

Section 78-101. The title of this local law shall be "A local law to regulate cuts and openings in streets, highways, and sidewalks in the Town of Busti."

Section 78-102. Injuries to sidewalks and streets prohibited

No person shall tear up, burrow, injure, destroy, or bore under any town sidewalks or streets or any part thereof.

Section 78-103. Installation of pipes

No person shall take, tear up, damage or destroy any portion of sidewalk, street or highway within the Town of Busti for the purpose of putting through gas or water pipe, or other purpose, except with the permission and under the direction of the Highway Superintendent.

Section 78-104. Penalties for offenses

Any person who violates any provisions of this local law shall, upon conviction thereof, be subject to a fine not exceeding two hundred fifty dollars (\$250.00) or to imprisonment for a term not exceeding fifteen (15) days, or both. The Town of Busti Supervisor or Highway Superintendent is also hereby authorized to seek compensation for any such damages in the name of the Town of Busti.

ARTICLE 200

Section 78-201. Permit required

No person shall dig, change, burrow or bore under, or alter any sidewalk, street, grade or highway in the Town of Busti to make or cause or permit to be made any excavation or opening in or under the surface or pavement of any street, highway, sidewalk or other public place within the limits of the town or change, raise or lower any grade, line boundary, curbstone or any of the other designated indications of the street lines, highways or other public places within the limits of the town, provided that a person may do any of such acts prohibited by this section as shall be permitted by a permit issued by the Highway Superintendent or his/her authorized agent, pursuant to this local law, after formal application made and accompanied by a bond as provided in this local law.

Section 78-205. Application for permit

Any person desiring to procure a permit, as required by the preceding section, shall file with the Highway Superintendent a written application stating the name and business or residence address of the applicant, the name of the street or public place in or under which it is desired to make the excavation or opening or otherwise, as the case may be, the name and business or residence address of the person for whose benefit the work is to be done, the lot or street number where the opening or excavation or other work is to be made and the time during which it is desired such opening is to be permitted and the reason for the nature of such excavation, opening or work to be made.

Section 78-210. Bond required

The application for a permit as required by the above section shall be accompanied by a bond to the Town of Busti, approved as to form and sufficiency by the town attorney, in the penal sum of ten thousand dollars (\$10,000.00) given by a surety company authorized to transact business as such in the state, conditioned for the faithful performance of such work in accordance with the rules and regulations of the Town of Busti, conditioned upon the restoration of such places, sidewalks or highways to the state or shape existing prior to the commencement of such permitted work and a safe condition for the use thereof and thereafter by the public in accordance with specifications promulgated by the Town Highway Superintendent. The application for a permit shall also be accompanied by an insurance certificate naming the Town of Busti upon such policy and providing that the person making the application will protect, indemnify and save harmless the Town of Busti against and from any and all damages or claims for damages for injury to persons or property by reason of such permitted work which may arise during such permitted work or arising after the completion or abandonment of such permitted work. Such insurance certificate shall have liability limits of not less than five hundred thousand dollars (\$500,000.00). Any person who, in pursuant of his, her or its regular employment, has frequent occasion to open or to make excavations in the public streets, sidewalks or other public places may file a bond in the penal sum of twenty thousand dollars (\$20,000.00) conditioned as above, to cover all excavations by him for a period of one (1) year from the date of filing, but permits for all excavations must be applied for with the insurance certificate hereinabove required and issued as provided by this Article.

Section 78-211. Exemptions from bond requirements

A bond or insurance certificate as provided by the preceding section shall not be required to be furnished, in the discretion of the Highway Superintendent, when application for a permit is made by Alltel, the National Fuel Gas Distribution Corporation, the City of Jamestown or its Board of Public Utilities, Time-Warner Cable, Village of Lakewood, Town of Busti, South Chautauqua Lake Sewer District or County of Chautauqua.

Section 78-212. Issuance of permit; contents

The Highway Superintendent, upon filing of the application, bond and insurance certificate, may, in his or her discretion, issue a permit as provided for in this local law, which shall state the name and address of the applicant; the location, nature, purpose and extent of the excavation or opening or other work; and the dates of granting and of the expiration of such permit. The permit shall describe in detail the date and time during which such excavation shall be allowed, the safety measures required and the means by which repairs shall be made. The Highway Superintendent may in his or her discretion, require that boring be required under a town sidewalk, street or highway rather than allowing a cut or opening.

Section 78-213. Emergency excavations

In case of an emergency arising out of office hours, at night or on Sundays or legal holidays when the office of the town is not open for business, but an immediate excavation may be necessary for the protection of public or private property, the same shall be reported to the Highway Superintendent, and he shall grant permission to make

the necessary excavation on the express condition that an application be made in the manner provided by this local law on or before 12:00 noon of the next following business day.

Section 78-214. Temporary patch

Any excavation or opening in the streets or highways of the town shall be closed with a temporary patch as soon as possible after the work requiring such excavation or opening shall have been completed. Such temporary patch shall be sufficiently stable that the repaired portion shall not be above or below the grade of the surrounding pavement and that normal traffic used by the general public will not be rendered dangerous or unsafe.

Section 78-215. Alternative to bond requirements

(A) In lieu of the bond requirements set forth in Section 200-110, a permittee, other than public or private utilities, may deposit with his application as a prerequisite to the issuance of such permit an amount in cash or by certified check which will, in the opinion of the Highway Superintendent, be sufficient to cover the entire cost of the final repair. Such amount shall be deposited with the Town Supervisor, and any excess not actually required to cover such cost shall be refunded to the permittee. The minimum amount to be deposited hereunder shall be five hundred dollars (\$500.00).

(B) The amount provided in Subsection A shall be released after job approval by the Town Highway Superintendent.

Section 78-220. Permit fee

A fee of One hundred dollars (\$100.00) shall be paid by the applicant for each permit issued under this Article.

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

3/16/98