

PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE that a public hearing will be held as to the following matters:

Agency: Board of Trustees, Village of Great Neck Estates
Date and Time: May 13, 2019 at 8:00 pm
Place: Village Hall, 4 Atwater Plaza, Great Neck Estates

Subject: Bill GNE 1901. A local law to amend the Code of the Village of Great Neck Estates, in relation to street opening permits.

All relevant documents may be inspected at the office of the Village Clerk, 4 Atwater Plaza, Great Neck Estates, New York, during regular business hours.

Dated: April 29, 2019

BY ORDER OF THE BOARD OF TRUSTEES

Kathleen L. Santelli, Village Administrator

GNE 1901

A local law to amend the Code of the Village of Great Neck Estates, in relation to street opening permits.

Section one. Article I of Chapter 191 of the Code of the Village of Great Neck Estates is hereby amended, to read as follows:

“Article I. Street Openings and Excavations

§191-0.1. Legislative Intent. Village roads which have been recently re-paved or newly constructed often are opened by parties other than the Village, shortening the useful life of such roads, damaging the integrity of such roads, and creating additional expense on the part of the Village. Existing provisions of law are insufficient or inadequate to prevent this problem. It is hereby found to be in the best interest of the Village and its residents enact the regulations contained in this article, to prohibit issuance of road opening permits on roads which have been newly constructed or which recently have been re-paved, subject to certain exceptions as stated in this article.

§191-1. Permit required; Applications.

A. Unless otherwise authorized by law, no person, firm or corporation, including a water company, a gas company, a telephone company, an electric light company or other public utility, shall open or dig up or cut the pavement, curb, gutter or sidewalk of any Village street or highway (hereinafter collectively referred to as “street” or “highway”) for any purpose, without previously having applied for and received a written permit as required by this article.

B. Upon receipt of a properly completed application in writing filed with the Superintendent of Public Works, stating the purpose, extent, location and nature of a proposed excavation or other disturbance of a street or highway in the Village, and after consultation with the Superintendent of Public Works, the Superintendent of Public Works may grant or refuse a permit therefor.

(1) If a permit application is denied, the Superintendent of Public Works promptly shall send the applicant written notice of such denial, and state the reasons therefore.

C. Except where such excavation or disturbance shall be directly authorized by law, the Superintendent of Public Works shall require the applicant to deposit with the Village a sum of money, or a bond in a sum set by resolution of the Board of Trustees, or which shall otherwise be deemed by such Superintendent of Public Works to be adequate to pay all of the expenses to which the Village will be put to replace, repair or replace the streets or highways in proper condition, any unexpended balance of which shall be returned to the applicant within ninety (90) days after the proper completion of the excavation or disturbance to the satisfaction of the Superintendent of Public Works.

D. Each permit application also shall include an insurance policy, including endorsements for any liability insurance, naming the Village, its officers, agents, employees and volunteer as additional named insureds, in the sum of not less than \$1,000,000 combined single limit.

E. Any permit issued pursuant to this article may be revoked by the Superintendent of Public Works at any time, for cause.

F. Any permit issued pursuant to this article shall be null and void if work is not commenced within thirty (30) days after issuance of the permit, unless the Superintendent of Public Works shall grant an extension of such time for good cause shown.

G. Any permit issued pursuant to this article shall expire after a reasonable period of time as determined by the Superintendent of Public Works and specified in the permit upon issuance thereof, which period of time may be extended by the Superintendent of Public Works for good cause shown.

H. No road openings shall be made or commenced pursuant to a permit issued in accordance with this article unless at least two and not more than five business days' prior notice has been given by the applicant to the Superintendent of Public Works, except in cases of emergency as provided for in this article. No road openings shall be commenced on a Saturday, Sunday or holiday, except in case of emergency.

I. Upon completion of backfilling and pavement (permanent or temporary), the party performing the work shall notify the Superintendent of Public Works so that the Village may inspect the same. No work shall be deemed complete until inspected and approved by the Superintendent of Public Works.

§191-2. Fee. Except as provided in this article, or as otherwise required by law, such permit shall be issued by the Superintendent of Public Works upon payment to the Village of a permit fee as provided in Chapter 109, Fees, for each location to which the permit relates and upon receiving the bond or security hereinafter required. The fee and permit herein required shall be in addition to permits required for the construction of any sidewalk, curb or driveway.

A. Notwithstanding any other provision of law, permits shall be issued to the Long Island Power Authority, the Water Authority of Great Neck North, the County of Nassau, the Town of North Hempstead and any of its special districts, other governmental entities, any public utility, or persons or entities performing work under contract for or on behalf of any of them, without payment of a fee as otherwise required by this article.

§191-3. Permit conditions.

A. All permits shall be deemed to include a condition that the permit holder comply with all applicable federal, State and local laws, rules and regulations in the performance of the work authorized by such permit.

B. In addition to any other conditions stated in this article, such permit shall be subject to the conditions, which the party applying for or acting under the permit shall be deemed to have consented to and be bound by, that the party making the opening shall:

(1) backfill or cause the opening to be backfilled;

(2) place thereon such temporary pavement as may be approved by the Superintendent of Public Works;

(3) care for and maintain such temporary pavement until such time (not to exceed six months) as the Superintendent of Public Works shall determine that proper settlement has taken place to allow the laying of a permanent pavement;

(4) restore the pavement in accordance with Village specifications;

(5) indemnify and save harmless the Village, its officers, employees, agents and volunteers, from any or all loss or damage, or claims of loss or damage, including reasonable attorneys' fees, which the Village or any of them may sustain through the negligence of such party or otherwise, arising out of the work;

(6) at all times when work is not actively being conducted on the site, all equipment left at the work site shall be safely secured and stored in a manner satisfactory to the Superintendent of Public Works to protect the safety of the general public and persons traveling on or using the public streets and sidewalks.

§191-4. New or re-constructed streets: limitation on issuance of permit. No permit for excavation or disturbance of a newly constructed or re-constructed street shall be issued for a period of five (5) years from the completion date of construction or re-construction of such street without the permission of the Board of Trustees.

§191-5. Street restoration. Unless otherwise determined by the Superintendent of Public Works for good cause shown, any person or entity causing or performing excavation or disturbance of a street or highway shall, upon completion of work, restore the same as reasonably required by the Superintendent of Public Works, from curb to curb, for a horizontal distance of at least four feet in each direction from any portion of the disturbed or excavated area.

§191-6. Noncompliance; liability of applicant. In case the applicant shall fail to restore such street to the satisfaction of the Superintendent of Public Works, after notice and demand, or fails to comply with the requirements of this article, the Village may cause such work to be performed by or on behalf of the Village for the account of the applicant, and the applicant shall be liable to the Village for the cost thereof. The Village may charge such cost against the money deposited as required by this article, returning the excess, if any, to the person depositing the same. In the event any such work is performed by or on behalf of the Village, the cost of such work shall include the reasonable value of the labor, materials, supervision, engineering and overhead, and reasonable attorneys' fees, actually incurred for such work.

§ 191-6.1. Emergencies. In the event that any pipe, main, conduit or other utility installation in or under any street or highway shall burst, break or otherwise be in such condition as to seriously endanger persons or property, the owner of such sewer, main, conduit or other installation shall immediately contact the Village describing the location of the break, extent of repairs and any emergency measures required to reroute traffic. Upon approval by the Superintendent of Public Works such owner shall immediately remedy such trouble and shall immediately take all such necessary steps to make said location safe and secure. Such owner shall not, however, begin making any permanent repairs to such street, alley or sidewalk until such owner shall have secured a permit as provided above. Such permit shall be applied for within forty-eight (48) hours after such break or serious trouble shall have developed, and the necessary permanent repairs to the street or highway shall be made as directed by the Superintendent of Public Works and shall be completed as soon as practicable after receipt of the permit.

§191-6.2. Notice to public service corporations. No work shall be commenced under any permit granted pursuant to this article unless or until such notice as shall be directed by the Superintendent of Public Works shall have been given to public service corporations having lines, mains or other property in the streets for the protection of their property.

§191-6.3. Protection of excavations.

A. Each person or entity holding a permit issued pursuant to this article, or acting pursuant to any such permit, shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Superintendent of Public Works may permit the closing of streets to all traffic for a period of time prescribed by such Superintendent as in the opinion of such Superintendent is necessary. Failure to provide barriers and lights conforming to the requirements of the Superintendent of Public Works shall be prima facie evidence of a failure to provide suitable barriers and lights and may result in immediate revocation of the permit.

B. Excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire hydrants. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions.

C. The following measures, at a minimum, shall be taken to ensure the safety and protection of the traveling public:

1. all openings must be backfilled immediately and pavement restored in accordance with Village road specifications;

2. if it shall be necessary to leave an excavation unfinished overnight or for an extended period, the permittee shall place at the site suitable barricades with appropriate lighting. The barriers and lighting devices shall conform to the reasonable

specifications directed by the Superintendent of Public Works, and those set forth in the New York Manual on Uniform Traffic Control Devices, and any amendments thereto, except that the permittee must place his name and a phone number where he can be reached at all times. The excavation shall be lit continuously from twilight to dawn. The permittee shall also notify the Great Neck Estates Police Department of the condition of the unfinished excavation and furnish the Police Department with the name and contact information for a responsible person who may act for such permittee and who may be reached at all times. A minimum of four flashers must be used at the construction site or along the right-of-way as required by the Superintendent of Public Works.

§191-6.4. Protection of property.

A. all permits granted for street or highway excavations for any purpose shall be conditioned upon the adequate protection, at the expense of the applicant, to the property of the Village, and others.

B. Village conditions for restoration of pavement shall include, at a minimum, that all types of roads, with the exception of concrete, shall be replaced with a subbase of three-fourths-inch asphalt binder mix, compacted in two three-inch lifts, per Nassau County specifications, for a total of six inches in depth, and surfaced with asphalt, Type 1A, not less than two inches in depth. Concrete roads shall follow the Nassau County specifications of one to two to four (1:2:4) reinforced concrete.

C. should prevailing weather conditions preclude permanent restoration of the road surface, the permit holder shall be responsible for the maintenance of the temporary surface until such permanent restoration is complete.

§191.6.8. Liability. The permit holder shall hold the Village, its officers, agents, employees and volunteers harmless, and indemnify each of them, from and against any and all expenses, claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the Village or any of its officers, agents, employees or volunteers may be made liable by reason of any accident or injury to person or property through the fault of the permit holder or any person or entity acting under authority of the permit holder, either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition, as nearly as it can be to its original condition and to the satisfaction of the Superintendent of Public Works, all openings and excavations made in the streets and to maintain any street where an excavation is made in a condition as good as before said work shall have been done, for the period of twelve (12) months after said work shall have been done, usual wear and tear excepted. Any settling of the surface within said one-year period shall be deemed conclusive evidence of defective backfilling by the permittee.”

Section two. If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation

to the clause, sentence, paragraph, subdivision, or part of this article or in its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section three. This local law shall not affect any existing lawfully issued permits, which permits shall remain in effect.

Section four. This local law shall take effect immediately upon filing with the New York Secretary of State pursuant to the Municipal Home Rule Law.