

BOROUGH OF WANAQUE  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY

ORDINANCE #6-0-17

AN ORDINANCE TO AMEND CHAPTER 96 OF THE CODE  
OF THE BOROUGH OF WANAQUE, STREETS AND SIDEWALKS,  
TO AMEND ARTICLE II, STREET OPENING

BE IT ORDAINED AS FOLLOWS:

Section 1. That the following sections are amended to read as follows:

**§ 96-10 Short title.**

This article shall be known and may be cited as the "Street Excavation Ordinance of the Borough of Wanaque."

**§ 96-11 Definitions.**

A. Word usage. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

B. Terms defined. For the purpose of this article, the following terms, phrases, words and their derivations shall have the meanings given herein:

**APPLICANT**

Any person making written application for the permit hereinafter mentioned.

**BOROUGH**

The Borough of Wanaque in the County of Passaic.

**EXCAVATION WORK**

The excavation and other work permitted under an excavation permit and required to be performed under this article.

**PERMITTEE**

Any person who has been granted and has in full force and effect an excavation permit issued hereunder.

**PERSON**

Any person, firm, partnership, association, corporation, company or organization of any kind.

**PUBLIC WORKS SUPERINTENDENT**

The duly appointed Superintendent of Public Works.

**STREET**

Any street, highway, sidewalk, alley, avenue or other public way or public grounds in the Borough.

**§ 96-12 Excavation permit required.**

It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or sidewalk or to make or cause to be made any excavation in or under the surface of any street or sidewalk for any purpose, or to place, deposit or leave upon any street or sidewalk any earth or other excavated material obstructing or tending to interfere with the free use of the street or sidewalk, unless such person shall have first obtained an excavation permit therefor from the Borough Clerk as herein provided.

§ 96-12.1 Conditions on issuance of permit for certain street surfaces.  
[Added 11-7-1983 by Ord. No. 13-65-83]

No permit shall be issued by the Borough Clerk to any person, which permit would allow an excavation or opening in a paved and improved street surface less than five years old unless the applicant can clearly demonstrate that public health or safety require that the proposed work be permitted or unless an emergency condition exists.

§ 96-13 Application for permit.

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the Borough Clerk, signed by the person making the application or by a duly authorized agent and containing the following information:

- A. Name and address of the person for whom said work is to be performed.
- B. A detailed plan describing the work to be performed.
- C. Number of linear feet of surface to be opened.
- D. (Deleted)
- E. Surface type of road to be opened.
- F. Date of commencement and estimated date of completion.

§ 96-14 Cash deposit required; supervision at expense of applicant authorized.  
[Amended 9-10-1969]

- A. The application for an excavation permit to perform excavation work under this article shall be accompanied by a deposit made to the Borough of Wanaque for deposit with the Borough Treasurer, as follows:
  - (1) Up to fifty (50) linear feet -\$200
  - (2) Fifty-one (51) linear feet to one hundred (100) linear feet -\$300
  - (3) One hundred one (101) linear feet to two hundred (200) linear feet -\$400
  - (4) Over two hundred (200) linear feet – to be determined by the Superintendent of Public Works
- B. Deleted
- C. In addition to the foregoing, the applicant shall pay, for any municipal street opening, a non-refundable fee of \$50 with each application.
- D. Deleted
- E. In the event that the linear feet of sidewalk wherein sidewalks are to be reinstalled exceeds 100 linear feet, and in the opinion of the Superintendent of Public Works it is necessary to engage the Municipal Engineer for advice and supervision, the applicant shall pay to said Municipal Engineer for his services rendered his actual out-of-pocket salary plus a 125% thereof.
- F. Any deposit made hereunder shall serve as security for the repair and performance of the work necessary to put the street and/or sidewalk in as good a condition as it was prior to the excavation, if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. The Borough may use any or all of any such

deposit, to pay the cost of any work the Borough performs to restore or maintain the street and/or sidewalk as herein provided, in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be reduced by the amount thus expended by the Borough.

**§ 96-15 Return of deposit.**

Said deposit and fees shall be turned over to the Borough Clerk, and, upon certification by Superintendent of Public Works the deposit shall be returned to the applicant, except that where streets are constructed of bituminous penetration macadam or bituminous concrete, type S.M., constructed with state aid funds, the certification shall be by the Borough Engineer. The return of the deposit shall be made through the normal course of business of the Borough for issuing payments.

**§ 96-16 Required starting period; extensions authorized.**

The Superintendent of Public Works shall have full supervision over any opening to be made in any street under any permit granted hereunder, and the work on any such opening shall be commenced within 10 days of the date of the issuance of said permit, and such work shall proceed with due diligence to its completion. If for any reason the work on said opening is not commenced within said period of 10 days, the permit shall be void, and any deposit held by the Borough thereunder shall be returned to the applicant upon surrender of the permit, unless an extension of time is granted by the Borough in writing, endorsed on said permit, within which to commence said work, whereupon the applicant shall commence said work within the time set forth under said extension and permit, and thereupon any deposit held by the Borough shall be returned to the applicant upon the surrender of the permit such extension is endorsed upon. The work under any extension shall proceed with due diligence to its completion.

**§ 96-17 Revocation of permit or extension.**

The Borough may at any time revoke or annul any permit, or extension endorsed thereon, for cause, or for making any opening not in accordance with the permit granted, or for failure or neglect to pursue the work in accordance with such permit, or by reason of any condition which would be or the Borough fears might prove to be dangerous or injurious to any person or property, or which the Borough deems harmful to or not for the best interest of the Borough, and every person receiving a permit or any extension thereof shall accept the same subject to the foregoing provisions without any liability or responsibility attaching to the Borough for any loss or damage that might result by reason of such revocation.

**§ 96-18 Replacement of pavement.**

All pavement or surface over any opening for which any permit is granted as aforesaid shall be replaced by the permittee by a temporary pavement of a bituminous concrete, type "A," immediately after filling; permanent pavement is to be restored by the permittee not less than 30 nor more than 60 days after the opening is made, unless this time is extended by the Superintendent of Public Works or Borough Engineer, depending on road or weather conditions. Should the permittee fail to do so, the deposit provided for herein, or such portion thereof as may be necessary, shall be used to pay the cost of consolidating the material used, to refill the opening and to replace the pavement or surface, and the balance, if any, shall be returned to the applicant 12 months after the issuance of the permit, if the surface is then in good condition, or as soon thereafter as the necessary repairs thereto are made, upon presentation to the Borough of the original permit and the signing by the applicant of a receipt for the amount so returned. Sidewalks shall be replaced with concrete to the original width in accordance with the specifications of § 96-7 of this chapter.

**§ 96-19 Manner of excavation and filling.**

Every opening and all excavations and backfilling shall be done by the person to whom any permit is issued. Such person shall give reasonable notice to the Superintendent of Public Works, Borough Engineer or other person designated by the Borough before any backfilling is commenced. All excavations shall be made in open trenches, except where otherwise permitted or directed by the Superintendent of Public Works or Borough Engineer. The sides of the excavation shall be supported when necessary by suitable plank and shoring which shall be drawn as the work progresses unless the Superintendent of Public Works or the Borough Engineer orders the same left in place. All the work of excavating and backfilling shall be prosecuted with all possible vigor. All trenches shall be backfilled by depositing wherein the earth in layers of not more than six inches in depth, each thoroughly renamed, and,

if required by the Superintendent of Public Works or the Borough Engineer, flushed with water, or both. Surplus earth shall not be piled over filled openings so as to interfere with traffic. All old paving material shall be carefully conserved and placed over the trench in as good condition and as near the street grade as practicable, and all surplus material and rubbish of any kind shall be promptly removed by the person to whom said permit is issued. Where an excavation is made in a tunnel beneath a concrete pavement having a concrete base, the tunnel shall be backfilled with concrete composed of one part of portland cement and nine parts of hard steam boiler cinders or other approved material, stamped in place so that the cavity is completely filled; provided, however, that before any work of tunneling is commenced, the method of such tunneling shall be first approved by the Superintendent of Public Works or the Borough Engineer.

**§ 96-20 Method of making openings into paved roads.**

Whenever an opening is made in a paved road, the pavement or surface shall be cut with an approved pavement cutter no wider than one foot outside of either side of the pipe to be laid. Should ground conditions warrant a wider opening, such widening and the method for same shall be with the consent of and under the supervision of the Superintendent of Public Works of the Borough or the Borough Engineer.

**§ 96-21 Guarding and lighting required; permittee liable for damage.**

The excavation and all piles of excavated material or any material used in the work to be performed in the opening for which a permit is issued shall be carefully guarded and lighted, or caused to be carefully guarded and lighted, by the person to whom such permit has been issued, who shall be liable for all loss and damage caused by the prosecution of the work or failure to properly guard or maintain said opening.

**§ 96-22 Borough and its agents exempted from obtaining permit.**

Nothing contained in this article shall be construed as requiring the issuance of a permit for the performance of any opening or excavating by the Borough, or under a contract with the Borough for the construction of sewers, drains or street improvements.

**§ 96-23 Blanket bond authorized for public utilities.**

Any person, firm or corporation which is a public utility as defined in Section 48:2-13 of the Revised Statutes, which desires to obtain permits under this article, may make a bond, which may be the bond of public utility solely, in the penal sum of \$2,500 running to the Borough of Wanaque, and shall file such bond with the Borough Clerk. Such bond shall be conditioned upon compliance with the applicable provisions of this article with respect to each street opening which shall be made by such public utility in the Borough of Wanaque, and shall further provide that the obligation of such bond shall be a continuing obligation to the full amount thereof with respect to each such street opening. Whenever any public utility which shall have filed such a bond shall request the Borough Clerk in writing to issue to it a street opening permit, it shall be the duty of the said Borough Clerk to issue such permit.

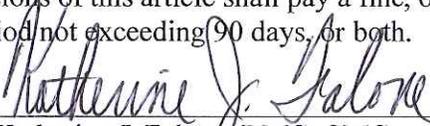
**§ 96-24 Right of appeal to Borough Council authorized.**

Any person aggrieved by any action of the Superintendent of Public Works or Borough Engineer or any other Borough official in the enforcement of any provisions of this article shall have a right of appeal to the Borough Council. Said appeal must be taken within 14 days after the action complained of has occurred. Appeals shall be made in writing to the Borough Council, and shall set forth the reasons for the appeal. The Borough Council shall thereupon set a date for a hearing to take place, within 30 days after receipt of the request for a hearing.

**§ 96-25 Violations and penalties.**

Any person who shall violate any of the provisions of this article shall pay a fine, on conviction thereof, not exceeding \$500 or be imprisoned for a period not exceeding 90 days, or both.

Dated: April 10, 2017

  
Katherine J. Falone, RMC, CMC  
Municipal Clerk

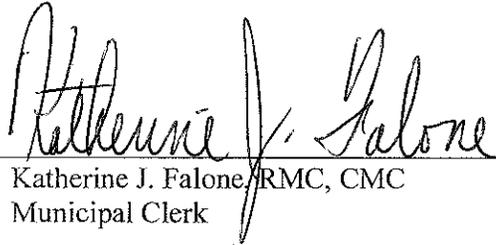
BOROUGH OF WANAQUE  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY

ORDINANCE #6-0-17

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was Introduced at a Regular Meeting of the Mayor and Council of the Borough of Wanaque, Passaic County, New Jersey, held on the 10th day of April 2017, and passed on first reading, and the same was then ordered to be published according to law; and that such Ordinance will be further considered for final passage at a meeting of said Mayor and Council to be held in the Municipal Building, 579 Ringwood Avenue, Wanaque, New Jersey, on May 8, 2017 at 8:00 P.M., at which time and place or at any time and place to which said meeting shall be from time to time adjourned, all persons interested will be given an opportunity to be heard concerning said Ordinance.

BY ORDER OF THE MAYOR AND COUNCIL OF THE BOROUGH OF WANAQUE.

Dated: April 10, 2017

  
Katherine J. Falone, RMC, CMC  
Municipal Clerk

BOROUGH OF WANAQUE  
COUNTY OF PASSAIC  
STATE OF NEW JERSEY

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BE IT RESOLVED that an Ordinance entitled:

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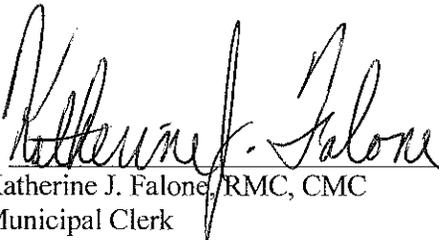
pass first reading, and that said Ordinance be further considered for final passage and adoption at a Regular meeting of the Borough Council to be held on the 8th day of May 2017, at the Municipal Building in the Borough of Wanaque, at 8:00 P.M., and that at such time and place all persons interested be given an opportunity to be heard concerning said Ordinance.

AND BE IT FURTHER RESOLVED that the Borough Clerk be instructed to publish in the manner provided by law a copy of said Ordinance, together with introduction thereof and notice when same will be considered for final passage and adoption.

Passed: 4/10/17

Filed: 4/10/17

Approved: 4/10/17

  
Katherine J. Falone, RMC, CMC  
Municipal Clerk

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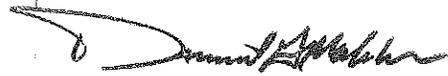
pass final reading and that said Ordinance be adopted as an Ordinance of the Borough of  
Wanaque; and

BE IT FURTHER RESOLVED that the Borough Clerk be and she is hereby directed to  
cause said Ordinance to be published in the manner prescribed by law.

Passed: 5/8/17

Final: 5/8/17

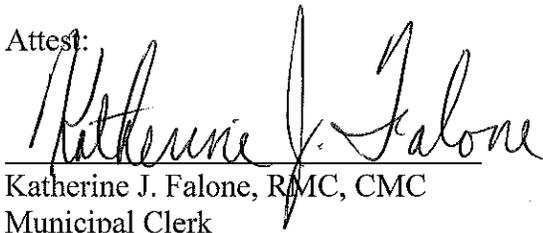
Approved: 5/8/17



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Daniel Mahler  
Mayor

Attest:



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Katherine J. Falone, RMC, CMC  
Municipal Clerk