

Chapter 3. Excavation of Streets, Highways, or Sidewalks**§7301. Permit required**

No person shall excavate within the limits of any Village street, highway, or sidewalk for the purpose of installing, repairing, or maintaining water, sewer, or utility lines or for any other purpose, without first obtaining a permit therefor from the Board of Trustees or from the Village Manager as hereinafter provided, provided however, this provision shall not apply to a person authorized to excavate without a permit pursuant to section 7306 of this chapter nor shall this provision apply to any act for which a permit has been obtained under section 7101 of this title.

History:

2004 Amendment. Section was amended generally to allow issuance of permits by Village Manager by section 1 of Woodstock Village Ordinance Revision #18, adopted by the Board on December 15, 2003, effective February 14, 2004.

§7302. Applications for permit

Applications for a permit required under section 7301 of this chapter shall be made to the Board in such form as shall be prescribed by the Board from time to time and shall be signed by the applicant or an agent of the applicant. All sketches, plats, drawings, and design plans and specifications required by such form of application for such project shall be attached to the application. A processing fee of \$25.00 shall accompany all applications, however this fee may be waived by the Board or by the Village Manager considering the application in the event an application for essentially the same project is being resubmitted for any reason within 90 days of the submission of a prior application by or on behalf of the same applicant. An application shall be deemed completed when delivered to the office of the Village Manager, with all information requested on the form completely answered, together with the fee and any required sketches, plats, drawings, and plans.

History:

2004 Amendment. Section was amended generally by section 2 of Woodstock Village Ordinance Revision #18, adopted by the Board on December 15, 2003, effective February 14, 2004.

2004 Second Amendment. Erroneous reference to §7101 was corrected to §7301 by section 5 of Woodstock Village Ordinance Revision #20, adopted by the Board on March 22, 2004, effective May 21, 2004.

§7303. Approval or denial of applications; issuance of permit

(a) Upon receipt of a completed application and processing fee (if applicable), the Village Manager or designee shall note the date of receipt on the application. If the application, in whole or in part, involves proposed excavation of a local connector of U.S. Route 4, Vt. Route 12, or Vt. Route 106, then the Village Manager or designee shall place the consideration of such application on the agenda of the next regular meeting of the Board and such application shall be considered and determined by the Board unless the Board votes specifically to refer the consideration and determination of such application to the Village Manager, in which case it shall be considered and determined by the Village

Manager. All other applications shall be considered and determined in the first instance by the Village Manager, provided, however, in the event the Village Manager finds special circumstances to warrant consideration and determination of the application by the Board, the Village Manager may refer the application to the Board, in which case it shall be considered and determined by the Board. Special circumstances may include new or unprecedented proposed activities, activities which are part of a series of applications relating at least in part to the aforementioned local connectors, and activities which raise questions pertaining to the application of the standards to the proposed activities. In any event, an applicant may object to the consideration and determination of its application by the Village Manager by filing a written objection with its application or by filing a notice of objection within 30 days of the date of any permit or permit denial issued by the Village Manager, in which cases the application shall be considered and determined by the Board.

(b) Upon consideration of such application and the standards set forth in section 7304 of this chapter where applicable, the Board or the Village Manager, as the case may be, shall grant or deny such application, with or without conditions, and if granting such application the Board or the Village Manager shall issue a permit therefor which specifically states any conditions to be imposed which are not listed in the standard conditions set forth in section 7305 of this chapter.

History:

2004 Amendment. Section was amended generally by section 3 of Woodstock Village Ordinance Revision #18, adopted by the Board on December 15, 2003, effective February 14, 2004.

§7304. Standards

- (a) Plans submitted shall satisfy, at a minimum, the specifications contained in the standard conditions set forth in section 7305 of this chapter, to the extent applicable.
- (b) A cash performance bond or cash deposit shall be required to secure the proper restoration of any street, highway, or sidewalk to be affected by the proposed excavation. The amount of said bond shall reasonably calculated to reflect the actual cost of restoration.
- (c) An applicant shall insure that adequate precautions will be taken to protect public safety during the project period and when vehicular traffic must be diverted or halted for significant periods of time, the plans shall include usage of adequate numbers of traffic control persons or devices at applicant's expense.
- (d) Plans shall be developed with a view toward minimizing any reasonably foreseeable interference with the use of lands abutting the project area and access thereto.
- (e) If excavation of a concrete sidewalk is necessary, plans shall be formed in such manner as to insure that only such slabs as must necessarily be torn up shall be torn up and plans shall specify the slabs involved. If the slabs to be torn up contain access ramps for handicapped pedestrians, then plans shall include alternate provisions for such persons to be in place during the project period.

(f) Plans shall not include the breaking up or division of sections of granite curbing unless the plan also includes provisions for complete replacement of such section of granite curbing.

(g) All plans for the project shall be formulated so as to minimize the amount of excavation necessary during the project and minimize the amount of time necessary to complete the project.

§7305. Standard conditions

Any permit issued under this chapter shall be deemed to include the following standard conditions, to the extent applicable:

(a) Any excavation of a concrete sidewalk and restoration thereof shall be done according to the following minimum standards and procedures:

(1) The entire concrete slab surrounding any excavated portion shall be excavated to the expansion joints and cutting shall be done with a saw;

(2) Gravel taken from under the location of a concrete slab shall be returned to the place from which it was taken and compacted to 95% compaction;

(3) Expansion joints shall be installed between existing concrete and any replacement slab abutting it and also between replacement slabs when more than one abutting slab has been removed, all to be done in conformity with other joints then existing;

(4) The entire concrete slab shall be poured to a depth of four inches; and

(5) A bonding agent shall be used when pouring the new concrete.

(b) Any excavation of macadam sidewalks or streets and restoration thereof shall be done according to the following minimum standards and procedures:

(1) The pavement shall be cut with a jackhammer, saw, or other tool to make an even cut;

(2) Gravel taken from under the location of the pavement shall be returned to the place from which it was taken and compacted to 95% compaction in layers of at least six inches;

(3) Hot mix shall be installed to the depth of the existing pavement and compacted;

(4) A bonding agent shall be used between the existing pavement and the patch; and

(5) Any affected concrete underlay shall be replaced with the same thickness of concrete as existed at the time of the excavation.

(c) All restoration shall be completed by the permittee promptly within five calendar days and at its sole expense, and be approved by the Village Manager. To the extent minimum standards therefor are not specified above, such restoration shall be done in such manner as shall result in restoring the excavated area as nearly as possible to the conditions as existed prior to such excavation.

§7306. Emergency excavations; prohibition

(a) Whenever there exists a bona fide emergency wherein adherence to the above permit

procedures would result in substantial damage to persons or property, a person responsible for making such repairs as will necessitate an excavation regulated by this chapter, or such person's agents or employees, may proceed at once to make such excavation as is necessary to meet the exigent circumstances, without first obtaining a permit, provided however, such person and his agents and employees, shall be bound by any applicable standard conditions contained in section 7305 of this chapter and such other conditions as the Board or the Village Manager, as the case may be, may reasonably thereafter impose in connection with such emergency excavation. In such emergency, notification shall be given as soon as possible to the first available of the Village highway foreman, the Village manager, or the chairman of the Board, in that order. Such person and his or her agents and employees shall be responsible for following the directions of such Village official. In the event there is objection to any or all directions given by such Village official hereunder, the person objecting may appeal such decision by making application to the Board as provided in this chapter, provided, however, such application shall bring before the Board or the Village Manager only such matters as are specifically objected to in the application.

(b) No person proceeding under the authority of this section shall, either directly or through agents, employees, or others, violate any condition imposed by virtue of this section. Each condition violated constitutes a separate violation.

History:

1996 Amendment. Section was amended generally by deleting the last two sentences of the existing provision relating to penalty, be redesignating the existing provision as amended as subsection (a), and by adding subsection (b) defining prohibition, by section 10 of Woodstock Village Ordinance Revision #5, adopted by the Board on January 22, 1996, effective March 22, 1996. Revision note: catchline was amended to add reference to prohibition.

2004 Amendment. Subsection (a) was amended generally by section 4 of Woodstock Village Ordinance Revision #18, adopted by the Board on December 15, 2003, effective February 14, 2004. Revision note: adoption was with erroneous section number corrected by 2004 Second Amendment.

2004 Second Amendment. Caption amended to properly reflect section number (§7306) by section 6 of Woodstock Village Ordinance Revision #20, adopted by the Board on March 22, 2004, effective May 21, 2004.

§7307. Violation of permit terms and conditions

Each person on whose behalf a permit is issued pursuant to this chapter ("the permittee") shall be jointly and severally responsible for the violation(s) of any term(s) and/or condition(s) of the permit regardless of the identity of the actual violator and whether or not the actual violator is the agent or invitee of the permittee and whether or not the permittee knows of the violation. Each term and/or condition of the permit violated constitutes a separate violation. If the foregoing language of this section is clearly set forth in the permit as issued, each violation of a term and/or condition thereof shall constitute a separate violation of this Ordinance and the permittee shall be subject to the penalties provided in the Woodstock Village Ordinances therefor, provided, however, only one penalty shall be assessed for each violation. The fact that

the alleged violation or any prior violation resulted in the termination of the permit and any rights thereunder shall not constitute a defense to an action brought under this section.

History:

1996 Amendment. Section was amended generally by section 11 of Woodstock Village Ordinance Revision #5, adopted by the Board on January 22, 1996, effective March 22, 1996. Revision note: catchline was amended to delete reference to penalty, which is now covered by Chapter 3 of Title 1, W.V.O., and to describe prohibition of revised section.

§7308. Additional remedy

In the event the permittee or a person authorized to proceed without a permit under section 7306 of this chapter who does so proceed shall fail to comply with all applicable conditions after written notification from the Village of such conditions as have not been met, in addition to the penalties otherwise imposed by the Woodstock Village Ordinances, the Village shall have the authority to proceed to make all repairs and to do such other acts as are necessary to complete the project as required under such conditions and if such authority is so exercised, the Village shall be entitled to recover its costs from such person in an action of contract based on this provision.

History:

1996 Amendment. Section was amended to change reference to penalties “imposed by the Woodstock Village Ordinances,” by section 12 of Woodstock Village Ordinance Revision #5, adopted by the Board on January 22, 1996, effective March 22, 1996.

§7309. [Repealed]

History:

1996 Amendment. Section relating to public nuisances and injunction was repealed by section 1(L) of Woodstock Village Ordinance Revision #5, adopted by the Board on January 22, 1996, effective March 22, 1996.