

**ORDINANCE NO. 2013-05 (1120)**

**ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 13, ENTITLED “BUILDINGS, MOVING OF” AND CHAPTER 56, ENTITLED “STREETS AND SIDEWALKS” TO PROVIDE FOR TEMPORARY RELOCATION OF BUILDINGS DURING RENOVATION/RECONSTRUCTION.**

**BE IT RESOLVED** by the Mayor and Council of the Borough of Lavallette, County of Ocean, State of New Jersey, as follows:

Deletions are shown by ~~strikethrough~~; additions are shown by underline.

**SECTION 1.** Chapter § 13 of the Code of the Borough of Lavallette, entitled “Buildings, Moving of” is hereby amended and supplemented to provide for the regulations to permit the temporary relocation of buildings during renovation / reconstruction. Chapter § 13 entitled “Buildings, Moving of” shall read in its entirety as follows:

§13-1 Permit Required.

No person, firm, partnership, association, corporation, company or organization of any kind (hereinafter referred to as “person”) shall move any building over, along or across any highway or street in the Borough of Lavallette, or obstruct any highway or street, including right-of-way, in the Borough of Lavallette with a temporarily relocated commercial, residential or historic structure without first obtaining a permit from the Code Enforcement Officer.

§13-2 Application Form and Content; Fees.

A person seeking issuance of a permit hereunder shall file an application for such permit with the Code Enforcement Officer as follows:

- A. Form. The application shall be in writing, upon forms provided by the Borough, and shall be filed in the office of the Code Enforcement Officer.
- B. Content. The application shall set forth the following:
  - (1) A description of the building proposed to be moved, giving street number, construction, materials, dimensions, number of rooms and condition of the exterior and interior.
  - (2) A description from the Municipal Tax Map of the lot and block where the building is located.
  - (3) A description from the Municipal Tax Map of the lot and block to which the building is to be moved.

- (4) The portion of the lot to be occupied by the building when moved.
- (5) The highways or streets over, along or across which the building is proposed to be moved.
- (6) The proposed moving date and hours.
- (7) Any additional information which the Code Enforcement Officer shall find necessary to determine whether a permit should issue.

C. Accompanying papers.

- (1) Tax certificate. If the building to be moved is located in the Borough of Lavallette, the owner of the building shall file with the application sufficient evidence that all municipal taxes have been paid in full with respect to the lot from which the building is to be removed.
- (2) Certificate of ownership. The applicant, if other than the owner of the property from which the building is being removed, shall file with the application a written statement or bill of sale signed by the owner or other sufficient evidence that the applicant is entitled to move the building.
- (3) A sketch of the work site, in quadruplicate, indicating the following:
  - a. The exact location and dimensions of all openings to be made or areas to be occupied.
  - b. The specific installations to be made, if any, in the public right of way.
  - c. The dimension of all areas in the public right of way to be occupied as well as pavement dimension to the opposing edge of pavement.
  - d. The types of proposed traffic control devices to be utilized for the projects, said devices to be in conformity with the guidelines set forth in the Manual of Uniform Traffic Control Devices, current edition.
  - e. A line and grade plan showing the proposed work, including its exact location with respect to the nearest street intersection or some other fixed and prominent object, as well as its width and relationship to the grade of the street and all immediately adjacent property.
  - f. A projected time during which the temporarily relocated commercial, residential or historic structure shall be moved into the public right of way and shall occupy the public right of way during reconstruction or

renovation, which time shall not exceed four (4) calendar days measured from 7:00am on the proposed first day of such temporary relocation.

- g. The applicant or the applicant's designated contractor shall, prior to the commencement of any work hereunder, shall furnish the Borough of Lavallette with satisfactory evidence in writing that the applicant or contractor has in force and will maintain in force, during the performance of the work and the period of the permit, public liability insurance of not less than five hundred thousand dollars (\$500,000.00) for any one (1) person and one million dollars (\$1,000,000.00) for any one (1) accident and property damage insurance of not less than fifty thousand dollars (\$50,000.00) duly issued by an insurance company authorized to do business in this State. The Borough of Lavallette and its Borough Engineer shall be named as additional insureds.
- h. In cases where the character or nature of the proposed work is such as to present an unusual hazard or a higher than normal risk of damage or injury, the Borough Council may require provision of increased amounts of liability and property damage insurance. Any permits which occasion such increased hazard or liability in the informed opinion of the Code Enforcement Officer or other Borough Official, shall be referred by the Borough Clerk for the consideration of the governing body prior to the issuance of a permit.
- i. Any other information that the Code Enforcement Officer deems necessary in order to determine whether the work will comply with this chapter.

D. Fee. The application shall be accompanied by a permit fee as follows:

- (1) The permit fee for moving a building from a location outside of the Borough into the Borough of Lavallette shall be \$500.
- (2) The fee for moving a building from one location in the Borough to another location within the Borough of Lavallette shall be ~~\$1500~~.
- (3) The fee for a temporarily relocating a commercial, residential or historic structure moved into the public right of way during reconstruction or renovation shall be \$500.

§13-3 Approval of Route; Deposit for Expense.

Upon receipt of an application, it shall be the duty of the Superintendent of Public Works to review the permit application and determine the feasibility of moving the building over the route described in the application or of the feasibility of temporarily occupying all

areas in the public right of way after determining the remaining public right of way to the opposing edge of pavement. If the route is unsatisfactory or the area proposed to be occupied in the public right of way will obstruct public passage along the highway or street where the temporarily relocated commercial, residential or historic structure will be located, or will otherwise present a risk of harm to the public, the Superintendent of Public Works shall notify the applicant within 10 days of the date on which the permit was filed. In addition to the permit fee for moving buildings, the Code Enforcement Officer shall assess and receive, before the moving permit is issued, a sum of money sufficient to cover the cost of removing, repairing and replacing electric wires, street lamps, utility lines, fixtures, shade trees and any and all Borough property which might be damaged, disturbed or required to be relocated in the course of moving the building, which shall be determined by the Superintendent of Public Works, Borough Engineer, Construction Official and/or other official of the Borough's municipal utilities, as the case may be.

§13-4 Grounds for Refusal to Issue Permit.

The Code Enforcement Officer shall refuse to issue a permit if he/she finds:

- A. That any application requirement or any fee or deposit requirement has not been complied with.
- B. That the building is too large to move without endangering persons or property in the Borough.
- C. That the building is in such state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons or property in the Borough.
- D. That the applicant's contractor's or subcontractor's equipment or proposed method for temporarily relocating a commercial, residential or historic structure moved into the public right of way during reconstruction or renovation is unsafe and that persons or property would be endangered by its use.
- E. That zoning or other ordinances would be violated by the building in its new location.

§13-5 Fees and Deposits' Refund; Statement of Expense.

- A. The Code Enforcement Officer shall deposit all fees and deposits with the Borough Treasurer.
- B. Return upon nonissuance. Upon refusal of the Code Enforcement Officer to issue a permit, the Borough Treasurer shall return to the applicant all fees and deposits.

- C. Upon the issuance of a permit and completion of moving the building or termination of any temporary relocation of a commercial, residential or historic structure moved into the public right of way during reconstruction or renovation, the Superintendent of Public Works shall prepare a written statement of all expenses incurred in moving, repairing or replacing Borough property damaged or disturbed in the course of moving the building. If such sum is less than the deposit made by the applicant, the excess sum shall be returned to the applicant. If the expenses exceed the deposit made by the applicant, the applicant shall be responsible to pay for such deficiency. All permit fees deposited with the application shall be retained by the Borough.

#### §13-6 Protection of Traveling Public

- A. The applicant shall keep all trenches and/or street openings or site of the temporarily relocated commercial, residential or historic structure within the public right of way properly guarded through the use of breakaway barricades, flashing lights, signs and reflectorized drums consistent with the Manual on Uniform Traffic Control Devices. The applicant shall maintain one (1) lane of traffic in each direction except in the immediate vicinity of the excavation and only during the duration of the permitted work. In the vicinity of the excavation, one (1) lane shall be kept open and alternated in the direction of traffic through use of uniformed traffic directors. While the work is in progress, uniformed traffic directors shall be provided at all times from 7:00am to 7:00pm. Flashing lights or reflectorized drums shall be provided from 7:00pm to 7:00am, and shall clearly delineate the single lane of travel designated during the permitted work. Also, a 48" x 48" W20-1F "Construction Ahead" sign and a 48" x 48" W20-7A(S) "Flagman Ahead" sign shall be installed in each direction as advance warning sign placement in accordance with the following:
1. Urban Low Speed, 40 MPH or below – six hundred feet and five hundred feet respectively between signs.
  2. Urban High Speed 45 MPH or above – eight hundred and fifty feet and five hundred feet between signs.
  3. If the street upon which the work to be performed, or where the temporarily relocated commercial, residential or historic structure is moved into the public right of way during reconstruction or renovation, is a dead end street or is less than six hundred feet long, the applicant shall post such signs at the intersection or intersections of the street with any intersecting highway or street.
  4. At the expiration of the permitted four (4) day period of operation or temporary relocation, the applicant shall return the roadway to operation of one (1) lane of traffic in each direction.

5. No excavation within and/or immediately adjacent to roadways available to traffic shall remain open overnight.
6. No person, firm, partnership, association, corporation, company or organization of any kind (hereinafter referred to as "person") shall move any building over, along or across any highway or street in the Borough of Lavallette, or obstruct any highway or street, including right-of-way, in the Borough of Lavallette with a temporarily relocated commercial, residential or historic structure, during the Summer Beach Season as designated by the Mayor and Council pursuant to Chapter 7-8 and Chapter 7-14 of the Ordinances of the Borough of Lavallette.
7. It shall be the duty of the applicant to properly guard any excavation, storage piles, material or temporarily relocated structures by the erection of suitable barriers by day and lights by night or by warning signs and watchmen if deemed necessary by the Superintendent of Public Works or his/her designee. The applicant shall be liable for any neglect to safeguard the traveling public. If the excavation extends the full width of the road, only 1/2 of it shall be made at one time and shall be backfilled before the other 1/2 is excavated, so as not to interfere with traffic. In any other case, there shall be maintained at all times a roadway of at least 18 feet in width.
8. When an applicant is obligated to supply uniformed Police Officers on the job site as a condition of his permit, all arrangements shall be made through the Traffic Safety Division of the Lavallette Police Department who shall assign the Officers forth-eight (48) hours in advance of the commencement of work on the project in accordance with procedures set forth in Chapter 48-26 of the Ordinances of the Borough of Lavallette.
9. Indemnity. In accepting a permit, the applicant shall be deemed to have agreed to indemnify and save harmless the Borough of Lavallette, its elected and appointed officials and employees from and against any and all loss, costs or damages incurred by reason of any damage to any property, injury to any person or any loss of life resulting from any negligence of the applicant, its contractors, agents or servants in performing the work covered by the permit.

#### § 13-67 Violations and Penalties.

Any person, firm or corporation that shall be convicted of a violation of a provision of this chapter shall, upon conviction whereof by any court authorized by law to hear and determine the matter, be subject to a fine of no less than \$100 and no more than \$1,000, imprisonment not to exceed 90 days or community service of not more than 90 days, or any combination of fine, imprisonment and community service, as such court in its discretion may impose. Each day that such violation exists shall constitute a separate offense and continuing violation of this Chapter.

**SECTION 2.** Section § 56-1 of the Code of the Borough of Lavallette, entitled “Permits Required” and Section § 56-34 of the Code of the Borough of Lavallette, entitled “Fees and Cash Deposits” are hereby amended and supplemented to reference the amendments made to Chapter § 13. Chapters § 56-1 and § 56-4 shall read in their entirety as follows:

§ 56-1 Permit Required.

Except as otherwise provided by Chapter 13 of the Ordinances of the Borough of Lavallette, ~~It~~ shall be unlawful for any person, firm or corporation to make any excavation in or tear up the surface of any road or street in the Borough of Lavallette, the maintenance of which is chargeable to the Borough of Lavallette, for any purpose whatsoever, without first obtaining a permit from the Borough Clerk as hereinafter provided. Application shall be made by the firm, corporation or person seeking the permit on a form to be provided by the Borough. Permission to make an excavation in or tear up the surface of a road shall not carry any right to make sewer, water or gas connections. A separate permit to make said connections shall be obtained from the appropriate authorities.

§56-4 Fees and Cash Deposits.

- A. Except as otherwise provided by Chapter 13 of the Ordinances of the Borough of Lavallette, ~~No~~ permit shall be issued by the Borough Clerk for any street opening or excavation unless the person applying therefor shall make a cash deposit, as provided herein, with the Borough Clerk as a guaranty that the street will be promptly refilled, leveled, graded and restored to its former condition prior to the excavation, to the satisfaction of the Superintendent of Public Works.
- B. A cash deposit of \$200 will be required for each opening of any road.
- C. A cash deposit of \$300 will be required for each crossing of any road. Such cash deposit is in addition to any fees otherwise provided by Chapter 13 of the Ordinances of the Borough of Lavallette.

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION 4.** All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

**SECTION 5.** This ordinance shall take effect immediately upon its enactment after second reading and publication as required by law.

**NOTICE**

**ORDINANCE NO. 2013-05 (1120)**

**ORDINANCE OF THE BOROUGH OF LAVALLETTE, COUNTY OF OCEAN, STATE OF NEW JERSEY, AMENDING AND SUPPLEMENTING CHAPTER 13, ENTITLED “BUILDINGS, MOVING OF” AND CHAPTER 56, ENTITLED “STREETS AND SIDEWALKS” TO PROVIDE FOR TEMPORARY RELOCATION OF BUILDINGS DURING RENOVATION/RECONSTRUCTION.**

**NOTICE IS HEREBY GIVEN** that the foregoing ordinance was introduced and passed by the Borough Council on first reading at a meeting held on the 22<sup>nd</sup> day of April, 2013. It was further considered for second reading and final passage at a meetings of the Borough Council held on the 6<sup>th</sup> day of May, 2013 at 7:00 pm at the Gymnasium in the Lavallette Elementary Building located at 105 Brooklyn Avenue, Lavallette, New Jersey at which time and place persons desiring to be heard upon the same were given the opportunity to be heard.

Said Ordinance was duly adopted on the 6<sup>th</sup> day of May, 2013 and shall take effect upon publication as required by law.

(SEAL)

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**CHRISTOPHER F. PARLOW**  
Municipal Clerk

APPROVED:

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**WALTER G. LaCICERO**  
Mayor

Date: May 6, 2013

**NOTICE OF PENDING ORDINANCE**

**ORDINANCE NO. 2013-05 (1120)**

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The ordinance published herewith was introduced and passed upon first reading at a meeting of the governing body of the Borough of Lavallette, in the County of Ocean, State of New Jersey on April 22, 2013. It will be further considered for final passage after public hearing thereon, at a meeting of said governing body to be held in the Lavallette Elementary School, 105 Brooklyn Avenue, Lavallette, New Jersey, on May 6, 2013, at 7:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein shall be given the opportunity to be heard concerning said Ordinance.

A copy of this Ordinance has been posted on the bulletin board upon which public notices are posted in the Temporary Trailer located in the parking lot of the Lavallette Fire House located at 125 Washington Avenue during the week prior to and up to and including the date of such meeting; copies of the ordinance are available to the general public of the Borough who shall request such copies, at the office of the Municipal Clerk in said Borough of Lavallette, in the County of Ocean, New Jersey.

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CHRISTOPHER F. PARLOW  
Municipal Clerk