

Chapter 135

STREETS

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[HISTORY: Adopted by the Town Board of the Town of Patterson on 12-13-2000 as L.L. No. 7-2000. (readopted 4-13-2005 by L.L. No. 9-2005) Amendments noted where

applicable]¹

GENERAL REFERENCES

Littering - See Ch. 103

Notice of defects - See Ch. 110

Peddling and soliciting - See Ch. 121

Sidewalks - See Ch. 135

Soil erosion sediment control - See Ch. 133

Subdivision of land - See Ch. 138

Zoning See Ch. 154

¹ Editor's Note: This local law superseded former Ch. 135 adopted by the Town Board of the Town of Patterson on 4-12-72.

ARTICLE I
Street Openings

§ 135-1. Permits; regulations; prohibitions.

A. General regulations. No opening or excavation by cutting, trenching, tunneling, digging or otherwise, subsequently herein referred to as an “operation,” shall be made, commenced or carried on in or under any Town-owned or regulated street, highway, easement or sidewalk in the Town of Patterson for any purpose whatsoever, except as hereinafter provided in Article II, until a written permit there for has been duly issued as herein provided and in accordance with the procedures set forth in § 135-2 hereof and in compliance with §§ 135-3 and 135-4 hereof.

(1) The provisions of this Article shall be applicable to any and all operations being worked at the time this Article shall become effective. No operation shall be extended in area after the effective date of this Article without first securing a permit therefore in accordance with the provisions of this Article.

(2) Public utility companies making twelve (12) applications or more per year may, in lieu of the deposit hereinafter mentioned, may deposit with the Town Clerk a bond or a surety company bond approved as to form, manner of execution and sufficiency by the Town Attorney of Patterson, which bond shall be retained as security for the faithful performance by the applicant of all the terms, agreements, covenants and conditions of the permit on the applicant's part to be done or performed, which said bond shall be in an amount to be determined by the Superintendent of Highways, but in no case shall the face amount of the bond be less than five thousand dollars (\$5,000.).

(3) Any city, village, town, public improvement district or other municipality may, in lieu of making the cash deposit hereinafter mentioned, file with the Superintendent of Highways a certified copy of a resolution duly adopted by the governing board of such municipality, which said resolution shall guarantee faithful performance by said municipality of all the terms, agreements, covenants and conditions as set forth in the permit. Said resolution shall be effective for the remainder of the calendar year in which it is adopted.

(4) Emergency openings. If it becomes necessary in case of an emergency or any unforeseen happening to enter upon a town road for the purpose of making emergency repairs to any sewer, water pipe, conduit or other underground or overhead structure, any person, firm, corporation, public utility or municipal subdivision may do so forthwith, provided that within twenty-four (24) hours of the time of making such opening (Sundays or holidays not included), proper application for a permit is made therefore.

B. Prohibited operations. In any residence district, no operation authorized under this Article shall be permitted on Sunday nor before 8: 00 a.m. or after 5: 00 p.m. on other days. In any business or industrial district, no operation authorized under this Article shall be conducted on Sunday, except where otherwise expressly permitted by law. The Superintendent of Highways, in his discretion may vary or modify the application of this provision as occasion and/or necessity may demand.

§ 135-2. Application procedure.

A. Application for a permit under this Article shall be made to the Superintendent of Highways in writing, in duplicate, for each such operation, and shall contain the following information:

- (1) Full name and address of applicant.
- (2) Full name and address of owner or owners of 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) Statement of the proposed operation and 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.
- (6) The type of pavement or surface to be disturbed.
- (7) A sketch of the proposed operation.
- (8) The estimated maximum quantity to be excavated and/or removed, and the estimated part thereof that will be used for regarding or filling.
- (9) The rehabilitation proposed.
- (10) The estimated cost of the entire proposed operation.
- (11) The location, if any, of any tiles or drainage system, water mains or other public conduits, etc., which may be within the area of the proposed operation.
- (12) Any additional information which may be reasonably required by the Superintendent of Highways.
- (13) A signed statement by the applicant that the 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 law and other applicable statutes, and ordinances of the Town of Patterson and the rules and regulations of the Highway Department of the Town of Patterson.

B. Upon receipt of the application as herein provided for in Subsection A hereof, the Superintendent of Highways shall act thereon by issuing with or without conditions, or denying the issuance of a permit. No permit shall be issued by him except where there is compliance with the provisions of this Article and all other laws and ordinances and with the rules and regulations of the

Highway Department of the Town of Patterson. Such a permit, when issued, shall be effective for such period of time, not to exceed thirty (30) consecutive calendar days, as specified thereon by the Superintendent of Highways. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time authorized by the said Superintendent of Highways.

C. Any operation conducted shall restore the area disturbed by the operation to the street construction standards set forth in § 138-30(B) unless otherwise specified in the permit issued by the Superintendent of Highways.

D. Any person or corporation conducting an operation shall erect suitable barriers or safeguards for the protection of persons using the streets or sidewalks and in addition thereto, shall set up and maintain during the hours of darkness suitable warning devices such as lights or flares to properly identify and illuminate the area and shall take all necessary precautions for the protection of the property of the town and of public-service companies or municipal districts and others which may be endangered by such excavations or constructions or the work incident thereto and shall comply with all directions given by the Superintendent of Highways with respect to such barriers, lights, flares and protective measures.

E. Any person or corporation conducting an operation shall erect suitable erosion control devices as are necessary to prevent sediment from leaving the site and/or entering a drainage system, wetland or waterbody. Further any disturbed areas shall immediately be stabilized and seeded upon completion of the operation, or sooner as may be determined by the Highway Superintendent or Town Engineer.

135-3. Fees and deposits.

A. No permit for an operation shall be issued by the Superintendent of Highways until the applicant therefor shall have first paid to the Superintendent of Highways, in cash or by check payable to the order of the Town of Patterson:

(1) A fee as set from time to time by resolution of the Town Board to cover the cost of issuing the permit and the supervision and the inspection of the operation done in connection therewith.

(2) Deposit.

(a) A cash bond as surety to the proper completion of the improvements, in an amount to be determined by the Superintendent of Highways, computed at the rate per square yard of said surface to be disturbed, as set from time to time by resolution of the Town Board; and if and when machinery is used in connection with an operation and there is the likelihood of damage or injury to areas other than the specific location of the operation, a deposit of an additional amount may be required, said additional amount to be determined by the Superintendent of Highways,

computed at the rate per square yard of the area affected, as set from time to time by resolution of the Town Board, and shall be posted with the Town Clerk.

(b) Said deposit shall be retained by the town for the duration of the period of maintenance as herein below defined: The period of maintenance shall be considered as a period of six (6) months after the date of final completion, as determined by the Superintendent of Highways, of the operation to be done pursuant to the terms of the permit; except, however, that in the event the termination of said six (6) months' period shall fall within the months of December, January, February, March or April, then and in that event the period of maintenance shall be considered as extending to the first day of May next ensuing; and the permittee shall be responsible for the entire operation and shall keep every portion of the same in good order and repair during the entire period of maintenance.

B. Upon the failure or default by the permittee of or in any of the terms, agreements, covenants and conditions of the permit on the permittee's part to be done, to be performed or to be completed, said deposit may be used by the town for any expense incurred by the town by reason of such failure or default on the part of the permittee, and any balance left after the expense caused by such failure or default, as determined and certified by the Superintendent of Highways, has been paid and deducted from the amount of the deposit, shall be refunded to the permittee.

§ 135-4. Insurance.

A. Amount. No permit for an operation under this Article shall be issued by the Superintendent of Highways until the applicant therefor shall have first placed on file with the said Superintendent of Highways, without cost to the town, satisfactory evidence of public liability insurance in an amount of not less than fifty thousand dollars (\$50,000.) for any one (1) person and not less than one hundred thousand dollars (\$100,000.) for any one (1) accident, and of property damage insurance in an amount of not less than twenty-five thousand dollars (\$25,000.) aggregate, and satisfactory evidence that said insurance has been approved as to form, correctness and adequacy by the Town Attorney of the town, to insure the town against any loss, injury or damage arising out of the granting of the permit or from any negligence of the said applicant, his servants, agents or employees in connection with the said operation or with any and all work related thereto.

B. Duration. Such insurance herein above referred to shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least thirty (30) days' prior written notice to the Town of Patterson of any modification or cancellation of any such insurance, and shall contain a clause to the effect that termination of said insurance shall be without prejudice to the right of the Town of Patterson to make claim or claims thereafter for any loss or damage sustained as a result of any act or acts committed or omitted during the term of said insurance.

§ 135-5. Protection of existing structures and traffic.

A. Existing structures. The contractor shall call the Underground Facilities Protective Organization (UFPO) at 1-800-962-7962 two (2) full days prior to performing any excavation work. No work shall be commenced in connection with an operation for which a permit has been granted under the provisions of this Article until the permittee shall have given written notice of the issuance of such a permit at least twenty-four (24) hours prior to the commencement of such work, to the owner or lessee of any pipes, conduits or other structures lying upon, over or under the surface of the area wherein the operation is to be performed pursuant to the permit issued hereunder, or to the person, firm or corporation having the custody, control, care or maintenance of said pipes, conduits or other structures, and said permittee shall file with the Superintendent of Highways proof of the service of said written notice herein referred to. The permittee shall at all times during the performance of the work on said operation, at his own expense, preserve, support, maintain in operation and protect and safeguard from injury or damage such pipes, conduits or other structures, and, in case of injury or damage, shall restore the same, at his own cost and expense, to the same condition as they were prior to the commencement of the work on the said operation, and in the event of the failure of the permittee to comply with the provisions of this section, such injuries and damages may be corrected and repaired by the owner thereof, his agents or employees, and the cost thereof and all damages sustained shall be paid by the permittee.

B. Traffic. Unless otherwise authorized by the Superintendent of Highways, traffic shall be maintained at all times during the progress of the operation being performed under the permit, and the permittee shall have due regard for the safety of all traffic and the public and shall:

- (1) Erect and maintain suitable barricades, fences and/or guardrails around the area of operation during the work on said operation, and arrange the same in such manner as to cause a minimum of inconvenience, hazard and delay to any and all traffic.
- (2) Suitably place, install and maintain adequate warning flags or signs and lighted red lamps or flares.
- (3) Provide a watchman, if deemed necessary by the Superintendent of Highways and, if so ordered by the Superintendent of Highways, in accordance with his directions and instructions.
- (4) Designate and furnish competent persons to direct and expedite traffic, by means of lights and flags, when necessary, to minimize inconvenience, hazard and delay to any and all traffic.
- (5) Arrange and conduct the work in connection with said operation so as to make possible the removal completely of any obstructions to any and all traffic Saturdays, Sundays and holidays, if so required by the Superintendent of Highways.

ARTICLE II
Driveways

§ 135-6. Permit required.

No driveway entrances and exits and no alteration, change, relocation or reconstruction of existing driveway entrances and exits, subsequently herein referred to as an "operation," shall be constructed by owners and occupants of property abutting on town highways for any purpose whatsoever until a written permit therefor has been duly issued as herein provided and in accordance with the procedures set forth in §§ 135-7 and 135-8 hereof.

§ 135-7. Application procedure.

A. Application for a permit under this Article shall be made to the Superintendent of Highways in writing, in duplicate, for each such operation, and shall contain the following information:

- (1) Full name and address of applicant.
- (2) Full name and address of owner or owners of property in front of which the operation is to be performed.
- (3) Full name and address of the owner or owners of the property for whom the operation is to be performed.
- (4) The location by street address, including E-911 number, of the property in front of which the operation is to be performed, and the Tax Map designation of the same.
- (5) Statement of the proposed operation and size thereof and purpose thereof.
- (6) The date or dates when the proposed operation is to be commenced and the date or dates when the operation is to be completed.
- (7) A sketch of the proposed operation, including a profile from the crown of the road and including a distance of 50 (fifty) linear feet from the property line.
- (8) The location, if any, of any tiles or drainage system, water mains or other public utility conduits, etc., which may, be within the area of the proposed operation.
- (9) Any additional information which may be reasonably required by the Superintendent of Highways.
- (10) A signed statement by the applicant that the 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

Town Law and other applicable statutes, and ordinances of the Town of Patterson and the rules and regulations of the Highway Department of the Town of Patterson.

(11) The proposed location of the entry of said driveway onto the town highway.

B. Upon the receipt of the application as herein provided for in Subsection A hereof, the Superintendent of Highways shall act thereon by issuing or refusing to issue a permit. No permit shall be issued by him except where there is compliance with the provisions of this Article and all other laws and ordinances and with the rules and regulations of the Highway Department of the Town of Patterson. Such a permit, when issued, shall be effective for such period of time, not to exceed thirty (30) consecutive calendar days, as specified thereon by the Superintendent of Highways. Such specified period of time may be extended for the completion of the operation, if so requested in writing by the permittee prior to the expiration date thereof, for such additional period or periods of time authorized by the said Superintendent of Highways.

C. Said permit, when issued, shall contain the following conditions to be complied with by the permittee:

(1) The proposed driveway at the point of entrance on the town highway shall have the optimum of sight distances, both vertical and horizontal.

(2) The driveway entrance for a distance of twenty-five (25) linear feet from the edge of the town right-of-way shall not exceed a maximum grade of three (3) percent.

(3) The grade, width and drainage of said proposed driveway shall not cause damage or injury to the town highway and shall be such as to provide the maximum safety for all traffic on the town highway in the area of the entrance of the said proposed driveway on a said town highway.

(4) The driveway shall be constructed to the standards set forth in §154-74 or §135-10 of the Code of the Town of Patterson, whichever is greater.

(5) Any additional requirements which may be imposed by the Superintendent of Highways for the preservation of the town highway at the point of entrance of the proposed driveway onto the town highway and for minimizing hazards and dangers to the traffic on said public highway.

D. Upon notification by the permittee of the completion of the proposed driveway, the Superintendent of Highways shall inspect said driveway to determine that its completion is in accordance with the permit, any applicable requirements of the Patterson Town Code and any conditions imposed by a municipal body of the Town of Patterson. When the Superintendent of Highways is satisfied that the conditions of such permit have been met, he shall issue a certificate of compliance. There shall be no use of such driveway for any purpose other than the construction until such certificate of compliance has been issued. No certificate of occupancy shall be issued by the Code Enforcement Officer of the Town of Patterson for a building where a driveway permit is

also required to be issued by the Patterson Highway Superintendent, until such certificate of compliance has also been issued.

§ 135-8. Fees and deposits.

A. No permit for an operation as defined under §135-6 shall be issued by the Superintendent of Highways until the applicant therefore shall have first paid to the Superintendent of Highways, in cash or by check payable to the order of the Town of Patterson:

(1) A fee as set from time to time by resolution of the Town Board to cover the cost of issuing the permit and the supervision and inspection of the work done in connection with said operation.

(2) Deposit.

(a) A cash bond as surety to the proper completion of the improvements shall be posted with the Town Clerk in an amount to be determined by the Superintendent of Highways, computed at the rate as set from time to time by the Town Board per square yard of the surface of any street, highway, sidewalk, sidewalk area or public place, including drainage ditches, gutters, culverts, pipes, curbs or curbing, which may be disturbed, injured or damaged in connection with an operation hereunder, and if and when machinery is used in connection with an operation and there is a likelihood of damage or injury to areas other than the specific location of the operation, a deposit of an additional amount may be required, said additional amount to be determined by the Superintendent of Highways, computed at the rate as set from time to time by the Town Board per square yard of the area affected, shall also be posted with the Town Clerk.

(b) Said deposit shall be retained by the town until a certificate of compliance shall have been issued by the Superintendent of Highways as hereinbefore provided in § 135-7D.

B. Upon the failure or default by the permittee of or in any of the terms, agreements, covenants and conditions of the permit on the permittee's part to be done, to be performed or to be completed, said deposit may be used by the town for any expense incurred by the town by reason of such failure or default on the part of the permittee, and any balance left after the expense caused by such failure or default, as determined and certified by the Superintendent of Highways, has been paid and deducted from the amount of the deposit, shall be refunded to the permittee.

§ 135-9. Insurance.

A. Amount. No permit for an operation under this Article shall be issued by the Superintendent of Highways until the applicant therefor shall have first placed on file with the said Superintendent of Highways, without cost to the town, satisfactory evidence of public liability insurance in an

amount of not less than fifty thousand dollars (\$50,000.) for any one (1) person and not less than one hundred thousand dollars (\$100,000.) for any one (1) accident, and of property damage insurance in an amount of not less than twenty-five thousand dollars (\$25,000.) aggregate, and satisfactory evidence that the said insurance has been approved as to form, correctness and adequacy by the Town Attorney of the town, to insure the town against any loss, injury or damage arising out of the granting of the permit or from any negligence of the said applicant, his servants, agents or employees in connection with the said operation or with any and all work related thereto.

B. Duration. Such insurance herein above referred to shall remain in force throughout the effective period of the permit and/or any authorized extension or extensions thereof and shall carry an endorsement to the effect that the insurance company will give at least ten (10) days' prior written notice to the Town of Patterson of any modification or cancellation of any such insurance, and shall contain a clause to the effect that termination of said insurance shall be without prejudice to the right of the Town of Patterson to make claim or claims thereafter for any loss or damage sustained as a result of any act or acts committed or omitted during the term of said insurance.

§ 135-10. Driveway design specifications.

A. The following minimum construction specifications shall apply to all driveways entering onto a Town road:

- (1) Six inches (6") of subbase Course of Item 4 (NYSDOT Item 304.05)
- (2) Two inches (2") of Type 6 Top Course (NYSDOT Item 403.16)
- (3) A maximum grade of three (3) percent for a distance of twenty-five feet prior to entering onto the Town Road
- (4) The driveway shall contain adequate provisions to ensure that stormwater runoff will not enter onto the Town Road.

ARTICLE III **Protection of Highways**

§ 135-11. Prohibited operations or encroachments. [Amended 3-12-2003 by L.L. No. 1-2003]

The deposit of any snow, dirt, filth, waste or rubbish in any street, highway, sidewalk, sidewalk area or public place, or encumbering thereof by any encroachment of buildings, structures, excavation or otherwise, or any act which in any manner damages or injures a town highway or interferes or obstructs in any manner the drainage and other uses of the highway for municipal purposes and for use by the public and traffic thereon, is hereby prohibited. No tractor, tractor crane, power shovel, farming equipment or other vehicle or conveyance equipped with metal lugs, chains or spiked wheels such that they threaten or cause damage to the surface of a paved road will be

operated upon or over any town highway.

ARTICLE IV
Dedication of Highways

§ 135-12. Acceptance of Roads

A. In order to ensure that adequate funds are available for the proper maintenance of the roads of the Town of Patterson, acceptance by the Town of the dedication of a road, right-of way, an improvement created pursuant to an approved subdivision or such other improvement as other-wise may be offered, of which the care and maintenance of said road, right-of-way or improvement will be the responsibility of the Town of Patterson Highway Superintendent, will be made only during the period of the year from April 1 through September 30.

B. The following conditions shall be satisfied prior to August 31 and before consideration by the Town Board of the acceptance of a new road, right-of-way or improvement as herein defined:

(1) Two sets of as-built plans of the highway showing right-of-way lines, drainage and utility easements and a road center-line profile must be submitted to the Town Clerk and Highway Superintendent. These plans must bear the stamps of both a licensed professional engineer and a licensed land surveyor.

(2) All deeds, easements, title policy or other legal documents as may be required for the acceptance of the road, right-of-way or improvement shall be submitted to the Town Attorney and shall be complete as to form and content.

(3) Metes and bounds descriptions of all right-of-way and easements prepared by a licensed land surveyor must be submitted to the Town Clerk and the Highway Superintendent.

(4) The plans and descriptions of the road, right-of-way or improvement shall be reviewed by the Town Engineer who shall submit a recommendation to the Town Board and the Highway Superintendent. If the road, right-of-way or improvement offered for acceptance is part of a subdivision or site plan approved by the Planning Board, the Town Engineer shall certify that all of the improvements as required by the approved subdivision or approved site plan have been completed.

(5) Approved permanent concrete or granite monuments shall be set according to the town highway specifications or as directed by the Town Engineer and their location shall be shown on the road plan. Iron pipes, unless embedded in concrete, shall not be considered permanent monuments for the purpose of these regulations.

C. Upon receipt of a request for the acceptance of an road, right-of-way or improvement, by the Town, the Town Clerk shall immediately notify the Highway Superintendent. Within thirty (30) days

of the Highway Superintendent's notification, he shall render a recommendation to the Town Board. No road, right-of-way or improvement shall be accepted by the Town except upon an affirmative recommendation by the Highway Superintendent to accept said road, right-of-way or improvement.

ARTICLE IV Penalties

§ 135-13. Penalties for offenses.

A. Notwithstanding any other provisions of this chapter, any person who violates or causes or participates in any violation of the provisions of this chapter or any part thereof or of any condition or requirement imposed as part of a permit issued under Article I, II or III of this chapter shall be guilty of a violation, punishable by a fine not exceeding \$350.00 or imprisonment for a period not to exceed six months, of both, for a conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$700.00 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both.

B. Whenever any person shall have been notified in writing by the Superintendent of Highways that he is violating the provisions of Article I, II or III or of any permit or extension thereof issued hereunder, or is served with a summons or warrant by the Codes Compliance Officer or Code Enforcement Officer accusing him thereof, each day that he shall continue such violation after such notification or service shall constitute a separate offense punishable by a like fine or penalty.

C. Notwithstanding the penalties herein provided, the Town Board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

D. The foregoing provisions for the enforcement of the regulations in this chapter are not exclusive, but are in addition to any and all other laws applicable thereto.