

LOCAL LAW NO. ____ OF 2017

TOWN BOARD
TOWN OF NEW CASTLE
PROPOSED LOCAL LAW AMENDING
CHAPTER 111 OF THE CODE OF THE TOWN OF NEW CASTLE

A LOCAL LAW to amend Chapter 111, of the Town Code concerning snow removal and sidewalk repairs.

BE IT ENACTED by the Town Board of the Town of New Castle as follows:

Section 1. Chapter 111, Article I, Section 1 of the Code of the Town of New Castle entitled “Permit required; applications; fees” is hereby amended as follows:

No person shall open or cause to be opened by cutting or digging the surface, pavement or soil in any street, highway or public place for any purpose whatever without first making a written application to the ~~Superintendent of Highways~~ Commissioner of Public Works and obtaining a permit upon depositing with the Town Clerk the following sums therefor:

- A. For repairs and maintenance in the case of concrete roads and roads with concrete base, there shall be a fee as set forth by resolution of the Town Board in the Master Fee Schedule, which may be amended, for each opening; and in the case of all other roads, there shall be a fee as set forth by resolution of the Town Board in the Master Fee Schedule, which may be amended, for each opening.
- B. No fee shall be required if a bond is filed in accordance with § 111-5 relating to public-service corporations.
- C. In case openings exceeding six square yards in area are made in the traveled or paved portion of roads, additional payments for repairs and maintenance must be made for areas in excess of six square yards as follows:

(1) For concrete pavements or pavements with concrete base, there shall be a fee as set forth by resolution of the Town Board in the Master Fee Schedule, which may be amended.

(2) In all other roads, there shall be a fee as set forth by resolution of the Town Board in the Master Fee Schedule, which may be amended.

D. A proportionate charge shall be fixed by the ~~Superintendent of Highways~~ Commissioner of Public Works for street openings not involving pavements.

Section 2. Chapter 111, Article I, Section 2 of the Code of the Town of New Castle entitled “Permit required for obstruction of streets” is hereby amended as follows:

§ 111-2 Permit required for obstruction of streets.

No person shall obstruct a highway or street in such a manner as to close the same without obtaining a written permit from the Chief of Police and the ~~Superintendent of Highways~~ Commissioner of Public Works, satisfying the provisions of the Vehicle and Traffic Law and the Highway Law.

Section 3. Chapter 111, Article I, Section 3 of the Code of the Town of New Castle entitled “Superintendent of Highways to supervise work” is hereby amended as follows:

§ 111-3. ~~Superintendent of Highways~~ Commissioner of Public Works to supervise work.

All work shall be under the supervision of the ~~Superintendent of Highways~~ Commissioner of Public Works and must be performed to his satisfaction and specifications

Section 4. Chapter 111, Article I, Section 5 of the Code of the Town of New Castle entitled “Insurance and bonding requirements; return of deposit” is hereby amended as follows:

§ 111-5 Insurance and bonding requirements; return of deposit.

No permit shall be issued until the applicant has deposited the sum provided in § 111-1 and, in addition, has filed with the ~~Town Superintendent of Highways~~ Commissioner of Public Works a certificate of public liability insurance to indemnify and protect the Town against any loss, damage or injury which might be incurred by reason of said street excavation or performance of the work incidental thereto. Said insurance shall be in the amount of not less than \$50,000 for any one accident, and property damage insurance shall be in the amount of not less than \$5,000 for any one accident. Public-service corporations may, at their option,

file a bond with sufficient sureties to be approved by the Town Attorney in the amount of \$10,000, conditioned upon saving harmless the Town of New Castle, its officers, servants and agents from loss in connection with such matter. The unexpended balance of any such deposit shall be refunded to the depositor upon the completion of the work and the filling in of said opening to the satisfaction of the Town ~~Superintendent of Highways~~ Commissioner of Public Works, except in connection with lump-sum amounts fixed by the ~~Superintendent of Highways~~ Commissioner of Public Works and accepted and paid by the applicant for doing said work or any part thereof by the ~~Superintendent of Highways~~ Commissioner of Public Works for account of the Town, in which case there shall be no refund.

Section 5. Chapter 111, Article I, Section 7 of the Code of the Town of New Castle entitled “Form application and permit” is hereby amended as follows:

§ 111-7. Form application and permit.

The ~~Superintendent of Highways~~ Commissioner of Public Works is hereby empowered to adopt a suitable form of application and permit. Said form shall be printed and a copy shall be filed with the Town Board.

Section 6. Chapter 111, Article I, Section 10 of the Code of the Town of New Castle entitled “Repairs: time of completion; materials” is hereby amended as follows:

§ 111-10. Repairs: time of completion; materials.

All repairs must be completed within 15 days of the date of the start of the work. If repairs cannot match existing area pavement, a substitute pavement patch material, approved by the ~~Superintendent of the Highway Department~~ Commissioner of Public Works, may be used until like and/or approved material is available.

Section 7. Chapter 111, Article II, Section 12 of the Code of the Town of New Castle, entitled “Removal of snow, ice and other obstructions” is hereby amended as follows:

§ 111-12. Removal of snow, ice and other obstructions.

The owner and occupant of premises abutting on any street where a sidewalk has been laid (hereinafter in this article referred to as the "owner" and "occupant") shall keep the sidewalk in front of such premises free and clear from snow, ice, dirt and other materials and obstructions and shall, within ~~24 hours~~ four hours after the snow ceases to fall or after the deposit of any dirt or other materials and obstructions upon such sidewalk, remove the snow, ice, dirt and other materials and obstructions from such sidewalk; provided, however,

that the time between the hours of 10:00 p.m. and 5:00 a.m. shall not be included in such four-hour period.

Section 8. Chapter 111, Article II, Section 15 of the Code of the Town of New Castle, entitled “Removal by Town authorized; costs a lien” is hereby amended as follows:

§ 111-15. Removal by Town authorized; costs a lien.

- A. Upon failure of such owner or occupant to comply with the provisions of § 111-12 and/or § 111-13 of this article, the ~~Superintendent of Highways~~ Commissioner of Public Works may cause such snow, ice, dirt or other materials and obstructions to be removed or covered with suitable material and shall, in such event, forthwith file a report of the cost or expenses thereof with the Town Clerk. Said cost and expense, as the same shall appear from said report, shall be a lien upon the premises abutting said sidewalk so reported to have been cleaned or covered as aforesaid until paid, as provided in § 111-20.
- B. The decision by the Commissioner of Public Works or his or her employees to remove or not to remove snow, ice, dirt or other materials shall not impose any liability upon the Town. Nothing in this article shall require the Commissioner of Public Works to remove snow, ice dirt, or other materials from any sidewalks. Any such act by the Commissioner of Public Works, as provided for in this Section, shall be within the sole judgment of said Commissioner, which judgment shall be final.

Section 9. Chapter 111, Article II, Section 16.1 of the Code of the Town of New Castle, entitled “Liability of real property owner for failure to maintain sidewalk in reasonably safe condition” is hereby added as follows:

§111-16.1. Liability of real property owner for failure to maintain sidewalk in reasonably safe condition.

- A. The owner and occupant of premises abutting on any street where a sidewalk has been laid shall keep the sidewalk in front of such premises in good repair and in a safe condition for pedestrians at all times.
- B. Notwithstanding any other provision of law, the owner of real property abutting any sidewalk shall be liable for any injury to property or personal injury, including death, proximately caused by the failure of such owner to maintain such sidewalk in a reasonable safe condition. Failure of such owner to maintain such sidewalk in a reasonable safe condition shall include, but not be limited to, the negligent failure to install, construct, reconstruct, repave, repair or replace defective sidewalk flags and

the negligent failure to remove snow, ice, dirt or other obstructions from the sidewalk.

- C. Notwithstanding any other provision of law, the Town shall not be liable for any injury to property or personal injury, including death, proximately caused by the failure to maintain sidewalks in a reasonable safe condition. This section shall not be construed to apply to the liability of the Town as a property owner.

Section 10. Chapter 111, Article II, Section 19 of the Code of the Town of New Castle, entitled “Noncompliance by owner; payment of costs” is hereby amended as follows:

- A. Whenever a notice to repair a sidewalk pursuant to an order of the Town Board has been served upon an owner of a lot or parcel of land in front of which it is desired that sidewalks be relaid or repaired and the owner shall not cause the repair to be made to the sidewalk or curb as required by the notice, the ~~Superintendent of Highways~~ Commissioner of Public Works is hereby authorized and directed to cause the repair to be made as required by notice.
- B. The ~~Superintendent of Highways~~ Commissioner of Public Works is hereby authorized to perform such work or repair with his own forces, or cause a contract to be let therefor, and to pay for the work out of the funds to be appropriated by the Town Board for such purposes.

Section 11. Chapter 111, Article II, Section 20 of the Code of the Town of New Castle entitled “Assessment of costs; collection” is hereby amended as follows:

- A. The Town shall be reimbursed for the cost of relaying or repairing any sidewalk when made by the ~~Superintendent of Highways~~ Commissioner of Public Works pursuant to this article by the owner of the respective lot or parcel of land in front of which the repair was made, by assessment upon and collection from the lot or parcel of land termed benefited by the repair; so much of the actual and complete cost upon and from each lot as shall be in just proportion to the amount of the benefit which the improvement shall confer upon the property, as determined by the Town Board, and collected in the same manner and at the same time as other special assessment and ad valorem Town charges.
- B. Whenever expenditures are made by the Town for repairing sidewalks or removing from sidewalks ice, snow or other accumulations thereon, which under this article are assessable upon the land affected or improved thereby, the Board shall serve a notice of at least 10 days upon the owner or owners of such property, stating that such expenditure has been made, its purpose and amount and that at a specified time and

place it will meet to make an assessment of the expenditure upon such land. The Board shall meet at the time and place in such notice specified. It shall hear and determine all objections that may be made to such assessment, including the amount thereof, and shall assess upon the land the amount which it may deem just and reasonable, not exceeding, in case of default, the amount stated in the notice. All the provisions of the Westchester County Tax Law covering the enforcement and collection of unpaid taxes and assessments, not inconsistent herewith, shall apply to the collection of such unpaid cost or expense. In addition to the levy of the assessment, an action to recover the amount may be maintained by the Town against the owner or occupant liable therefor.

Section 12. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 111 of the Code of the Town of New Castle is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 13. Numbering for Codification

It is the intention of the Town of New Castle and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of New Castle; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 14. Severability. The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 15. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.