

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
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KATHY HOCHUL
GOVERNOR

ROBERT J. RODRIGUEZ
SECRETARY OF STATE

November 1, 2023

Village of Mill Neck
147 Forest Avenue
PO Box 546
Locust Valley, NY 11560

RE: Village of Mill Neck, Local Law 9 2023, filed on 10/26/2023

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

CSOS 1 - VOM

Sincerely,
State Records and Law Bureau
(518) 473-2492



Department
of State

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Mill Neck _____

Local Law No. 9 of the year 2023

A local law to rename and amend Section 106, "Streets and Sidewalks, in part, of the Code of the
(Insert Title)
Village of Mill Neck.

Be it enacted by the Board of Trustees of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Mill Neck _____

as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**INCORPORATED VILLAGE OF MILL NECK
LOCAL LAW 9-2023
AMENDMENT TO CHAPTER 106
"STREETS AND SIDEWALK"
CODE OF THE VILLAGE OF MILL NECK**

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Mill Neck as follows:

SECTION I. Amend Section 106, "*Streets and Sidewalks*," in part, to read as follows:

ARTICLE I.

General Provisions

§ 106-1. Definitions. As used in this article, the following terms shall have the meanings indicated:

BERM

The area on each side of a street located between the curb, curblin e or pavement and the abutting property line.

STREET

Includes any street, highway, road, avenue, lane or drive which appears on the Official Map of the Village.

VILLAGE STREET

Includes any street, highway, road, avenue, lane or drive which is owned and maintained by the Village and the sidewalk area (berm) of any Nassau County road ("county road") over which the Village has jurisdiction as provided for in Title B, § 12-4.0 of the Nassau County Administrative Code and the berm area of any state highway over which the Village has jurisdiction under the provisions of § 46 of the New York State Highway Law.

§106-2. Deposit of materials on street.

No person, firm or corporation shall cause or permit any accumulation of sand, snow, ice, gravel, cinder, topsoil, mud, earth or similar material or swimming pool water to be placed, deposited, tracked or flowed or litter, throw, place, deposit or discard any garbage, trash or litter upon any Street in the Village.

106-3. Deposit of material and obstructions on Village street or public grounds.

No person, firm or corporation, unless with the consent and under the supervision of the Commissioner of Public Services of the Village, shall:

- A. Cause or permit any fence, wall, gatepost, structure, rock, boulder or other obstruction upon any Village Street, berm or public ground in the Village; or
- B. Cause the accumulation of sand, snow, ice, gravel, cinder, topsoil, mud, earth or similar material or swimming pool water to be placed, deposited, tracked or flowed or maintained upon any Village Street, berm or public ground in the Village; or
- C. Place or maintain any tree, shrub, plant or other similar obstruction upon any Village street, Berm area or public ground in the Village.
- D. Cause damage to the shoulder of a road. Any person found causing such damage shall be responsible for all expenses to restore the shoulder to its prior condition and to pay a fine not to exceed \$1,000. The owner of a vehicle that is parked, stopped, standing or being operated on the shoulder which causes damage to the shoulder shall be deemed responsible for the Village's restoration expenses and fine.

ARTICLE II.

§ 106- 4. Permit required for excavation.

No water company, gas company, telephone or electric light company or any person or association of persons shall open and dig up any portion of either a public road, or a private road; unless for repairs of an immediate emergency character to safeguard public health and safety, for any purpose without a written permit from the Village Clerk of the Village; provided, however, that such company or person must notify the Village Clerk immediately of such emergency. In the case of a private road, the Village Clerk shall not issue a written permit unless either the association which owns the road or the owners of the road have consented in writing for the Village Clerk to issue the written permit.

§ 106- 5. Permit to provide for repair; fee, insurance and specifications.

A. A permit for the opening of either a public road or a private road shall provide that the party making the opening shall backfill or cause to be backfilled the opening and shall place thereon such temporary pavement as shall be approved by the Village Engineer in the case of a public road, or approved by the association or designee of the owners of the road in the case of a private road, which pavement shall be cared for by the applicant until such time as the Village Engineer in the case of a public road. or the association or designee of the owners of the road in the case of a private road, shall decide that proper settlement to allow the laying of a permanent pavement has taken place, such time, however not to exceed six months. The party making the pavement shall notify the Village Engineer in the case of a public road, or the association or designee of the owners of the road in the case of a private road, when said opening has been backfilled or temporally paved. The fee for such permit shall be as set forth in Chapter A132, Fees.

B. Each application shall be accompanied by an Acord Certificate of Insurance, copies of additional insured endorsements, evidencing that there is in effect liability insurance stating that the Incorporated Village of Mill Neck, all elected and appointed officials, employees and volunteers of the Village are included as additional insureds per the General Liability including Contractual Liability, Products and Completed Operations, Automobile Liability and Excess Liability (if applicable). Insurance Coverage is to be primary and non-contributory to any insurance carried by any additional insured.

Waiver of Subrogation is to be included on the Workers Compensation and General Liability in favor of the Additional Insureds. The certificate must also state all work performed at any and all locations. The minimum liability limits are \$1,000,000 per occurrence; \$2,000,000 aggregate for Commercial General Liability including contractual liability, products and completed operations, and personal and advertising injury liability; \$1,000,000 Business Automobile Liability; Workers Compensation and New York State Disability and Paid Family Leave coverage. Workers Compensation evidence should be provided on a C105.2 form; New York State Disability and Paid Family Leave Coverage should be provided on a DB120.2 form. If the applicant does not have Workers Compensation and/or New York State Disability and Paid Family Leave coverage due to a valid exemption, a CE200 form must be provided. The applicant shall also keep such insurance in force at all times during the term of the permit. Further, the applicant will execute a Village issued Hold harmless Agreement to indemnify and hold the Village harmless from all damage resulting from activities related to the application.

C. Any permittee making an excavation under this article shall erect suitable barriers or guards for the protection of persons using the streets or bicycle paths; shall set up and maintain, during the hours of darkness, sufficient lights or flares to properly illuminate the area; shall take all necessary precautions for the protection of all property which may be endangered by such excavation or other work incident thereto; shall comply with NYS-DOT work zone traffic control measures; and shall keep clear at all times a sufficient and safe passageway for all pedestrians and vehicular traffic.

D. In connection with the operations under such permit, no matter shall be deposited or piled up within 15 feet of any fire hydrant or Village drainage facility.

E. Upon the completion of the work, the road shall be repaired with a minimum of 2 inches of new asphalt from one edge of the road to the other or from one edge of the road to the center line as determined by the Commissioner of Public Services and/or Village Engineer for the full extent of the repair, pursuant to the Engineering specifications provided by the Village.

§ 106-6. Deposit to cover cost of restoration.

Each applicant for a permit other than a water, gas, telephone or electric light company, before the issue of a permit, shall, in addition to the permit fee, deposit with the Village Clerk the sum set forth in Chapter A132, Fees, for an opening in a public road to cover the cost of restoration of the road to the condition before opening.

§ 106-7. Bond in lieu of deposit.

Each water company, gas company, telephone or electric light company, in lieu of the deposit as required in § 106-3 hereof, may execute and deliver to the village an indemnity bond in the sum set forth in Chapter A132, Fees, guaranteeing restoration of the roads to the condition before the opening was made and to indemnify the village against a nonperformance thereof.

§ 106-8. Refund of deposit remainder after restoration; additional payment.

After said restoration is made, if the cost has not amounted to the sum deposited to cover the cost, the balance shall be refunded by the village. If the costs exceeds the sum on deposit, the applicant shall pay such excess amount. A permittee shall notify the Village Clerk when work has been completed, after which an inspection will be made by the Village; and upon approval of the work, a release will be granted to the permittee. Until the granting of such release, the permittee shall remain liable for proper guarding and protection as provided herein. No approval or release shall be

given by the Village until a sufficient period of time, not less than 30 days, has expired in which the completed work may be observed under normal conditions.

§ 106-9. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding to \$1,000 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

SECTION II. This local law shall take effect upon the filing with the Department of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 9 of 2023 of the ~~(County)(City)(Town)~~(Village) of Mill Neck was duly passed by the Board of Trustees on October 16, 2023, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~(Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ and was deemed duly adopted (Elective Chief Executive Officer*) on _____ 20____, in accordance with the applicable provisions of law.~~

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. (Elective Chief Executive Officer*)

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) _____ (Name of Legislative Body) (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of
the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of
the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting
thereon at the (special)(general) election held on _____ 20____ became operative.~~

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of
the County of _____ State of New York, having been submitted to the electors at the General Election of
November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having
received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the
~~qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a
correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in
paragraph 1 above.

Lisa Mancuso
Clerk of the county legislative body, ~~City Town or~~ Village Clerk or
officer designated by local legislative body, **Lisa Mancuso**

Date: 10/16/2023

(Seal)