

Effective May 28, 2019

**CITY OF UNION CITY
COUNTY OF HUDSON, STATE OF NEW JERSEY**

ORDINANCE 2019-11

**ORDINANCE AMENDING CHAPTER 366 SETTING FORTH
DEPOSIT AND PERMIT REQUIREMENTS FOR SIDEWALK OPENINGS**

WHEREAS, pursuant to N.J.S.A. 40:48-2, a municipality may make, amend, repeal and enforce ordinances not contrary to the laws of this State or of the United States, as it may deem necessary and proper for order and protection of persons and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants; and

WHEREAS, the City of Union City (the "City") is a municipality as defined by Title 40 of the New Jersey Statutes; and

WHEREAS, the City receives numerous applications yearly for sidewalk excavation and opening permits; and

WHEREAS, after completion of the work authorized by sidewalk excavation and opening permits, the City often finds the work performed to repave and otherwise restore the sidewalks is substandard and not in the best interest of the health, safety, and welfare of its residents; and

WHEREAS, over the course of the last ten years the City has been required on numerous occasions to finance the repair of sidewalks due to improper maintenance and/or replacement following sidewalk excavation; and

WHEREAS, bonding requirements which require the City to pursue a performance or surety bond are time consuming and require additional expense;

WHEREAS, the City finds that it is in the best interest of the health, safety, and welfare of its residents to amend Chapter 366 to require cash deposits and perform the repairs by utilizing the service of a contractor hired by the City; and

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of the City of Union City, County of Hudson, State of New Jersey that the Code of the City of Union City is hereby amended and revised as follows:

SECTION ONE:

Chapter 366: Streets and Sidewalks, Article V Section 366-23, is hereby amended and replaced in its entirety as follows:

§ 366-23 Permit Required.

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- A. It shall be unlawful for any person to construct or remove, or cause to be constructed or removed, any sidewalk, driveway apron, curb or gutter or any part thereof within any public right-of-way in the City other than pursuant to this article without first having obtained a permit to do so from the Construction Code Official.
- B. This article is applicable to construction or removal projects that involve a sidewalk, driveway apron, curb or gutter or any part thereof within any public right-of-way. Incidental sidewalk openings that occur as a result of a road opening are governed by Chapter 366, Article IV.
- C. Notwithstanding anything to the contrary contained in Subsection A and B above, no permit shall be issued to any persons between November 1 and March 1 of each calendar year, subject to the articulated exceptions found in § 366-28.
- D. No permit shall be issued until a deposit is made to the City in an amount determined by the City's Engineer. The deposit shall be calculated based upon the cost to repave, or otherwise restore, the sidewalk (including restoration of signage, pavement marking and all other appurtenances) where the opening will occur ("Repavement Fee"). The City Engineer will convey the amount of the Repavement Fee to the applicant and prior to issuance of the permit, the applicant will provide payment by cash, certified check or bank draft to the City Treasurer in that complete amount. The Repavement Fee will be deposited in an escrow account. These deposit requirements may not be waived unless an emergency condition exists as set forth below in § 366-28(C). The deposit is in addition to any fees required in § 366-25.
- E. In lieu of the Permittee restoring or repaving the sidewalk, the City will ensure same is accomplished by hiring a contractor to perform the work in compliance with the requirements of the Local Public Contract Law. In the event the Repavement Fee is calculated at an amount that is more than the cost to the City to have performed the resurfacing or repavement, the difference shall be returned to the applicant.

SECTION TWO:

Severability. If any term or provision of this Ordinance is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, in whole or in part, such determination shall not affect the validity of the remaining terms and provisions of this Ordinance.

SECTION THREE:

Repealer. To the extent that any provision of the Code of the City of Union City is found to conflict with this Ordinance, in whole or in part, this Ordinance shall control.

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SECTION FOUR:

In order to avoid accidental repeal of existing provisions, the City Clerk and the Corporation Counsel are hereby authorized to change any chapter numbers, article numbers and/or section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code.

SECTION FIVE:

This Ordinance shall take effect upon passage and publication as required by law.

Commissioners	Yea	Nay	Abstain/Present	Absent
Lucio P. Fernandez	x			
Wendy A. Grullon	x			
Celin J. Valdivia	x			
Maryury A. Martinetti	x			
Mayor Brian P. Stack	x			

I HEREBY CERTIFY this to be a true and correct Ordinance of the City of Union City Board of Commissioners, introduced on April 16, 2019 and was further considered and adopted after a Public Hearing held on April 30, 2019 at the Holy Cross Armenian Church, 2610 Bergenline Avenue, Union City, New Jersey.

INTRODUCED: April 16, 2019

ADOPTED: April 30, 2019

ATTEST:

Erin Knoedler
City Clerk

DATE

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SUMMARY OF ORDINANCE

This Ordinance sets forth deposit and permit requirements for sidewalk openings.