

Chapter 45**EXCAVATIONS**

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[HISTORY: Adopted by the Town Board of the Town of New Baltimore 5-2-89 as L.L. No. 4-1989. Amendments noted where applicable.]

§ 45-1. Statement of policy.

This chapter is enacted pursuant to provisions of the Town Law of the State of New York to regulate the manner in which excavations may be made in, upon or under the streets, roads, highways and other public places in the Town of New Baltimore, to protect the health, safety and welfare of the public during periods of excavations and to ensure the quality and safety of town thoroughfares.

§ 45-2. Permit required.

No person, partnership, joint venture, firm, corporation, other legal entity or agent of any thereof shall open or cause to be opened by cutting, digging, excavating, tunneling or otherwise disturbing the surface or soil of any town street, road, highway or other public place without first obtaining an excavation permit therefor issued by the Town Superintendent of Highways or his designee.

§ 45-3. Application for permit.

- A. An application for an excavation permit for any town street, road, highway or other public place shall be made to the Superintendent of Highways upon a form to be provided for that purpose. The application shall require the following:
- (1) The name, address and telephone number of the applicant.
 - (2) The name, address and telephone number of the party on whose behalf the work is to be performed, if different from the applicant.
 - (3) The name, address and telephone number of the contractor to be performing the work.
 - (4) The location of the property, including the Tax Map number, street address and the name or names of the current owner.
 - (5) The purpose of the excavation.
 - (6) A copy of the applicant's insurance policy rider and performance bond, if required, in accordance with § 45-7 hereof.
- B. Such permit shall be valid for a period of not more than thirty (30) days after the date of its issuance, after which period said permit shall lapse and be null and void.

§ 45-4. Pavement; general restoration; access devices.

- A. All excavations shall be filled with approved bank-run gravel containing no stones in excess of four (4) inches in diameter. All fill shall be fully compacted prior to the installation of topping material. The topping material shall be at least six (6) inches of approved blacktop, rolled and finished.
- B. All driveways, private roads, entrances, exits or other ways of ingress and egress to town streets, roads, highways or other public places shall be finished in accordance with the instructions of the Town

Superintendent of Highways. Approved blacktop of at least four (4) inches in depth after compaction shall be installed from the edge of the existing town street, road, highway or other public inward place to a point at least eight (8) feet therefrom along such driveway, private road, entrance, exit or way of ingress and egress.

- C. All manholes, valve boxes or any other such access devices shall be set at road level.

§ 45-5. Culverts.

- A. Culvert pipe under all streets, roads or highways shall extend from the toe of the slope and shall be set with a minimum of two (2) feet of approved cover over the top of said culvert pipe, unless specifically waived by the Town Highway Superintendent.
- B. Where side ditches exist, culverts of sufficient size and type to carry the amount of water anticipated from sources flowing therein shall be installed beneath driveways, private roads and all accessways. Culverts in side ditches shall be not less than twenty (20) feet nor more than thirty (30) feet in length.
- C. Culverts shall have a minimum diameter of twelve (12) inches and shall be laid on a minimum grade line slope of five-tenths percent (0.5%). In general, the grade line shall coincide with the existing stream bed or ditch grade. All culvert pipe shall be at least fourteen-gauge or its equal.

§ 45-6. Standards; approval; inspections; acceptance.

- A. All work performed and materials used in connection with the excavations and improvements permitted hereunder shall be in accordance with accepted industry practices and standards and shall be approved by the Town Superintendent of Highways.
- B. For the purposes hereunder, the Town Superintendent of Highways shall be given access at all reasonable times to the construction site(s) for which a permit has been issued for the purpose of inspecting the same, the work being performed, including the manner thereof, compliance with safety standards and for such other purposes as will effectuate this chapter. The Superintendent shall record all such inspections on suitable inspection reports to be filed in his office.

- C. Before any improvements, including all restorations and repairs, may be used by the owners or others, a certificate of acceptance of improvement shall be obtained from the Town Superintendent of Highways.

§ 45-7. Insurance; performance bond.

- A. No excavation permit shall be issued hereunder unless the person to whom said permit is to be issued shall have first filed a copy of his insurance policy and/or certificate of insurance naming the Town of New Baltimore as an additional insured as against all claims of any kind whatsoever in an amount as follows:
 - (1) Combined single limits bodily injury and property damage liability: five hundred thousand dollars (\$500,000.).
- B. Where deemed necessary by the Town Superintendent of Highways, the holder of the permit may be required to post a performance bond or such other bond or security in an amount as will insure that the work intended to be performed shall be completed in the manner and within the time as required by the terms of this chapter.

§ 45-8. Notice of commencement; safety precautions; liability; indemnification of town.

- A. The applicant shall give the Superintendent of Highways of said town at least twenty-four (24) hours' notice of the time such work is to be commenced, unless such notice is waived by the Superintendent.
- B. All trenches, cuts and work sites shall be properly protected by necessary guards, sheathing, braces and necessary safety devices, including lighting devices, all as required by current state, federal and local laws and as shall protect the public and workers alike.
- C. The holder of the permit hereunder, including the contractor and applicant, if different, shall be jointly and severally liable and responsible for all claims of any kind whatsoever brought in connection with any of the work related to or to be performed or performed in connection with the excavation permit on, under or upon any town street, road, highway or other public place and shall indemnify and hold the Town of New Baltimore harmless for all claims and costs relating to such claims.

§ 45-9. Fees.

- A. The Town Board shall from time to time establish appropriate fees for the issuance of the excavation permit, certificate of acceptance, inspections and issuance of inspection reports and such other fees as shall be required to properly administer and enforce this chapter. Such fees shall be filed in the office of the Superintendent of Highways and forwarded to the Town Clerk and shall be effective immediately thereafter.

- B. All fees shall be collected by the Superintendent of Highways, who shall record the amounts thereof and forward them to the Town Clerk.