

**INCORPORATED VILLAGE OF SANDS POINT
BOARD OF TRUSTEES**

LOCAL LAW NO. 8 OF 2021

**AMENDING CHAPTER 121 “PRIVATE ROADS,
MAINTENANCE OF”, OF THE CODE OF THE
VILLAGE OF SANDS POINT**

WHEREAS, the Board of Trustees has recommended the enactment of a local law amending Chapter 121, “Private Roads, Maintenance of” of the Village Code; and

WHEREAS, this Local Law was introduced by the Board of Trustees on September 28, 2021; and

WHEREAS, the Board finds that this Local Law is a Type II Action pursuant to the New York State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, this Local Law was the subject of a duly noticed public hearing in accordance with New York State Village Law and the Village Code before the Board on October 26, 2021;

BE IT ENACTED by the Board of Trustees of the Incorporated Village of Sands Point as follows:

Section 1. The title of Chapter 121, “Private Roads, Maintenance of” of the Village Code of the Village of Sands Point, be and is hereby amended to read “Private Roads and Streets, Maintenance of”.

Section 2. Section 121-1 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-1 Title; legislative intent.

- A. Title. This Chapter **121** of the Village Code of the Village of Sands Point shall be known as "Private Roads and Streets, Maintenance of."
- B. Legislative intent. Properly maintained Private Roads and Streets which are passable and open to use by the general public are declared to be of importance to the health and safety of the inhabitants of this Village. The safeguarding of the material rights of the public against unwarranted dangers and hazards in said roads and streets are deemed essential to the economy of the Village and the general welfare of its inhabitants. Improperly maintained public and private roads and streets are detrimental to the health, safety and general welfare of the Village and can create serious hazards increasing the risk of injuries to passengers in motor vehicles, pedestrians and personal property.

Section 3. Section 121-2 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-2 Definitions.

As used in this chapter, unless the context or subject matter otherwise requires, the following terms shall have the meanings indicated:

OWNER

The person(s) having record title to the real property on which a Private Road and Street is located.

PRIVATE ROADS AND STREETS

Every road, lane, street, way, alley, or place in private ownership whether or not it is open to free, unrestricted use and general right of passage by the public for motor vehicle traffic, or which provides access to more than one parcel of private property over which emergency and public safety vehicles must pass to provide police, fire, ambulance or other public health, safety or welfare services. This chapter is not intended to apply to private driveways servicing only one residence.

ROADWAY

That portion of the Private Road and Street ordinarily used for motor vehicle traffic.

VILLAGE

The Incorporated Village of Sands Point, including the duly authorized representative of the Village or appropriate administrative official.

ROAD PERMIT

A type of building permit issued by the Village that authorizes the repair or maintenance of any Private Road and Street.

Section 4. Section 121-3 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-3 Owner of property required to maintain Private Roads and Streets.

Every Owner of a Private Road and Street within the Village of Sands Point shall be required to maintain the Private Road and Street as provided in this chapter.

Section 5. Section 121-4 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-4 Maintenance standards and requirements.

A. Potholes and pavement. It shall be unlawful for any Owner of a Private Road and Street

to permit any of the following conditions to exist on a Private Road and Street:

- (1) Potholes, which are more than three inches deep; eight inches in diameter;
 - (2) Broken pavement; or
 - (3) Any condition of disrepair that the Village deems unsafe or hazardous to vehicular traffic or pedestrians.
- B. Dust and debris. It shall be unlawful for an Owner to permit the Private Road and Street to be in a condition where it is obstructed by any debris or other material, including fallen trees, or whereby dust is stirred up by motor vehicles during the normal use of the Private Road and Street creating a risk of impairing the vision of motorists using the Private Road and Street. Private Roads and Streets shall be swept periodically to prevent the accumulation of dust, mud, and debris.
- C. Mud. It shall be unlawful for an Owner of a Private Road and Street to permit a condition to exist on a Private Road and Street whereby the splashing of mud during the normal use of the Private Road and Street creates a risk of impairing the vision of motorists using the Private Road and Street or that the mud creates a risk of motor vehicles becoming stuck.
- D. Grading and drainage. All Private Roads and Streets shall be crowned so that the center of the Private Road and Street is at least six inches higher than either of the edges of the roadway. It shall be unlawful for an Owner to permit the Private Road and Street to be in a condition whereby standing water collects on the Private Road and Street.
- E. Materials. All Private Roads and Streets shall be paved in accordance with standards set by the Village. Private Roads and Streets which are not paved or covered as hereinabove provided shall be unlawful.
- F. Owners of Private Roads and Streets shall obtain a permit from the Village for all work to maintain or repair same.

Section 6. Section 121-5 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-5 Enforcement Officer; powers and duties.

- A. The Code Enforcement Officer shall be the enforcement officer of this chapter.
- B. Duty to inspect; service of notice. The Code Enforcement Officer shall from time-to-time inspect all Private Roads and Streets within the Village of Sands Point. Whenever he or she determines that a Private Road and Street is not being maintained, improved or repaired in accordance with the provisions of this chapter, he or she shall serve a notice in writing either personally or by certified mail upon the Owner or Owners thereof

demanding compliance with this chapter.

- C. Contents of notice. Such notice shall specify the work to be performed and establish a reasonable time to complete the work which in no event shall exceed 30 days except when weather or other conditions make performance of the work impracticable. A request for an extension of the time to perform the work may be granted by the Code Enforcement Officer when appropriate. Such notice shall also contain a requirement that the Owner or Owners shall, within 10 days after receipt of the notice, advise the Code Enforcement Officer in writing that the work will be performed within the time limit specified or that a request for extension be made for good cause.
- D. Failure of Owner or Owners to comply. Upon the failure of the Owner or Owners of the Private Road and Street to notify the Code Enforcement Officer or to perform the work within the designated time limit, the Code Enforcement Officer shall make a written report thereof to the Board of Trustees.

Section 7. Section 121-6 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-6 Procedure where Owner fails to maintain Private Road and Street.

- A. Institution of proceedings. Whenever the Board of Trustees shall determine that a Private Road and Street is not being maintained as provided in this chapter, the Board of Trustees shall give notice to the Owner or Owners thereof by causing the Owner or Owners to be served personally with a notice of hearing or, in the event that the Owner or Owners thereof cannot be served personally in the State of New York, by publishing a notice in the official newspaper that a hearing will be held not less than 10 days after the date of service or publication of notice.
- B. Contents of notice. The notice shall contain the following information:
 - (1) The date, time and place of the public hearing before the Board of Trustees within the Village of Sands Point.
 - (2) The condition of the Private Road and Street which does not comply with the standards of this chapter.
 - (3) The proposed work that the Village intends to perform to make the Private Road and Street conform to the standards of this chapter.
 - (4) An estimate of the total cost to perform such work, including costs of service or publication; engineering, stenographic and legal services; the actual cost of construction and materials; together with a surcharge of 25% of the foregoing costs to reimburse the Village for administering and supervising the work.

- C. Public hearing. At the time, date and place of hearing, the Board of Trustees shall conduct the hearing and shall hear all interested persons. The Board of Trustees may adjourn the hearing at any time without giving further notice, except to announce the time, date and place of the adjourned hearing at the close of the scheduled hearing.
- D. Determination by the Board of Trustees. As soon as practicable after the hearing, the Board of Trustees shall determine:
 - (1) Whether or not the Private Road and Street shall be maintained, improved, or repaired, and the amount and type of work to be performed.
 - (2) If the Private Road and Street is to be maintained, improved, or repaired, whether or not the Village shall perform the work by contract or by Village employees and the estimated cost thereof.
 - (3) The Owner or Owners of the Private Road and Street responsible for such work and if more than one, the proportionate share that each shall bear as may be just and equitable in the Board's sole discretion based on all applicable facts and circumstances including the number of Owner's affected, the cost to repair or maintain the Private Road and Street, the assessed value of the Owners' properties, and the street frontage of each Owner.
- E. Filing with Village Clerk. The determination of the Board of Trustees shall be filed with the Village Clerk, and a copy of such determination shall be served either personally or by certified mail on the Owner or Owners responsible for such work.
- F. Emergency action. If, because of circumstances arising out of a fire, flood, storm or other emergency, and in order to protect life or property, the Board of Trustees causes emergency action to be taken on a Private Road and Street, the cost of such improvement, repair, work or act may be assessed, levied and collected as provided herein after such work has been completed, without prior notice and hearing being given to the Owner(s) of such Private Road and Street pursuant to this section.

Section 8. Section 121-8 of the Village Code of the Incorporated Village of Sands Point is hereby amended to read as follows:

§ 121-8 Completion of work; assessment and levy of charges.

- A. Upon the completion of the work, the Code Enforcement Officer shall report to the Board of Trustees listing all costs chargeable to the Owner or Owners thereof as specified in § 121-6(B)(4).
- B. Action by Board of Trustees.
 - (1) Upon receipt of the report from the Code Enforcement Officer, the Board of Trustees shall cause a notice of a public hearing to be served in the same manner

as provided in § 121-6(A).

- (2) Contents of notice. The notice shall contain the following information:
 - (a) The time, date and place of the public hearing.
 - (b) The amount to be assessed and levied as contained in the report of the Code Enforcement Officer.
 - (c) The Owner or Owners' proportional share.
- C. Conduct of hearing. At the time, date and place of the hearing, the Board of Trustees shall conduct the hearing and shall hear all interested persons. Adjournments may be made as provided in § 121-6(C).
- D. Assessment and levy. Upon conclusion of the public hearing or as soon thereafter as practicable, the Board of Trustees shall assess the Owner or Owners of the Private Road and Street. The Board may modify or correct the assessment, but no assessment shall be increased without notice to the Owner and the opportunity to be heard. The assessment shall be filed in the office of the Village Clerk, and it shall publish notice of such completion and filing in the official paper, and any person deeming himself aggrieved thereby may, within 15 days after the filing of such assessment, apply to a court of record for an order of certiorari to review said assessments. The apportionment, the assessments and the determination shall be deemed final and conclusive unless such an application be made within such 15 days.
- E. Collection. All assessments levied against real property or herein provided shall be collected pursuant to New York State Village Law § 5-518. In case the assessment together with Village taxes remains unpaid after the lapse of 30 days from the return of the Treasurer, an action may be maintained pursuant to § 1440 of the Real Property Tax Law and enforcement proceedings may also be taken in accordance with the provisions of § 990 of the Real Property Tax Law.

Section 9. Chapter 121 of the Village Code of the Incorporated Village of Sands Point is hereby amended add Section 121-9 to read as follows:

§ 121-9 Road Permit Required

- A. No Private Road and Street shall be repaired or maintained prior to the issuance of a Road Permit.
- B. An application for a Road Permit shall be made to the Village on a form furnished by the Building Department.
- C. An application for a Road Permit shall be accompanied by payment of a fee as set forth in Chapter 82 of the Village Code.

Section 10. Chapter 121 of the Village Code of the Incorporated Village of Sands Point is hereby amended add Section 121-10 to read as follows:

§ 121-10 Public Access to Private Streets

- A. Private Streets created through subdivision approval by the Village of Sands Point, are, and shall continue to be, open to the public.
- B. No signs may be erected, placed, or installed on or along Private Streets that restrict access or use by the public.

Section 11. Chapter 121, “Private Roads and Streets, Maintenance of” of the Village Code of the Village of Sands Point shall otherwise remain in full force and effect.

Section 12. Severability. If a court determines that any clause, sentence, paragraph subdivision, or part of this local law or the application thereof to any person, firm or corporation or circumstance is invalid or unconstitutional, the Court’s order or judgment shall not affect, impair or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 13. Effective Date. This Local Law shall take effect immediately upon filing with the Secretary of State.

On motion made by Deputy Mayor Moslow and seconded by Trustee Karabatos, the foregoing Local Law was enacted upon the following vote:

Peter A. Forman, Mayor	-	aye
Jeffrey Moslow, Deputy Mayor	-	aye
Rita Sethi, Trustee voting	-	aye
Elena Karabatos, Trustee	-	aye
Rebecca Vitas Schamis, Trustee	-	aye

Dated: Sands Point, New York
October 26, 2021

Filed: Sands Point, New York
October 26, 2021

