

TOWN OF
Seabrook, New Hampshire

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**TOWN OF SEABROOK
NEW HAMPSHIRE**

**ORDINANCE GOVERNING WORK IN PUBLIC WAYS
AND PLACES AND THE EXCAVATION OF STREETS**

Authority

In accordance with, and under the authority of, New Hampshire Revised Statutes Annotated, Chapter 41, Section 11 and Chapter 47, Section 17, VII and VIII, authorizing the Board of Selectmen to regulate work in public ways and places in the Town of Seabrook, the following Ordinance is enacted.

Purpose

It is the express intent and purpose of this Ordinance, and the specifications it contains, to strictly regulate any work within the confines of a public way or place including, but not limited to, work on public sidewalks, streets, roads, boulevards, places, walkways, ways, whether or not such public ways and places are located on easements, and to regulate and specify particulars with respect to any excavation, digging, construction, reconstruction or the discharge of water through a conduit on a way within the places before mentioned, to protect the public interest and welfare and to promote the public safety.

Section 1. Definitions: The following words shall have the meaning as shown below:

- A. **"Person"** shall mean any person or persons, firm, partnership, association, society, corporation, company, or organization of any kind.
- B. **"Board"** shall mean the Board of Selectmen of the Town of Seabrook, New Hampshire.
- C. **"Superintendent"** shall mean the Public Works Manager of the Town of Seabrook, or an authorized representative, such representative acting within the scope of the particular duties entrusted to him.

- D. "Public Way or Place" shall mean any way or place which, by law, is open to the movement of the general public without restriction, is maintained, owned or granted by easement to the Town of Seabrook, and/or as defined in New Hampshire Revised Statutes Annotated Chapter 259, Section 125, under the definition of the word "way".

Section 2. Permits

- A. No person shall make any excavation, perform any construction, erect any pole, sign, signal device or other appliances of any kind or description or perform any work of any kind or description in, over, under or through a public way or place, including the marking or cutting of trees, the extension or renewal of lines, poles, abutments, conduits, the placing of hydrants, shutoffs, gates, valves, pipes of any kind, the placement of tracks, ties, or other railroad equipment, the construction of tunnels, basins, wells, sewers, drains, the erection or construction of a building of any kind or description, the placement or removal of signs, the discharging of water through a conduit onto a public way or place, or the placement of any object or any kind or description without first obtaining a permit to do so from the Superintendent, except as otherwise provided by law or this Ordinance.
- B. Nothing contained in this Ordinance shall be taken to prevent any person, municipal agency or department, utility, County, State or Federal agency from performing any duty imposed upon said person, utility or governmental body by law.
- C. Permits must be kept on the job site during the progress of the work for which the permit was issued and must be shown, upon request, to authorized Town personnel.
- D. The suspension, revocation or modification of an existing permit shall not entitle the person issued such permit to a refund of all or a portion of the fee, if any, collected for the issuance of such a permit.
- E. No permit shall be issued to any applicant who intends to penetrate the ground until such applicant complies with the requirements of RSA 347:51 and RSA 347:55 by obtaining a DIG SAFE authorization and number at least 72 hours prior to the commencement of excavation or penetration. Dig Safe may be reached at 1-800-225-4977. Additional underground locations clearance of utilities not listed with Dig Safe must be obtained as well, use the following numbers for clearances in addition to Dig Safe:

Dig Safe 1-800-225-4977
Dig Safe System, Inc. 1-888-344-7233
Unitil Corporation 1-800-582-7276
Verizon Communications 1-800-344-7233
Comcast Cable 1-800-266-2278

Northern Utilities (Gas) 603-436-0310
Town of Seabrook Fire Department 603-474-2611
Town of Seabrook Water Department 603-474-9921
Town of Seabrook Sewer Department 603-474-5601
Town of Seabrook Public Works Department 603-474-9771

Section 3. Revocation, Suspension or Modification of Permits

The Board or the Superintendent may at any time cancel, suspend, revoke, or modify permits issued hereunder for cause. Cancellation of any required insurance endorsement or security automatically cancels issued permits.

Section 4. Insurance Certificate and Security

Before a permit, as herein provided, is issued, the applicant shall file with the Board or Superintendent an insurance certificate or security acceptable to the Town and in accordance with this Ordinance.

Section 5. Filing of Plans

Before a person is issued a permit the following requirements regarding the filing of plans must be met in full.

- A. Residents requesting a permit for work on the frontage of their own property, provided that all the work is performed only by the resident, shall provide a sketch indicating the area of work, the type of work contemplated and its effect on the public way or place.
- B. All other persons requesting a permit for work shall provide detailed engineering plans and specifications satisfactory to the Superintendent before a permit will be issued.

Section 6. Start of Work

- A. Work shall start as near as possible to the starting date specified in the permit. A forty-eight hour notice to the Superintendent, the Police and Fire Departments before starting work is required. The permittee shall notify the Superintendent, the Police and Fire Departments seventy-two hours in advance of the start of work in critical areas.
- B. Critical areas are considered to be street intersections, arterial routes, streets within the Route 1, Route 1A and Route 107 business areas and streets that must be closed to perform the work requested in the permit. All permits shall expire 60 days from the date of issuance but not later than November 1st of each year unless the Town has scheduled work in the permit area in which case the permit shall expire seven (7) days before the scheduled work is to commence.

- C. The applicant must notify the Seabrook Police Department at least seven (7) days prior to the commencement of any work to coordinate the required needs for traffic control.

Section 7. Urgent Work

If in the judgment of the Superintendent, traffic conditions, the safety or convenience of the traveling public, or the public interest and welfare, require that the work specified in the permit be performed as emergency work, the Superintendent shall have full power to order that a crew of workers and adequate facilities be employed by the permittee sixteen (16) hours a day to the end that such permitted work may be completed as soon as possible.

Section 8. Emergency Action

- A. Nothing in this Ordinance shall be construed to prevent the making of excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipes, or for making repairs, provided that the person making such excavation shall apply to the Superintendent for a permit on the first working day after such work commenced.
- B. The person engaged in emergency work under this section shall notify the Superintendent, the Police and Fire Departments, and all public utilities at the start of the emergency work.

Section 9. Routing of Traffic

- A. The permittee shall make all appropriate measures to assure that during the performance of the work so far as practicable, normal traffic conditions shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting properties and to the general public, provided that the Superintendent may permit the closing of streets and walks to all traffic for a period of time as prescribed by him if in his opinion it is necessary.
- B. The permittee shall, through the Police Department, provide a policeman or policemen to maintain traffic control and public safety of the project. The number of police officers to be assigned to the project will be determined by the Chief of Police, or his designated representative. The cost of police protection is to be borne by the permittee.
- C. Warning signs, lights, and such other precautions as may be necessary for the purpose, unless specified by the Superintendent, shall conform to the requirements and practices of the New Hampshire Department of Transportation for their use in the performance of work upon public streets, places or ways.

Section 10. Clearance of Vital Structures

- A. The permitted work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, police stations, public buildings fire escapes, water gates, underground vaults, catchbasins, and all other vital equipment, facilities or places as designated by the Superintendent.
- B. Trees are considered structures for the purposes of this Ordinance. Shade trees, public or private, shall not be removed, cut down, trimmed or otherwise injured. Where excavation is permitted or required near shade trees and the root system is entered, the contractor or permittee will clean cut the individual major roots and treat them with tree paint to protect the tree. If trees should die within 3 years of construction the contractor or permittee shall be required to replace the deceased tree.

Section 11. Protection of Traffic

- A. The permittee shall maintain safe crossings for two lanes of vehicle traffic at all way intersections where possible, and safe crossings for pedestrians at intervals of not more than three hundred (300) feet. If any excavation is made across the public way or place, it shall be made in sections to assure maximum safe crossing for vehicles and pedestrians. If the public way or place is not wide enough to hold excavated material for part time storage, the materials shall be immediately removed from the location for off-site storage and return if permitted by the Superintendent.
- B. A minimum of one lane traffic (11 feet wide) must be provided during all active work. Access shall be provided to all property at night and on weekends and all places of business during normal business hours, so far as practicable. Two-way traffic must be provided after normal daily construction hours.

Section 12. Notification of Public Utility Companies

The permittee shall give notice to all public utilities engaged in business within the Town before making any excavation. All of the legal requirements of the DIG-SAFE Act must be followed by the permittee. Failure to obtain a dig-safe number and to provide the same to the Superintendent before the commencement of any excavation or earth penetration work will automatically cancel the issued permit.

Section 13. Relocation and Protection of Utilities

- A. The permittee shall not interfere with any existing utility without the written consent of the Superintendent and the owner of the utility. If it becomes necessary to relocate an existing utility, this shall be done by its owner and the cost shall be borne by the permittee. The permittee shall inform himself as to the existence and

location of all underground utilities, and protect the same against damage. The permittee shall adequately support and protect by timbers or otherwise all poles, pipes, conduits, wires, or other apparatuses which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along, across or through such work area. In the event any said pipes, conduits, poles, wires or apparatus shall be damaged, and for this purpose pipe coating and other encasements or devices are to be considered as a part of the structure itself, such damage shall be repaired by the agency or person owning them and the expense of such repairs shall be borne by the permittee. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipe, sewer, gas pipe, electric conduit, any wire or other utility.

Section 14. Protection of Adjoining Property

- A. The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations, and by taking such other precautions as may be necessary for the purpose. The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public and private property or highways resulting from its failure to properly protect and carry out said work. The permittee shall not remove, even temporarily, any trees or shrubs which exist in planting strip areas without first obtaining the written consent of the Superintendent.

Section 15. Protective Measures

- A. It shall be the duty of every person cutting or making an excavation or performing any work in any public way or place such barriers and warning devices as conform to Part VI of the Manual on Uniform Traffic Control Devices for the entire work zone. All work zones shall be established and conform to all M.U.T.C.D. requirements and specifications.
- B. All traffic control devices such as signs, lighting devices, canalizing devices and pavement markings shall be in compliance with M.U.T.C.D. requirements and specifications.

Section 16. Excavated Materials

- A. All material excavated from trenches or excavations shall be removed from the site of the work except in such cases where the material is suitable for and permission has been granted by the Superintendent to use it for the backfill. Such material shall be removed to a location designated by the Superintendent. All excavated material is owned by the Town of Seabrook and any unauthorized removal or use will result in legal action.

Section 17. Construction Materials

- A. Construction materials on the site shall be limited in quantity and space occupied so as not to block or unduly hinder the use of the public way or place.

Section 18. Dust and Clean-Up

- A. As the excavation work progresses, all ways and places shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris. The permittee shall take necessary precautions to prevent and avoid dust and to keep the ways and places clean each day. All clean-up operations shall be accomplished at the expense of the permittee and shall be carried out to the satisfaction of the Superintendent.

Section 19. Protection of Gutters and Basins

- A. The permittee shall maintain all gutters free from obstructions for the full depth of the adjacent edge of the road and way and for at least one foot in width from the face of the road or way. Catch basins shall be kept clean and serviceable.
- B. The permittee shall make provisions to take care of surplus water, muck, silt, slickings, or other run-off pumped or removed from excavations and shall be responsible for any damage resulting from his failure to so provide.

Section 20. Noise and Hours of Operation

- A. Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property.
- B. During the hours from 10:00 PM to 7:00 AM the permittee shall not use, except with the express written permission of the Superintendent, or in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb sleep or repose of occupants of the neighboring properties.
- C. Normal hours of operation shall be 7:00 AM to 5:00 PM. Monday through Friday except with the express written permission of the Superintendent.
- D. All blasting shall be done between the hours of 8:00 AM and 3:00 PM, Monday through Friday with a permit issued by the Fire Chief and the written consent of the Superintendent.

Section 21. Trenches

- A. The maximum length of open trench at any one time shall be 200 feet measured longitudinally, except with special permission or as specified by the Superintendent, and no greater width than twenty-five (25) feet shall be open for pavement removal, excavation, construction, backfilling, patching and other operations without the written permission of the Superintendent.
- B. No opening or excavation in any street or place shall be extended beyond the centerline of the street before being backfilled and the surface of the street made passable to traffic.

Section 22. Prompt Completion of Work

- A. After an excavation has commenced, the permittee shall prosecute with diligence and expedition, all excavation work covered by the excavation permit and shall promptly complete such work and restore the way to its original condition or as near as may be, so as not to obstruct the way for travel thereon more than is reasonably necessary.

Section 23. Breaking Through Pavement

- A. The use of hydro-hammers or heavy duty pavement breakers for breaking through pavement is prohibited on all streets unless written permission is granted by the Superintendent after due consideration of the location, the condition of the street and the depth of saw cutting required ahead of the use of the hammer. In general, the use of hydro-hammers, or heavy-duty pavement breakers is to be restricted.
- B. Approved cutting of bituminous pavement surfaces ahead of excavations is required to confine pavement damage to the limits of the trench.
- C. Sections of sidewalks shall be removed to the nearest scoreline or approved saw cut edge.
- D. Unstable pavement shall be removed over cave-outs and over breaks and the sub-grade shall be treated as the main trench.
- E. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench, one foot from the edge of the excavation.
- F. Cut-offs outside of the trench lines must be normal or parallel to the trench line.
- G. Excavations shall be made in open cut and no tunneling will be allowed except by special permission of the Superintendent in writing. Trenches and excavations shall be braced and sheathed when necessary.

Section 24. Backfilling

- A. Excavated material shall not be used for backfill unless it consists of materials that have been approved by the Superintendent. Broken pavement, large stones, clay, roots, and other debris shall not be used in the backfill. Backfill material shall consist of crushed gravel as approved by the Superintendent.
- B. Sand or bank-run gravel may be used from the bottom of the trench to a point twelve (12) inches below the surface of the pavement. Only approved crushed gravel is to be used in the top twelve (12) inches of the excavation at the direction of the Superintendent.
- C. Backfill material shall be placed in twelve-inch layers, power tamped and moistened when required to secure maximum compaction (95% density) of the backfill and to reduce settlement.
- D. Bituminous concrete two inches in thickness shall be placed on the backfill for a temporary wearing surface. Temporary paving material shall be either cold or hot mix as may be determined by the Superintendent. In all cases, the permittee shall maintain the temporary paving in good condition until instructed by the Superintendent to install permanent paving.
- E. The minimum depth of any substructure, except manholes, vault entrance tubes, valve casings and catch basins, shall be 30 inches below the surface of the nearest edge of the traveled portion of the street or place and no excavation shall be less than 20 inches in length or width.
- F. Any existing grassland or tree lawns shall be restored with six (6) inches of sifted loam that shall be fertilized, seeded and mulched.

Section 25. Restoration of Pavement

- A. All permanent pavement shall be done on order of the Superintendent and under his direction at the expense of the permittee. There shall be no exception to the requirement for the installation of permanent pavement.
- B. Where existing street or driveway pavements have been interfered with or dug up in connection with the work under the permit, the surface shall be rebuilt with a 3 inch surface coat of bituminous concrete applied in two courses, 2 inch binder and a 1 inch top coat, laid on crushed gravel foundation of 12 inch depth. Where the Superintendent directs that the alternative method of application is to be used, the contractor and permittee shall heat seal and heat blend the patch with the remaining roadway surface.

Section 26. General Construction Specifications

- A. All work of any nature performed by any person under this Ordinance shall conform to the "General Construction Specifications" as adopted by the Board of Selectmen unless more stringent requirements are contained herein.

Section 27. Standards

- A. The construction standards as adopted by the Board shall govern the construction, erection or placement of all facilities or other appliances or apparatus in streets, ways and places.

Section 28. Insurance

Before a permit is issued under this Ordinance, the following requirements for insurance must be met in full.

- A. Insurance under which the Town shall be named as the insured, carried with an insurance company licensed to write such insurance in the State of New Hampshire, against the following risks in not less than the amounts as herein indicated.
 - 1. Bodily injury insurance shall be for not less than \$1,000,000 for injuries or death of any one individual, and a total of not less than \$2,000,000 to those injured or killed in any one accident.
 - 2. Property damage liability insurance shall include damage to property caused by explosives and blasting, or by vehicles or equipment or on account of trenches or from any other cause, and shall not be less than \$1,000,000 for any one occurrence.
- B. The requirements of Sections 28 and 29 do not affect governmental agencies or residents working on the frontage of their own property under an issued permit.

Section 29. Security

Before a permit is issued under this Ordinance, the following requirements for security must be met in full.

- A. A satisfactory letter of credit or other security satisfactory to the Town in the sum of the estimated total cost of the work or \$100 per foot, whichever is greater, but in no case less than \$5,000, conditioned substantially that the applicant shall faithfully perform said work in all respects, and shall also restore or replace that portion of any ways or places in which said applicant, his servants or his agents shall perform any work and that said work will remain in the condition specified and required for a period of one year from completion.

- B. If the applicant provides a letter of credit it shall be deposited in an account held in the name of the Town and shall be non-revocable.

Section 30. Winter Permits

- A. Permits requiring excavations shall not be issued during winter months beginning on the first day of November of each year and ending on the 30th day of April next following, unless special permission is obtained from the Superintendent upon approval by the Town Manager. Permits may be denied earlier due to frost in the ground before the first of November or after the 30th of April.

Section 31. Partial Invalidity

- A. If any portion of this Ordinance is for any reason declared to be unconstitutional or otherwise invalid, such unconstitutionality or invalidity shall not affect the validity of the remaining portions, section or amendments of this Ordinance.

Section 32. Conflict with Planning Board Regulations

- A. Nothing in this Ordinance shall supercede regulations adopted by the Planning Board, but shall work with the intent of those Planning Board regulations.

Section 33. Conflict with Stormwater Regulations

- A. Nothing contained in this Ordinance shall supercede the Stormwater Regulation adopted by the Board of Selectmen, but shall work with the intent of those regulations.

Section 34. Penalties

- A. Violation of this Ordinance shall be punishable by a fine of \$1,000 for each offense. Each day that such offense shall continue shall be a new offense, and such fines shall be deposited in the general fund of the Town.

Section 35. Fees

- A. The fee for the issuance of a permit under these regulations shall be \$100. The fee for inspection services shall be \$50 per hour if determined to be necessary based upon the projected duration of the permitted work.
- B. The suspension, revocation or modification of any existing permit issued hereunder shall not entitle the person holding such permit to a refund of all or a portion of any fee collected for the issuance of such permit.

Section 36. Compliance

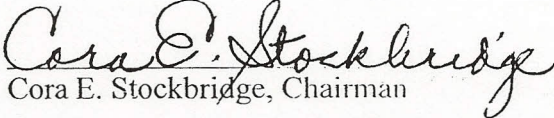
- A. In general, where compliance to the requirements of these regulations and their intent is in question, the permittee, at his expense, shall provide any and all proof of compliance to the Superintendent. Acceptable proof shall be by, but not limited to, approved independent laboratory tests, approved independent field tests, shop drawings and certificates of compliance from manufacturers. Specific tests as required by regulations and specifications shall be performed.

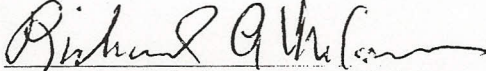
Section 37. Effective

These regulations supercede and repeal all previously adopted regulations and are effective upon adoption of the Board of Selectmen.

ADOPTED

Date 9-13-06


Cora E. Stockbridge, Chairman


Richard A. McCann, Vice Chairman


Robert S. Moore, Clerk

Board of Selectmen