



Kearny Town Council

402 Kearny Avenue
Kearny, NJ 07032

www.kearnynj.org

FIRST READING -	
PUBLISH -	
SECOND READING -	
PUBLISH -	
PLAN BD REVIEW -	

ORDINANCE 2018-24

Ordinance Amending Town Code Section 23-20.10 to Add Additional Restoration Requirements Related to Protected Streets that are Opened/Excavated within Four Years of Repaving

WHEREAS, newly paved streets are vital resources to the Town and its residents; and

WHEREAS, although the current Town Code provides protection from opening or excavation of such protected streets for ten years, it has been determined that a special category of protected streets should be created whereby if a utility excavates within a protected street during the first four years of protection, the utility would be required to repave the equivalent of twice the amount of the area that would otherwise be required for the protected street; and

WHEREAS, in imposing this requirement the Town has determined that merely repaving the protected street does not fully compensate for the damage to the protected street and that additional repaving is needed to compensate for the loss of that resource; now, therefore, be it

ORDAINED by the Mayor and Council of the Town of Kearny, Hudson County, New Jersey that:

- A. Subparagraph “d” of Section 23-20.10 be and hereby is amended to add a new paragraph 7, with the full text of subparagraph “d” entitled “Restoration” to read as follows: (changes are in **bold** type).
 1. No backfill of any opening or excavation on a protected street shall be performed unless the permittee notifies the Department of Public Works at least two (2) hours prior to the scheduled start time for the backfill. In no case shall the permittee commence the backfill prior to the scheduled start time. For the base and wearing course, the permittee shall fax its daily paving schedule to the Department of Public Works prior to commencing work. In addition, during the backfill and compaction phase of the work, permittees must provide, on site, a certified compaction tester from an approved laboratory or a licensed certified tester to test that the compaction of the backfills is in accordance with the Department of Public Work's rules and specifications.
 2. The Department of Public Works may inspect any phase of the work, including but not limited to, initial excavation, backfill and compaction, performance of required cut backs, and final restoration.
 3. A certification issued by a New Jersey licensed professional engineer shall be provided to the Town Engineer within thirty (30) days of completion of work on protected streets.

The certification shall state that the type of work performed was as described in the permit application, and that all phases of the restoration were performed in accordance with the Town rules and specifications.

4. Permittees shall be responsible for the proper repair of the street opening or excavation for a period of three (3) years from the date of completion or for the duration of the protected street guarantee period, whichever is longer.
 5. Where street openings cannot be confined to within four (4) feet of the curbline, including the required cut back, and/or within the sidewalk area, full curb to curb roadway restoration shall be required where protected street status has been in effect for twenty-four (24) months or less, unless otherwise directed by the Mayor and Council.
 6. In the event a permanent restoration pavement installed in violation of the provisions of paragraph 1. of this paragraph d. settles more than two (2) inches below the surrounding existing surface during the life of such permanent restoration, this shall be deemed a failure of the backfill compaction, in which case, the permittee shall remove all of the failed backfill, down to the subsurface facility, and install new, properly compacted backfill and the final finish should be infrared for a smooth trench.
 7. **In those circumstances where an opening or excavation is performed on a street where protected streets status has been in effect for a period of four (4) years or less, then the permittee shall be required to perform full curb to curb roadway restoration on the protected street, plus curb to curb repaving of another street in the area, as designated by the Town Engineer. The length of the repaving of the additional street shall be substantially equivalent (as determined by the Town Engineer) to the length of the restoration of the protected street that was opened/excavated within this four (4) year period.**
- B. All other provisions in Section 23-20.10 entitled “Excavations and Street Openings in Protected Streets” shall remain unchanged.

HISTORY:

04/24/18

Next: 05/09/18

Council

INTRODUCED

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Susan McCurrie, Council Member
SECONDER:	Albino Cardoso, Council Member
AYES:	Doyle, Landy, McCurrie, Eckel, Cardoso, DeCastro, Santana, Santos
ABSENT:	Richard Konopka

I certify that the foregoing ordinance was introduced by the Council on first reading on April 24, 2018, duly published according to law, and passed on second reading and final passage on May 9, 2018.

PATRICIA CARPENTER, TOWN CLERK

I hereby approve the foregoing ordinance this ____ day of _____, ____.

ALBERTO SANTOS, MAYOR

James Bruno