

**ARTICLE II      Street Excavations (§ 237-4 — § 237-18)**

[Adopted 7-16-1985 by L.L. No. 10-1985]

**§ 237-4      Short title.**

This article shall be known and may be cited as the "Highway Excavation Law of the Town of Southold."

**§ 237-5      Definitions.**

For the purpose of this article only, certain words and terms used herein are defined as follows:

**HIGHWAY**

All or any portion of any highway, street, sidewalk, public place or right-of-way owned and/or controlled by the Town of Southold, exclusive, however, of that portion of any highway, street, sidewalk, public place or right-of-way situate within the territorial limits of the Village of Greenport and exclusive of that portion of any highway, street, sidewalk, public place or right-of-way owned and/or controlled by the County of Suffolk or the State of New York.

**PERSON**

Any natural person, firm, partnership, association, corporation, company or other organization.

**SUPERINTENDENT**

The Highway Superintendent of the Town of Southold, New York.

**TOWN**

The Town of Southold.

**TOWN BOARD**

The Town Board of the Town of Southold.

**§ 237-6      Permit required.**

**A.**  
No person shall remove from or deposit on any highway any material or intentionally injure any highway or cause to be dug or made any hole or excavation in or under a highway or cause to be erected thereon or therein any object without first having obtained a written permit from the Superintendent so to do.

**B.**  
This section shall be applicable to and prohibit individuals from depositing materials on public highways as a result of improvement and grading of their property.

**§ 237-7      Applications.**

Any person desiring a permit shall make application to the Superintendent, upon forms to be provided by him, which application shall set forth the following:

**A.**  
The name and address of the applicant.

**B.**  
A reasonably adequate description of the proposed work and the reason therefor, including a description of the location of the proposed work.

**C.**  
A statement as to the time when such work will be commenced and an estimate of the time when such work shall be fully completed and the highway restored to its previous condition as nearly as may be feasible.

D.

A time schedule showing when various portions of the work will be done.

E.

A reference to the legal authority of the applicant to perform the proposed work in the public highway.

F.

An estimate of the cost of the proposed work, including such detail as may be specified by the Superintendent.

G.

Such other information as the superintendent shall deem pertinent to effectuate the purposes of this article.

**§ 237-8**            **Insurance coverage.**

[Amended 12-28-2004 by L.L. No. 27-2004]

No permit shall be issued until the applicant shall have filed with the Superintendent evidence that the Town has been named as a primary insured under an insurance policy extending coverage for any losses, including bodily, property or commercial injury caused by or attributable to the work performed by the applicant, in the amount of \$1,000,000 per occurrence and \$2,000,000 general aggregate. The policy is to include coverage for explosion, collapse and underground hazards (XCU coverage), and such insurance coverage is to be written by an insurance company authorized to do business in the State of New York.

**§ 237-9**            **Bonds.**A.

No permit shall be issued to any applicant until the applicant has posted with the Superintendent a surety bond or certified check in such amount the Superintendent may determine necessary to cover the probable expense to the Town of replacement by the Town of any highway to its former condition and to guarantee the performance by the applicant of any of the conditions contained in the permit and compliance with this article.

B.

The above bond requirements shall include provision or maintenance by way of a maintenance bond, which bond shall have a duration of two years from the date of completion of the work under the permit, in case of all excavations with a depth of 18 inches or less, and a duration of three years from the date of the completion of the work under the permit for all excavations with a depth greater than 18 inches.

**§ 237-10**           **Fees.**

[Amended 12-28-2004 by L.L. No. 27-2004]

Each application for a permit hereunder shall be accompanied by a fee, to be paid to the Town Clerk of the Town of Southold. Application fees and fees for permits issued pursuant to this article shall be set by Town Board resolution, and shall be paid to the Town Clerk prior to the issuance of the permit.

**§ 237-11**           **Notice to public utilities.**

The Superintendent shall require any person making a highway excavation pursuant to permit granted hereunto to give written notice of such excavation to public service companies or municipal districts having lines, mains or other property in the streets, and no work shall be commenced or done under such permit until such requirement of notice has been fully complied with. Proof of mailing of such notice in the form of a sworn statement shall be filed with the application.

**§ 237-12**           **Protective measures.**

Any person making an excavation pursuant to this article shall erect a suitable barrier or guard for the protection of persons using the streets or sidewalks and, in addition thereto, shall set up and maintain during the hours of darkness sufficient lights or flares or retroreflective barricades to properly illuminate or delineate the work area and shall also take all necessary precautions for the protection of the Town and of public service companies or

municipal districts and adjoining property owners and others which might be endangered by such excavations or the work incident thereto and shall comply with all directions given by the Superintendent with respect to such barriers, lights, flares and protective measures.

**§ 237-13            Permit requirements.**

A.

Commencement of work. Work under the permit shall be commenced within 30 days from the date of permit and continued in an expeditious manner.

B.

Construction.

(1)

When working on any Town road, no pavement cuts or trenches are to be left uncovered or unfilled overnight, except in emergencies, and in such cases adequate precautions must be exercised to protect traffic.

(2)

When working on any Town road, contractors must complete final backfilling (see Subsection E hereof) of any trench within 18 days from the day of opening.

(3)

All pipes or mains crossing highway pavements shall, wherever possible, be driven beneath the roadway without disturbance to the pavement. The point of driving shall not be less than five feet from the edge of pavement. Such crossover pipes shall, whenever possible, be enclosed in sleeves or larger pipes so that repairs or replacements may be made without further disturbance of the roadway pavement.

(4)

If the boring method in the driving of crossover pipes is found to be impracticable, the Superintendent shall be consulted to determine the manner of placing the pipe by the open-cut method. This request is to be made in writing to the Superintendent and may be granted upon such conditions as deemed necessary and proper under the circumstances.

C.

Excavations; method and type of opening.

(1)

Openings in concrete roads shall have a minimum width of five feet.

(2)

No roads are to be tunneled, but pipe may be driven or trenched across.

(3)

All openings are to be made either by pinwheel trenching machine or saw cutting, as specified in the permit.

D.

Restoration of excavation; temporary patching. Upon completion of the final backfilling, if final pavement replacing is not to be accomplished within 20 days from day of opening, then the trench will be brought to within two inches of road level and then paved with two inches of asphaltic concrete within 20 days of opening, which shall be placed as a temporary surface in any pavement opening and shall be maintained to the same grade as adjacent pavement.

E.

Procedure for final backfilling. Clean fill will be used, and the trench shall be compacted in twelve-inch lifts with either vibratory soil compactors or by suitable hydraulic compaction by water jetting at three-foot intervals.

F.

Final pavement replacing.

(1)

Concrete. Minimum size replacements in concrete or asphalt on concrete base shall be 10 feet by 10 feet, or as directed. In all cases, if the ten-foot-by-ten-foot replacement is within five feet of a joint, the replacement must extend to the joint. Concrete openings shall be saw cut, and the mix shall be high early, New York State Specifications Class F, latest revision.

(2)

Asphalt. The trench shall be compacted to within four inches of the road surface. The existing asphalt surface shall then be cut back at least 12 inches on either side of the undisturbed subgrade. At the discretion of the Superintendent, the contact surfaces, the patched surface and/or adjacent pavement edges shall be painted and sealed with approved bituminous and/or bluestone material before or after placing the course of asphalt, which shall be four inches of New York State Specification 6F hot plant mix. This course shall be rolled with an eight-to-ten-ton roller and surface variations in excess of 1/4 inch shall be eliminated or the pavement relaid.

(3)

If temporary patching is not accomplished, final pavement must be completed within 20 days of opening. If temporary patching is accomplished as specified, then final pavement replacing must be completed within 30 days of temporary patching or within such additional time as may be authorized by the Superintendent, at his discretion, upon application.

G.

Shoulder areas. If the trenchwork is in the earthen shoulder of the roadway, then proper compaction as outlined in Subsection E above will apply, with the addition of a covering of sod or grass seeding as specified by the superintendent.

H.

Traffic control.

(1)

Maintenance and protection of traffic. Traffic is to be maintained at all times during the progress of this work. Adequate signs, barricades and lights, necessary to protect the public, shall be provided in accordance with the provisions of the New York State Manual of Uniform Traffic Control Devices. Flagmen to direct traffic shall be employed continuously during periods when only one-way traffic shall be maintained or when equipment is operated in the pavement area.

(2)

No construction material or equipment shall be left on the pavement after working hours, nor shall any construction equipment or materials be placed in any manner or location that will obstruct highway or railroad warning signs.

(3)

Barricades, whether sidewalk or roadway area, shall be prominently displayed. For police convenience the address and telephone number of twenty-four-hour availability of someone who will reestablish the same in an emergency shall be filed with the Town Police Department.

(4)

Access to adjacent properties shall be maintained.

I.

Notification. The applicant will be responsible to notify the Superintendent 24 hours prior to street opening and closing.

J.

Expiration date. The permit shall expire one year from the date of issue of the permit, unless a different expiration date has been specified by the Superintendent.

**§ 237-14****Completion of work.**

The applicant shall notify the superintendent when work has been completed, after which an inspection will be made by the Superintendent or his duly authorized agent, and upon approval of the work, a release will be granted to the applicant. Until the granting of such a release, the applicant shall remain liable for proper guarding and protection as provided herein.

**§ 237-15            Revocation.**

The Superintendent, upon a finding that the issuance of a permit was illegal or unauthorized or that the applicant has failed to comply with any of the terms and conditions of the permit or of this article, may revoke the permit, and the applicant shall thereupon, with all reasonable speed, forthwith restore the highway to its former condition.

**§ 237-16            Responsibility for damages; repair.**

The person to whom such permit is issued shall be responsible for all damages caused to public utilities and shall, under the supervision of the Superintendent, replace any cracked or damaged sewer pipe or water main with new pipe and repair or replace damaged ditches, curbs, sidewalks or other improvements so that they shall be in the same or better condition after the excavation as before the excavation.

**§ 237-17            Penalties for offenses.**

[Amended 12-28-2004 by L.L. No. 27-2004]

**A.**

Any person who shall violate any of the provisions of this article or shall fail to comply with any condition imposed by the permit or shall fail to comply with any lawful order of the Superintendent or to discharge any duty imposed by this article shall, upon conviction, be deemed to have committed an offense against this article and shall be punished by a fine not exceeding \$1,000. Each day any such violation shall continue shall constitute a separate and distinct offense.

**B.**

In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town, in a court of competent jurisdiction, for any and all civil remedies available at law, including injunctive relief and monetary sanctions for any violation of this article.

**§ 237-18            Waiver of insurance and bond requirements.**

[Amended 12-28-2004 by L.L. No. 27-2004]

Upon special application made to it by any applicant for a permit required under this article and for good cause shown, the Town Board may, in its discretion, waive any of the provisions set forth under § 237-9 insofar as it may accept such other indemnification documents as it deems appropriate under the circumstances.