

TOWN OF BELMONT

BOARD OF SELECTMEN

ORDINANCE GOVERNING WORK IN PUBLIC WAYS

Pursuant to the authority conferred under the provisions of RSA 41:11 and RSA 47:17, VII AND VIII, the Board of Selectmen of the Town of Belmont enacts the following Ordinance governing work in public ways.

1. 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, boulevards, 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:

(1) "PERSON" shall mean any person, firm, partnership, association, society, corporation, company, or organization of any kind.

(2) "BOARD" shall mean the Board of Selectmen of the Town of Belmont.

(3) "DIRECTOR" shall mean the Road Agent of the Town of Belmont, acting directly or through an authorized representative, such representative acting within the scope of the particular duties entrusted to him.

(4) "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 Belmont, and/or as defined in RSA 259:125 under the definition of the word "way".

3. PERMITS

(1) 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 placement of tracks, ties or other railroad equipment, 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 or description without first obtaining a permit to do so from the Director, except as otherwise provided in this Ordinance and specifications.

(2) Nothing contained in this Ordinance and specifications shall be taken to prevent any person, municipal agency, utility, County, State or Federal agency from performing any duty imposed upon

3. PERMITS (cont.)

said person or agency by law nor shall they be required to pay a fee for the issuance of a permit, hereunder.

(3) 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.

(4) 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.

(5) 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. INSURANCE ENDORSEMENT

Before a permit, as herein provided, is issued, the applicant shall file with the Board an insurance certificate acceptable to the Board.

6. FILING OF PLANS

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

(1) 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.

(2) All other persons requesting a permit for work shall provide detailed engineering plans and specifications satisfactory to the Director before a permit will be issued.

7. START OF WORK

(1) Work shall start as near to the starting date specified in the permit as possible. A forty-eight hour notice of starting work to the Director is sufficient except in critical areas. In all critical areas, seventy-two hours notice to the Director prior to starting work is required.

(2) Critical areas are considered to be street intersections, arterial routes, streets within the town shopping areas and streets that must closed to perform the work requested in the permit.

8. 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.

9. EMERGENCY ACTION

(1) Nothing in these rules 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.

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

10. ROUTING OF TRAFFIC

(1) 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.

(2) If the traffic congestion warrants it, the permittee shall provide flagmen for adequate traffic control. 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.

(3) 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.

11. CLEARANCE OF VITAL STRUCTURES

The permitted work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, catch basins, and all other vital equipment as designated by the Director.

12. PROTECTION OF TRAFFIC

The permittee shall maintain safe crossings for two lanes of vehicle traffic at a-11 way intersections where possible, and safe crossings for pedestrians at intervals of not more than three hundred feet. If any excavation is made across the public way it shall be made in sections to assure

12. PROTECTION OF TRAFFIC (cont.)

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.

13. NOTIFICATION OF PUBLIC UTILITY COMPANIES

The permittee shall give notice to all public utilities engaged in business within 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 any issued permit.

14. 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 sub-structure, 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.

15. PROTECTION OF ADJOINING PROPERTY

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 Director.

16. 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.

16. PROTECTIVE MEASURES (CONT.)

Barriers shall meet the requirements of the Director. Warning lights shall be flares, torches, lanterns, electrical markers, or flashers, and used to indicate the hazard to traffic from sunset of each day to sunrise the next day. Lanterns shall be clear red or ruby globes. 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 are subject to the approval of the Director. Flares or lanterns should be used on all single or small excavations within pavement lines.

17. 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. All excavated material is owned by the Town and any unauthorized removal or use will result in legal action.

18. 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.

19. 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.

20. PROTECTION OF GUTTERS AND BASINS

(1) 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 one foot in width from the face of the road or way. Catch basins shall be kept clean and serviceable.

(2) The permittee shall make provisions to take care of all 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.

21. 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.

(1) During the hours from 10:00 pm to 7:00 am 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.

(2) Normal hours of operation shall be 8:00 am to 4:00 pm, Monday through Friday (except holidays), except with the express written permission of the Director.

(3) All blasting shall be done between the hours of 8:00 am and 3:00 pm.

22. TRENCHES

The maximum length of open trench permissible at any time shall be in accordance with existing ordinances or as may 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.

23. 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.

24. BREAKING THROUGH PAVEMENT

(1) 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.

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

(3) Sections of sidewalks shall be removed to the nearest scoreline or approved saw cut edge.

(4) Unstable pavement shall be removed over cave-outs and over breaks and the sub-grade shall be treated as the main trench.

(5) 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.

(6) Cut-outs outside of the trench lines must be normal or parallel to the trench line.

(7) 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.

25. BACKFILLING

(1) 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.

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

(3) Backfill material shall be placed in ten-inch layers, power tamped and moistened when required to secure maximum compaction of the backfill and to reduce settlement.

(4) 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 Director. In all cases, the permittee shall maintain the temporary paving in good condition until instructed by the Director to install permanent paving.

26. RESTORATION OF PERMANENT PAVING

(1) 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.

(2) 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 2.5-inch surface coat of bituminous concrete type I-1 applied in two courses, 1.5-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.

27. GENERAL CONSTRUCTION SPECIFICATIONS

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

28. 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.

28. STANDARDS (cont.)

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

29. INSURANCE

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

(1) 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:

(a) Bodily Injury Liability shall be for not less than \$300,000 for injuries or death of any one individual, and a total of not less than \$500,000 to those injured or killed in any one accident.

(b) Property Damage Liability 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 \$300,000 for any one occurrence.

(2) The requirements of Section 29 do not effect governmental agencies.

30. BONDING

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

(1) 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, 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.

(2) 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.

31. 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 30th of April next following, unless special permission is obtained from the Director and the Board. Permits may be denied earlier due to frost in the ground before the first of November or after the 30th of April.

32. 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.

33. CONFLICT WITH PLANNING BOARD REGULATIONS

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

34. PENALTIES

Violation 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.

35. FEES

(1) 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.

(2) 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.

Amended this 21st day of February in the year 2001.

Belmont Board of Selectmen