

TOWN OF NEW IPSWICH

661 Turnpike Rd New Ipswich NH 03071

Board of Selectmen



ORDINANCE GOVERNING WORK IN PUBLIC WAYS

Pursuant to the authority conferred under the provisions of RSA 41:11, the Board of Selectmen of the Town of New Ipswich enacts the following Ordinance Governing Work In Public Ways.

1) Purpose:

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

2) Definitions:

Person shall mean any person, firm, partnership, association, society, corporation, company, or organization of any kind.

Board shall mean the Board of Selectmen of the Town of New Ipswich.

Director shall mean the Director of Public Works of the Town of New Ipswich, acting directly through an authorized representative, such representative acting within the scope of the particular duties entrusted to him.

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 New Ipswich, and/or as defined in RSA 259:125 under the definition of the word "way".

3) Permit:

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 or under a public way or place, including the marking of trees, the extension or renewal of lines, poles, abutments, conduits, the placing of hydrants, shutoffs, gates, valves, pipes of any kind, the construction of tunnels, basins, wells, sewers, or drains, the erection or construction of a building of any kind or

description, the discharging of water through a conduit onto a way, or any object of any kind of description without first obtaining a permit to do so from the Director, except as otherwise provided in this Ordinance and specifications.

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.

The suspension, revocation or modification of an existing permit shall not entitle the person issued such a permit to a refund of all or a portion of the fee, if any, collected for the issuance of such a permit.

Private citizens issued a permit to perform work on the frontage of their own property, provided that all work is performed only by that resident, shall be exempt from a permit fee, if any.

4) Revocation, Suspension or Modification of Permits:

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

5) Filing of Plans:

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

Residents requesting a permit for work on the frontage of their own property, provided 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 to the way. All other persons requesting a permit to work shall provide detailed engineering plans and specifications satisfactory to the Director before a permit will be issued.

6) Start of Work:

The Director shall be notified 72 hours prior to the start of work in all critical areas. A 48 hour notice prior to work start is required for all other jobs. Work shall start as near to the starting date specified in the permit as possible. Critical areas are considered to be street intersections, arterial routes, streets adjacent to places of business and streets that must be closed to perform the work requested in the permit. The Director shall notify Emergency Services (Police, Fire Ambulance) and the Mascenic School District if school is in session.

7) Urgent Work:

If in the judgment of the Director, traffic conditions, the safety or convenience of the traveling public, or the public interest require that the work specified in the permit be performed as emergency work, the Director shall have full power to order that a crew of men 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.

8) Emergency Action:

Nothing in this Ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Director for such a permit on the first working day after such work is commenced.

The person engaged in emergency work under this section shall notify the Director, the Police Department, the Fire Department, Ambulance Service, and all public utilities at the start of the emergency work.

9) Routing of Traffic:

The permittee shall take 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 Director 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.

If the traffic congestion warrants it, the permittee shall provide flagmen for adequate traffic control in accordance with NH Bridge and Road Standards (current edition). When the Police Department or Director deems it necessary, the permittee shall engage a policeman or policemen to maintain traffic control and public safety of a project. The cost of police protection is to be borne by the permittee. A minimum of 24 hour notice is required for Police Details unless the project is deemed an emergency. Police Detail fees are to be paid in accordance with the current fee schedule.

Warning signs, lights, and such other precautions as may be necessary for the purpose, unless specified by the Director, shall conform to the requirements and practices of the New Hampshire Department of Transportation for their use in the performance of work upon streets or ways.

10) Clearance of Vital Structures:

The permitted work shall be performed and conducted so as not to interfere with access to vital equipment/facilities as designated by the Director.

11) Protection of Traffic:

The permittee shall maintain safe crossings for two lanes of vehicle traffic, at two way intersections where possible, and safe crossings for pedestrians at intervals of not more than 300 feet. If any excavation is made across the public way it shall be made in sections to assure maximum safe crossing for vehicles and pedestrians. If the way is not wide enough to hold excavated material for part time storage, the materials shall be immediately removed from the location.

12) Notification of Public Utility Companies:

The permittee shall give notice to all public utilities engaged in business with the Town before making any excavation in a street or way. All of the legal requirements of the DIG SAFE ACT must be

followed by the permittee. Failure to obtain a dig-safe number and provide the same will cancel an issued permit.

13) Relocation and Protection of Utilities:

The permittee shall not interfere with any existing utility without the written consent of the Director and the owner of the utility. If it becomes necessary to relocate an existing utility, its owner shall do this 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 apparatus, which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across 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 part of a substructure, such damage shall be repaired by the agency or person owning them and the expense of such repairs 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, wire or other utility.

14) Protection of Adjoining Property:

The permittee shall at all times and at their 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 Director.

15) Protective Measures:

It shall be the duty of every person cutting or making an excavation in a street to place and maintain such barriers and warning devices as are necessary for safety as may be required by the Director or the Police Department. Barriers shall meet the requirements of the Director. Warning lights shall be electrical markers or flashers, and used to indicate the hazard to traffic from sunset of each day to sunrise the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not to replace, light sources. The type of warning devices to be used at any particular location is subject to the approval of the Director.

16) Excavated Materials:

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 Director to use it for the backfill. Such material shall be removed to a location designated by the Director within 10 days of job completion. All excavated material is owned by the Town and any unauthorized removal or use will result in legal action.

17) Construction Materials:

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 way.

18) Dust and Clean Up:

As the excavation work progresses, all ways 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 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 Director.

19) Protection of Gutters and Basins:

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent edge of the road and way and for at least 1 foot in width from the face of the road or way. Catch basins shall be kept clean and serviceable.

The permittee shall make provisions to take care of all surplus water, muck, silt or other runoff pumped or removed from excavations and shall be responsible for any damage resulting from his failure to so provide.

20) Noise and Hours of Operation:

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.

During the hours from 7:00 p.m. to 7:00 a.m. the permittee shall not use, except with the express permission of the Director, or in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

All blasting shall be done between the hours of 8:00 a.m. and 3:00 p.m.

21) Trenches:

The maximum length of open trench permissible at any time shall be specified by the Director and no greater length than 25 feet shall be open for pavement removal excavation, construction, backfilling, patching and other operations without the written permission of the Director.

22) Prompt Completion of Work:

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 or travel thereon more than is reasonably necessary.

23) Breaking Through Pavement:

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 Director for their use 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.

Approved cutting of bituminous pavement surfaces ahead of excavations is required to confine pavement damage to the limits of the trench.

Sections of sidewalks shall be removed to the nearest score line or approved saw cut edge.

Unstable pavement shall be removed over cave outs and over breaks and the subgrade shall be treated as the main trench.

Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench, 1 foot from the edge of the excavation.

Cutouts outside of the trench lines must be normal or parallel to the trench line.

Excavations shall be made in open cut and no tunneling will be allowed except by special permission of the Director. Trenches and excavations shall be braced and sheathed when necessary.

24) Backfilling:

Excavated material shall not be used for backfill unless it consists of sand and gravel and has been approved by the Director. Broken pavement, large stones, clay, roots, and other debris shall not be used in the backfill. Backfill material shall consist of sand, bank-run gravel or processed gravel as approved by the Director.

Sand or bank-run gravel may be used from the bottom of the trench to a point 12 inches below the surface of the pavement. Only approved bank-run or processed gravel is to be used in the top 12 inches of the excavation at the direction of the Director.

Backfill material shall be placed in compacted layers not exceeding 12 inches, power tamped with vibratory plate compactors or roller compactors. Material in the trench backfill shall be compacted to not less than 95 percent of American Association of State Highway and Transportation Officials (AASHTO) T180, Modified Proctor. Nuclear density testing methods will be governed by ASTM D2922.

Bituminous concrete 2 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 Director. In all cases, the permittee shall maintain the temporary paving in good condition until instructed by the Director to install permanent paving.

25) Restoration of Permanent Paving:

All permanent paving shall be done on order of the Director and under his direction at the expense of the permittee. There shall be no exception to the requirement for the installation of permanent paving.

Where existing street or driveway pavements have been interfered with or dug up in connection with the work under contract, the surface shall be rebuilt with a 3 inch surface coat of bituminous concrete type II applied in two courses, 2 inch binder course and 1 inch top course laid on gravel foundation of 12 inch depth. Where the Director 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.

26) General Construction Specifications:

All work of any nature performed by any person under these regulations shall conform to the "Subdivision Regulations of the Town of New Ipswich" unless more stringent requirements are contained here.

27) Standards:

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 or ways. The reclassification from a Class VI to a Class V road must meet the street standards as set forth in the Town of New Ipswich Subdivision Regulations as amended.

28) Insurance:

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

A certificate of insurance shall be provided under which the Town shall be named as additionally 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:

Comprehensive General Liability insurance with limits not less than \$1,000,000 per occurrence for bodily injury, \$1,000,000 per occurrence for property damage, \$2,000,000 general aggregate, \$50,000 fire damage (any one fire), and \$5,000 for medical expenses (any one person). This insurance should include coverage for collapse and underground hazard, explosions and blasting damage, and contractual liability.

Automobile Liability Insurance with not less than \$1,000,000 per occurrence for bodily injury, and \$1,000,000 per occurrence for property damage.

Workmen's Compensation Insurance including Employer's Liability Insurance with limits of \$100,000 for each accident, \$500,000 disease policy limit, and \$100,000 disease each employee.

The requirement of Section 29 does not affect governmental agencies.

29) Bonding:

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

A satisfactory bond of a surety company, licensed to write in the State of New Hampshire, in the sum of \$1,000 or \$100 per foot, whichever is greater, conditioned substantially that the applicant shall faithfully perform said work in all respects, and shall also restore or replace that portion of any streets in which said applicant or his agents shall perform any work and that said work will remain in the condition specified and required for a period of two years from completion. The bond amount will be held for a 2 year period in case any workmanship deficiencies arise within the Town's right of way.

The applicant may provide a letter of credit in place of the bond requirements stated herein, provided that such letter of credit is deposited in an account held by the Town and is non-revocable.

30) Winter Permits:

Permits requiring excavations shall not be issued during winter months beginning on the first of November of each year and ending on the thirtieth of April next following, unless special permission is obtained from the Director and the Board. Permits may be denied due to frost in the ground before the first of November of after the thirtieth of April.

31) Partial Invalidity:

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, sections or amendments of this ordinance.

32) Conflict with Planning Board Regulations:

Nothing in this Ordinance shall supersede regulations adopted by the Planning Board but shall work with the intent of those Planning Board regulations.

33) Penalties:

Violations of this Ordinance shall be punishable by a fine of \$100.00 for each offense. Each day such offense shall continue shall be a new offense, and such fines shall be deposited in the general fund of the Town.

34) Fees:

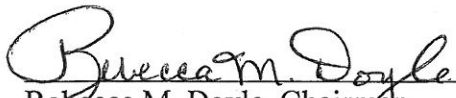
The Board of Selectmen may establish fees for the issuance of permits hereunder and said fees shall be in the form of a schedule of fees, which shall become a part of this Ordinance. The suspension, revocation or modification of any existing permit shall not entitle the person holding such permit to a refund of all or a portion of any fee collected for the issuance of such permit.


35) Effective Date:

This Ordinance shall take effect immediately upon adoption by the Board of Selectmen.

Adoption:

Under the authority granted to the Board of Selectmen in lieu thereof RSA 31:012-a and after proper notice and hearing, the Board of Selectmen of the Town of New Ipswich hereby adopts this Ordinance Governing Work In Public Ways, on this the 24 day of May 2016

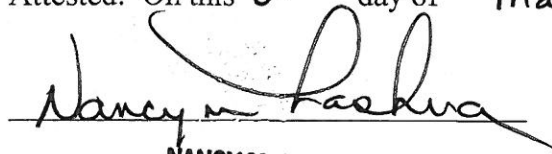

Rebecca M. Doyle, Chairman


David S. Lage


Timothy Johnson II

Attested: On this 31st day of May, 2016

Seal


NANCY M. LASHUA
Notary Public - New Hampshire
My Commission Expires February 12, 2019