

**BOROUGH OF EMERSON
COUNTY OF BERGEN
NOTICE OF ADOPTION**

ORDINANCE 1525-16

Introduced: June 14, 2016

Adopted: June 28, 2016

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 248, ENTITLED “EXCAVATIONS IN STREETS” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF EMERSON

BE IT ORDAINED, by the Mayor and Council of the Borough of Emerson, County of Bergen and State of New Jersey, that Chapter 248, Streets and Sidewalks, of the Code of the Borough of Emerson, is hereby repealed and replaced as follows:

Chapter 248. Streets and Sidewalks

Article I. Street Openings

§248-1. Permit Required.

- A. It shall be unlawful for any person, persons, firm or corporation to tear up any of the road surfaces off, or make any excavation in, any of the public streets, avenues, highways or public places in the Borough, for the purpose of constructing surface or subsurface improvements or for the purpose of laying, examining, replacing or repairing of gas mains, water mains, sewers, sewer connections, telephone conduits, electrical outlets, or for any other purpose, except and until the consent, permission and approval thereto, in writing, of the Borough Administrator or the Borough Clerk, after consultation and review by the Superintendent, Foreman or his designee, of the Department of Public Works and/or the Borough Engineer, is first had and obtained.
- B. In case of an unforeseen circumstance or occurrence, the existence of which constitutes a clear and immediate danger to person and property, hereinafter referred to as “emergency”, any Utility (water, gas, electric, cable, telephone, sewer, etc.), resident, property owner or lessee shall not be required to provide the above information in advance of the work, but shall do so within twenty-four (24) hours thereafter, provided that:

1. A true emergency exists and the person(s) doing the excavation notifies the Borough Police Department; the Police Department shall log the emergency;
2. An application for a permit is filed with the Borough Clerk within twenty-four (24) hours of the Street opening or on the next business day, whichever is more practical;
3. Said Utility, resident, property owner or lessee makes the payment required by subsection 248-2; and
4. The excavation is performed in accordance with the provisions of this section.

§248-2. Application.

- A. All applications for permits referred to in this section shall be made in writing to the Borough Clerk, at least five (5) business days in advance of the proposed road opening, unless it is an emergency, and shall:
 1. Specify the name and address of the individual, firm, corporation or Utility for whose benefit the excavation is to be made.
 2. Specify the name and address of the excavation, construction and/or restoration contractor(s)
 3. Identify specific location of the proposed excavation and the width, length and depth thereof.
 4. Confirm Borough jurisdiction of the work area and provide a list of all federal, state, local governmental/quasi governmental agencies having jurisdiction thereover, and if such agencies require approval, whether such approval has been obtained and provide copies thereof.
 5. Identify the type of road surface.
 6. Identify the location of any and all utilities, storm drains, sanitary sewers or sewer mains within ten (10') feet of the limits of the proposed opening.
 7. Identify excavation start date and expected duration and method of repair.
 8. Identify the applicable fees for the issuance of the Permit as hereinafter provided, together with the charges as hereinafter set forth.
 9. Include a signed statement by the applicant agreeing to indemnify the Borough and hold it harmless from and against any claim, liability, damage and/or expense, including any attorney fees, arising out of the granting of the Permit or from any negligence or fault of such applicant, his servants or agents in connection with any of the excavation performed under or in connection with such Permit.
- B. A nonrefundable fee of two hundred (\$200.00) dollars shall accompany every application to offset the cost of processing the application and inspection subsequent to the road repair.

§248-3. Deposits Required, Performance Guarantee.

No permit shall be granted unless the sums hereinafter set forth shall be paid to the Borough Clerk. These sums shall be held by the Borough Clerk until twelve (12) months after the completion of each improvement, as a security deposit to guarantee the completion of the improvement and maintenance thereof for twelve (12) months thereafter, pursuant to the terms of the application, in a good and workmanlike manner and in accordance with the specifications and standards of the Borough to the satisfaction of the Mayor and Council. Twelve (12) months after such completion, the Borough shall return the deposit to the applicant provided the work has been properly complete and maintained. Upon failure to complete and maintain the improvement to the satisfaction of the Borough, the Borough may complete and maintain the improvement, using the moneys so deposited or so much thereof as is necessary for such purpose, returning the balance of the deposit, if any, to the applicant after twelve (12) months from the date of completion. If the security deposit is insufficient to pay for the cost of remediating the work the person or entity responsible shall be obligated to reimburse the Borough for any excess costs which may be collected in accord with the Borough Code.

§248-4. Insurance.

- A. The applicant shall present evidence satisfactory to the Borough Attorney or Risk Manager of insurance sufficient to indemnify and save harmless the Borough, its officials, employees, agents and servants against and from all suits and costs of every kind and from all personal injury or property damage resulting from negligence or from any phase of operation performed under the Permit.

§248-5. Amount of Permit Deposits.

The permit deposits shall be in the following amounts for each opening excavated, up to 100 square feet of area disturbed:

- a. For openings on any road paved with concrete: seven hundred fifty (\$750.00) dollars, plus \$7.50 per square foot over 100 square feet.
- b. For openings on any road paved with macadam: five hundred (\$500) dollars plus \$5.00 dollars per square foot over 100 square feet.
- c. For openings on any unimproved road or unpaved portion of improved roads: two hundred fifty (\$250) dollars plus \$2.50 per square foot over 100 square feet.
- d. Regulated utilities governed by the New Jersey Board of Public Utilities pursuant to N.J.S.A. Title 48 are exempted from this section, refer to subsection 248-11 Utility Road Opening.

§248-6. Safeguards.

All excavations, earth, stone, lumber, pipe or other material shall be safely and securely barricaded and further guarded at night by at least two (2) lights, one (1) at each end of the excavation or material, and in any other manner as the Superintendent (or Foreman or his designee) of Public Works may deem necessary for the reasonable protection of the public from injury.

§248-7. Staging for Excavation.

Not more than one-half (1/2) of the trench shall be excavated at one time where the trench will run from one side of the pavement to the other, and the part so excavated shall immediately be backfilled under the supervision of and to the satisfaction of the Superintendent of Public Works (or Foreman).

§248-8. Manner of Backfilling and Restoration.

- A. The backfilling of the trench shall proceed in the following manner, namely: earth, sand, gravel or broken stone removed from the trench shall be replaced in layers not exceeding twelve (12") inches in depth, and shall be properly compacted. The work of refilling shall continue in this manner until the material is brought up to within twenty-four (24") inches of the finished pavement, any rocks larger than six (6") inches in diameter shall be removed. The first layer shall be $\frac{3}{4}$ inch Quarry Processed (QP) rock. The backfilling shall be continued until the top thereof, after being thoroughly compacted, shall be one (1") inch higher than the pavement. No animal or vegetable matter or refuse shall be used or permitted in the backfill, and all refuse or surplus material from the trench shall be removed from the work area immediately after the trench has been excavated. After the fill has thoroughly settled, the road surface shall be restored to a like new condition.
- B. The person or entity conducting this work shall remain responsible for the repair of the resurfaced repair work for a period of one year and shall repair same, if required by the Superintendent (or Foreman) of Public Works.
- C. Roadway restoration shall be in accord with the engineering details set forth in § 248 Appendix which may be found at the end of this section.
- D. Any restoration of a trench or series of openings more than fifteen (15') linear feet shall include restoration in accord with the engineering details found in § 248 Appendix as applicable and shall also include the milling and resurfacing of the roadway from curb to curb for the length of the opening.
- E. Any restoration of macadam which is not milled and paved shall be completed using infrared paving to ensure a smooth transition from the adjoining surface.

§248-9. Interference with Gutter Flow, Traffic; Permits.

It shall be unlawful for any person, firm or corporation to place any stones, earth, ashes, lumber, pipe or other materials of any description whatsoever upon any road or street so as to interfere with the flow of water along the gutters or so as to interfere with traffic on the road or street. Any unlawful exercise of this privilege shall be deemed a violation of this section and punishable by a fine of fifty (\$50.00) dollars to two hundred (\$200.00) dollars. Nothing herein shall apply to leaves or vegetative waste. The purpose of this subsection is to prevent construction related material from obstructing or interfering with the flow of water.

§248-10. Enforcement.

It shall be the duty of the Borough Superintendent of Public Works, Building Code Official, Property Maintenance Official, Borough Police Department, or any other officer as the Mayor and Council may designate, to ascertain whether permits have been issued covering each operation, supervise all excavations, backfilling and restoration as provided herein.

§248-11. Utility Road Opening.

- A. All utilizes registered by the New Jersey Board of Public Utilities under Title 48 which opens roads in the Borough of Emerson shall pay a non-refundable application fee of two hundred (\$200) dollars per opening. Said payment shall be sent to the Borough Clerk within 24 hours of completion of the utility work related to the road opening.
- B. Roadways opened by utilities shall be returned to a like new condition as set forth in subsection 248-8. Infrared heat paving shall be used to the satisfaction of the Superintendent of Public Works, Foreman or his/her designee.
- C. Roadway material shall be of the same material as the roadway, e.g., concrete roads shall be repaired with concrete and asphalt with asphalt.
- D. Within ninety (90) days of completion of all road opening repair, the Borough shall advise the utility if the closing is satisfactory or not, and if not, a directive of corrective action shall be included. Repairs made subsequent to notice from the Borough of unsatisfactory repairs shall be concluded within thirty (30) days of notice. If repairs are not made within thirty (30) days and/or the repair is not done to the satisfaction of the Borough Superintendent of Public Works (or Foreman) or his/her designee then the Borough may cause the repair work to be done and use the escrow to pay for same. In such event the utility shall replenish the escrow within thirty (30) days of notice from the Borough.

- E. All utilities servicing the Borough of Emerson shall post a cash bond in the amount of \$2,500 with the Borough Clerk to be held in a non-interest escrow account to be held in perpetuity to pay the cost of application fees and repair to road openings done in an unsatisfactory manner. If this bond is diminished by utilization for restoration or payment of application fees, the utility shall deposit additional funds sufficient to bring the balance of the cash bond to \$2,500 within ten (10) days of receipt of Notice of Deficiency sent by the Borough.

§248-12. Violations and Penalties.

Any person, firm or corporation violating any of the provisions of this section, or neglecting or refusing to comply with any of the terms of conditions hereof, shall, upon conviction, be liable as follows:

- a. Failure to deposit performance bond: The amount set forth in subsection 248-5 plus \$500.00.
- b. Opening a roadway without a permit and/or failing to comply with the provisions for filing an application for emergency work within 24 hours of conducting the work or the first business day thereafter: The amount set forth in subsection 248-5 plus \$1000.00.
- c. Failure to restore any roadway as required: The amount set forth in subsection 248-5 plus \$500.00

Each and every nonconformance of this section, or each day that any provision of this section shall have been violated, shall be construed as a separate and distinct violation thereof.

Article II. Opening, Grading and Improvements

§248-13. Written Authority Necessary.

No person, firm or corporation shall lay out, open, grade or pave any public street, avenue or other public thoroughfare, nor construct or install therein any curbs, gutters, sidewalks, sanitary sewer, storm drains or other improvement, without first having obtained from the Mayor and Council written authority to do the same.

§248-14. Engineering Services; Fees.

The Borough Engineer must design, lay out and supervise the construction of all improvements mentioned herein made in connection with a major subdivision, and on all other improvement projects the Borough Engineer shall approve and certify the proper completion thereof to the Mayor and Council. The applicant shall be obligated to pay the Borough for the reasonable cost of the engineering fees, which fees shall be established with the consent of the Mayor and Council and shall be paid in advance for the engineering services.

§248-15. Inspections; Fees.

All improvements made hereunder shall be inspected by such persons as may be designated by the Borough Superintendent of Public Works, Foreman or his designee, and the applicant shall pay in advance to the borough, by certified check, the amount estimated by the Borough Engineer to cover the inspection fees. The charge shall be reasonable and established by the Mayor and Council. In the event the charge has been overestimated, at the completion of the work, the applicant shall receive a refund of the overpayment. If the charge has been underestimated, the applicant shall be required to make an additional deposit of money with the Borough to cover such underpayment.

§248-16. Plan, Profiles and Grade Maps to be Furnished.

The Borough Engineer or the applicant, as the case may be, shall furnish final plans, profiles and grade maps as follows:

- a. One (1) white print for Borough Engineer.
- b. One (1) white print for the Superintendent of Public Works.
- c. One (1) white print for Borough Clerk.

§248-17. Performance Bond.

Before a permit is granted by the Mayor and Council, the applicant shall be required to furnish a performance bond with sufficient surety, conditioned upon the completion of such improvement or improvements to the satisfaction of, and within the time designated by the Mayor and Council, and further conditioned upon the furnishing of a maintenance bond with sufficient surety in an amount of one-fourth (1/4) of the sum of the performance bond, to maintain such improvement or improvements against defective workmanship and material and inherent defects due to faulty workmanship or material for a period of eighteen (18) months from the date of completion and acceptance of such improvement or improvements. The performance bond shall be in such amount as estimated by the Borough Engineer to cover the costs of the improvement or improvements, and all expenses incidental thereto, plus twenty-five (25%) percent over and above the amount. In lieu of bonds, the applicant may deposit cash in sums equal to the amounts, which would otherwise be secured by the bonds aforesaid; and upon failure of the applicant to complete or maintain such improvement or improvements to the satisfaction of the Borough, the Borough may complete or maintain said work, using the money so deposited or so much thereof as is necessary for such purpose, returning the balance of the deposit, if any, to the applicant. Fees for the examination and review of the aforementioned bonds shall be paid to the Borough Attorney by the applicant.

§248-18. Issuance of Permit.

Upon certification of the plans, profiles and grade maps by the Borough Engineer, and the certification of such approval to the Mayor and Council, and upon it further appearing that there has been compliance with all the regulations and requirements hereunder, a permit will be issued to the applicant to proceed with the proposed work.

§248-19. Standard Specifications.

All works for which permission has been given hereunder shall conform with the specifications entitled "Standard Specifications for the Borough of Emerson, Bergen County, New Jersey," on file in the office of the Borough Clerk.

§248-20. Acceptance of Improvements.

No improvement shall be accepted by resolution of the Mayor and Council as having been satisfactorily completed until the Borough Engineer and Superintendent of Public Works certify, in writing, to the Mayor and Council that the work had been completed in accordance with the plans, profiles, grade maps and the specifications mentioned in subsection 248-16.

§248-21. Violations and Penalties.

Any person, firm or corporation violating and of the provisions of this section shall, upon conviction, be liable to the penalty stated in N.J.S.A. 40:49-5. Each and every nonconformance of this section, or each day that any provision of this section shall have been violated, shall be construed as a separate and distinct violation thereof.

Article III. Clear view at Intersections

§248-22. Proximity of Fence to Roadway; Approval.

No person shall erect or cause to be erected a fence within ten (10') feet of any roadway and within twenty-five (25') feet of the intersection of two (2) roadways in the Borough without first obtaining permission and approval therefor from the Borough Chief of Police or his designee, who shall grant approval only where there is reasonable assurance that the fence will not impair the public safety.

§248-23. Clear view at Intersections Required.

Whenever it shall be determined by the Chief of Police that there exists upon lands lying within the borough a condition hazardous to the public safety by reason of any trees, bushes, hedges or other plant life growing within ten (10') feet of any roadway or within twenty-five (25') feet of the intersection of two (2) roadways in the Borough, he may thereupon give notice, by certified mail, to the owner or tenant in possession of these lands to cut the trees, bushes, hedges or other plant life to a height of not more than 2 1/2 feet, and who shall thereby be obligated to perform

the required cutting within fifteen (15) days of the date of mailing of the certified notice.

§248-24. Owner Neglects to Remove Brush; Borough to remove; Costs to Become Lien.

The owner or tenant in possession who received a notice from the Chief of Police to cut brush, hedges or other plant life may appeal to the Superior Court of the State of New Jersey within fifteen (15) days from the mailing of the certified notice.

§248-25. Failure to Comply; Certification of Cost.

If, after fifteen (15) days from the receipt of the notice as provided in § 284-24, the owner or tenant of the lands shall have refused or neglected to cut the trees, brushes, hedges or other plant life in the manner provided, the Superintendent of Public Works shall undertake the cutting of the trees, brushes, hedges or other plant life and shall certify the cost thereof to the Borough Council, which shall examine the certificate and, if found correct, to cause the cost as shown thereon to be charged against such lands; or in the event that such cost is excessive, to cause the reasonable cost thereof to be charged against the lands. The amount so charged shall forthwith become a lien upon the lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, 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.

§248-26. Violations and Penalties.

Any person, firm or corporation violating and of the provisions of this section shall, upon conviction, be liable to the penalty stated in N.J.S.A. 40:49-5. Each and every nonconformance of this section, or each day that any provision of this section shall have been violated, shall be construed as a separate and distinct violation thereof.

Article IV. Construction of Concrete Curbs, Side-Walks and Driveways; Encumbrances; Exhibitions.

§248-27. Compliance with Specifications.

No Concrete curb, sidewalk or driveway shall be laid or repaired within the confines of any public street in the Borough unless the same is of the quality specified in this section and is laid by a duly licensed person.

§248-28. Permit Required; Contents.

Any person desiring to lay or repair a concrete curb, sidewalk or driveway within the Borough shall first apply for a permit thereof from the Construction Official, which permit shall specify the lot and block, where the work is to be done, the owner of the lot and block and by whom the work shall be done.

§248-29. Sidewalks and Driveways; Beds, Depths, Comprehensive Strength of Concrete.

All concrete sidewalks and driveways shall be placed on a bed of clean stone not less than four (4") inches deep after compaction. The sidewalk shall be four (4") inches and driveways six (6") inches in depth, built in one (1) course, and of a concrete which will show a compressive strength of three thousand five hundred (3,500) pounds per square inch after twenty-eight (28) days, when tested under standard conditions.

§248-30. Division of Sidewalks and Driveways into Blocks.

Both sidewalks and driveways shall be properly divided into blocks five (5') feet long, completely separated from the adjoining blocks.

§248-31. Curbs.

- A. Concrete curbs shall be six (6") inches wide on top, nine (9") inches at the bottom and twenty (20") inches in depth; the vertical face shall be at the back of the curb. They shall be divided into sections not longer than ten (10'), and shall be built of a concrete which will show a compressive strength of three thousand five hundred (3,500) pounds per square inch after twenty-eight (28) days, when tested under standard conditions.
- B. When a curb cut is to be made in an existing curb, the portion of the curb at the driveway crossing shall be broken four (4") inches below the road for the full length of the curb section. All driveway aprons shall be installed in accordance with the sidewalk specifications and grades.

§248-32. Construction of Driveways.

No person shall lower the curb or change the grade of the sidewalk for the purpose of providing a driveway across such sidewalk without having obtained a permit therefor from the Construction Official.

§248-33. Inspection and Approval of Forms.

Concrete shall not be placed in curb or sidewalk forms until the forms have been inspected and approved for line, grade and depth by the Superintendent, Foreman, or his designee of the Department of Public Works,

§248-34. Samples and Tests of Concrete.

The contractor or person in charge of pouring any concrete for a project larger than one (1) building lot, shall notify the Department of Public Works while pouring any concrete so that a sample of the concrete may be taken.

§248-35. Aprons for New, Existing, Expanded or Replaced Driveways.

- A. Definition. Apron shall mean a structure to be placed and/or a structure existing in the area of the ground between the sidewalk and the curb, or if no curb exists then the area between the sidewalk and the street; or, if no sidewalk and no curb exists, then in the first thirty (30") inches running perpendicular from the street to and/or through the front yard boundary line of any property or; if no sidewalk exists, but a curb exists, then the first thirty (30") inches running perpendicular from the curb to and/or through the front yard boundary line of any property, whether pitched from the sidewalk to the street or level with the street.
- B. On any property that has an existing sidewalk and if no curb exists, any apron installed pursuant to this section shall measure no less than twenty-eight (28") inches.
- C. On any property that has an existing curb and sidewalk, any apron installed pursuant to this subsection shall connect the sidewalk to the curb, regardless of the distance between the two.
- D. Permit Required for Construction. No person shall install a new driveway, expand and existing driveway, remove and replace an existing driveway and/or remove an existing driveway apron servicing an existing driveway without acquiring a permit to install a new driveway apron and without making the apron conform with the requirements of this subsection. The permit acquired to install a new driveway, expand and existing driveway, remove and replace an existing driveway shall include a permit to install a driveway apron and any person seeking said permit must make the apron conform with the requirements of this subsection. Persons wishing only to remove a driveway apron servicing an existing driveway must acquire a permit to remove and replace a driveway apron.
- E. Installation of Apron; Depths; Compression Strength. No person shall install a driveway apron unless it is placed on a compacted surface not less than six (6") inches once compacted, unless the concrete portion of said apron is six (6") inches deep and unless the concrete has a compression strength of four thousand (4000 psi) pounds per square inch after twenty-eight (28) days of curing.
- F. Removal of Driveways and Aprons. No person removing and not replacing an existing driveway and driveway apron is required to install a driveway apron in conformance with this subsection but must acquire a permit and close the curb cut, if a curb exists, in conformance with §248-31. If no curb exists, said person must acquire a permit to remove the existing driveway and/or driveway apron and must install topsoil in place of the driveway apron, once removed, and must grade and seed the area where the driveway apron has been removed so as to conform to the topography of the ground juxtaposed to the existing driveway apron on all sides. Said person must also install topsoil in place of the driveway, once removed, and must grade and seed the area where the driveway has been removed so as to conform with the topography of the ground juxtaposed to the

existing driveway on all sides.

- G. Registration of Contractors. Every person, firm or corporation seeking to install a driveway or a driveway apron and/or remove a driveway and/or a driveway apron shall be required to register the name of such person, firm or corporation with the Building Inspector. Persons, firms or corporations engaged in the business of constructing homes, who are required to be registered by the State of New Jersey pursuant to the New Home Warranty and Builders Registration Act, N.J.S.A. 46:3B-1 et seq., or the Contractors' Registration Act, N.J.S.A. 56:8-136 et seq., shall not be required to be registered under the provisions of this chapter.

§248-36. Placing and Protection of Concrete.

The concrete shall be placed in a workmanlike manner with a smooth wood float and brush finish, and shall be properly cured and protected against sun and frost.

§248-37. Responsibility of Contractor.

The contractor shall assume full responsibility for materials and equipment employed in the construction of any project and agrees to make no claims against the Borough for damages to such materials and equipment from any cause whatsoever. Until its final acceptance, the contractor shall be responsible for damage to or destruction of the project, or any part thereof, due to any cause whatsoever. He shall make good all work damaged or destroyed before the final acceptance, and the cost thereof shall be included in the prices bid for the various items scheduled in the proposal.

§248-38. Curbs and Sidewalks Required for New Construction.

- A. No person shall hereafter erect any dwelling, business or industrial or other building in the Borough without constructing in connection therewith a sidewalk and curb in the street fronting the building lot, in accordance with the provisions of this chapter.
- B. In special cases on unimproved roads or streets, or other streets where sidewalks do not presently exist, the Mayor and Council may, upon recommendation of the Land Use Board, grant an exception to the sidewalk requirement of this subsection.
- C. Every applicant for a building permit shall indicate on his plot plan all existing or proposed curbs and sidewalks and shall make no subsequent deviations therefrom without the approval of the Borough Engineer and the Code Enforcement Official or their designees.
- D. All sidewalks and curbs shall be built to lines and grades first approved by the Borough Engineer.

- E. No Certificate of Occupancy shall be granted by the Construction Official or the Code Enforcement Officer unless and until the premises shall be completed and curbs and sidewalks, as provided in this section, have been completed, inspected and approved as to location, grade, materials and workmanship by the Borough Engineer.

§248-39. Maintenance.

The owner or occupant of premises abutting any stone or concrete sidewalk shall maintain such sidewalk at all times in a good and passable condition at a grade which will prevent water from accumulating thereon, and shall replace any portion thereof which becomes broken, and shall maintain the same so that the joints thereof are even. The surface of all concrete sidewalks shall be kept properly roughened so as not to become smooth and slippery.

§248-40. Repair Upon Notice.

In case any sidewalk becomes out o repair, the owner or occupant of the lands abutting such sidewalk shall, upon receipt of written notice from the Superintendent of Public Works, the Borough Engineer or the Code Enforcement Officer, or their respective designees, repair or cause the same to be repaired and made in a good and passable condition and conform with requirements of the proceeding section.

§248-41. Repair of Damages.

Any person doing or causing any injury or damage to any street, curb, sidewalk, or sidewalk area shall cause the same to be repaired.

§248-42. Noncompliance with Notice to Repair.

In the event any sidewalk and/or curb becomes out of repair and notice to repair the same is given by the Superintendent of Public Works or the Code Enforcement Officer or their designee, and the notice is not complied with, the Borough may proceed to have the sidewalk and/or curb repaired in accordance with N.J.S.A. 40:65-1 et seq.

§248-43. Encumbrances Prohibited.

It shall be unlawful for any person, persons or corporation to place upon or permit to be placed upon any sidewalk adjoining lands of which he, she, they or it is or are the owner(s), occupant(s), any object that shall in any manner encumber such sidewalk or in any manner impede or interfere with or render dangerous or unsafe travel upon same.

§248-43. Exhibitions Prohibited.

It shall be unlawful for any person, persons or corporation to place upon any sidewalk or roadway any article or articles for the purpose of exhibiting the same for sale or inspection.

§248-44. Violations and Penalties.

Any person, firm or corporation violating any of the provisions of this section shall, upon conviction, be liable to the penalty stated in N.J.S.A. 40:49-5. Each and every nonconformance of this section, or each day that any provision of this section shall have been violated, shall be construed as a separate and distinct violation thereof.

BE IT FURTHER ORDAINED, that if any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section paragraph, subsection, clause or provision so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective; and

BE IT FURTHER ORDAINED, any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict; and

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

ATTEST:

Jane Dietsche, RMC
Borough Clerk

Louis J. Lamatina
Mayor