

ORDINANCE NO. 2026-12
TOWNSHIP OF GREEN, COUNTY OF SUSSEX, STATE OF NEW JERSEY

**AMENDING CHAPTER 17, ENTITLED “STREETS, SIDEWALKS, AND
DRIVEWAYS” SECTION 17.1, EXCAVATIONS; ROAD/RIGHT-OF-WAY
OPENING PERMITS, OF THE CODE OF THE TOWNSHIP OF GREEN, TO
ESTABLISH PAVEMENT RESTORATION REQUIREMENTS AND
PROHIBITION PERIOD FOR EXCAVATION OF NEWLY
CONSTRUCTED OR RESURFACED STREETS**

WHEREAS, the Township of Green (“Township”) has adopted Chapter 17, Section 1 of the Code of the Township of Green, “Excavations; Road/Right-of-Way Opening Permits”, governing permits for excavations and openings in Township roads and streets; and

WHEREAS, Section 17.4 of the Code, as currently written, permits a permittee to restore only the trench or excavation itself, without regard to the width of the traffic lane disturbed by the opening; and

WHEREAS, the Township Committee has determined that where a road opening permit or waiver is granted and then only that section is-replaced, the trench width alone is insufficient to ensure a safe, uniform, and durable riding surface, and instead, restoration of the full traffic lane disturbed, from the centerline of the roadway to the curbline or edge of pavement, is necessary and in the public interest; and

WHEREAS, the Township Committee has further determined that newly constructed or resurfaced streets represent a substantial public investment, and that excavation of such streets within a short period following construction or resurfacing undermines that investment and shortens the useful life of the pavement; and

WHEREAS, the Township Committee finds it in the interest of the public health, safety and welfare of the Township to amend Chapter 17, Section 17.1.4 of the Township Code to require half and full-lane re-paving and a moratorium period for newly paved and resurfaced streets.

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Green in the County of Sussex, as follows:

SECTION 1.

Section 17-1.4, Conditions of Permit, is hereby amended to add new Subsections r and s, to read as follows:

r. Temporary Repairs.

Immediately after backfilling the excavation, the permittee shall repair any pavement disturbed with a temporary surface consisting of not less than six (6) inches or compacted aggregate base course [soil aggregate (I-5) or dense graded aggregate] and six (6) inches of compacted bituminous stabilized base 19M64. This temporary surface shall be set at the final grade of the permanent repair. Temporary pavement shall be regularly monitored by the contractor and maintained at this grade until the permanent repairs are made. The temporary pavement shall remain for at least 30 days to allow for settlement, and

permanent repairs shall begin no later than six (6) months after installation of the temporary surface.

s. **Permanent Repairs.**

1. Where a road opening permit or waiver is within a Township road or street, the permittee shall not be permitted to restore only the trench or excavation itself. The following shall be paved:
 - a) Any single excavation that is less than 50 square feet in area shall be repaired by milling up to two-inch-thick of the existing pavement for 25 feet past the trench on each end from curb/edge of pavement to centerline.
 - b) Any application that is equal to or greater than 50 square feet, whether continuous or separate, shall be required to make permanent restoration, consisting of milling up to two-inch-thick of the existing pavement for 25 feet past the trench on each end from curb/edge of pavement to centerline. For any single excavation that crosses the centerline, same shall apply from curb/edge of pavement to curb/edge of pavement rather than curb/edge of pavement to centerline.
2. The permittee shall be responsible, at its sole cost and expense, to restore either half or the entire traffic lane in which the disturbance occurs, as set forth above, measured from the centerline of the roadway to the curbline, or, where no curb exists, to the edge of pavement, for the full length of the excavation, plus such additional pavement area as the Township Engineer determines necessary to achieve a smooth, uniform riding surface and proper drainage.
3. All restoration performed under this subsection shall conform to the Township's then-current specifications for pavement restoration, including but not limited to, milling and paving depth, joint sealing, and compaction requirements, as may be established or amended from time to time by the Township Engineer.
4. This subsection shall apply in addition to, and not in lieu of, any other restoration or repaving requirement imposed elsewhere in this article, including §17-1.15, Prohibition period.

SECTION 2.

A new Section 17-1.15 is hereby added to Chapter 17, of the Code of the Township of Green, to read as follows:

§ 17-1.15 Prohibition Period.

- a. Newly constructed or resurfaced streets, moratorium established. Any Township road or street that has been newly constructed or resurfaced, including without limitation by full-depth reconstruction, overlay or mill-and-pave resurfacing, shall be designated a "prohibition street" for purposes of this section. A moratorium of five (5) years from the date of completion of the construction or resurfacing is hereby established, during which no permit or waiver to excavate a prohibition street shall be granted, except upon the approval of a waiver as provided in subsection b, e and/or f below. Utilities and other

persons or entities subject to this article shall plan sufficiently in advance of any known construction or resurfacing project to install, replace, or repair facilities, or to identify trenchless or other alternative methods of making necessary repairs, so as to avoid the need to excavate a newly resurfaced street.

- b. Exceptions. The following are exceptions to the prohibition in Subsection a:
 - 1. Emergencies that endanger life or property;
 - 2. Interruption of essential utility service; and/or
 - 3. Work mandated by local, state, or federal law.
- c. List of prohibition streets. The Township Engineer, or his or her designee, shall maintain a current list of all prohibition streets, indicating the location and limits of each such street, the date of completion of construction or resurfacing, and the date on which the prohibition expires. The list shall be kept current and shall be made available to the public upon request.
- d. Restoration where exception applies. Where an exception under subsection b is granted, the permittee shall, at its sole cost and expense, repave the entire portion of the street disturbed by the opening, extending from the edge of pavement to the edge of pavement on the opposite side of the street (i.e., the full width of the roadway), unless the Township Engineer directs a different scope of restoration in writing. This requirement shall be read together with, and is in addition to, the utility waiver restoration requirements of §17-1.4.
- e. Engineer approval required. Prior to an excavation of a prohibition street under an exception listed in subsection b, the applicant shall obtain the approval of the Township Engineer or his or her designee. A written request for such approval shall be limited to the Township Engineer or his or her designee as far in advance of the proposed work as practicable, except that where a true emergency exists and the time is of the essence, the written request may be submitted within 24 hours after the emergency work commences. In evaluating a request under this subsection, the Township Engineer or his or her designee shall consider, at a minimum:
 - 1. The location of the proposed excavation;
 - 2. A description of the work to be performed;
 - 3. The reason(s) the work was not performed before the street was constructed or resurfaced;
 - 4. The reason(s) the work cannot be deferred until after expiration of the prohibition period;
 - 5. The reason(s) the work cannot be performed at another location;
 - 6. The reason(s) the circumstances are justified as an emergency, interruption of essential service, or legally mandated work, as applicable; and
 - 7. Whether the applicant has evaluated all feasible trenchless or other alternative methods of making the necessary repair so as to avoid excavating the prohibition street, and, if not feasible, the reasons why.

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- f. Township Committee wavier for other circumstances. Any person seeking a waiver to excavate a prohibition street for a reason other than those listed as exceptions in subsection b shall require the approval of the Township Committee. The Township Committee shall grant such a waiver only upon a determination that the waiver is in the best interest of the Township and is necessary to address unforeseen circumstances not otherwise anticipated in this section.

SECTION 3. Repealer.

All ordinances or parts of ordinances contrary to or inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such conflict or inconsistency.

SECTION 4. Severability.

Each section, subsection, paragraph, sentence, clause and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause and phrase. If any portion of this Ordinance, or its application to any person or circumstances, shall be adjudged or otherwise determined to be invalid, unconstitutional, preempted, void, or ineffective for any clause or reason, such determination shall not affect the remaining provisions of this Ordinance, and the application of such remaining provisions shall not be affected thereby and shall remain in full force and effect, and to this end, the provisions of this Ordinance are severable.

SECTION 5. Effective Date.

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

ATTEST:

TOWNSHIP OF GREEN,
IN THE COUNTY OF SUSSEX

Mark Zschack, RMC
Township Clerk

Virginia Raffay
Mayor

Record of Vote - Introduction:

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
DeYoung			√			
Phillips		√	√			
Qarmout			√			
Rose	√		√			
Mayor Raffay			√			

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Record of Vote - Adoption:

	MOTION	SECOND	AYE	NAY	ABSTAIN	ABSENT
DeYoung						
Phillips						
Qarmout						
Rose						
Mayor Raffay						

INTRODUCED: October 5, 2026

ADVERTISED: October 6, 2026

ADOPTED:

ADVERTISED: