THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Kenilworth in the County of Union, New Jersey as follows:

SECTION 1. RECITALS. The foregoing whereas clause is incorporated herein by reference and made a part hereof.

SECTION 2. Chapter 170, “Streets and Sidewalks,” Article IV “Openings,” Section 170-20 “Repair Deposits” Ordinance of the Borough of Kenilworth, Union County, New Jersey, is hereby revised with the following:

ARTICLE IV. OPENINGS.

§ 170-20 Repair Deposits and Requirements.

B. Any cash repair deposit made hereunder shall serve as security for the repair and performance of work necessary to put the street in as good a condition as it was prior to the excavation and in accordance with the specifications determined by Borough Engineer and in compliance with Chapter 170 requirements.

C. Upon the permittee’s completion of the work covered by such permit and upon written certification of the Borough Engineer that the permittee has performed all work in conformity with this article, unless notified in writing within thirty (30) days of permittee’s request of noncompliance with the requirements of Chapter 170, entire cash deposit shall be refunded to the permittee; provided, however, that the Borough may use any or all of such deposit to pay for the cost of any work the Borough performs or contracts to be performed to restore or maintain the street as herein provided in the event that the permittee fails to perform such work in accordance with the provisions of any provision of Chapter 170.

E. CRITERIA FOR REPAIRS AND/OR RESTORATION OF PAVEMENT FOR DRIVEWAY OPENINGS

1. Within grassed areas, the top four inches of the trench and any other areas damaged during construction shall be backfilled with topsoil as defined in Division 800 of the NJDOT Standard Specifications for Road and Bridge Construction, latest edition. Then all newly placed topsoil shall be fertilized and seeded per these specifications.
2. Within the limits of gravel areas or any other nondecorative gravel surface, the top of the trench shall be backfilled with eight inches of dense graded aggregate (DGA) base course as defined in Division 300 of the NJDOT Standard Specifications.

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3. Within asphalt roadways, all trenches shall be brought up to 12 inches below the surface as required in the backfilling sections listed previously. The remaining void shall be backfilled with a temporary repair of six inches of DGA base course as defined in Division 300 of the NJDOT Standard Specifications and six inches of hot mix asphalt (HMA) 19M64 base course as defined in Division 400 of the NJDOT Standard Specifications.
 - a. The temporary pavement shall remain in place for a period of at least three months and no longer than four months to allow for residual settlement to take place. During this time, the permittee shall assure maintenance of the pavement surface. Manholes, valve boxes or other physical utility obstructions shall have feathered approaches not to exceed a five-percent slope where necessary and temporary pavement striping shall be restored by the permittee for adequate traffic control.
 - b. The final asphalt paving will depend on the size of the trench:
 - i. Where 20% or more of the existing surface width and/or a distance parallel or longitudinal to the roadway center line of 25 feet or more has been disturbed, the permittee shall mill the entire pavement surface from edge to edge or curb to curb and the full length of the trench plus five feet each side at a minimum depth of two inches. All milling and disposal of millings shall be done in accordance with Division 400 of the NJDOT Standard Specifications. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches of HMA 9.SM64 surface course in accordance with Division 400 of the NJDOT Standard Specifications. The Township will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.
 - ii. Where less than 20% of the existing surface and a distance parallel or longitudinal to the roadway center line of less than 25 feet has been disturbed, the permittee shall sawcut the existing surface course two inches deep at a location 12 inches beyond the trench surface and remove the existing pavement to the same depth. Pavement removal shall be done by milling or another method as approved by the Township Engineer. The permittee shall clean and sweep the milled surface and apply tack coat in preparation for immediate paving. The area will then be paved with two inches of HMA 9.SM64 surface course in accordance with Division 400 of the NJDOT Standard Specifications. The Township will require that the terminal ends of the paving be keyed and cut vertical to provide a smooth transition to the existing asphalt surface. Feathering will not be allowed.
4. Temporary surface restoration in traffic lanes. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the permanent replacement pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be tamped into place, and this fill shall be topped with a minimum of at least two inches of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe travelling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the Township Engineer. If, in the judgment of the Township Engineer, it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions, the Township Engineer may direct the permittee to lay a temporary pavement of steel plate or other suitable material designated by him over the cut or excavation to remain until such time as the repair of the original pavement may be properly made.

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5. Permanent street restoration. Permanent restoration of the street may be made by the permittee in strict accordance with the specifications prescribed by the Township Engineer to restore the street to its original and proper condition, or as near as may be. When, in the opinion of the Township Engineer, the full width overlay will present a hazardous condition and jeopardize the health, safety and welfare of the general public, the Township Engineer shall direct the permittee the method of restoration of the roadway surface.

6. On newly paved streets, roadways and rights-of-way, there shall be a ~~three (3)~~ **five (5)** year moratorium restriction on the issuance of road opening permits, which shall commence upon the acceptance date of the newly paved road by the Township Engineer. Exceptions shall be granted for utility emergencies, utility openings that impact the safety and welfare of property owners, or if the applicant is able to prove undue hardships. Undue hardships shall be approved at the discretion of the Township Engineer. In the event that an exception is granted during the moratorium, the applicant shall be responsible to limit the disruption as much as possible, saw cut all excavations, and restore the trench to its original condition including, but not limited to the pavement, surface treatments, and striping. All repair paving shall be completed utilizing infrared technology at the time of final pavement restoration, but the Township Engineer, at his or her discretion, may require curb to curb pavement replacement as deemed appropriate for the anticipated construction activity. Pavement repairs shall be a two (2) phase process. Temporary base pavement (Mix I 2, or Superpave HMA 19M64) shall be installed to the surface, at least six inches (6") thick, within twenty-four (24) hours of the completion of the excavation. After a settlement period of ninety (90) days, the Contractor is required to mill out two inches (2") of the base pavement, including a twelve inch (12") overlap on all sides of the excavation, and install two inches (2") of top course pavement (Mix I 5, or Superpave HMC 9.SM64) in accordance with Chapter 170. A non-refundable fee of one thousand five hundred (\$1,500.00) dollars will be charged to open a road within its moratorium. The inspection fee would be one hundred fifty (\$150.00) dollars and the trench must be compacted in lifts not exceeding twelve inches (12") in depth. A refundable deposit would still be required in accordance with Section 170-20.

SECTION 3. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 4. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of this Ordinance shall remain valid and effective.

SECTION 5. This Ordinance shall take effect upon final passage and publication according to law.

Gracia Kaulouge

Linda Karlovitch, Mayor

INTRODUCTION						COUNCILPERSON	FINAL ADOPTION					
Moved	Sec.	Aye	Nay	Abs.	NP		Moved	Sec.	Aye	Nay	Abs.	NP
		X				PATRICK BOYLE			X			
					X	JOSEPH FINISTRELLA		X	X			
		X				TONI GIORDANO PICERNO						X
					X	WILLIAM MAURO			X			
	X	X				SAVINO SCORESE			X			
X		X				JOHN ZIMMERMAN	X		X			
Introduced: August 21, 2024						I hereby certify the above ordinance was adopted by the Borough Council of the Borough of Kenilworth, County of Union, State of New Jersey on the aforementioned date.						
Final Adoption: September 18, 2024						Angela Lazzari Angela Lazzari, Borough Clerk						