

LOCAL LAW NUMBER 1 OF 1989

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LOCAL LAW NUMBER 1 OF 1989

SECTION 1.0

TITLE AND PURPOSE

1-1 TITLE.

This Local Law shall be known as the "Public Property Excavation Law" of the Village of Cambridge.

1-2 PURPOSE.

It is hereby determined by the Board of Trustees of the Village of Cambridge that excavation, digging or other similar activities by private persons in or upon the public streets, sidewalks and properties of the Village of Cambridge without the prior approval of the Village does, or may, constitute a hazard to the health, welfare and safety of the citizens of the Village of Cambridge and constitute a "public nuisance" as defined by law. The purpose of this Local Law is to protect the public health, safety and general welfare by authorizing and establishing proper procedures for private persons to excavate or dig in or upon the public streets, sidewalks and properties of the Village in a safe and workmanlike manner; fixing responsibilities and duties; and fixing penalties for the violation of this Local Law. This Local Law is hereby declared to be remedial and essential to the public interest and it is intended that this Law be liberally construed to effectuate the purpose as herein stated and to protect the appearance and value of the Village as a whole.

SECTION 2.0

DEFINITIONS; SCOPE AND CONSTRUCTION

2-1 DEFINITIONS.

Unless otherwise expressly stated, the following definitions shall apply in the interpretation and enforcement of this Local Law:

2-1.1 PERSON: An individual, firm, partnership, corporation, association, trustee, fiduciary, private utility, public utility, or agency, board, department or instrumentality of the State of New York.

2-1.2 BOARD OF TRUSTEES: The duly elected Board of Trustees of the Village of Cambridge.

2-1.3 MAYOR: The duly elected Mayor of the Village of Cambridge.

2-1.4 SUPERINTENDENT OF PUBLIC WORKS: The duly appointed Superintendent of Public Works of the Village of Cambridge.

2-2 CONSTRUCTION AND SCOPE.

In the interpretation and application of this Local Law, its provisions shall be construed as follows:

2-2.1 Singular/Plural: Any term in the singular shall include the plural, and vice versa.

2-2.2 Masculine/Feminine: Any term in the masculine shall include the feminine and neuter.

2-2.3 Aiding or Abetting: Any requirement or prohibition of this Law shall respectively extend to and include the causing, procuring, aiding or abetting, directly or indirectly, of such act.

2-2.4 Territorial Scope: This Local Law shall apply to all public streets, sidewalks, easements, rights-of-way and other public properties situated within the corporate limits of the Village of Cambridge.

SECTION 3.0

GENERAL PROVISIONS

3-1 UNLAWFUL TO DIG OR EXCAVATE WITHOUT PERMIT.

From and after the effective date of this Local Law, no person shall, within the Village of Cambridge, dig, or excavate, or cause to be dug or excavated, any depression, pit, ditch, trench or hole for any purpose in, upon or under any of the streets, sidewalks, public easements or rights-of-way, or other Village property within the limits of the Village of Cambridge without first securing an excavation permit to do so, in writing, in accordance with the provisions and procedures set forth in this Local Law.

3-2 APPLICATION FOR PERMIT.

Application for an excavation permit shall be made to the Superintendent of Public Works on forms prescribed and furnished by him, and shall be accompanied by a permit fee of \$ 15. Each application for an excavation permit shall also be accompanied by a complete set of plans and specifications for the proposed excavation together with such other information as may be required by the Superintendent of Public Works.

3-3 APPROVAL OF APPLICATION.

All applications for an excavation permit under this Local Law shall be referred by the Superintendent of Public Works to the Board of Trustees with a recommendation for approval or disapproval. After examination of the plans and specifications, the site of the proposed excavation and the affect that the same will have on surrounding property and residents, and the recommendation of the Superintendent of Public Works, the Board of Trustees shall decide whether the permit applied for shall be granted or denied, such decision of the Board to be by majority vote of the members present at any duly called meeting thereof.

3-4 ISSUANCE OF PERMIT.

If the application is approved by the Board of Trustees, the Superintendent of Public Works shall issue the requested permit.

3-5 POSTING PERMIT.

A copy of the permit shall be posted in a conspicuous place on the premises during the prosecution or existence of the excavation work authorized thereby.

3-6 DURATION AND SCOPE OF PERMIT.

No permit issued pursuant to the provisions of this Local Law shall be for a longer period than one week, nor shall it authorize the digging or excavation in more than eight feet in width of the street or roadway.

3-7 POSTING OF BOND.

Unless a Bond be dispensed with as hereinafter provided, no excavation permit shall issue to any person unless and until such person shall execute a surety bond in the form prescribed by the Board of Trustees, with sufficient sureties, to be approved by the Board of Trustees, conditioned that he will perform the excavation work in a good and workmanlike manner in accordance with the plans and specifications submitted by him, and to the satisfaction of the Superintendent of Public Works; that he will commence and finish the excavation work within the time provided therefore in the excavation permit; and that he will properly fill in and return all property excavated upon by him to a condition as good or better than that which the property was in prior to the excavation; provided, however, that the Board of Trustees may, at the time of the issuance of the excavation permit, upon the written request of the applicant, dispense with the giving of said bond. The bond, if given, shall be in an amount to be determined by the Board of Trustees, based upon the

nature, scope and extent of the excavation work which is proposed to be undertaken, which amount shall not in any event exceed \$50,000.00, and shall also provide against any direct or indirect damages that shall be suffered or claimed on account of such excavation during the time thereof, and until the excavation work has been accepted by the Superintendent of Public Works. Said bond shall be deposited with the Treasurer of the Village of Cambridge and shall be returned to the applicant only upon the certification of the Superintendent of Public Works that the conditions of the bond have been fulfilled and that all excavation work undertaken by the applicant has been performed to the satisfaction of the Superintendent of Public Works in accordance with the terms and provisions of this Law.

#### 3-8 ISSUANCE OF EMERGENCY PERMIT.

Notwithstanding any other provisions herein contained to the contrary, in the event that the Superintendent of Public Works should, in his judgment, determine that the health, safety or property of the Village or its' residents would be unreasonably harmed or endangered by the delay necessary to obtain the approval of an excavation permit by the Board of Trustees, then he shall have the authority to issue a temporary emergency excavation permit to an applicant without first obtaining prior Board approval. In such a case, the Superintendent shall also be authorized to waive the filing of plans and specifications for the excavation, as required by Section 3-2 hereof, and the posting of a bond, as required by Section 3-7 hereof, but shall otherwise require the permit applicant to comply fully with all other provisions of this law. Upon issuing an emergency excavation permit under this section, the superintendent shall immediately notify the mayor of his action. Thereafter, the Board of Trustees, in its' discretion, shall have the authority to modify, amend or revoke the emergency permit which has been issued, upon such terms and conditions as it may deem proper under the circumstances.

3-9 PERFORMANCE OF WORK.

All excavation work shall be performed in a good and workmanlike manner, shall comply with all applicable Federal, State and/or Local Statutes, Rules, Regulations or Ordinances, and shall meet with the approval of the Superintendent of Public Works. In restoring Village property after the completion of excavation work, all backfilling shall be done with fine selected material and thoroughly tamped so that there will be no future settlement, and all materials used to repave or resurface the affected area shall be of a type and quality approved by the Superintendent of Public Works, and shall be applied in a proper manner under his supervision.

3-10 WARRANTY OF RESTORATION WORK.

Any person who performs restoration work following an excavation in, upon or under any Village property which is covered by this law, whether pursuant to a permit properly issued hereunder or otherwise, shall be deemed to warrant to the Village of Cambridge that said work will be free from defects in materials, design and workmanship for a period of two (2) years from the date of its completion. Should the Village discover defects in the materials, workmanship or design of any such restoration work with said period, then the person performing said work shall be obligated to repair the defect(s), or to pay to the Village the reasonable cost of performing such repairs.

3-11 VESTED RIGHTS.

No person shall acquire any vested right to construct, alter, or maintain any improvement or to continue or complete any excavation by virtue of money spent or work done prior to obtaining an excavation permit required by the terms of this law.

3-12 PENALTIES FOR VIOLATION OF LAW.

Any person who violates any provision of this Local Law shall be guilty of an offense punishable by a fine not exceeding

Two Hundred and Fifty (\$250.00) Dollars and in addition thereto, every person violating any of the provisions of this Local Law shall be and hereby is declared to be a disorderly person, and such violation is hereby declared to be disorderly conduct, and may be proceeded against and punished as a disorderly person. Each day that a violation of the provisions of this Local Law is carried on or continues shall constitute a separate violation.

3-13 PROSECUTION RIGHTS RESERVED.

The provisions in Section 3-7 of this Local Law regarding the posting of a surety bond shall not be interpreted or construed so as to prevent or stay the commencement of an appropriate civil or criminal action or proceeding against a violator of this Law for the imposition of the penalties prescribed in Section 3-10 hereof; for an injunction directing the restraining the continuation of excavation or digging upon Village property; or for such other relief as may be provided by law, including, but not limited to, the recovery of money damages.

SECTION 4.0

VALIDITY OF LAW

If any term or provision of this Local Law, or the application thereof to any person or circumstance, shall to any extent be declared by a Court of competent jurisdiction to be invalid or unenforceable, the remainder of this Local Law, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Local Law shall be valid and be enforced to the fullest extent permitted by law.

SECTION 5.0

REPEALER

All ordinances or parts of ordinances in existence are

hereby repealed to the extent that they are inconsistent with this Local Law. This Local Law specifically supercedes the Village Ordinance adopted on August 20, 1951, known as "Section 34".

**SECTION 6.0**

EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State, as provided in Section 27(3) of the Municipal Home Rule Law of the State of New York.

BE IT ENACTED, this \_\_\_\_ day of \_\_\_\_\_, 1989 by the Board of Trustees of the Village of Cambridge, of Washington County, New York.

\_\_\_\_\_  
Philip J. Sica, Mayor

\_\_\_\_\_  
Robert E. Shay, Trustee

\_\_\_\_\_  
Robert J. Worboys, Trustee

\_\_\_\_\_  
Randy L. Waite, Trustee

\_\_\_\_\_  
Richard C. Feus, Trustee

SEAL

ATTEST:

\_\_\_\_\_  
Orville C. Burton  
Village Clerk

*Adopted 03/06/89  
5-0 vote  
UNR*

