

## **MEMORANDUM**

**TO:** William T. Lichter, Village Manager  
**FROM:** David P. Gorman, PE, Development Engineer  
**SUBJECT:** **BOT 04-01; Code Amendment Regarding Street Openings and Excavations**  
**DATE:** January 27, 2004

Attached for your consideration and submittal to the Village President and Board of Trustees is an ordinance to amend Village Code §97.070 through §97.081. The ordinance would amend the pavement restoration regulations.

A notice was mailed to the homebuilders and contractors that are active in the Village in order to notify them of the proposed amendment. To date, staff has received no responses. In addition, a public hearing has been scheduled for the February 5<sup>th</sup> Village Board meeting, although such a hearing is not required by Code.

### PERCEIVED PROBLEMS AND PROPOSED CODE AMENDMENT:

Village Codes §97.070 through §97.081 date from 1968. An update is warranted due to the following:

- (1) The Code now states that permittees shall backfill and then only temporarily surface road openings before the Village constructs the permanent patch. However, permittees have been held responsible for the permanent patch for many years now. Therefore, the amendment would clarify that the permittee is wholly responsible for the permanent patch.
- (2) The Code does not address the requirements for safely closing openings for short- or long-term cessation of work. The amendment would require ramped steel plates if work ceases for less than 3 days and a temporary asphalt surface if work ceases for 3 days or longer. The amendment would also require proper signage.
- (3) The Code does not adequately address the circumstances that require replacement of a full concrete panel. The amendment would require that the entire concrete panel shall always be replaced.
- (4) The Code now only requires a deposit of \$50, which is inadequate based on current costs. The amendment would require a deposit of \$1,000, which would be held for a period of one year following the construction of the permanent patch.
- (5) The Code now prohibits opening pavements less than five years old except for those essential to public health or safety or other emergency. In practice, no developments have been held up due to this Code. In addition, the Village attorney has advised that the prohibition would be difficult to defend in court given that it has not been invoked and the Code provides for a penalty fee to open new pavements. Therefore, the amendment would remove the prohibition and retain the penalty fee.
- (6) The Code now requires liability insurance in the amount of \$100,000 per person and \$300,000 per accident, and for property damages less than \$50,000, an aggregate of \$100,000 for all accidents. The amendment would increase and simplify the requirement to \$1,000,000 single limit general liability.

### RECOMMENDATION:

The Public Works Committee voted unanimously on December 9, 2003 to recommend approval by the Board of Trustees. The Public Works and Community Development Departments also recommend approval.

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cc: David A. Hulseberg, AICP, Director of Community Development