

# **Chapter 260 : STREETS AND SIDEWALKS**

[HISTORY: Adopted by the Board of Trustees of the Village of Washingtonville as indicated in article histories. Amendments noted where applicable.]

## **GENERAL REFERENCES**

**Filling and grading — See Ch. 161**

**Notification of defects — See Ch. 204**

**Property Maintenance – See Ch. 226**

**Subdivision of land — See Ch. 265**

**Zoning — See Ch. 315**

**Construction Specifications – See Ch. A320**

## **Article I : Snow and Ice Removal** [Adopted 6-4-1956 (Ch. 148, Art. I, of the 1995 Code)]

### **§ 260-1 Removal Required; Exception**

**A.** Every owner, lessee, occupant and other person having charge of any building or lot of ground in the Village of Washingtonville, fronting or abutting upon a sidewalk in said village, shall, within five hours after the cessation of every fall of snow or the formation of any ice on the sidewalk abutting said building or lot of ground, remove or cause said snow or ice to be removed or cleared entirely from said sidewalk abutting said building or lot of ground; provided, however, that the time between the hours of 6:00 p.m. and 6:00 a.m. shall not be included in the above period of five hours and also provided that, in case the snow or ice on any sidewalk abutting said building or lot of ground shall be frozen so hard that it cannot practically be removed, the owner, lessee, occupant or other person or persons having charge thereof shall, within the time and places above specified, cover or cause said abutting sidewalk to be covered and strewn with either sifted ashes, sand or some similar material (excepting sawdust) and shall, as soon thereafter as the weather will permit, thoroughly clean said sidewalk and remove said ice and snow therefrom.

**B.** No person shall plow, throw, push or otherwise deposit snow or ice onto a public street or right-of-way or upon a fire hydrant. [Added 11-7-1994 by L.L. No. 7-1994]

### **§ 260-2 Penalties for Offenses** [Amended 3-7-1988 by L.L. No. 2-1988]

**A.** Each and every violation of the provisions of this article shall be punishable by a civil penalty of \$100, which penalty, if not paid, shall be a lien against the real property fronting or abutting on the sidewalk(s) not cleaned or covered or on the public street or right-of-way or fire hydrant upon which snow or ice is deposited. [Amended 11-7-1994 by L.L. No. 7-1994]

**B.** The property owner may, within 30 days of the date such penalty is levied, protest said penalty and request a hearing before the Board of Trustees. The Board, at its discretion, may waive the penalty based on the evidence presented.

**C.** All penalties not waived by the Board of Trustees shall be relieved as a real property tax.

**D.** Notwithstanding the above, unpaid penalties may be collected in an action instituted in the local justice court.

**§ 260-3 Statutory Provisions to be Superseded** [Added 3-7-1988 by L.L. No. 2-1988]

The Board of Trustees finds that sidewalks are attributes of private property and intends with this article to supersede §§ 4-414, 5-516 and 5-518 of the Village Law to the extent that said sections may be interpreted to the contrary.

### **§ 260-4 Failure to Comply; Removal by Village**

In case the sidewalk abutting any building or lot of ground as aforesaid shall not be cleared or cleaned of snow or ice or covered with either sifted ashes or sand or some suitable material (excepting sawdust) as herein provided before the expiration of the time above limited for cleaning or covering the same, then and in that event the village may forthwith proceed to so clean or cover said sidewalk as provided by this article, and the cost or expense of doing said work on the sidewalk abutting any building or lot of ground shall be ascertained and a report thereof shall be forthwith filed in the office of the Clerk of said village.

### **§ 260-5 Costs to Become Lien**

The cost of said work as the same shall appear from the report on file in said Village Clerk's office may be sued for and recovered from said owner, lessee, tenant, occupant

or other person having charge of any said building or lot of ground by said village and shall be a lien upon the premises abutting said sidewalk or sidewalks so reported to have been cleaned or covered as aforesaid. If said cost is not paid on or before the first day of March next following, the Board of Trustees shall levy the amount thereof as a part of the tax to be collected upon the premises against which said cost shall be a lien as aforesaid. The same shall be included within the completed tax roll and collected as part of the taxes against said premises.

## § 260-6 **Effect on Prior Acts**

No right or remedy of any character shall be lost, impaired or affected by reason of this article nor shall it affect or impair any act done or right accruing, accrued or acquired nor any penalty, forfeiture or punishment incurred prior to the time when the same shall take effect or by virtue of any ordinance or part thereof, repealed or modified by this article, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such senior ordinance or part thereof had not been repealed or modified.

## Article II : **Openings and Excavations**

[Adopted 7-11-1988 by L.L. No. 6-1988 (Ch. 148, Art. IIA, of the 1995 Code) *Editor's Note: This local law comprised former Article II, Openings, Excavations, Driveways, Sidewalks, Curbs and Gutters, which article became Articles IIA and IIB 6-9-1997 by L.L. No. 2-1997.*]

## § 260-7 **Permit Required for Opening or Excavation**

[Amended 6-9-1997 by L.L. No. 2-1997 by L.L. No. 2-1997]

No person, firm or corporation, including, without limitation, public service companies and municipalities other than the Village of Washingtonville, shall make any opening or excavation in any street, sidewalk or highway in the village for any purpose without first obtaining a permit from the Village Superintendent of Public Works as hereinafter provided. Compliance with the requirements herein does not relieve any obligation to comply with any other law or regulation.

## § 260-8 **Permit Application** [Amended 6-9-1997 by L.L. No. 2-1997]

**A.** Applications for permits shall be filed, in writing, with the Village Clerk upon application forms provided by the Clerk. Applications shall be made in the name of the person seeking to have the work done and of the contractor performing the work and shall state the nature, location, extent and purpose of the proposed opening or excavation. The Clerk shall forward the completed application to the Superintendent of Public Works and a copy to the Code Enforcement Officer.

**B.** Security and maintenance deposits.

**(1)** Applications by persons, firms or corporations for openings or excavations in the street, sidewalk or highway must be accompanied by a deposit (security deposit) in the form of cash, certified check or letter of credit in the amount of \$500 or such greater amount as the Superintendent of Public Works deems adequate to secure the cost of restoring the street, sidewalk, highway, pavement, curb, or gutter or other public improvement, including drainage, sewer and water improvements, to the same condition as it was prior thereto and must be accompanied by a separate cash deposit to cover inspection fees in an amount of 6% of the security deposit. Notwithstanding the amount of the security deposit, the applicant shall be responsible for the full cost of restoration. All unused security deposits and inspection fees shall be returned to the applicant.

**(2)** Applications shall also be accompanied by a separate deposit (maintenance deposit) in the form of cash, certified check or letter of credit in the amount of 25% of the security deposit amount. Said maintenance deposit shall be held by the village for six months after satisfactory completion of the work, as determined by the Superintendent of Public Works and shall be released or returned to the applicant by the village. The village shall have the right, upon notice to the permittee, to utilize all or a portion of the proceeds of the maintenance deposit to correct any defects in the work during such six-month period, normal wear and tear excepted.

**C.** As an alternative to the requirements of Subsection **B** above, applications by public service companies may be accompanied by a general undertaking in a form approved by the Board of Trustees. Said general undertaking shall guarantee that, after completing the excavation, the applicant shall leave the street, highway, sidewalk, pavement, curb, gutter or other public improvement, including drainage, sewer and water improvements, in the same condition as it was prior to the excavation, and shall further guarantee the continued maintenance of said work, normal wear and tear excepted, for a period of six months after satisfactory completion of the work, as determined by the Superintendent of Public Works.

## § 260-9 **Permit Fees** [Amended 6-9-1997 by L.L. No. 2-1997]

Each applicant must pay a permit fee in an amount established, and as may be amended from time to time, by resolution of the Board of Trustees. However, no permit fee will be charged under this article where a fee for any initial water tap or initial sewer tap has been paid or where a building permit fee has been paid and a building permit obtained.

## § 260-10 **Insurance Required** [Amended 6-9-1997 by L.L. No. 2-1997]

Each application shall be accompanied by a certificate of insurance, in a form approved by the village's Attorney and issued by an insurance company authorized to do business in the State of New York, naming the village as an insured and certifying that the applicant has obtained public liability coverage of not less than \$100,000/\$300,000 and property damage insurance of \$50,000/\$100,000, and shall include a provision that said coverage cannot be canceled or fail to be renewed without 10 days' prior written notice to the village. In addition, the applicant agrees as a condition of the permit to indemnify the village and hold the village harmless from all claims, damages, injuries, costs, actions and proceedings brought by any person for injury to person or property resulting from or occasioned by any act or omission of the person to whom the permit is issued or by anyone acting thereunder on his behalf.

## § 260-11 **Notice of Excavation** [Amended 6-9-1997 by L.L. No. 2-1997]

The Superintendent of Public Works may require any person making a sidewalk or street opening or excavation pursuant to a permit granted hereunder to give notice of such excavation to public service companies or municipal districts having lines, mains or other property in the streets and, when such notice shall have been required, no work shall be commenced or done under such permit until the required notice has been fully complied with to the satisfaction of the Superintendent of Public Works.

## § 260-12 **Safety Requirements**

**A.** Any person making an excavation covered by this article shall erect suitable barriers or guards for the protection of persons using the streets or sidewalks and, in addition, shall set up and maintain during the hours of darkness sufficient lights or flares to properly illuminate the area. Such person shall also take all necessary precautions for

the protection of the property of the village, of public service companies or municipal districts and of others which may be endangered by such excavation or the work incident thereto, and he shall comply with all directions given by the Superintendent of Public Works with respect to such barriers, lights, flares and protective measures.

[Amended 6-9-1997 by L.L. No. 2-1997]

**B.** Open excavation in the village for commercial or industrial purposes shall be enclosed with a substantial fence with suitable gates.

## **§ 260-13 Regulations and Specifications**

**A.** Work under the permit shall be commenced within 20 days from the date of the issuance of the permit and continued in an expeditious manner.

**B.** No work shall be permitted on Sundays or holidays.

**C.** Construction.

**(1)** When work is being performed on any village street or sidewalk, no pavement cuts or trenches are to be left unfilled overnight except in emergencies, and in such cases adequate precautions must be exercised to protect traffic. When working on any village sidewalk, street or road, contractors must complete final backfilling of any open trench within 14 days from the time of its opening.

**(2)** All pipes or mains crossing highway pavement shall, whenever possible, be driven beneath the roadway without disturbance from the edge of the pavement. Such crossover pipes shall, whenever possible, be enclosed in sleeves or larger pipes so that repairs or replacements may be made in the future without future disturbance of the roadway pavement.

**(3)** In the event that a trench is opened, the trench will be compacted to within four inches of the road surface after completion of the necessary work and construction. The existing asphalt surface shall then be cut back at least 12 inches on either side of the undisturbed subgrade.

**(4)** At the discretion of the Superintendent of Public Works, the contact surfaces, the packed surfaces and/or adjacent pavement edges shall be painted and sealed with approved bituminous and/or bluestone material before or after placing the course of asphalt, which shall be four inches of New York State Specification 6-8 hot plant mix.

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. [Amended 6-9-1997 by L.L. No. 2-1997]

**(5)** If the trench work is in the earthen shoulder of the roadway, the proper compaction, as outlined above, shall apply with the addition of a covering of sod or grass seeding as specified by the Superintendent of Public Works. [Amended 6-9-1997 by L.L. No. 2-1997]

**D.** Traffic control. Traffic is to be maintained at all times during the progress of work. Adequate signs, barricades and lights necessary to protect the public shall be provided. Flagmen to direct traffic shall be employed continuously during periods when only one-way traffic can be maintained or when equipment is operated back and forth across the pavement area. No construction equipment or materials shall be left on the pavement after working hours nor shall any construction equipment or materials be placed in any way, manner or location that will obstruct the highway or railroad warning signs. Barricades, whether in sidewalk or roadway areas, shall have prominently displayed for police convenience the address and telephone number of a person available 24 hours a day, which person shall reestablish the same in an emergency.

**E.** Access to adjacent property shall be maintained.

**F.** Notification. The applicant will be responsible for notifying the Superintendent of Public Works 24 hours prior to street or sidewalk opening and street or sidewalk closing. [Amended 6-9-1997 by L.L. No. 2-1997]

**G.** The Board of Trustees may by resolution revise the above regulations and specifications and adopt additional or different regulations and specifications. [Added 6-9-1997 by L.L. No. 2-1997]

## **Article IIB : Driveway Construction**

[Adopted 7-11-1988 by L.L. No. 6-1988 (Ch. 148, Art. IIB, of the 1995 Code) *Editor's Note: This local law comprised former Article II, Openings, Excavations, Driveways, Sidewalks, Curbs and Gutters, which article became Articles IIA and IIB 6-9-1997 by L.L. No. 2-1997.*]

§ 260-14 **Driveway permit required.** [Amended 6-9-1997 by L.L. No. 2-1997]

No construction of driveway entrances or exits, sidewalks, curbs or gutters and no alteration, change, relocation or reconstruction of existing driveway entrances or exits, sidewalks, curbs or gutters, except surfacing or resurfacing of an existing driveway, shall be undertaken by owners or occupants of property abutting on public or private highways or streets for any purpose whatsoever until a permit (hereinafter referred to as a "driveway permit") has been obtained from the Superintendent of Public Works as hereinafter provided. Compliance with the requirements herein does not relieve any obligation to comply with any other law or regulation.

### § 260-15 **Application** [Amended 6-9-1997 by L.L. No. 2-1997]

**A.** Applications for driveway permits shall be filed, in writing, with the Village Clerk upon application forms provided by the Clerk. Applications shall be made in the name of the person seeking to have the work done and of the contractor performing the work and shall state the type, location, extent and purpose of the proposed opening or excavation. The Clerk shall forward the completed application to the Superintendent of Public Works and a copy to the Code Enforcement Officer.

**B.** Any such permit, when issued by the Superintendent of Public Works, shall be effective for such period of time, not to exceed 60 consecutive calendar days, as specified thereon. Such specified period of time may be extended for the completion of the work, if so requested, in writing, by the permittee prior to the expiration date, for such additional period or periods of time as authorized by the Superintendent of Public Works.

**C.** All driveway permits shall contain the following conditions which must be complied with by the permittee:

**(1)** A driveway at the point of entrance on the highway or street shall have the optimum of sight distances, both vertical and horizontal.

**(2)** The grade, width and drainage of a driveway shall minimize any possible damage or injury to the highway or street and shall be such as to provide the maximum safety for all traffic on the highway or street in the area of the entrance of the driveway.

**(3)** Any requirements imposed on or pursuant to an approved subdivision plat or site plan.



**(4)** Any additional requirements imposed by the Superintendent of Public Works for the preservation of highways, streets and the village system for drainage of surface waters and for minimizing hazards and dangers to the traffic.

**(5)** Agreement by the applicant to indemnify the village and hold the village harmless from all claims, damages, injuries, costs, actions and proceedings brought by any person for injury to person or property resulting from or occasioned by any act or omission of the person to whom the permit is issued or by anyone acting thereunder on his behalf.

**D.** Upon notification by the permittee of the completion of the work, the Superintendent of Public Works shall inspect the work to determine that it is properly completed and meets all permit conditions and, if so, he shall issue a certificate of compliance.

**E.** No certificate of occupancy shall be issued by the Code Enforcement Officer for any building or structure to which access is provided by a driveway constructed pursuant to this article until such certificate of compliance has been issued.

**F.** The Board of Trustees may by resolution revise the above permit conditions and adopt additional or different permit conditions.

**§ 260-16 Permit Fees and Security Deposits** [Amended 6-9-1997 by L.L. No. 2-1997]

**A.** Each applicant must pay a permit fee in an amount established, and as may be amended from time to time, by resolution of the Board of Trustees. No permit fee hereunder shall be charged where a driveway is constructed in connection with new construction for which a building permit fee has been paid and a building permit obtained.

**B.** Each application shall be accompanied by a deposit (security deposit) of \$500 or such higher amount as the Superintendent of Public Works deems adequate to secure the cost of restoring any road area or drainageway or improvement or other area within the public right-of-way or to cause compliance with any condition of the permit. Said security deposit shall be in the form of cash or a certified check. Notwithstanding the amount of the security deposit, the applicant shall be responsible for the full cost of restoration and permit compliance. All unused security deposits shall be returned to the applicant.

**C.** The security deposit shall be retained by the village until a certificate of compliance is issued by the Superintendent of Public Works as provided in § **260-15**.

**D.** Upon the failure of the permittee to meet any of the terms, agreements, covenants and conditions of the permit, said deposit may be used by the village for any expense incurred by the village by reason of such failure. Any balance remaining after the expense to the village caused by such failure, as determined by the Superintendent of Public Works, has been paid from the amount of the deposit shall be refunded to the permittee.

## § 260-17 **Private Roads**

When entrance on a private road is involved, proof of easement from the fee owner of said road is required.

*[Editor's Note: Original Article III. Prior Notice of Defects, consisting of §§ 12 and 13, which immediately followed this section, was deleted 5-8-1995 by L.L. No. 5-1995. For current provisions, see Ch. 204, Notification of Defects.]*

**§ 260-18 Mailbox Installation** [Added 11-7-1994 by L.L. No. 7-1994 *Editor's Note: This local law also provided for the renumbering of former §§ **260-18**, **260-19** and **260-20** as §§ **260-20**, **260-22** and **260-23**, respectively.]*

Every owner or occupant of property shall install any mailbox solely in compliance with the rules and regulations of the United States Postal Service. The mailbox shall be installed in such a manner which will not interfere with the speedy and efficient removal of snow and/or ice from the other right-of-way by the Highway Department. The installation of a mailbox within any public right-of-way shall be at the sole risk and liability of the owner or occupant of the abutting real property, and the Village of Washingtonville shall not be liable for any damage to any such mailbox.

**§ 260-19 Trees, Shrubs and Hedges** [Added 11-7-1994 by L.L. No. 7-1994]

**A.** Every owner or occupant of any building and every owner or person possessing an ownership interest of vacant property shall be required to properly trim all trees, shrubs and hedges on such property so as not to obstruct any street or sidewalk. Such owner, occupant or person shall also be required to trim tree limbs which overhang any street or sidewalk such that the limb is not less than eight feet above the center of the sidewalk and not less than 13 feet above the street, measured at a point five feet from the curblines.

**B.** No person shall sweep, rake or otherwise deposit leaves, grass, clippings or branches on a sidewalk or street, except at times and places designated by the Board of Trustees for leaf pickup.

## **§ 260-20 Penalties for Offenses; Additional Remedies**

[Amended 11-7-1994 by L.L. No. 7-1994; 6-9-1997 by L.L. No. 2-1997]

**A.** Any person, firm or corporation who violates the provisions of this chapter shall be guilty of an offense, punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both such fine and imprisonment. Notwithstanding the above, any person, firm or corporation who violates § **260-18** or **260-19** shall be subject to a fine not exceeding \$25 for each such violation. Each day that a violation continues shall constitute a separate and distinct violation.

**B.** In addition to and not in lieu of the above, the Board of Trustees may also maintain an action or proceeding in the name of the village in a court of competent jurisdiction to compel compliance with and/or to restrain by injunction any violation of this chapter.

**C.** In addition to and not in lieu of the above, in the event that any person, firm or corporation fails to comply with the terms of this chapter or rules or regulations promulgated hereunder or fails to comply with any permit condition or fails to properly restore the highway right-of-way or improvement therein upon completion of work, the village may, upon due notice, correct the work and/or restore the disturbed right-of-way and improvement at the cost and expense of the applicant(s) and/or property owner. The total cost of the work performed by the village, its employees, agents or contractors, including reasonable engineering and attorney's fees, shall be billed to the applicant(s) and/or property owner, and, if not paid within 30 days, said cost may be a lien on the property and shall be levied, assessed and collected in the same manner as real property taxes.

## **§ 260-21 Enforcement Officers**

[Added 11-7-1994 by L.L. No. 7-1994; amended 6-9-1997 by L.L. No. 2-1997]

This article and all laws and regulations affecting streets and sidewalks shall be enforced by the Police Department, Superintendent of Public Works or Code Enforcement Officer.

## **Article III : Granite Curbs** [Adopted 5-7-1990 by L.L. No. 9-1990 (Ch. 148, Art. III, of the 1995 Code)]

### **§ 260-22 Findings**

The Board of Trustees of the Village of Washingtonville finds that the aesthetics of the center of the village will be preserved and enhanced by the installation of granite curbs on New York State Routes 94 and 208 in the area where they intersect with each other.

### **§ 260-23 Locations**

Granite curbs shall be installed at the following locations on streets within the Village:

**A.** On both sides of New York State Route 94 from approximately 320 feet west and approximately 285 feet east of the intersection of the center lines of Routes 94 and 208 to the intersection of the curbs of said roads.

**B.** On both sides of New York State Route 208 from approximately 400 feet north and approximately 240 feet south of the intersection of the center lines of Routes 94 and 208 to the intersection of the curbs of said roads.

**C.** On all sides of any island or islands that may be created at the intersection of New York States Routes 94 and 208.