

**AN ORDINANCE OF THE MAYOR AND BOROUGH COUNCIL OF THE BOROUGH OF MOUNT ARLINGTON, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING BOROUGH CODE CHAPTER 86, EXCAVATIONS, TO ADD A NEW SECTION § 86-7. PAVEMENT CUTS; AND AMEND THE NUMBERING THEREAFTER OF SUBSEQUENT SECTIONS.**

**WHEREAS**, the Borough Engineer advised the Borough Code Committee that the Borough of Mount Arlington has had continued issues with utility companies performing street, road and/or path openings on newly paved streets, roads or paths after a moratorium issued; and recommends that the Borough Code be updated; and

**WHEREAS**, these openings adversely affect the viability of these streets, roads and paths, which can shorten their useful life; and

**WHEREAS**, the Borough desires to have the streets, roads and paths restored after these street, road and path openings; and

**WHEREAS**, the Mayor and Council for the Borough of Mount Arlington reviewed and desires to amend and supplement Borough Code Chapter 86, Excavations, to add a new Section § 86-7. Pavement Cuts; and amend the numbering thereafter of subsequent sections; and

**BE IT ORDAINED**, by the Mayor and Borough Council of the Borough of Mount Arlington, County of Morris, and the State of New Jersey, that the Borough Code Chapter 86, Excavations, is hereby amended and supplemented to add a new Section § 86-7. Pavement Cuts. to read in its entirety as follows; and the numbering thereafter of subsequent sections be amended accordingly:

**§ 86-6. Restoring surface. [Amended 3-27-2006 by Ord. No. 08-06]**

A. Any person making any excavation, opening or tunnel in, on or under any R.O.W. in the borough shall restore the surface to its original condition if there is no pavement there. Backfilling shall be properly tamped down, and any bracing in such tunnel or excavation shall be removed prior to backfilling.

B. Any excavation or opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the ordinances of the borough and under the supervision of the Borough Engineer.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

**§ 86-7. Pavement cuts.**

A. Except as otherwise provided in subsections B and C applicable to emergency circumstances and waiver provisions, if it is necessary to open a street, road or path that has been paved within the last five (5) years, final pavement restoration for the full width of the street, road or path to a distance of a minimum of one hundred (100) feet around the area of the openings must be completed.

B. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street, road or path may proceed with an opening in the street, road or path without first obtaining a

permit as required by Subsection A when emergency circumstances demand the work to be done immediately and the permit can not reasonably and practically be obtained beforehand. In such case, application for a permit shall be made to the Borough Construction Department on the first regular business day on which the Borough Construction Department is open for business, and said permit shall be retroactive to the date when the work was begun.

C. The Borough upon good cause shown may waive the requirement to obtain a permit as required by Subsection A if the purpose of the tunneling, pavement cut, opening or excavation of a municipal street is for the installation of a municipal improvement or facility which will enhance the public health, safety and welfare of the citizens of the Borough.

D. The distances in either direction of the opening will be determined by the Borough Engineer based on the proximity to other roadways or utility concerns. In most cases, final pavement restoration will encompass fifty (50) feet in both directions of the opening for a full width of the existing road. The Borough Engineer may allow resurfacing to the center line of the road only if the opening is completed within one lane and does not involve disturbance across the center line.

E. Temporary and final pavement restoration shall be completed in accordance with Borough standards, and milling will entail the full length and width that must be repaved.

F. The restoration of the pavement shall be done no less than sixty (60) days after the opening and no more than one hundred twenty (120) days after the opening. This will allow for any settlement in the trench to take place before the final pavement is placed. Exceptions to this time frame may be allowed by the Borough Engineer dependent upon the time of year, which can affect the availability of paving materials.

§ 86-8. Supervision. [Amended 3-27-2006 by Ord. No. 08-06]

The Borough Engineer shall from time to time inspect or cause to be inspected all excavations, openings or tunnels being made in, on or under any R.O.W. in the borough to see to the enforcement of the provisions of this chapter. Notice shall be given to him at least twenty-four (24) hours before the work commences and prior to any required inspections.

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 86-9. Emergencies. [Amended 3-27-2006 by Ord. No. 08-06]

Notwithstanding the provisions of this chapter, any person may open up any borough R.O.W. to repair any utility, provided that it is an emergency and any delay in obtaining the required permit would result in endangering the health and general welfare of the inhabitants of the borough; provided, further, that a permit as required herein is obtained within seventy-two (72) hours after the emergency is discovered.

§ 86-10. Violations and penalties. [Amended 7-8-02 by Ord. No. 02-23]

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Any person failing to comply with any part of this chapter shall, upon conviction thereof, be liable to the penalty provided by Chapter 1 Article III.

**BE IT FURTHER ORDAINED**, that this ordinance is expressly applicable to all streets, roads and/or paths that were paved within the last year.

**SECTION 2.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

§ 86-6. Restoring surface. [Amended 3-27-2006 by Ord. No. 08-06]

A. Any person making any excavation, opening or tunnel in, on or under any R.O.W. in the borough shall restore the surface to its original condition if there is no pavement there. Backfilling shall be properly tamped down, and any bracing in such tunnel or excavation shall be removed prior to backfilling.

B. Any excavation or opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the ordinances of the borough and under the supervision of the Borough Engineer.

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B. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street, road or path may proceed with an opening in the street, road or path without first obtaining a permit as required by Subsection A when emergency circumstances demand the work to be done immediately and the permit can not reasonably and practically be obtained beforehand. In such case, application for a permit shall be made to the Borough Construction Department on the first regular business day on which the Borough Construction Department is open for business, and said permit shall be retroactive to the date when the work was begun.

C. The Borough upon good cause shown may waive the requirement to obtain a permit as required by Subsection A if the purpose of the tunneling, pavement cut, opening or excavation of a municipal street is for the installation of a municipal improvement or facility which will enhance the public health, safety and welfare of the citizens of the Borough.

D. The distances in either direction of the opening will be determined by the Borough Engineer based on the proximity to other roadways or utility concerns. In most cases, final pavement restoration will encompass fifty (50) feet in both directions of the opening for a full width of the existing road. The Borough Engineer may allow resurfacing to the center line of the road only if the opening is completed within one lane and does not involve disturbance across the center line.

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§ 86-10. Violations and penalties. [Amended 7-8-02 by Ord. No. 02-23]

Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Any person failing to comply with any part of this chapter shall, upon conviction thereof, be liable to the penalty provided by Chapter 1 Article III.



# PROOF OF PUBLICATION AFFIDAVIT

BOROUGH OF MOUNT ARLINGTON  
MOUNT ARLINGTON, NEW JERSEY

As the duly appointed Borough Clerk for the Borough of Mount Arlington, in the County of Morris, State of New Jersey, I, **Linda DeSantis**, hereby certify that a Public Notice, of which a copy is attached hereto, was published in the **Roxbury Register** newspaper, in the issue of said newspaper, on the 2/16/17

Date: 2/16/17

Linda DeSantis, R.M.C.  
Borough Clerk

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## LEGAL NOTICE

# 04 - 17

### Mount Arlington Borough

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B. Any excavation or opening in a paved or improved portion of a street shall be repaired and the surface re-laid by the applicant in compliance with the ordinances of the Borough and under the supervision of the Borough Engineer.  
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B. Any person maintaining pipes, lines or other underground facilities in or under the surface of any street, road or path may proceed with an opening in the street, road or path without first obtaining a permit as required by Subsection A when emergency circumstances demand the work to be done immediately and the permit can not reasonably be obtained beforehand. In such case, application for a permit shall be made to the Borough Construction Department on the first regular business day on which the Borough Construction Department is open for business, and said permit shall be retroactive to the date when the work was begun.  
C. The Borough Council shall waive the requirement to obtain a permit as required by Subsection A if the purpose of the opening is for the installation of a municipal opening or excavation of a municipal street is for the installation of a municipal opening or excavation of a facility which will enhance the public health, safety and welfare of the citizens of the Borough.  
D. The distances in either direction of the opening will be determined by the Borough Engineer based on the proximity to other roadways or utility concerns. In most cases, final pavement restoration will encompass fifty (50) feet in both directions of the opening for a full width of the existing road. The Borough Engineer may allow restoring to the center line of the road only if the opening is completed within one lane and does not involve disturbance across the center line.  
E. Temporary and final pavement restoration shall be completed in accordance with Borough standards, and milling will entail the full length and width that must be repaired.  
F. The restoration of the pavement shall be done no less than sixty (60) days after the opening and no more than one hundred twenty (120) days after the opening. This will allow for any settlement in the trench to take place before the final pavement is placed. Exceptions to this time frame may be allowed by the Borough Engineer dependent upon the time of year, which can affect the availability of paving materials.

INTRODUCED:  
PUBLISHED:  
ATTEST:  
Linda DeSantis, Borough Clerk  
P.F. \$110.21  
02/16/17

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SECTION 2. All ordinances or parts of ordinances inconsistent herewith are hereby repealed as to such inconsistencies.

SECTION 3. If any article, section, subsection, paragraph, phrase, or sentence is for any reason held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed separable.

SECTION 4. This Ordinance shall take effect upon final publication as provided by law.

I HEREBY CERTIFY this to be a true and correct Ordinance of the Mayor and Borough Council of the Borough of Mount Arlington, adopted on February 7, 2017 and will be further considered after a Public Hearing held on March 7, 2017 at the Municipal Building at 7:00 P.M.

INTRODUCED:  
PUBLISHED:  
ATTEST:  
Linda DeSantis, Borough Clerk  
P.F. \$110.21  
02/16/17

BOROUGH OF MOUNT ARLINGTON  
COUNTY OF MORRIS  
STATE OF NEW JERSEY  
Michael Stanzilli, Mayor  
02/16/17