

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. __ OF 2023**

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

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

Section 1. Legislative Intent.

The Board finds it in the best interest of the Town of North Hempstead and its residents to make amendments to Chapter 18 of the Code of the Town of North Hempstead entitled “Highway Excavations and Curb Cuts” to allow the Superintendent of Highways to enter into repaving agreements requiring road restoration for any road opening permits which pertain to roads that have been repaved within the previous three (3) years or constructed or reconstructed within the past five (5) years, subject to certain exceptions. Additionally, the exemption has been expanded to include installation of all utilities for residential and commercial properties.

Section 2.

Section 18-2 of Chapter 18 of the Town Code is hereby amended to read as follows:

§ 18-2 Permit.

[Amended 1-29-1957; 6-27-2000 by L.L. No. 9-2000]

- A. Upon application in writing filed with the Superintendent of Highways, stating the purpose, extent, location and nature of 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.
[Amended 4-22-2021 by L.L. No. 5-2021]
- 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.
[Amended 4-22-2021 by L.L. No. 5-2021]

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. **(1)** 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 § 18-14.1 below, **or as described in subsection E(2) below.** In the case of a newly constructed or reconstructed roadway, the time period shall be five years.

(2) Utility Exemption. The prohibitions stated in [this] subsection E(1) shall not apply to applications to install new **and rehabilitated utility service to a residential or commercial property, including but not limited to, water, gas, and sewer connections** [~~gas connections to residential properties~~]. **Any permit applicant submitting an application pursuant to the exemption stated in this subsection E(2) shall be required to repave and restore the roadway disturbed by such utility installation or rehabilitation, in a manner prescribed by the Town Superintendent of Highways and as stated in a Repaving Agreement entered into between the Superintendent of Highways and the applicant, the form of which shall be developed by the Town Attorney and maintained by the Superintendent of Highways.**

[Amended 12-18-2018 by L.L. No. 13-2018]

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.

[Added 4-22-2021 by L.L. No. 5-2021]

Section 3.

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 4.

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