

**INCORPORATED VILLAGE OF OLD WESTBURY
BOARD OF TRUSTEES**

LOCAL LAW NO. 3 OF 2019

**AMENDING CHAPTER 182, "STREETS AND
SIDEWALKS" OF THE CODE OF THE VILLAGE OF
OLD WESTBURY**

WHEREAS, the Board of Trustees has recommended the enactment of a local law amending Chapter 182, "Streets and Sidewalks", relating to the opening of any Village public or private street; and

WHEREAS, this Local Law was introduced by the Board of Trustees on February 19, 2019; and

WHEREAS, the Board finds that this Local Law is a Type II Action pursuant to the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Board on March 19, 2019.

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Old Westbury as follows:

Section 1. Chapter 182, "Streets and Sidewalks", of the Village Code of the Village of Old Westbury be and is hereby amended to read as follows:

Article I Street Openings

§ 182-1 Street opening permit required.

No municipal corporation, public utility corporation, corporation, person or association of persons shall open or dig up any Village street, any private street, which is open to public motor vehicular traffic, or any street, road or highway or part thereof in and over which the Village shall have jurisdiction or shall in any way alter any curbing, gutters, gutter basins, drainage lines or other works within such a street or highway for any purpose without a written permit from the Village Clerk, to be known as a "street opening permit."

§ 182-2 Persons and corporation eligible for permit.

No street opening permit shall be issued by the Village Clerk, except to an owner of property assessed upon the Village assessment roll on an application signed by said owner or on behalf of

said owner by his duly authorized agent (authorization of an agent shall be signed by the owner and acknowledged before a notary public and shall accompany the application); a municipal corporation; or a public utility corporation.

§ 182-3 Authorization for permits to other applicants.

Persons or corporations other than those mentioned in § 182-2 may be granted street opening permits only when authorized by the Board of Trustees on such terms as shall be required by said Board.

§ 182-4 Authority to issue permits.

The Village Clerk is hereby authorized to issue street opening permits for the digging or opening of a street or highway for a local service or in connection with a lot or parcel of land in the Village when approved by the public works official of the Village and for all other openings when authorized by the Board of Trustees and in accordance with such authorization. . **No permit shall be issued for an opening on any street which has been resurfaced, newly constructed, or reconstructed by the Village of Old Westbury during a period of five (5) calendar years prior to the application date, except for permits for emergency openings as defined in § 182-4.1 below. The prohibitions stated in this section shall not apply to applications to install new gas connections to residential properties.**

§ 182-4.1 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 condition as to seriously endanger persons or property, the owner of such sewer, main, conduit or other installation shall immediately contact the Village of Old Westbury Superintendent of Buildings describing the location of the break, extent of repairs and any emergency measures required to reroute traffic. Upon approval by the Superintendent of Buildings, 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 Buildings and shall be completed as soon as practicable after receipt of the permit.

§ 182-5 Fee.
[Amended 9-20-1993 by L.L. No. 4-1993]

The fee for each permit shall be as set forth in Chapter 103, Fees and Deposits.

§ 182-6 Required deposits.
[Amended 10-17-1977 by L.L. No. 5-1977; 12-21-1987 by L.L. No. 21-1987; 9-20-1993 by L.L. No. 4-1993]

- A. Each applicant for a permit which may be issued by the Village Clerk without the authorization of the Board of Trustees, before the issuance of a permit, shall deposit with the Village the sum of \$4,000 for an opening in an improved surface of a street or highway or in any other portion of the right-of-way, to be applied by the Village to the cost of restoration of the street or right-of-way to the condition before the opening in the event that the applicant shall fail or omit to make or complete such restoration.
- B. The amount of the deposit to be applied to the cost of restoration of the street, in the case of permits which may be issued only upon authorization of the Board of Trustees, shall be fixed by the Board of Trustees and shall be paid to the Village before the permit shall be issued by the Village Clerk.

§ 182-7 Refund of deposit; costs exceeding deposit.

In the case of a deposit, after restoration of the street is made, if the cost to the Village has not amounted to the sum deposited to cover the cost, the Board of Trustees may, by resolution, authorize the Village Treasurer to refund to the applicant the balance. However, if the cost shall exceed the sum on deposit, the applicant shall, on demand by the Village, pay such excess amount. Upon failure to pay by a permittee or owner of property in the Village, said excess amount shall be assessed against such property of the permittee as provided by law.

§ 182-8 Indemnity bond in lieu of deposit.
[Amended 3-17-1980 by L.L. No. 5-1980]

A municipal corporation and a public utility corporation may, in lieu of the deposit as required in § 182-6A hereof, execute and deliver to the Village an indemnity bond of a responsible surety company or, with the approval of the Board of Trustees, its personal corporate bond, in the sum of \$15,000 for each street opening within the Village, guaranteeing the restoration of the streets and highways to the condition before the opening was made and the maintenance thereof for one year and indemnifying the Village against the nonperformance thereof.

§ 182-9 Restoration of street or highway.

The permittee shall restore the street or highway to its condition before the opening, and, on default thereof, the Board of Trustees may have the same done by the Village. Such default shall be effective on three days' notice given by certified mail to the permittee, addressed to the address given on the application for the permit. However, in any event, the Village, on notice given to the permittee in the same manner as on a default, reserves the right to replace any and all cuts or alter any replacements which may have been performed by or for the permittee, the costs of which shall be paid by the permittee to the Village as hereinbefore set forth.

§ 182-10 Construction specifications.

The permittee making the opening shall backfill or cause to be backfilled the opening and shall place thereon temporary pavement which shall be cared for by the permittee until such time as proper settlement has taken place to allow the laying of a permanent pavement. The Village shall be notified at all stages of the work for the purpose of inspection. As a minimum, compliance with Nassau County requirements and regulations for the making of street openings, backfilling, replacement of pavement and curbing shall be acceptable for the performance of said work.

§ 182-11 Barricades and lighting.

All openings, when unguarded, shall be barricaded, as shall be required for public safety, and shall be lit between sunset and sunrise.

§ 182-12 Insurance.

Before the issuance of a permit, there shall be furnished to the Village a policy of insurance, insuring the Village against public liability and property damage with limits of \$500,000/\$250,000 for personal injuries and \$50,000/\$25,000 for property damages. A municipal corporation or public utility corporation may, in lieu of an insurance policy, file with the Village its bond to hold the Village harmless from all damages to persons or property, including the defense of any action, which may result from the issuance of any permit and the work in connection therewith.

§ 182-13 Special permit required for certain construction.

Notwithstanding the provisions of § 182-4 hereof, opening required for the installation of distribution lines, mains, sewers, drains, conduits and the like shall be made only under a special permit granted upon application to the Board of Trustees and on such conditions and under such guaranties as shall be fixed by the Board in each such special permit.

§ 182-14 Expeditious completion of work.

The work to be done under any permit shall be commenced, continued and completed with due diligence and expeditiously.

§ 182-15 Term of permit.

- A. All work for which a permit has been issued shall be completed prior to the expiration date of the permit.
- B. A permit shall be good for 30 days, except as hereafter provided.
- C. A permit shall expire unless work pursuant thereto has been commenced within 10 days of the date of issuance.
- D. A permit shall be deemed in effect during the time required for the settling of backfill and restoration of permanent pavement, but in no event shall the permit continue in effect later than three months after the date of issuance unless the Mayor shall further extend the time for good cause.

§ 182-16 Revocation of permit.

The Mayor shall have the power to revoke a permit issued hereunder whenever he shall find that the permittee shall have refused, failed or omitted to comply with any provisions of this article.

§ 182-17 Penalties for offenses.
[Amended 9-17-1984 by L.L. No. 17-1984]

Any person violating any provision of this article shall be liable for a penalty not exceeding ~~\$250~~ **\$1,000.00 or to imprisonment for a term not to exceed 15 days, or to both fine and imprisonment**, for each offense, and, in addition to the foregoing, each violation of any provisions of this article shall constitute and is hereby declared to be disorderly conduct, and any person violating the same shall be and is hereby declared to be a disorderly person.

Article II Work Affecting Streets
[Adopted 10-8-1962]

§ 182-18 Definitions.

As used in this article, the following terms shall have the meanings indicated:

STREET

A public highway, public street and a private street shown on the Official Map of the Village, which shall be open to public motor vehicle traffic.

STRUCTURE

Any combination of materials except vehicles.

§ 182-19 Permit required for certain work.

No person shall, in or on any street or public place in the Village, without a written permit from the Village Clerk:

- A. Leave or deposit any material of any kind.
- B. Construct or erect any structure.
- C. Plant any trees or shrubbery.
- D. Remove or cause to be removed any stone, earth, sand, gravel, tree, shrub or Village sign.
- E. Tear up or injure any pavement, sidewalk, curb, gutter, crosswalk, drain, waterline, hydrant, sewer or any part thereof.
- F. Erect or cause to be erected any telegraph, telephone, electric light or other pole.
- G. Lay or cause to be laid any drain, conduit or other pipe.
- H. Move or cause to be moved or assist in moving any building.

§ 182-20 Street opening permit required where necessary.

Whenever it is required to dig up or open a street for any purpose set forth in § 182-19 hereof, then a street opening permit shall be required, which permit shall be in lieu of the permit herein provided.

§ 182-21 Supervision and standards.

All work for which a permit shall have been issued pursuant to this article shall be done under the supervision of the officer or employee of the Village in charge of public works. The work shall be done so as to keep clear at all times a safe and sufficient passageway for pedestrians and vehicular traffic, and proper and adequate guarding shall be provided both by day and by night so as to prevent accidents and danger.

§ 182-22 Application; issuance; fees.
 [Amended 9-20-1993 by L.L. No. 4-1993]

All applications for permits hereunder shall be made to the Board of Trustees and filed with the Village Clerk, together with a filing fee as set forth in Chapter 103, Fees and Deposits. No permit shall be issued by the Village Clerk except when authorized by the Board of Trustees on such terms and conditions, deposits and guaranties as shall be required by the Board of Trustees. Whenever the Village Clerk shall be authorized by the Board of Trustees to issue a permit as herein provided, the applicant shall pay a permit fee in the amount set forth in Chapter 103, Fees and Deposits, before the permit shall be issued.

§ 182-23 Revocation of permit.

The Mayor shall have the power to revoke any permit issued hereunder whenever he shall find that the permittee shall have refused, failed or omitted to comply with any provision of this article or the terms or conditions made by the Board of Trustees on the issuance of the permit.

§ 182-24 Penalties for offenses.
 [Amended 2-17-1987 by L.L. No. 3-1987]

Any person violating any provision of this article shall be liable for a penalty not exceeding \$250 for each and every offense, and, in addition to the foregoing, each violation of any provision of this article shall constitute and is hereby declared to be disorderly conduct, and any person violating the same shall be and is hereby declared to be a disorderly person.

Section 2. Chapter 182, "Streets and Sidewalks" of the Village Code of the Village of Old Westbury shall otherwise remain in full force and effect.

Section 3. Severability. If a court determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm or corporation or circumstance is invalid or unconstitutional, the Court's order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm or corporation or

circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

On motion made by Trustee Chimerine, seconded by Trustee Baker, the foregoing Local Law was enacted upon the following vote:

Fred J. Carillo, Mayor	-	Aye
Marina Chimerine, Deputy Mayor	-	Aye
Cory Baker, Trustee	-	Aye
Leslie Fastenberg, Trustee	-	Aye
Edward Novick, Trustee	-	Aye

Dated: Old Westbury, New York
March 18, 2019

Filed: Old Westbury, New York
March 19, 2019