**ORDINANCE 2024-08**

**AN ORDINANCE AMENDING CHAPTER 12 ARTICLE 1 OF THE GENERAL CODE OF THE TOWN OF HACKETTSTOWN WITH RESPECT TO STREET OPENINGS**, **PENETRATION, EXCAVATION OR DISTURBANCE**

**WHEREAS,** the Town of Hackettstown is desirous to update and better delineate the permit application requirements and other standards applicable to street openings, penetration and excavation; and

**WHEREAS**, in furtherance of the foregoing, the Mayor and Common Council hereby amend Chapter 12, Article 1 of the General Code of the Town of Hackettstown.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Common Council of the Town of Hackettstown that Chapter 12, Article 1, of the Code of the Town of Hackettstown is hereby deleted in its entirety and replaced with the following:

**12-1. Permit Required.**

No person shall, for any purpose whatsoever:

(a) Make or cause to be made any street opening or any penetration, excavation or disturbance of the surface of any portion of any street or within the Town or unaccepted dedicated street; or

(b) Construct, alter or remove any curb, sidewalk, retaining wall, driveway, or drainage facility in or under any street within the Town or unaccepted dedicated street unless he first obtains a permit from the Director of the Department of Public Works ***and/or Town Engineer***.

**12-2. Application for Permit and Fee.**

(a) Application for permit shall be made in triplicate on the application form provided by the Town for that purpose, and shall be filed with the Director of the Department of Public Works.

(b) Each copy of the application shall be signed by the Director of the Department of Public Works or Engineer upon approval of a permit. One (1) copy shall be retained in his file, one (1) copy shall be furnished to the applicant, and the third copy to the Town Engineer.

(c) Within five (5) working days after the receipt of the application, the Director of the Department of Public Works, Supervisor Street or Town Engineer or his designee shall inspect the premises, review the nature of the work to be done, and either approve or disapprove the application with reason. Work under the permit shall commence within seven (7) days of the issuance of the permit, except work under a permit issued to a public utility which shall commence within sixty (60) days of the issuance of the permit. If work is not commenced within that time, the permit shall automatically terminate unless extended in writing by the Director of the Department of Public Works and/or the Town Engineer. The applicant shall notify the Town at least forty-eight (48) hours prior to commencement.

(d) Application for a permit shall contain the following information:

(1) The application shall include the name of the individual, firm, partnership, corporation or utility company for whom the work is being performed. The application shall be signed by a duly authorized officer or agent of the company for whom the work is being performed***.***

(2) The name of the street where the opening is to be made and the street number, if any, of the abutting property.

(3) The Town of Hackettstown tax map block and lot number or street address of the property for the benefit of which the opening is to be made.

(4) The nature of the surface in which the opening is to be made.

(5) Character and purpose of the work proposed including the area and depth of the opening.

(6) Estimate of quantities and cost of the work and estimate of days to complete in half-day increments.

(7) Plan or sketch showing the location of the proposed work in relation to existing streets; existing facilities such as pavement, curbing, sidewalk, driveways, drainage facilities and utilities in the work area; and details of the proposed work including limits and depth of excavation, proposed facilities, and trench restoration details.

(8) Application fee and escrow deposit.

(9) Performance guaranty.

(10) Certificate of insurance.

(e) This article shall not apply to any municipal department. All sections of this Article except for Section 12-3 shall apply to the Hackettstown Municipal Utilities Authority. The Hackettstown Municipal Utilities Authority shall not be required to pay the deposit, bond or fees set forth in Section 12-3.

(f) Where the excavation is to be made in a heavily traveled street or where for any other reason it is deemed necessary by the Town to station a police officer near the excavation to direct traffic. The applicant shall also be charged amounts sufficient to compensate the police officer at the excavation, including overtime cost, if any.

**12-3. Deposit Required: Bond and Fees Required.**

(a) The following minimum deposits will be required for work performed under this Chapter. Said deposits shall be held by the Town for the period of one (1) year, unless otherwise provided by this Chapter:

Type of Opening Deposit or Bond Amount

Pavement 100.00/sq. yd.

Road Shoulder 20.00/sq. yd.

Lawn Areas 15.00/sq. yd.

Curbing 60.00/linear foot.

Sidewalk 75.00/sq. yd.

(b) The applicant may, in lieu of a cash deposit, submit a surety bond, which, upon approval by the Town Attorney in consultation with the Town Engineer as to sufficiency and form, shall have the same force and effect as a cash bond. Said bond shall, by its terms, provide for payment of any damages by or from the acts of the applicant or its agents, servants or subcontractors and shall save the Town of Hackettstown harmless from any suits at law or otherwise which may result from damages sustained by any persons or property as a result directly or indirectly of the work performed under the permit.

(c) Deposits and bonds shall be held by the Town for a period of one (1) year with the exception of deposits by single-family homeowners. At the discretion of the Town Engineer, deposits may be returned to single family homeowners upon completion of the project. However, said homeowners shall continue to be responsible for any repair and maintenance to said project for a period of one (1) year.

(d) There shall be a non-refundable review and inspection fee of three (3) percent of the deposit or bond amount established under paragraph A above. There shall be non-refundable review and inspection fee for projects limited to sidewalk and driveway apron replacement being performed at owner-occupied one or two family homes. An application is required and there shall be no exception from the fee if the project includes any street opening, pavement, road shoulder or curbing work.

(e) Public utility corporations of the State of New Jersey may file a corporate bond in the amount of ten thousand ($10,000.00) dollars on a yearly basis in lieu of the cash deposit or surety bond. Inspection fees for utility companies shall be calculated on the basis of the full cash deposit required under Paragraph (a) above.

(f) The cost of all inspections made by the Director, Supervisor Streets, Town Engineer or his designated inspector shall be disbursed out of the deposit and the balance returned if any funds remain after the work is completed and approved.

(g) In the event the permittee fails to complete the improvement and properly replace the broken curb, sidewalk or pavement within ten (10) days of written notice, weather permitting the Town shall complete the work and deduct the cost of the work from the deposit. If said deposit is insufficient to cover the cost thereof, the applicant shall be held liable therefor.

**12-4. Safety Requirements.**

In the event the 3% inspection fee does not cover the cost of the Town's inspections, the permittee agrees to pay the additional costs of inspections. No additional permits will be issued to the permittee until all outstanding inspection fees or costs under paragraph (d) are paid.

(a) The permittee shall have the permit in possession at work site.

(b)The applicant shall properly guard the excavation by the erection of suitable barricades and also by displaying warning lights at night where needed and approved by the Town. The applicant shall in all cases provide reasonable safeguards by day and night to protect the traveling public. The applicant shall at all times maintain proper and sufficient drainage to prevent the accumulation of water upon the road to ensure and adequate and safe passage for the traveling public and, in this respect shall carry out, at its own expense, any orders of the Director, Supervisor Streets, Town Engineer or Police during the course of the work.

(c) The work shall be done in an efficient and workmanlike manner and in accordance with the plans and specifications, using proper tools, machinery, materials and manpower to effect a quality and expeditious job. Failure to perform in a manner satisfactory to the Town according to the standards set forth herein may result in revocation of the permit.

(d) Accident prevention. The permittee/contractor shall take all necessary precautions to ensure safety at all times with all construction-related activities. The U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) Regulations, 29 CFR, shall be complied with at all times. The permittee's/contractor's attention is particularly directed to the requirements of the current Construction Safety Code promulgated by the New Jersey Department of Labor and Industry, Bureau of Engineering and Safety. Article 3.6 of the Construction Safety Code states the requirements regarding reporting of accidents involving injury, loss of life and property damage. Failure to comply with applicable safety standards will result in appropriate action by the Town to ensure that safety is maintained on the project.

(e) Maintenance and protection of traffic. The permittee/contractor shall be responsible for maintenance and protection of traffic during construction along or adjacent to the roadway. The current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD), U.S. Department of Transportation (USDOT), and all amendments thereto, shall govern the maintenance and protection of traffic during construction. The Town may specify that the permittee/contractor prepare a traffic control plan to ensure the safe and expeditious movement of traffic through work zones. Applicants shall contact the Town Police Department for traffic control input and/or assistance at least 72 hours prior to the commencement of work.

(f) Commencement of work. Prior to the commencement of work, the permittee/contractor shall call the New Jersey One Call damage prevention system (1-800-272-1000) for the mark out of all underground utilities. At least 24 hours before the permittee/contractor plans to commence work under a street opening permit, the permittee/contractor shall advise the Director of the Department of Public Works and/or the Town Engineer that the work is to start. The permittee/contractor shall also contact the Town's Department of Public Works for the mark out of any Town-owned facilities.

(g) Supervision. The permittee/contractor shall have a qualified supervisor at the site of the opening work during all working hours.

(h) Inspection. The Town Engineer or DPW Supervisor shall be responsible for inspection of the work. All materials, including excavated materials, are subject to inspection and approval by the Town. Where the planned opening will be made through, adjacent to or near another existing public utility facility, the permittee/contractor shall notify said utility company, whose representative shall be given access to the construction to observe and inspect that portion of the work involving said utility facility.

(i) Protection of private property. Prior to starting work on the opening, it shall be the responsibility of the permittee/contractor to advise each nearby or adjacent property owner whose property will be temporarily inconvenienced or disturbed by the project when the work will be commenced and what effect the work will have on the owner's use of his property. The permittee/contractor will be solely responsible for any damage, inconvenience or disruption to nearby or adjacent properties, and will hold the Town harmless from any claims arising from the conduct of work. It will be the permittee's/contractor's obligation and responsibility to arrange for any rights of entry or easements needed. The permittee/contractor shall not store tools, machinery, materials, dirt or debris on private property. The permittee/contractor shall not use water, electricity, telephone or other private facilities without first obtaining permission from the property owner.

(j) Street closings. The permittee/contractor shall not close or obstruct any streets, sidewalks, alleys or passageways unless specifically authorized by the Town. Prior to the actual closing, the permittee/contractor shall also notify the Town Engineer and Fire Chief of the anticipated dates and duration of the closing. No material whatsoever shall be placed or stored in streets, alleys or passageways. The permittee/contractor shall conduct its operations so as to interfere as little as possible with the use ordinarily made of any roads, streets, driveways, alleys, sidewalk facilities, etc., near enough to the work to be affected thereby.

(k) Cleanliness. If dust, dirt, air pollution, poor housekeeping or detrimental material are allowed to exist, occur or continue as a result of the work to the point where the public is unduly inconvenienced or disturbed, in the opinion of the Town, the Town may stop the work until the condition is corrected. Streets are to be kept broom-cleaned on a daily basis. If dust persists, streets may be required to be hosed clean. The Town may direct the permittee/contractor to spread dust-inhibiting chemicals.

**12-5. Manner of Operation and Construction Standards.**

(a) Aboveground utilities. All aboveground utility installations should be in accordance with the standards established by the New Jersey Department of Transportation for utility accommodation in Chapter 25 of the New Jersey Administrative Code. Utility companies shall contact the Town prior to poles being relocated or new poles installed to make sure that installations will not conflict with future road improvements.

(b) Removal of Existing Features. The existing pavement, blacktop or concrete shall be cut in a straight line or lines, prior to any subsurface excavation, which shall be confined to the area between the cuts. If pavement, curbing, sidewalk, or other surface construction becomes damaged, ragged or zig-zagged when it comes time to repave or replace the facility, the edges shall be cut or recut in a straight line or lines to the satisfaction of the Town, in general parallel with the lines of the excavated trenches and in a width sufficient to accommodate the entire excavation and to create a smooth finished appearance when the construction is completed.

(c) Curbs, Sidewalks, Driveways, etc. Where the opening involves cutting through existing curbs, sidewalks, driveways and any other surface structures, the permittee/contractor shall rebuild or replace such surface structures as closely as possible duplicating the original as to dimensions, grade, appearance and materials. Curbs, sidewalks, concrete aprons and other miscellaneous concrete structures shall be reconstructed with NJDOT Class "B" air-entrained concrete.

(d) Existing pipes, utilities, subsurface structures. Any existing subsurface pipes, utility lines, drains, foundations, abutments, inlets or other structures that may be disturbed, damaged, or removed during the necessary opening work are to be replaced, reconstructed or repaired under the direction of the Town and the appropriate officials of the utility company whose facility may be involved. Such replacement, reconstruction or repair shall be made using materials, methods and standards of workmanship as specified by the Town, or, in the case of a public utility facility, to the standards imposed by said utility. Caution and care shall be exercised by the permittee/contractor not to disturb such existing structures or facilities exposed by the opening and found to be in or adjacent to the opening.

(e) Tunneling. In cases where it becomes necessary to resort to tunneling operations to accomplish the opening work in a most practical way, then the backfill in such tunnel shall be rammed soil composed of a mixture by volume of one part cement to six parts of aggregate material such as sand or three-quarter-inch quarry blend stone. Tunneling shall be permitted only with the approval of the Town and when the need for tunneling is indicated on the application for permit. Jacking or drilling is not considered to be tunneling.

(f) Jacking and drilling. Jacking and drilling will be permitted when the need is indicated and when the applicant's engineer certifies that in his opinion other existing structures or utilities will not be disturbed or damaged thereby.

(g) Blasting. No blasting shall be allowed unless the Town is notified in advance. Blasting and the use of explosives shall be permitted, provided that all aspects of blasting and the use and storage of explosives shall, at all times, be in accordance with the provisions of the Explosives Act (N.J.S.A. 21:1A-128 et seq.).

(h) Surplus materials. The permittee/contractor shall remove all surplus or unusable fill, debris and other materials from the job site at his own expense. The area shall be cleaned up and restored at the end of the work, to the satisfaction of the Town. Machinery, vehicles and tools of the permittee/contractor shall be promptly removed from the job site when the work has been completed.

(i) Excavation.

(1) The trench shall be excavated along the lines designated on the approved plans and to a depth sufficient to provide cover over the mains of not less than four feet, except where greater or lesser depths of cover are shown on the detailed plans or are necessary due to the existence of utilities or to connect to existing lines. The trench shall be not less than one foot and no more than two feet wider at the bottom than the outside diameter of the pipe. Where the trench is excavated at any place below the proper grade, excepting at joints, it shall be refilled to grade with sand or loam and thoroughly compacted.

(2) No more than 100 feet of trench will be opened in advance of the utility installation, unless permitted by the Town Engineer. All open trenches shall be backfilled by the end of the workday.

(3) The material excavated shall be laid compactly on the side of the trench and kept trimmed up so that it will be of as little inconvenience as possible to the traveling public and to adjoining tenants. Where the streets are paved, the paving material shall be kept separate from the other materials excavated. All streets shall be kept open for travel unless otherwise approved by the Town.

(j) Sheeting and bracing.

(1) The permittee/contractor is solely responsible for the safety of the job site. The permittee/contractor shall furnish, put in place and maintain such sheeting and bracing, etc., as may be required to support the sides of the excavation and to prevent any movement of earth which could in any way diminish the width of the excavation below that necessary for proper construction.

(2) All trenching operations will comply with Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1926.1 et seq. Safety requirements and precautions for excavations will be implemented prior to that work being commenced.

(k) Temporary trench plating.

(1) All temporary trench plating shall be designed to carry all legal highway loads. The plating shall be properly supported and anchored to prevent all movement. All plating intended to be left in place overnight shall be recessed into the adjoining pavement so that the top surface of the plating is flush with the pavement.

(2) Construction signs will be installed on both approaches warning the motorists of the temporary plating and that it is slippery when wet.

(l) Backfilling.

(1) Backfilling for utility improvements in pavement areas and shoulders or within five feet of the edge of any proposed pavement will be with dense graded aggregate base placed in six-inch lifts. Each layer shall be compacted with flat-face mechanical tampers to 95% minimum dry density. If the pipe area is not to be paved, the dense graded aggregate will be filled to the finished pavement grade.

(2) The only methods of compacting the backfill material permitted shall be mechanical compaction in lifts as specified. Consolidation will not be acceptable as a method to achieve the soil densities specified.

(3) The Town may require or perform soil density checks at randomly chosen lifts. Density testing will be performed at the completion of the compaction effort. Compaction requirements will be strictly enforced. The cost for compaction testing shall be the responsibility of the permittee.

(m) Trench restoration.

(1) Bituminous concrete and bituminous surface treated pavements. In bituminous concrete and bituminous surface treated pavements, the trench area will be restored with an HMA19M64 four-inch bituminous concrete base course and a two-inch HMA 9.5M64 bituminous concrete surface course. In areas where the pavement is thicker than six inches, additional bituminous base shall be placed to the depth of the existing pavement. The bituminous concrete repair shall extend at least six inches outside the limits of the trench.

(2) Portland cement concrete pavements.

(i) In portland cement concrete pavements and in roads with portland cement concrete bases, the pavement shall be replaced with the same materials and in the same thickness. When the trench opening is within five feet of a transverse joint, the remaining section of the slab shall be removed and replaced.

(ii) Care shall be taken to protect expansion joint dowels. Dowels shall be straightened after concrete removal, if disturbed. The existing expansion joint material shall be replaced prior to placing new concrete.

(iii) Existing subgrade is to be brought back to proper grade and properly compacted. Any soft areas are to be removed and replaced with proper material.

(iv) If the slab removal ends prior to a joint, number five bars, 18 inches long, are to be drilled and grouted in the center of the slab. Bar spacing will be six inches from the slab edge and 12 inches between bars. The new slab reinforcing steel shall be number four bars, 12 inches on center longitudinally and number four bars, 24 inches on center transversely (minimum of two), set approximately three inches below the top of the finished slab.

(3) Repaving required. Milling and repaving shall be required when the opening in the pavement (continuous or separate) from mains and associated lateral connections spans a distance measured along the center line of the lesser of 200 feet or a distance of 60% of roadway center line as determined by the Town Engineer or DPW Supervisor. The width of the paving shall be half the width of the road if the work did not cross the center line and the full width of the road if the work crossed the center line or the road width is 15 feet or less. The permittee/contractor shall provide adequate traffic control measures until the pavement has cooled.

(4) Restoration of private roadways and driveways. Repairs and restoration within a Town easement on private property shall be performed in accordance with the requirements of this chapter and is subject to review and approval by the Town Engineer.

(n) Unimproved shoulder areas.

(1) Trenches outside the pavement which are required to be backfilled with dense graded aggregate base material shall be brought up to the finished shoulder grade and uniformly compacted.

(2) Trenches not requiring dense graded aggregate may be backfilled with suitable material and properly compacted. The final four inches to six inches of the trench shall be backfilled with topsoil, compacted, seeded, fertilized and mulched.

(o) Temporary surfacing. Pending the actual repaving or reconstruction operations stated above, the permittee/contractor shall provide a temporary pavement or surface over the compacted refilled opening, of such material as shall be directed by the Town. The permittee shall maintain, refill and temporarily repave said surface from time to time as may be required by the Town until a permanent pavement has been constructed to provide a properly graded traveling surface.

(p) All improvements shall be constructed in accordance with the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, as currently amended.

**12-6 Insurance.**

(a) The permittee/contractor who will actually be performing the work shall continuously maintain insurance and other security for adequate protection of all his work from damage and shall protect the Town's property from damage, injury or loss arising in connection with the contract. The permittee/contractor shall completely indemnify the Town in regard to any such damage, injury or loss. The permittee/contractor shall take all necessary precautions for the safety of personnel on the work site and shall comply with all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. The permittee/contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the public. If it becomes necessary for the permittee/contractor, either as principal or by agent or employee, to enter upon the premises or property of the Town in order to construct, erect, inspect, make delivery, or remove property hereunder, the permittee/contractor hereby covenants and agrees to take, use, provide and make all proper, necessary and sufficient precautions, safeguards, and protection against the occurrence of happenings of any accidents, injuries, damages or hurt to any person or property during the progress of the work herein covered, and to be responsible for and to indemnify and hold harmless the Town from the payment of all sums of money by reason of all, or any, such accidents, injuries, damages, or hurt that may happen or occur upon or about such work.

(b) The permittee/contractor who will actually be performing the work shall procure and maintain:

(1) Workers' compensation and employer's liability insurance in conformance with all statutory requirements prescribed by law, which shall be maintained in force during the life of this permit by the permittee/contractor, covering all employees engaged in performance of this permit in accordance with the applicable statute.

(2) General liability insurance with limits of not less than $1,000,000 for any one person and $1,000,000 for any one accident for bodily injury and $300,000 aggregate for property damage shall be maintained in force during the life of the permit by the permittee/contractor. The permittee/contractor shall procure and maintain an umbrella or excess policy with limits of not less than $5,000,000 for any one person or any one accident for bodily injury unless a lesser limit is approved by the Town. In the event more than one insured is named in the policy, a cross-liability endorsement shall be included which provides that the employees of each of the named insured are not excluded under the policy in respect to claims that are made against other named insured.

(3). Automobile liability insurance covering the permittee/contractor for claims arising from owned, hired and non-owned vehicles with limits of not less than $1,000,000 for any one person and $1,000,000 for any one accident for bodily injury and $500,000 each accident for property damage shall be maintained in force during the life of this permit by the permittee/contractor.

(c) Lesser insurance coverages may be allowed for projects with moderate or medium liability exposure in accordance with the Town's insurance coverage guidelines. Major or high hazard projects undertaken may require higher limits and specific coverages as recommended by the Town's insurance agent.

(d) A thirty-day notice of cancellation provision shall be provided.

(e) Certificates of the required insurance as listed above shall be submitted with the Town of Hackettstown and the Town Engineer listed as additional insureds.

(f) Public utilities and municipalities may submit insurance certificates on an annual basis.

**12-7. Certain Acts Unlawful.**

No person shall:

(a) Cause damage to any street by locking the wheels of any vehicle, attaching a drag or other mechanism to any vehicle;

(b) Use or operate any type of vehicle equipment utilizing any type of traction tread or

wheel lugs likely to cause damage to the street;

(c) Obstruct the drainage along any street with dirt, fill, earth, rock, leaves or any other

material, equipment or article, or by installing a pipe of inadequate size under a walkway, driveway, or along the street;

(d) Obstruct, interfere with, or divert the flow of water in or from any existing drainage facility carrying storm water or ground water under any street, or across private property;

(e) Do or cause to be done any act including the construction of buildings, private roads, grading, landscaping, or otherwise, which causes or results in restricting or exceeding the capacity of any drainage facility, or in the accumulation of dirt, silt, earth, rock or other materials upon any street or drainage facility, irrespective of the manner or distance by which said water, dirt, silt, earth, rock or other material shall travel before reaching said street or drainage facility;

(f) Place or store building material, supplies or equipment, construction shanties or tool sheds, earth, dirt, stones or any other materials or articles upon any street except while such street is under construction or repair and in connection therewith, and except in connections with work being done by any public utility company or corporation defined in R. S. 48:2-13.

(g) Obstruction of private driveways except where permitted by the engineer or supervisor.

**12-8**. **Action by Town; Notice.**

Immediately upon discovery or notification of any violation***s*** of this Chapter, the Director, Supervisor Streets or Engineer shall issue a written order to the owner or tenant, requiring compliance therewith within ten (10) days. If such person refuses or neglects to comply with the order of the engineer within the stated time limit, the supervisor shall proceed to have the violation corrected by having the required work accomplished. Where the Town Engineer deems it necessary for the protection of the public, or for proper installation of the permittee's facilities, he may also order a cessation of work by the permittee/contractor pending such action by the governing body, provided that such cessation order may in no event exceed eight days in duration. Except under emergency conditions, all work will be conducted between the hours of 7:00 a.m. and 7:00 p.m. or dusk, whichever comes first.

**12-9**. **Certificate to Council; Costs as Lien.**

If the work is done by the Street Supervisor, he shall certify the cost of the work to the Council. The Council shall examine the certificate of cost and if it finds the certificate to be correct, shall cause the cost as shown thereon to be charges against the property benefited. The amount so charged shall forthwith become a lien upon such property and shall be added to and become and form part of the taxes next to be assessed and levied upon such property benefited, the same to bear interest at the same rate as other taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

**12-10**. **Violator Liable for Expenses of Town.**

Any person who violates any provision of this article with resultant damage to or obstruction of any street, private driveway, curb, sidewalk, gutter, storm drain or culvert, shall be liable for all expenses incurred by the town in repairing said damage or removing said obstructions in additions to the penalty prescribed below.

**12-11**. **Penalty.**

Any person who violates any provisions of this Article shall, upon conviction thereof, be punished by a fine not exceeding One Thousand Dollars ($1,000.00), or by imprisonment for a term not exceeding ninety (90) days, or both. Each day that a violation exists, occurs or continues shall constitute a separate offense for the purpose of imposing the penalties referred to above.

**12-12**. **Unaccepted Streets.**

Any openings to streets under construction shall be in conformance with an approved subdivision or stipulation with all the requirements of this chapter, except the bonding requirements.

**12-13**. **Excavations in Newly Paved Streets**

(a) Notice of pending paving; time restriction on excavations. When the Town shall improve or pave any street, the Superintendent of the Department of Public Works shall first give notice by delivering it personally or by posting notice on the premises and by regular mail to all persons owning property abutting on the street about to be paved or improved and to all public utilities and authorities operating in the Town, and all such persons, utilities and authorities shall make all connections, as well as any repairs thereto which would necessitate excavation of the street, within forty-five (45) days from the giving of such notice. The time shall be extended it permission is requested in writing and approved by the Superintendent of Public Works.

(b) Opening newly paved street: restrictions. No permit shall be issued by the Engineer or the Superintendent of the Department of Public Works to any person given notice under 12-1~~2~~3(a). hereof which would allow an excavation or opening in a paved or improved street surface less than five (5) years old unless the applicant can clearly demonstrate to the Mayor and Common Council that public health or safety requires that the proposed work be permitted or unless an emergency condition exists.

(c) Opening newly paved street: penalty charge. If by special permission of the Mayor and Council a permit is issued to open any paved or improved street surface less than five (5) years old, a penalty charge shall be made for the opening, except that the penalty shall be waived in the event the work is of an emergency nature. The penalty charge shall be equal to two percent (2%) of the cost of restoring the opening for each unelapsed month or fraction thereof for the five-year restriction period.

**BE IT FURTHER ORDAINED** that this Ordinance shall take effect upon passage and publication in accordance with law.

ORDINANCE 2024-08- NOTICE

Notice is hereby given that the aforesaid ordinance was introduced at a regular meeting of the Common Council of the Town of Hackettstown, New jersey, held on April 11, 2024, and that a regular meeting of the same to be held on May 10, 2024 at the Municipal Building, 215 Stiger Street, Hackettstown, New Jersey, at the hour 7:00 o’clock in the evening, the said Common Council will consider the final passage of said ordinance.