

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. ____ OF 2021**

**A LOCAL LAW AMENDING CHAPTER 18 OF THE TOWN CODE ENTITLED
“EXCAVATIONS, HIGHWAY”**

BE IN ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 18 of the town Code entitled “Excavations, Highway” to make amendments to add certain standards and dimensional requirements for curb cuts and driveway aprons on residential and commercial properties.

Section 2.

Chapter 18 of the Town Code is hereby amended, as follows:

Chapter 18 Highway Excavations[, Highway] and Curb Cuts

§18-1. Highway excavations.

No person, firm or corporation, public service, water, light or power authority shall make any curb cuts, road openings or excavate in any street, highway or sidewalk in the town for any purpose without first obtaining a permit from the Superintendent of Highways as hereinafter provided.

§18-2. Permit.

- A. Upon application in writing filed with the Superintendent of Highways, stating the purpose, extent, location and nature of [a] proposed curb cuts, road openings or excavations or other disturbance of a street or highway in the town, the Town Superintendent of Highways may grant or refuse a permit therefor.
- B. If the application for a permit is denied, the Highway Superintendent shall send the applicant written notification of the denial and shall state the reason for denial.
- C. Except where such curb cut, road opening or excavation or disturbance shall be directly authorized by law, the Superintendent of Highways shall require the applicant to deposit with the Superintendent of Highways a sum of money or bond in a sum set by resolution of the Town Board, or which shall otherwise be deemed by him to be adequate to pay all of the expenses to which the town will be put to replace the street, highways or sidewalk, pavement, curb or gutter in proper condition, and the unexpended balance, if any, shall be refunded to the depositor. The depositor's unexpended balance shall be returned by the town 90 days after the excavation or other disturbance has been repaired to the satisfaction

of the Superintendent of Highways, regardless of whether the permittee or the town completes the restoration.

- D. Each applicant must file an insurance policy or certificate with the Superintendent of Highways insuring the Town of North Hempstead in the sum of not less than \$1,000,000 combined single limit.
- E. No permit shall be issued for an opening on any roadway which has been resurfaced by the Town of North Hempstead during a period of three calendar years previous to the application date, except for permits for emergency openings as defined in §18-4.1 below. In the case of a newly constructed or reconstructed roadway, the time period shall be five years. The prohibitions stated in this Subsection E shall not apply to applications to install new gas connections to residential properties.
- F. Any permit issued under this chapter may be revoked at any time by the Highway Superintendent.
- G. Permits shall become null and void unless work is commenced within 30 days of the issuance of said permit, unless an extension of time is granted by the Highway Superintendent in writing.
- H. The applicant shall give a forty-eight hour notice to the Highway Superintendent or his duly authorized representative, prior to making any road openings, except in cases of emergency as provided for herein. No openings shall be commenced on a Saturday, Sunday or a holiday unless in cases of emergency.
- I. Completion, reimbursement and assessment. Each application shall authorize the Highway Superintendent to complete the repair, construction or reconstruction of driveway entrances and curb cuts whenever the Superintendent finds reasonable cause to conclude that the applicant fails, refuses or neglects to complete such repair, construction or reconstruction. The Town shall be reimbursed for the cost of such repair, construction or reconstruction by assessment against and collection from the lots or parcels of land where such work was performed or services rendered for so much of the actual and complete costs as incurred upon and from each lot or lots, in the manner provided for the cost of public improvements by Article 15 of the Town Law.

§18-2.1. Additional provisions related to curb cut applications and permits.

- A. Each application for a permit shall be signed and acknowledged by the applicant and shall set forth, or there shall be attached hereto, a fully dimensioned plot plan**

showing the existing and proposed driveways, curbs and sidewalks of the subject property and on each side adjacent thereto.

B. The Highway Superintendent shall review each application and shall issue such permit upon compliance by the applicant with the provisions of this chapter provided that the Superintendent shall determine that;

- (i) The proposed driveway entrance, curb cut, road opening or excavation will not interfere with the orderly and reasonable use of adjacent property.**
- (ii) The proposed driveway entrance, curb cut, road opening or excavation will not create undue interference with vehicular traffic in the adjoining highway.**
- (iii) The proposed driveway entrance, curb cut, road opening or excavation will not adversely affect the health, safety and welfare, of the inhabitants of the Town.**

§18-3. Fees.

Except where otherwise provided by law, or where permits as above are granted for work done at the direction of the Town Superintendent of Highways, each application for such permit shall be accompanied by a fee, to be set by resolution of the Town Board for each **curb cut, street opening or excavation**, to be paid to the town. The fee and permit herein required shall be in addition to permits required for the construction of any sidewalk, curb or driveway.

§18-4. Fees for permits issued to utility companies and special districts.

Permits may be issued to **electrical, gas, water, cable, telephone, sewer or other public service corporations or public utilities**, [~~the Long Island Power Authority, Brooklyn Union Gas, Bell Atlantic, Water Authority of Western Nassau County~~] and special districts of the Town of North Hempstead without fee as required above accompanying the application. In lieu thereof, the Superintendent of Highways is to render monthly statements to said utility companies and special districts in the event that they avail themselves of paying for their permits each month.

§18-4.1. Emergencies.

In the event that any pipe, main, conduit or other utility installation in or under any street, alley, sidewalk or public way shall burst, break or otherwise be in such conditions as to seriously endanger persons or property, the owner of such sewer, main, conduit or other installation shall immediately contact the Town of North Hempstead Superintendent of Highways describing the location of the break, extent of repairs and any emergency measures required to reroute traffic. Upon approval by the Superintendent of Highways, the 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 he or she shall have secured a permit as provided above. Such permit shall be applied for within 48 hours after such break or serious trouble shall have developed, and the necessary

permanent repairs to the street, alley or sidewalk shall be made as directed by the Superintendent of Highways and shall be completed as soon as practicable after receipt of the permit.

§18-5. Notice to public service corporations.

No work shall be commenced under any permit granted pursuant to this [section] **Chapter** unless or until such notice as shall be directed by the Superintendent of Highways shall have been given to **electrical, gas, water, cable, telephone, sewer or other public service corporations or public utilities**[public service corporations] having lines, mains or other property in the streets for the protection of their property.

§18-6. Protection of excavations.

- A. The permittee shall take appropriate measures to assure that, during the performance of [the] **road opening or** 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 Highway Superintendent may permit the closing of streets to all traffic for a period of time prescribed by him or it if, in his or its opinion, it is necessary. Failure to provide barriers and lights conforming to the requirements of the Superintendent of Highways shall be prima facie evidence of a failure to provide suitable barriers and lights and may result in immediate revocation of the permit.
- B. The **road opening or** 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 15 feet of the fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions.
- C. The following measures shall be taken to ensure the safety and protection of the traveling public.
 1. All **road** openings **or excavations** must be backfilled immediately and pavement restored in accordance with town road specifications.
 2. If it is necessary to leave a[n] **road opening or** 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 specifications set forth in the United States Department of Transportation 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 **road opening or** excavation shall be lit continuously from twilight to dawn. He shall also notify the Nassau County Police Department of the condition of the unfinished **road opening or** excavation and furnish the Police

Department with his name and a phone number where he can 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 Highway Superintendent.

§18-7. Protection of Property.

- A. All permits granted for town street, highway or sidewalk excavations for any purpose shall be conditioned upon the adequate protection, at the expense of the applicant, to the property of the town and public service corporations. All excavations shall be backfilled properly upon completion and a written notice thereof given to the Superintendent of Highways.
- B. All permittees are to restore pavements as follows: 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 Nassau County specifications of one or two to four (1:2:4) reinforced concrete.
- C. Should prevailing weather conditions preclude the permanent restoration of the road surface, the applicant shall be responsible for the maintenance of the temporary surface.
- D. The Office of the Town Comptroller shall invoice permittees whose actions or inactions require town labor to close or secure road openings, excavations, or curb cuts [together with an interest charge for delinquent payments in the amount of...].

§18-7.1. Liability.

The permittee shall hold the Town of North Hempstead and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by the excavation permit or for which the Town of North Hempstead or any town officer may be made liable by reason of any accident or injury to person or property through the fault of the permittee, 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 Highways, 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 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.

§18-8. Reserved. [Penalties for offenses.]

Any person violating the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or to imprisonment for a term not to exceed 15 days, or to both fine and imprisonment.]

§18-9. Reserved. [Title-

This ordinance shall be known and may be cited as "An Ordinance Regulating Excavations in Streets or Highways in the Town of North Hempstead."]

§ 18-10 Driveway and curb cut specifications for noncommercial use.

Each curb cut and driveway for noncommercial use constructed under a permit issued pursuant to this chapter shall be constructed in accordance with the following specifications:

- A. Curb cuts for dwellings shall be no greater than 10 feet for one-car access at the curblin.
- B. Curb cuts for dwellings shall be no greater than 18 feet for two-car access at the curblin.
- C. For corner properties, the minimum distance permitted between any curb cut and the property line forming the adjoining street extended to the curblin shall be 25 feet.
- D. A minimum distance of 2 feet from side property lines shall be maintained when measured from the expansion joint.
- E. Curb cuts shall be at least 3 feet from the nearest utility pole, storm drain and fire hydrant/ fire department connection.
- F. Curb cuts shall have a reveal of no less than 3/4 of an inch.
- G. An existing curb cut may be supplemented by not more than one additional single-width ten-foot curb cut, provided that the proposed additional curb cut be located not less than 18 feet from the existing curb cut at the curblin, and the application otherwise meets all other requirements.
- H. An existing ten-foot curb cut for an attached garage may be widened to an eighteen-foot curb cut when the application otherwise meets all other requirements herein.
- I. Driveway aprons adjacent to concrete sidewalks shall be made of concrete. Residential driveway aprons and adjacent concrete sidewalk shall be reinforced and be 6 inches thick. An empty 1 inch schedule PVC electrical conduit may be required by the Highway Department to be provided below the apron.

- J. Curb cuts and driveway aprons may be made of asphalt or other alternative material and shall delineate between the driveway apron and the street. Curb cuts made of anything other than concrete or asphalt require a Declaration of Waiver and Release of Claims Against, and Indemnification of, The Town of North Hempstead.

§ 18-11 Driveway and curb cut specifications for commercial use.

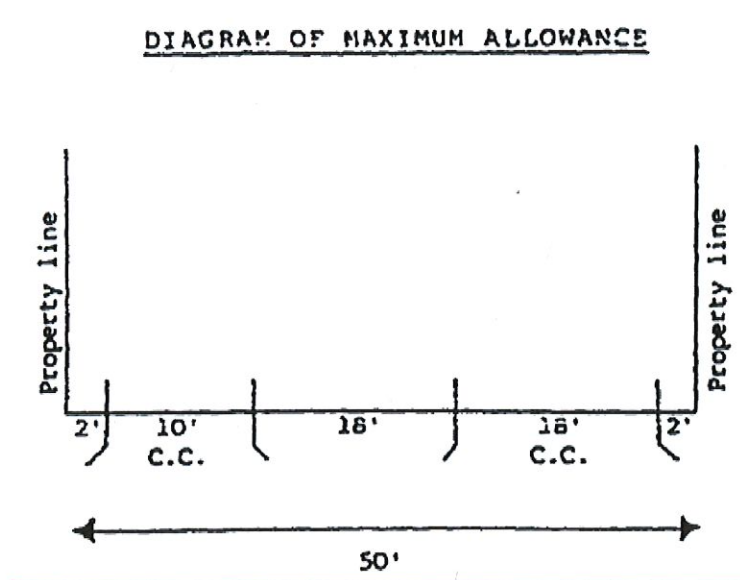
Each curb cut and driveway for commercial use constructed under a permit issued pursuant to this chapter shall be constructed in accordance with the following specifications:

- A. Normal curb cuts for commercial use shall be not greater than 25 feet at the curblines. However, should the applicant prove a requirement of greater width in order to accommodate larger vehicles, consideration for such greater width may be given.
- B. For corner property the minimum distance permitted between any commercial-use curb cut and the property line forming the adjoining street extended to the curblines shall be 10 feet.
- C. A minimum distance of 2 feet from side property lines shall be maintained at the curblines for all commercial-use curb cuts when measured from the expansion joint.
- D. Commercial driveway aprons and adjacent concrete sidewalk shall be reinforced and be 8 inches thick. An empty one (1) inch schedule PVC electrical conduit may be required by the Highway Department to be provided below the apron.
- E. Commercial-use curb cuts may be supplemented by additional commercial-use curb cuts, provided that all such curb cuts are not less than 25 feet one from the other at the curblines, and the application otherwise meets all requirements herein.
- F. Curb cuts shall be at least 3 feet from the nearest utility pole, storm drain and fire hydrant/ fire department connection.
- G. Curb cuts shall have a reveal of no less than 3/4 of an inch.

§18-1[0]2. Circular driveway guidelines.

To comply with the Town of North Hempstead Highway Department's guidelines, the following are the requirements necessary in order to obtain permission to obtain road opening permits to install a circular driveway:

- A. A minimum property frontage measurement of 50 feet is required.
- B. The Highway Department will allow two single driveways of 10 feet each or one single driveway of 10 feet and one double driveway of 18 feet, but not two double driveways of 18 feet each.
- C. Curb cut openings must remain at least two feet from each side property lines.
- D. Curb cut openings must remain at least ~~[two]~~ **three** feet from any existing trees, lightposts or fire hydrants utility pole, storm drain and fire hydrant/ fire department connection.
- E. It will be necessary for a span of 18 feet between each curb cut installed. (see diagram below.)



§18-13. Penalties for offenses.

Any person violating the provisions of this chapter shall, upon conviction thereof, be subject to a fine not to exceed \$1,000 or to imprisonment for a term not to exceed 15 days, or to both fine and imprisonment.

~~[§18-11. When effective.~~

~~This ordinance shall take effect immediately.]~~

§18-14. Severability.

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in said judgment.

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.