

**STREET ORDINANCE OF THE  
TOWN OF NORTH SALEM  
WESTCHESTER COUNTY NEW YORK**

WHEREAS, the Town Board of the Town of North Salem has duly deliberated, and duly considered regulating the manner in which excavation may be made in or under the streets, highways, sidewalks, sidewalk areas, or public places and regulating the location and manner in which driveway entrances and exits may be constructed by owners and occupants of property abutting on Town Highways, and providing for penalties for violations, and

WHEREAS, all the matters and things required to be done by Article 9 of the Town Law and amendments thereto have been done and been complied with,

NOW, THEREFORE, the Town Board of the Town of North Salem, County of Westchester and State of New York does hereby enact and ordain as follows:

**NORTH SALEM STREET ORDINANCE**

An ordinance to regulate the use of streets and highways in the Town of North Salem

**ARTICLE I – Title**

Section 1. This ordinance shall be known as and may be cited as the North Salem Street Ordinance.

**ARTICLE II –Street Openings**

Section 1.

- A. General Regulations. No opening or excavation by cutting, digging or otherwise and no connection into a water main, pipe, conduit, sewer or other underground structure, subsequently herein referred to as an operation shall be made, commenced or carried on in or under any street, highway, sidewalk, sidewalk area or public place in the Town of North Salem for any purpose whatsoever, except as hereinafter provided in ARTICLE III of this ordinance, until a written permit therefor has been duly issued as herein provided and in accordance with the procedures set forth in Section 2 hereof, and in compliance with Section 3 and Section 4 hereof.
- B. Prohibited operations. In any resident district, no operation authorized under this Article shall be permitted on Sunday or before 8:00am or after 5:00pm on other days. The Superintendent of Highways, in his/her discretion, may vary or modify the application of this provision as occasion and/or necessity may demand.
- C. Emergency openings. If it should become necessary in case of an emergency to open or excavate in or under any street, highway, sidewalk, sidewalk area or public place in the Town of North Salem, the same may be done without obtaining a permit as herein provided pursuant to the oral authorization of the Superintendent of Highways, followed by a valid application in accordance with this Article II within 48 hours of such opening or excavating, or, if such oral authorization is not obtainable, if a valid

application in accordance with this Article II is submitted to the Superintendent of Highways within 48 hours of such opening or excavating.

## Section 2. Application Procedure

- A. Application for a permit under this article shall be made, on a form provided for that purpose, to the Superintendent of Highways, in writing, in duplicate, for each such operation and shall contain the following information.
1. Full name and address of applicant
  2. Full name and address of owner or owners of property in front of which the operation is to be performed.
  3. The location by street address, if any, of the property in front of which the operation is to be performed and the tax map designation of the same.
  4. Statement of the proposed operation and size thereof and purpose thereof
  5. The date or dates when the proposed operation is to be commenced and the date or dates when the operation is to be completed.
  6. The type of pavement or surface to be distributed.
  7. A sketch of the proposed operation.
  8. The estimated maximum quantity of material to be excavated and/or removed and the estimated part thereof that will be used for re-grading or filling.
  9. The restoration proposed, including specific method of compaction and type and amount of resurfacing material to be used.
  10. The estimated cost of the entire proposed operation.
  11. The location, if any, of any tiles or drainage system or water mains or other public utility conduits which may be within the area of the proposed operation.
  12. Any additional information which may be reasonably required by the Superintendent of Highways.
  13. A sketch indicating any trees to be removed provided such trees are over 6" in diameter at a height of 3 feet.
  14. A signed statement by the applicant that the said applicant agrees to perform the proposed operation for which the permit may be granted in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the Town Law and other applicable statutes and ordinances of the Town of North Salem and the rules and regulations of the Highway Department of the Town of North Salem.
- B. Upon receipt of the application as herein provided for in subsection A hereof, the Superintendent of Highways shall act thereon by issuing or refusing to issue a permit. No permit shall be issued by him/her except where there is compliance with the provisions of this Article and all other applicable laws and ordinances, and rules and regulations of the Highway Department of the Town of North Salem. Such a permit, when issued, shall be effective for a period of time not to exceed thirty (30) consecutive calendar days, to be specified thereon by the Superintendent of Highways. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time as authorized by the Superintendent of Highways.

Section 3. Fees and Deposits

No permit for an operation shall be issued by the Superintendent of Highways by check or money order payable to the order of the Town of North Salem.

- A. A fee of \$100.00 to cover the cost of issuing the permit and the supervision and the inspection of the operation done in connection therewith.
- B. A deposit of \$1000.00 plus a sum to be computed in accordance with the following unit prices for pavement or other areas to be disturbed or work to be done, as determined by the Superintendent of Highways:
  - Bituminous type pavement to be disturbed for each square yard.....\$25.00 not less than \$50.00
  - Curb, gutter, shoulder or other areas within the right-of-way to be disturbed.....for each linear foot.....\$10.00
  - Dirt, cinder or other pavements to be disturbed...for each sq. yard.....\$10.00
  - Structures – connection of new manhole, catch basin or other structure.....for each separate structure.....\$125.00
  - Structures – construction of new manhole, catch basin or other structure.....for each separate structure.....\$275.00

The amount of deposit shall be retained by the Town of North Salem for the duration of the Period of maintenance as the same is herein defined.

- C. Public Utilities Companies, may in lieu of the deposit, herein above mentioned, deposit with the Town Board its bond or a Surety Company bond approved as to form, manner of execution and sufficiency by the Town Board of the Town of North Salem, which bond shall be retained as security for the faithful performance by the applicant of all the terms, agreements, covenants and conditions of the permit, which bond shall be in amount to be determined by the Superintendent of Highways, but in no case shall the face amount of the bond be less than five thousand dollars (\$5,000.00).

When the permittee's work exceeds maximum authorized size of opening or work specified in permit, the said permittee shall, when so ordered and before proceeding with the work, pay to the Superintendent of Highways such additional amounts of deposit as the Superintendent of Highways may require. Failure on the part of the permittee to comply promptly with said Order will be considered sufficient cause for revocation of the permit.

- D. All deposits shall be retained by the Town for the duration of the period of maintenance as herein below defined.
  - 1. The period of maintenance shall be considered as a period of six (6) months after the date of final completion, as determined by the Superintendent of Highways, of the operation to be done pursuant to the terms of the permit, except, however, that in the event the termination of said six (6) month period shall fall within the months of December, January, February, March or April, then and in that event, the period of maintenance shall be considered as extending to the first day of May next ensuing; and the permittee shall be responsible for the entire operation and shall keep every portion of the same in good order and repair during the entire period of maintenance.

- E. Upon the failure or default by the permittee or in any of the terms, agreements, covenants and conditions of the permit, said deposit may be used by the Town for any expense incurred by the Town by reason of such failure or default on the part of the permittee, and any balance left shall be refunded to the permittee, after the expense caused by such failure or default as determined and certified by the Superintendent of Highways, has been paid and deducted from the amount of the deposit.

The fees, deposits and bonds required by this ordinance may be modified at any time pursuant to resolution adopted by the Town Board upon written request of the Superintendent of Highways.

#### Section 4. Insurance

- A. **Amount.** No permit for an operation under this Article shall be issued by the Superintendent of Highways until the applicant has first placed on file with the Superintendent of Highways, without cost to the Town of North Salem, satisfactory evidence of public liability insurance in an amount of not less than Five Hundred Thousand (\$500,000.00) Dollars for any person and not less than One Million (\$1,00,000.00) Dollars for any one accident and Property insurance in the amount of not less than Fifty Thousand (\$50,000.00) Dollars for any one accident and not less than One hundred Thousand (\$100,000.00) Dollars aggregate and satisfactory evidence that said insurance has been approved as to form correctness and adequacy by the Town Supervisor. This is to insure the Town against any loss, injury or damage arising out of the granting of the permit or from any negligence of said applicant, his servants and all work related thereto. The Town of North Salem shall be designated as an additional insured on any policy.
- B. **Duration.** Such insurance herein above referred to shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least ten (10) days prior written notice to the Town of North Salem of any modification or cancellation of any such insurance and shall contain a clause to the effect that termination of said insurance shall be without prejudice to the right of the Town of North Salem to make claim or claims thereafter for any loss of damage sustained as a result of any act or acts committed or omitted during the term of said insurance. Cancellation or termination of such insurance shall constitute an automatic revocation of the permit.

#### Section 5. Protection of Existing Structures and Traffic

- A. **Existing Structures.** No work shall be commenced in connection with the operation for which a permit has been granted under the provisions of the Article until the permittee shall have given written notice of the issuance of such a permit at least 48 hours prior to the commencement of such work, to the owner, or lessee, of any pipes, conduits or other structures lying upon, over or under the surface of the area wherein the operation is to be performed pursuant to the permit issued hereunder, or to the person, firm or corporation having the custody, control, care or maintenance of said pipes, conduits or other structures and said permittee shall file with the Superintendent of Highways proof of the service of said written notice herein referred to. The permittee shall at all times during the performance of the work on said operation, at his/her own expense, preserve, support, maintain in operation and protect and safeguard from injury or damage, such pipes, conduits or other structures and in case of injury or damage, shall restore the same, at his/her own cost and expense, to the same condition as they were prior to the commencement of the work on the said operation. In the event of failure of the permittee to comply with the provisions of this section, such injuries and damages may be corrected and repaired by the owner thereof, his agents or employees and the cost thereof and all damages sustained shall be paid by the permittee.
- B. In addition to the notices required by the foregoing paragraphs, no work shall be commenced until the permittee shall file with the Superintendent of Highways, proof of service of written notice of such permit to owners of real property lying within a radius of 100' from the area wherein the work is to take place.

- C. **Traffic.** Unless otherwise authorized by the Superintendent of Highways, traffic shall be maintained at all times during the progress of the operation being performed under the permit and the permittee shall have due regard for the safety of all the traffic and the public, and shall:
1. Erect and maintain suitable barricades, fences and/or guard rails around the area of operation during the work on said operation and shall arrange the same in such a manner as to cause a minimum of inconvenience, hazard and delay to any and all traffic.
  2. Suitably place, install and maintain adequate warning flags or signs and lighted red lamps or flares.
  3. Provide a watchman, if deemed necessary by the Superintendent of Highways and if so ordered by the Superintendent of Highways, in accordance with his directions and instructions.
  4. Designate and furnish competent persons to direct and expedite traffic, by means of lights or flags, when necessary, to minimize inconvenience, hazard and delay to any and all traffic.
  5. Arrange and conduct the work in connection with said operation so as to make possible the removal completely of any obstructions to any and all traffic on Saturdays, Sundays and holidays, if so requested by the Superintendent of Highways.
- D. All traffic control devices utilized pursuant to this section shall conform to the standards and specifications set forth such devices in the "New York State Manual of Traffic Control Devices".

### **ARTICLE III – Driveways**

#### Section 1. General Regulations

- A. No driveway entrances and exits and no alterations, change, relocation or reconstruction of existing driveway entrances and exits, subsequently herein referred to as an operation, shall be constructed by owners and occupants of property abutting on town highways for any purpose whatsoever, until a written permit therefor has been duly issued as herein provided and in accordance with the procedures set forth in Section 2 and Section 3 hereof.

#### Section 2. Application Procedure

- A. Application for a permit under this Article shall be made to the Superintendent of Highways in writing on a form provided for that purpose, in duplicate, for each such operation and shall contain the following information:
1. Full name and address of applicant
  2. Full name and address of owner or owners of the property in front of which the operation is to be performed.
  3. Full name and address of the owner or owners of the property for whom the operation is to be performed.
  4. The location by street address, if any, of the property in front of which the operation is to be performed and the tax map designation of the same.
  5. Statement of the proposed operation and size thereof and purpose thereof.
  6. The date or dates when the proposed operation is to be commenced and the date or dates when the operation is to be completed.
  7. A sketch of the proposed operation.
  8. The location, if any, of any tiles or drainage system or water mains or other public utility conduits, which may be within the area of the proposed operation.
  9. Any additional information which may be reasonably required by the Superintendents of Highways.

10. A signed statement by the applicant that the said applicant agrees to perform the proposed operation for which the permit may be granted in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the Town Law and other applicable statutes and ordinances of the Town of North Salem.
  11. The proposed location of the entry of said driveway onto the town highway.
- B. Upon receipt of the application as herein provided for in subsection A. hereof, the Superintendent of Highways shall act thereon by issuing or refusing to issue a permit. No permit shall be issued by him/her except where there is compliance with the provisions of the Article and all other laws and ordinances and rules and regulations of the Town of North Salem Highway Department. Such a permit when issued shall be effective for such a period of time, not to exceed thirty (30) consecutive calendar days to be specified by the Superintendent of Highways. Such specified period of time may be extended for the completion of the operation if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time authorized by the Superintendent of Highways.
- C. Said permit, when issued, shall contain the following conditions to be complied with by the permittee:
1. That the proposed driveway at the point of entrance on the town highway shall have the optimum of sight distance both vertical and horizontal.
  2. That the proposed driveway shall be stabilized by paving with 6" gravel and 2 ½" of bituminous surface from the edge of the existing road to the property line for the full width at the point where the proposed driveway is to intersect the road.
  3. That the grade, width and drainage of said proposed driveway shall minimize any possible damage or injury to the town highway and shall be such as to provide a maximum safety for all traffic on the town highway in the area of the entrance of the said proposed driveway on a said town highway.
  4. Any additional requirements which may be imposed by the Superintendent of Highways for the preservation of the town highway at the point of entrance of the proposed driveway onto the town highway and for minimizing hazards and dangers to the traffic on said public highway.
  5. That should the work result in drainage from the public highway onto private property, the applicant shall obtain and record easements granting such drainage rights to the Town of North Salem in perpetuity, said easements to be approved in form and substance, prior to recording, by the North Salem Town Attorney and Superintendent of Highways.
- D. Upon notification by the permittee of the completion of the proposed driveway, the Superintendent of Highways shall inspect said driveway to determine that its completion is in accordance with the permit. When the Superintendent of Highways is satisfied that the condition of such permit have been met he shall issue a Certificate of Compliance. There shall be no use of such driveway for any purpose until such Certificate of Compliance has been issued. No Certificate of Occupancy shall be issued by the Building Inspector of the Town of North Salem if a permit for driveway construction has been issued or required, until such Certificate of Completion has also been issued.

### Section 3: Fees and Deposits

- A. No permit for an operation shall be issued by the Superintendent of Highways until the applicant therefore shall have first paid to the Superintendent of Highways by check or money order payable to the Town of North Salem a fee of one hundred (\$100.00) dollars to cover the cost of issuing the permit and supervision and inspection of the operation
- B. Before issuance of a permit for the construction of a driveway the applicant shall post with the Superintendent of Highways a cash bond in the amount determined by the Superintendent of Highways under this article, but in not event will that bond be less than one thousand (\$1000.00) dollars for a new driveway and two (\$200.00) dollars for the alteration of an existing driveway.
- C. Upon failure or default by the permittee of or any of the terms agreements, covenants and conditions of the permit on the permittee's part to be done, to be performed or to be completed, said cash bond may be used by the Town for any expense incurred by the Town by reason of such failure or default

on the part of the permittee, and any balance left, after the expense caused by such failure or default, as determined and certified by the Superintendent of Highways, has been paid and deducted from the amount of the deposit, shall be refunded to the permittee.

#### Section 4: Insurance

- A. Amount. No permit for an operation under this Article shall be issued by the Superintendent of Highways until the applicant therefore shall have first placed on file with the said Superintendent of Highways, without cost to the Town, satisfactory evidence of public liability insurance in the amount of not less than Five Hundred Thousand (\$500,000.00) Dollars for any one person and not less than One Million (\$1,000,000.00) Dollars for any one accident and of property damage insurance in an amount of not less than Fifty Thousand (\$50,000.00) Dollars for any one accident and not less than One Hundred Thousand (\$100,000.00) Dollars aggregate and satisfactory evidence that said insurance has been approved as to form, correctness and adequacy by the Supervisor of the Town, to insure the Town against any loss, injury or damage arising out of granting of the permit or from any negligence of any said applicant, his servants, agent or employees in connection with said operation or with any and all work related thereto. The Town of North Salem shall be named as an additional insured on any such insurance policy.
- B. Duration. Such insurance herein above referred to shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least ten (10) days prior written notice to the Town of North Salem of any modification or cancellation of any such insurance and all contain a clause to the effect that termination of said insurance shall be without prejudice to the right of the Town of North Salem to make claim or claims thereafter for any loss or damage sustained as a result of any act or acts committed or omitted during the term of said insurance. Cancellation or termination in any manner of such insurance shall constitute an automatic revocation of the permit.

### **ARTICLE IV – PROTECTION OF HIGHWAYS**

#### Section 1:

The deposit of any dirt, filth, waste or rubbish in any street, highway, sidewalk, sidewalk area or public place or encumbering thereof by any encroachment of buildings, structures, excavation or otherwise or any act which in any manner damages or injures a town highway or interferes or obstructs in any manner the drainage and other uses of the highway for municipal purposes and or use by the public and traffic thereon are hereby prohibited.

### **ARTICLE V – PENALTIES**

#### Section 1:

- A. Notwithstanding any other provision of this ordinance, any person who violates or causes or participates in any violation of the provisions of Article II, Article III and Article IV hereof, shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a fine not exceeding Five Hundred (\$500.00) Dollars or by imprisonment for not more than three months or by both such fine and imprisonment.
- B. Whenever any person shall have been notified in writing by the Superintendent of Highways that he is violating the provisions of Article II, Article III or Article IV or of any permit or extension thereof issued hereunder or is served with a summons or warrant accusing him thereof, each day that he shall continue such violation after such notification or service shall constitute a separate offense punishable by a like fine or penalty.

- C. Notwithstanding the penalties herein provided, the Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction, the violation of any provision of this ordinance.
- D. The foregoing provisions for the enforcement of the regulations in this ordinance are not exclusive, but are in addition to any and all other laws applicable thereto.

## **ARTICLE VI**

The North Salem Planning Board shall give the North Salem Superintendent of Highways written notice, within five (5) days of the filing with said Board of any application for approval of a subdivision plat or a site plan and said Board shall furnish the Superintendent with a copy of the proposed plat or site plan.

## **ARTICLE VII – TITLE OF PERMIT**

All permits issued pursuant to this ordinance shall be known and designated as “Street Ordinance Permit”.

## **ARTICLE VIII – VALIDITY**

The invalidity of any article or provision of this ordinance shall not invalidate any other article or provision thereof.

## **ARTICLE IX – DATE OF TAKING EFFECT**

This ordinance shall take effect upon adoption by the Town Board of the Town of North Salem.

Dated at North Salem  
Westchester County, New York  
This 8<sup>th</sup> day of June, 1982

Amended at the Town Board meeting of February 10, 1987.  
Amended at the Town Board meeting of March 8, 1988.

BY ORDER OF THE TOWN BOARD  
OF THE TOWN OF NORTH SALEM.

Dolores M. Stankey  
Town Clerk