

Chapter 66

EXCAVATIONS IN STREETS

[HISTORY: Adopted by the Town Board of the Town of Skaneateles 4-18-1988 by L.L. No. 2-1988. Amendments noted where applicable.]

§ 66-1. Short title.

This chapter shall be known and may be cited as the "Street Opening Local Law of the Town of Skaneateles."

§ 66-2. Definitions; word usage.

A. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

B. As used in this chapter, the following terms have the meanings indicated:

APPLICANT — Any person making written application to the Highway Superintendent for a street excavation permit hereunder.

EXCAVATION — Any cavity, hole or hollow formed by digging, cutting, scooping, breaking, bulleting, vibrating, tunneling or undermining or any other method of removal or disturbance of earthen or road material in, under or adjacent to any street, as defined herein.

HIGHWAY SUPERINTENDENT — The Town Superintendent of Highways of the Town of Skaneateles.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind, including but not limited to public service companies, transportation corporations, privately and publicly owned water companies, community antenna television companies and municipal districts.

STREET — Any street, highway, sidewalk, alley, avenue or other public way or other land, park, grounds property or easement owned by the Town.

TOWN — The Town of Skaneateles.

TOWN ATTORNEY — Any person or firm designated by the Town Board to act as the Town's attorney.

TOWN BOARD or BOARD — The Town Board of the Town of Skaneateles.

§ 66-3. Excavation; permit required.

No person shall make any excavation in any street for any purpose without first obtaining a permit therefor from the Highway Superintendent as hereinafter provided.

§ 66-4. Application and permit.

- A. An application in writing shall be filed in duplicate with the Highway Superintendent upon application blanks which he shall prescribe, which application shall state the nature, location, extent and purpose of the proposed excavation.
- B. An application by any public service company, excluding municipal districts, must be accompanied by a general undertaking in an amount established by the Highway Superintendent, but in no event less than \$10,000, and in such form as may be approved by the Town Attorney. The general undertaking is to be tendered to assure that, after completing the excavation, said applicant restores the street to the same condition as it was prior to the excavation.
- C. Applications by applicants other than public service companies or municipal districts must be accompanied by a general undertaking or by a letter of credit in the sum of \$2,000 or in any greater or lesser amount as determined by the Highway Superintendent and in such form as shall be approved by the Town Attorney or, in lieu thereof, by a cash deposit, the amount of which shall be determined by the Highway Superintendent and which sum is to be deposited with the Town Board to assure that, after completing the excavation, said applicant restores the street to the same condition as it was in prior to the excavation. In the event that the applicant fails to repair, replace or restore the street in the time provided in the permit and the applicant has deposited cash in lieu of an undertaking, the Highway Superintendent will assess the damage and report the same to the Town Board. The Town Board may thereafter order the Town to pay to the Highway Superintendent out of the moneys deposited a sufficient sum of money to repair or replace the street. In the alternative, the Highway Superintendent may contract with the applicant for the Town to complete, repair, replace or restore the street for a mutually agreed upon sum. Upon the completion of said excavation, including restoration, where the applicant has deposited cash in lieu of an undertaking or letter of credit, the balance of the deposit, if any, will be returned to the applicant.
- D. In the event that the Town must take action against an undertaking or letter of credit to obtain reimbursement, the Town shall be entitled to its costs and legal fees.
- E. Upon compliance with the foregoing requirements, upon compliance with the requirements of insurance and indemnification and upon payment of the permit fee, a permit shall be issued in the name of the Highway Superintendent.

§ 66-5. Permit fee.

The permit fee of \$25 shall accompany each application submitted in accordance with this chapter. The Town Board, by resolution, may from time to time establish and change categories and fees to accompany the applications.

§ 66-6. Insurance and indemnification.

- A. Before issuance of a permit, the applicant shall file with the Highway Superintendent a general liability policy or certificate of insurance issued by an insurance company authorized to issue such policy in New York, naming the Town of Skaneateles as an additional insured, which policy or certificate evidences that the applicant has procured comprehensive general liability insurance providing coverage for legal liability and customarily covered expenses for bodily injury and property damage, including but not limited to liability for bodily injury and property damage caused by, related to or arising out of operations performed by the applicant or by the applicant's independent contractors or arising out of acts or omissions of the applicant in connection with his general supervision of such operations (contractors'/owners' protective liability insurance), occurring after operations have been completed or abandoned (completed operations insurance) and assumed under contract with the Town (contractual liability insurance), which policy shall be endorsed to delete from the contractual liability coverage any exclusion for actions on a contract for third-party beneficiary arising out of a project for a public authority and which policy shall include coverage for explosion, collapse and underground operations (XCU hazards). Said policy shall be in a form and of content satisfactory to the Town Attorney and shall provide that the policy shall not be changed or canceled until the expiration of 60 days after written notice to the Town and that it shall be automatically renewed upon expiration and continued in force unless the Town is given 60 days' written notice to the contrary. Said policy shall insure the Town of Skaneateles and the applicant and shall cover all operations relative to the excavation, reconstruction and restoration thereof. Said policy shall have limits of liability of not less than \$1,000,000 for bodily injury to each person and in the aggregate for each accident and property damage liability of not less than \$100,000 for each accident.
- B. The applicant shall indemnify, hold harmless and defend the Town, its officers and employees from any and all claims for personal injury, including death or damage to property resulting from, relating to or arising out of the issuance of a permit to the applicant pursuant to this chapter or any actions or activities in relation thereto, by the applicant or others, excepting only such claims due solely to the fault or negligence of the Town, its officers and employees. Such indemnification shall not be affected or diminished by insurance provided by the applicant.

§ 66-7. Guarding of excavations and protection of property.

Any person making an excavation covered by this chapter shall erect suitable barriers or guards for the protection of persons using the streets 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 property of the Town, public service companies, municipal districts 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 Highway Superintendent with respect to such barriers, lights, flares and protective measures.

§ 66-8. Street opening permit regulations and specifications.

- A. Commencement of work. Work under the permit shall be commenced within 30 days from the date of the permit and continued in an expeditious manner unless an extension of this period is approved by the Highway Superintendent.
- B. Construction.
 - (1) When working in any street, 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 and all persons using the streets.
 - (2) When working on any street, contractors must complete final backfilling (see Subsection E hereof) of trench within 18 days from the day of opening.
 - (3) All pipes, mains or conduits crossing street pavements shall, wherever possible (as determined by the Highway Superintendent), be driven beneath the street without disturbance to the pavement. The point of driving shall not be less than five feet from the edge of the pavement. Such crossover pipes, mains or conduits 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 or the driving of crossover pipes is determined by the Highway Superintendent to be impracticable, the Highway Superintendent shall determine the manner of placing the pipe by the open-cut method. Request for such determination is to be made in writing to the Highway Superintendent and may be granted by the Highway Superintendent upon such conditions as he deems necessary and proper under the circumstances.
 - (5) All trees, structures and property of the Town and others shall be protected from damage.
- C. Excavations; method and type of opening.
 - (1) Openings in cement concrete streets shall have a minimum width of five feet.
 - (2) If other methods are impracticable, as determined by the Highway Superintendent, streets may be tunneled.
 - (3) Pavement cuts 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 replacement is not to be accomplished within 20 days from the day of opening, the trench shall 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. Backfill material shall be equal to base course

material specified in Chapter 129, Streets and Sidewalks, of this Code, as approved by the Highway Superintendent, and shall be placed and compacted as specified by the Highway Superintendent in six-inch lifts with either vibratory soil compactors or by suitable hydraulic compaction by water jetting at specified intervals.

F. Final pavement replacing.

- (1) Cement concrete. Minimum-size replacements in cement concrete or asphalt on cement concrete base shall be 10 feet by 10 feet or as directed by the Highway Superintendent. 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 cuts, and the mix shall be high early, 4,000 pounds per square inch test concrete, or as directed by the Highway Superintendent.
- (2) Asphalt. The trench will 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 Highway Superintendent, the contact surfaces, the patched surfaces and/or adjacent pavement edges shall be painted and sealed with approved bituminous material before placing the course of asphalt, which shall be four inches of surface course material specified in Chapter 129, Streets and Sidewalks, of this Code, as directed by the Highway Superintendent. 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 Highway Superintendent at his discretion upon application.

G. Shoulder areas. If the trench work is in the shoulder of the roadway, proper compaction as outlined in Subsection E above will apply, with the addition of a covering of sod or grass seeding, mulch and fertilizer as specified by the Highway Superintendent.

H. Traffic control.

- (1) Maintenance and protection of traffic. Traffic is to be maintained at all times during the excavation 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 is maintained or when equipment is operated back and forth across the pavement area.
- (2) No construction materials 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 have prominently displayed for police convenience the address and telephone number of twenty-four-hour availability of a person who will promptly reestablish the same in an emergency.
 - (4) The applicant shall notify the Highway Superintendent and the Highway Department dispatcher of any street opening to be left open in hours of darkness and of the telephone number of a person who will promptly respond on his behalf in an emergency.
 - (5) Access to adjacent properties shall be maintained.
- I. Notification. The applicant will be responsible to notify the Highway Superintendent not less than 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 Highway Superintendent.

§ 66-9. Completion of work.

The applicant shall notify the Highway Superintendent when work has been completed, after which an inspection will be made by the Highway 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 guarding and protection as provided herein.

§ 66-10. Compliance with other regulations and agencies.

An application issued pursuant to this chapter relates solely to the requirements of this chapter. Accordingly, each applicant must also comply with the requirements of all other applicable governmental laws, regulations and orders of the Town, the County of Onondaga, the State of New York and its administrative agencies and the United States government and its administrative agencies.

§ 66-11. Penalties for offenses.

Any person who violates any provision of this chapter shall be guilty of an offense against this chapter and shall be subject to a fine of not more than \$250 or to imprisonment for a period of not more than 15 days, or both such fine and imprisonment. In addition, any person who violates any of the provisions of this chapter or who shall omit, neglect or refuse to do any act required thereby shall severally, for each and every such violation, forfeit and pay a civil penalty not to exceed \$100 a day for each day of continued violation in excess of the first week. When a violation of any of the provisions of these regulations is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to additional penalties. The imposition of penalties for any violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty or penalties for any violation of this chapter shall not preclude the enforced removal of conditions prohibited by this chapter. The expenses of

the Town in enforcing such removal, including legal fees, may be chargeable, in addition to the aforestated criminal and civil penalties, to the offender and may be recovered in a civil court of appropriate jurisdiction.