**DRAFT LOCAL LAW NO. ____ OF 2018**

**CITY COUNCIL**
**CITY OF BEACON**

**PROPOSED LOCAL LAW TO AMEND CHAPTER 191, ARTICLE II AND CHAPTER 192 OF THE CODE OF THE CITY OF BEACON**

A LOCAL LAW to amend Chapter 191, Article II and Chapter 192, Section 30 concerning Street and Sidewalk Opening Permits.

BE IT ENACTED by the City Council of the City of Beacon as follows:

**Section 1.** Chapter 191, Article II of the Code of the City of Beacon entitled "Street and Sidewalk Openings" is hereby amended as follows:

Article II STREET AND SIDEWALK OPENINGS

§ 191-14. Written permission to tunnel required.

No person having a permit secured under this article shall, under any circumstances, tunnel under macadam, asphalt macadam, concrete or similarly paved roads or sidewalks for the purpose of connecting to water, sewer, gas, electric, telephone or cable facilities, unless written permission from the Highway Superintendent shall first have been secured.

§ 191-15. Openings into water, sewer, gas, electric, telephone or cable facilities.

All openings into any water, sewer, gas, electric, telephone or cable facilities or gas services shall be made only by plumbers duly licensed by the City, the respective utility company or authorized contractor.

§ 191-16. Compliance with directions of Highway Superintendent required.

Any person to whom a permit is issued under the terms of this article must comply with all directions of the Highway Superintendent, or his or her designee, designed to secure the safety of persons and their property lawfully using the streets of the City. Such directions may be given orally or in writing by the Superintendent or his representative.

§ 191-17. Penalties for offenses.

A. Any person, firm or corporation or his or its representative, agent or employee who shall violate any of the provisions of this article shall be punished by the imposition of a penalty as prescribed in **§ 1-3**.

B. Additionally, the Highway Superintendent may withhold the issuance of permits if restoration work required with respect to previously issued street opening permits has not been satisfactorily completed.

§ 191-18. Permit required.

No person or association of persons, municipal corporation, public utility corporation or corporation, without having first secured a permit therefor from the Highway Department as provided in this article, shall:

A. Fill in or raise or cause to be filled in or raised any street or any part thereof.

B. Take up, remove or carry away or cause to be taken up, removed or carried away any asphalt or paver blocks, flagstones, turf, stone, gravel, concrete, sand, clay or earth from any street or part thereof.

C. Open or dig up any City street or any private street which is open to public motor vehicular traffic, or any street, road or highway or part thereof in and over which the City shall have jurisdiction or shall in any way alter any curbing, gutters, gutter basins, drainage lines or other works within such a street or highway for any purpose.

D. Lay, repair or disturb any sidewalk in any public street.

§ 191-19. Application for permit.

A. Application for a permit under this article shall be made to the Highway Department in writing and shall contain the following information:

(1) The full name and address of the applicant.

(2) The full name and address of the owner or owners of the property in front of which the operation is to be performed.

(3) The location by street address, if any, of the property in front of which the operation is to be performed and the Tax Map designation of the same.

(4) A statement of the proposed operation and the size thereof and purpose thereof.

(5) The date or dates when the proposed operation is to be commenced, and the date or dates when the operation is to be completed.



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(6) The type of pavement or surface to be disturbed.

(7) A sketch of the proposed operation showing location on lot or streets; location, if any, of any tiles or drainage system or water mains or other public utility conduits, etc, which may be within the area of the proposed construction

(8) The rehabilitation proposed.

(9) A schedule of the proposed work.

(10) A confirmation notice from Dig Safely New York.

(11) Any additional information which may be reasonably required by the Highway Superintendent.

(12) A signed statement by the applicant that said applicant agrees to perform the proposed operation for which the permit may be granted, in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the City Code and other applicable statutes and ordinances of the City of Beacon.

§ 191-20. Fee and work rules.

A. The applicant for a permit under this article or the person for whose benefit the excavation or opening is to be made shall pay a fee as set forth in the City of Beacon fee schedule for each street opening. The Highway Superintendent may waive in writing the application fee for any permit application to lay, repair or disturb any sidewalk in any public street, in his or her discretion, for good cause shown.

B. A permit shall be obtained no less than one week before any work is performed. All work shall be done during regular work hours of the Highway Department, Monday-Friday 7 a.m to 3 p.m. The Highway Superintendent may waive these requirements in writing within his or her discretion for good cause shown.

C. The opening shall be backfilled with Item 4 (NYSDOT Item No. 304.12) and tamped in eight-inch lifts maximum before applying blacktop in accordance with Chapter 129. All openings shall be square cut, and edges shall be cleaned, and all edges shall be tack coated before patching. Openings in concrete roads shall be filled with Item 4 from the bottom of the trench to the bottom of the concrete. Then the concrete shall be repaired in the method selected by the Highway Superintendent of either pouring a new 5,000 psi concrete patch that is doweled into the adjacent concrete slab(s), or the installation of pavement (Type 3 binder



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course) to the thickness of the existing concrete to two inches below the riding surface. The riding surface shall consist of two inches of pavement (Type 6FX top course). Prior to paving of the top course, the existing top course shall be cut back at least one foot, or greater, as determined in writing by the Highway Superintendent, from edge of trench on all sides. Tack coat shall be applied to the entire surface and all edges upon which the new top course is to be laid. The opening shall be properly maintained at all times during construction and the quality of the work (in case of settlement) shall be guaranteed for a period of two years. The seams of the completed work shall be sealed with a polymer modified crack sealant to prevent the intrusion of water into the pavement. During construction, barricades, lights, flaggers and other safety devices shall be employed as required by law or custom in the construction industry, and in accordance with the Federal Manual of Uniform Traffic Control (MUTCD) and the New York State Supplement to the Federal MUTCD. When excavating, contractor shall follow all safety requirements listed in OSHA specifications 1926.650 (excavation and shoring). The Contractor shall also comply with the OSHA requirements for confined space (1910.146).

D. The applicant shall notify the Highway Superintendent or his or her designee:

(1) One week before any work is performed.

(2) Three business days before any backfilling or temporary filling of any opening.

(3) Three business days before any permanent restorations.

E. Issuance of and the continued effectiveness of such permit shall be conditioned on the following terms:

(1) Throughout the course of the work, a clear, sufficient and safe passageway for all pedestrians and vehicular traffic will be maintained.

(2) The work site will be properly guarded, both day and night, so as to prevent accidents or danger.

(3) Upon completion of work, the site thereof will be restored by applicant and the restoration work guaranteed for two years.

§ 191-21. Bond and insurance.

A. Before a permit may be granted under this article by the Highway Superintendent to any person to open any City street or sidewalk, the applicant for such permit shall



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execute a continuing bond to the City in the sum of $10,000, to be executed by a recognized and responsible surety company authorized to do business in Dutchess County, New York, subject to the same conditions as contained in a plumber's bond. The Highway Superintendent may in writing waive the bond requirement for applicants seeking a permit to lay, repair or disturb any sidewalk in any public street. The Highway Superintendent shall set forth a reason supporting his determination to waive the bond requirement.

B. No permit issued pursuant to this article shall be issued by the Highway Department until the entity performing the work shall have first placed on file with the Highway Department satisfactory evidence of the following types of coverage and limits of liability:

(1) Commercial general (CGL) coverage with limits of insurance of not less than $1,000,000 each occurrence and $2,000,000 annual aggregate.

(a) If the CGL coverage contains a general aggregate limit, such general aggregate shall apply separately to each project.

(b) CGL coverage shall cover liability arising from premises, operations, independent contractors, products/completed operations, personal and advertising injury and blanket contractual, including injury and to subcontractors' employees.

(c) The City of Beacon and its agents, officers, directors and employees shall be included as additional insured. The coverage must be underwritten by an insurance company with at least an A-7 Best rating, as defined by A.M. Best. Coverage for the additional insureds shall apply as primary and noncontributing insurance before any other insurance or self-insurance, including any deductible, maintained by or provided to the additional insureds.

(d) The applicant and/or contractor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain completed operations coverage for itself and each additional insured for at least two years after completion of the work.

(2) Automobile liability: business auto liability with limits of at least $1,000,000 each accident.

(a) Business auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.

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(b) The City of Beacon and its agents, officers, directors and employees shall be included as insured on the auto policy.

(3) Workers' compensation and employers liability: employers' liability insurance limits per statutory requirements.

(4) The applicant shall not sublet any part of his work without assuming full responsibility for requiring similar insurance from his subcontractors and shall submit satisfactory evidence to that effect to the Highway Department. Each such insurance policy, except the workers' compensation policy, shall include the City of Beacon and its agents, officers, directors and employees as an additional insured.

(5) Certificates shall provide that 10 days' written notice prior to cancellation be given to the City of Beacon. Policies that lapse and/or expire during the term of occupancy shall be recertified and received by the City of Beacon no fewer than 10 days prior to cancellation or renewal.

(6) Such insurance shall remain in force through the effective period of the permit and/or any authorized extension or extensions thereof.

C. The Highway Superintendent, with consent from the City Administrator and for good cause shown, may waive, in writing, any of the insurance requirements set forth above in § 191-21B insofar as it may accept such insurance and/or indemnification documents as it deems appropriate for the premises and the proposed work.

D. Indemnification and hold harmless. No permit shall be granted until the applicant and/or contractor shall have agreed in writing to defend, indemnify and hold harmless the City of Beacon, its officers, representatives, agents and employees from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including reasonable legal fees and all court costs and liability (including statutory liability) arising in whole or in part and in any manner from injury and/or death of a person or damage to or loss of any property resulting from the acts, omissions, breach or default of the applicant and/or contractor, its officers, directors, agents, employees and subcontractors, in connection with the performance of any work done under or pursuant to such street or sidewalk opening permit.

§191-22. Obstruction of streets and sidewalks.

Any street, lane, road or sidewalk within the City, whether paved or unpaved, improved or unimproved, and any driveway or other means of ingress to or egress from any street, lane, road or sidewalk within the City shall not be blocked or obstructed at any time in order to provide a safe, convenient and passable means of ingress to and egress from the same for all private, public and emergency vehicles of any kind.

§ 191-23. Notice to other persons affected.

A. If the work to be undertaken by the applicant is such that it will affect the use of properties abutting or adjoining the project, the Highway Superintendent, or his or her designee, shall require the applicant to submit a list of the names and addresses of the owners and/or tenants of such properties.

B. The applicant shall notify the affected property owners and/or tenants of the proposed work to be done at the time the applicant submits his or her street opening permit application.

C. If the work to be undertaken by the applicant will affect other subsurface installations in the vicinity of the proposed opening, the applicant shall notify the owners of such facilities of the proposed work at the time the applicant submits his or her street opening permit application.

§ 191-24. Notice to police and fire authorities.

Upon receipt of a street opening permit and prior to the start of any construction, the applicant, shall notify, in writing, the City police and fire authorities that he or she has received a street opening permit. Such notification shall include a copy of the permit, and state the nature of the work to be done, the proposed beginning and completion dates and the location of such project.

§ 191-25. Construction specifications.

The Highway Department shall be notified at all stages of the work for the purpose of inspection. At a minimum, compliance with the City of Beacon specifications and regulations for the making of street openings, backfilling, maintenance, replacement of pavement and curbing shall be acceptable for the performance of said work and shall be performed to the satisfaction of the Highway Superintendent or his or her designee.

§ 191-26. Term of permit.

All work for which a permit has been issued shall be completed prior to the expiration date of the permit. A permit shall be valid for 40 days from the date of issuance. The Highway Superintendent, in his or her discretion, may approve in writing an extension of the permit for good cause shown.

§ 191-27. Pavement Restoration.

A. All excavations shall be backfilled with materials approved by the Highway Superintendent.

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B. If a new patch is to be made where there is an existing patch, the entire pavement area shall be removed and replaced.

C. Restoration of pavement shall be the full lane width (from curb to centerline) for trenches not extending beyond the lane. If the trench extends beyond a lane width, then the restoration of pavement shall be from curb to curb. All pavement restoration for the surface course (top course) shall extend a minimum of at least one foot from the edge of trench on all sides, or greater if determined by the Highway Superintendent. . Where no curb exists, the restoration shall extend to the existing pavement limits.

D. If any excavation for which a permit has been issued hereunder exceeds 25 feet in length running with the road, the applicant shall be responsible for resurfacing the street for the whole lane width. If the excavation extends beyond a single lane, the applicant shall be responsible for resurfacing the street from curb to curb over the entire area. Resurfacing the street shall be in such a manner as required by the Highway Superintendent on a case-by-case basis. Where no curb exists, the resurfacing shall extend to the exiting pavement limits.

E. If there are multiple patches and the area of disturbance exceeds 20% of the length of a street block multiplied by one foot, then the entire road in the block shall be resurfaced in a manner and with materials required by the Highway Superintendent.

F. Any work performed within a roadway that has been paved within the past three years will require full curb to curb restoration for the length of work plus a minimum of 20 feet on both sides, exact limits will be set by the Highway Superintendent or his or her designee.

G. The Highway Superintendent may, in writing, waive the requirements set forth in this section upon good cause shown.

§ 191-28. Replacement of curbing.

Any curbing removed by any person shall be reset or replaced pursuant to the specifications set forth in **§ 192-22.**

§191-29. Work in City rights-of-way.

No individual, agency, corporation or other entity shall construct any structure or make any alteration to existing structures within any City right-of-way, including the placement of new utility poles or the addition of appurtenances, fixtures, or facilities to existing utility poles, without first having obtained written approval from the Highway Superintendent. This provision shall not apply to routine maintenance of existing structures and/or utility poles in the City rights-of-way. Applicants shall also comply with all other applicable provisions of the City of Beacon Zoning Regulations and any other applicable local laws.



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§191-30. Revocation of permit.

A. The Highway Superintendent shall have the power to revoke a permit issued hereunder whenever he or she shall find that the applicant has refused or failed to comply with any provisions of this article. There shall be no refunds of any application fees provided for any revoked permit.

B. Written notice of any such violation or condition shall be served upon the applicant or his or her agent engaged in the work. The notice shall contain a brief statement of the grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof or registered United States mail addressed to the person notified.

C. The Highway Superintendent may grant an applicant a period of three days, from the date of the notice, to correct a violation and proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.

D. When any permit has been revoked and the work authorized by the permit has not been completed, the Highway Superintendent, or his or her designee, shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the City shall be recovered from the deposit or bond the applicant has made or filed with the City.

**Section 2.** Chapter 192, Section 30 of the Code of the City of Beacon entitled "Work in existing city streets" is hereby amended as follows:

§ 192-30 Work in existing city streets.

A. All work to be performed within an existing City street shall be subject to the approval of the City. The contractor, developer or other such person performing the work shall be required to obtain a street opening permit and pay any and all such fees that may apply in relation to the same.

B. The contractor or person performing the work shall be required to submit to the City satisfactory evidence of the types of coverage and limits of liability set forth in § 191-21D. Each such insurance policy, except the workers' compensation policy, shall include the City of Beacon and its agents, officers, directors and employees as an additional insured. Certificates shall provide that 30 days' written notice prior to cancellation be given to the City of Beacon. Policies that lapse and/or expire during the term of occupancy shall be recertified and received by the City of Beacon no fewer than 30 days prior to cancellation or renewal.

C. All work shall be subject to the review of City representatives, and the contractor or person performing the work shall schedule such work as to permit the necessary

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reviews and inspections. Where applicable, a fee shall be paid to the City for such reviews and inspections.

D. All work shall be in accordance with generally accepted and recognized guidelines and the specifications for street opening permit guidelines in effect at the time of the work. This shall include OSHA regulations.

**Section 3**. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 191 and Chapter 192 of the City of Beacon are otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 4**. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; 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 5**. 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 6**. Effective Date

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

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