

PROPOSED ORDINANCE 46-2021

An ordinance to amend Ordinance No. 105-1985 as amended by Ordinances 154-1989, 103-2000, and 203-2001 with regard to maintenance and guarantees associated with road openings in Nassau County.

BE IT ORDAINED by the County Legislature of the County of Nassau as follows:

Section I. Section 2. of Ordinance No. 105-1985 is amended as follows:

Section 2.

- a) No person, association of persons, corporations, municipal corporation, or any other legal entity whatsoever shall be allowed to open and dig upon any County road or in any way alter any curbing, gutter, basin, drainage line, or other works of the County for any purpose without a written permit from the Commissioner of the Department of Public Works of the County.
- b) Notwithstanding any law or rule to the contrary, every person, association of persons, corporations, municipal corporation, and any other legal entity whatsoever that is granted a permit from the Commissioner of the Department of Public Works of the County to open and dig upon any County road or in any way alter curbing, gutter, basin, drainage line, or other works of the County shall agree as a condition to such permit to maintain restorations and correct failed restorations at the direction of the Commissioner of the Department of Public Works for a period not to exceed the useful life of the road, curbing, gutter, basin, drainage line or other work of the County as determined by the Commissioner of the Department of Public Works. The remaining useful life of the road, curbing, gutter, basin, drainage line or other work of the County shall be determined by the Commissioner of the Department of Public Works in his or her sole discretion.
- c) As a condition of such permit, the person, association of persons, corporation, municipal corporation or other legal entity receiving such permit expressly agrees to indemnify, defend and hold harmless the County of Nassau for any claim for injury or damage to persons or property as a result of a defective or failed restoration.
- d) If such maintenance or correction is not made to the satisfaction of the Commissioner of the Department of Public Works pursuant to subsection (b) of this Ordinance, such maintenance or correction may be made by Nassau County and the costs of such maintenance or correction shall be charged back to the permittee.
- e) All restorations required pursuant to subdivision (b) of this section shall be made in conformity with the construction specifications of the public work that was disturbed due to the work performed.
- f) Unless otherwise approved by the Commissioner of the Department

- of Public Works, permanent restoration of temporary patches must be made within sixty days of the placement of the temporary patch.
- g) If such restoration is not made pursuant to subdivision (f) of this section, the restoration may be made by Nassau County and the costs of such restoration shall be charged back to the permittee.
 - h) All restorations required pursuant to this section shall be made within a time period required by the Commissioner of the Department of Public Works.
 - i) Failure to perform restoration activities as required by this Ordinance shall be punishable by a fine of one thousand dollars (\$1000). Each additional day or part of a day in which a violation continues shall constitute a separate violation subject to a five hundred (\$500) fine.
 - j) Any work or other activity described in subdivision (a) of this section which is performed on an emergency basis shall be subject to the requirements and penalties set forth in this section.
 - k) The Office of the County Attorney is authorized to bring a civil action in a court of competent jurisdiction to enforce the provisions of this Section.

§2. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this ordinance or the application thereof to any Permittee, individual, corporation, firm, partnership, entity or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its application to the Permittee, individual, corporation, firm, partnership entity or circumstance directly involved in the controversy in which order or judgment shall be rendered.

§3. State Environmental Quality Review Act Determination

It is hereby determined by the Nassau County Legislature, the lead agency, and pursuant to the provisions of the State Environmental Quality Review Act ("SEQRA"), 8 NYECL section 0101 et seq. and its implementing regulations, Part 617 of 6 NYCRR, and Section 1611 of the County Government Law of Nassau County, that this Ordinance will not have a significant impact on the environment and that no further environmental review or action is required.

§4. Effective Date:

This Ordinance shall take effect immediately.