

ORDINANCE

TOWN OF MOULTONBOROUGH, NEW HAMPSHIRE

An Ordinance Relative Street Excavation

- Section 18.1 Street Excavation Regulations. Street Excavation Permits shall be issued by the Board of Selectmen, Town of Moultonborough. Anyone needing to open or excavate any street must obtain a permit on a form provided by the Road Agent. Each application for a permit must be accompanied by the required thirty dollar (\$30.00) fee. An inspection fee of fifteen dollars (\$15.00) per hour will be assessed as required for the inspection service of the Road Agent.
- Section 18.2 Work authorized by a permit shall be performed between 7:00 A.M. and 5:00 P.M., Monday through Friday unless the Permittee obtains written consent from the Road Agent. Such permission shall be granted only in case of an emergency or in the event the work authorized is in a congested area. In case of an emergency, the "Emergency Provision" section of the regulations shall apply.
- Section 18.3 The location of all utility facilities shall be determined sufficiently ahead of excavation work to avoid damage. The Permittee shall, as specified by NH State Law RSA [374:51](#) and 374:55, call DIG SAFE (1-888-DIG-SAFE) at least 72 hours "prior" to any excavation. The Permittee must also notify the Moultonborough Police Department at least seven (7) days prior to excavation to coordinate any traffic control necessary.
- Section 18.4 A Street Excavation Permit gives the Permittee the right to encumber a roadway with proper traffic control as long as a minimum of one lane of traffic (eleven [11] feet width) is provided during active construction. Access shall be provided to all property at night and on weekends and to all places of business. Two-way traffic must be provided after construction hours even if only one lane is available.
- Section 18.5 No more than 200 feet measured longitudinally shall be opened in any street at one time, except by special permission of the Road Agent. No opening or excavation in any street shall extend beyond the center line of the street before being back-filled and the surface of the street made passable to traffic.
- Section 18.6 If an emergency necessitates the complete closing of a street, the closing will be governed by the Emergency Provisions' section of this regulation.
- Section 18.7 The Permittee will notify the Road Agent and Chief of Police the day construction begins.
- Section 18.8 Every Permittee will be required to place adequate barriers around openings, excavations, encumbrances or obstructions. Barriers, barricades, lights, warning flags, danger signs and traffic control personnel may be required by the Road Agent and/or Police Department to protect the safety of the general public.

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- Section 18.9 Shade trees shall not be cut down, trimmed or otherwise injured, unless approved by the Road Agent and/or Board of Selectmen.
- Section 18.10 Where it is necessary to cut and remove pavement, curb, sidewalk and/or other surfaces the material shall be cut and removed by means of equipment suitable to the type of material to be removed and in a manner which results in a minimum amount of damage to adjacent improvements.
- Section 18.11 Excavations will be backfilled in layers not to exceed twelve (12) inches and shall be compacted to not less than 95% maximum dry density at optimum moisture content using pneumatic tampers, vibratory compactors or other approved means. Puddling will not be allowed. The material compaction shall be determined by the Standard Proctor Method in accordance with Standard Specifications with an inspector present approved by the Town.
- Section 18.12 If unsuitable for backfill, excavated material shall be replaced with granular backfill gravel as specified in the "Standard Specifications of Road and Bridge Construction, State of New Hampshire, Department of Public Works and Highways", hereinafter referred to as "The New Hampshire Standard Specifications."
- Section 18.13 The minimum depth of any substructure, except manholes, vault entrance tubes, valve casings and catch basins, shall be 24 inches (30" desirable) below the surface of the nearest edge of the traveled portion of the street and no excavation shall be less than 20 inches in length or width.
- Section 18.14 Within the paved roadway areas, the 18 inches of gravel sub-base material shall be placed and compacted in two (2) nine (9) inch layers, to achieve 95% density. Following the gravel base, six (6) inches of crushed gravel layer will be installed. This will provide a total of 24 inches of gravel road base. Both crushed gravel and gravel shall conform to Department of Highways Standard Specifications. Before the crushed layer is installed the inspector will check the gravel sub-base.
- Section 18.15 In sidewalk and driveway areas, eight (8) inches of crushed gravel base shall be placed and compacted to achieve 95% density. Any asphalt or concrete sidewalk surface shall be restored to a depth equal to existing with two (2) inches minimum. In case of longitudinal trenches in a sidewalk area, full width restoration will be required.
- Section 18.16 In other areas, including graveled roads, the excavation shall be restored to the condition that existed before the excavation or as directed by the Road Agent. Any existing grassland shall be restored with four (4) inches of sifted loam which shall be fertilized, seeded, mulched and/or hydro-seeded.
- Section 18.17 As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work.
- Section 18.18 Dust control shall be provided as necessary to prevent a nuisance to abutters and surrounding areas. Dust control shall be by wetting or use of calcium chloride or other approved methods.

- Section 18.19 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 Road Agent. 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 18.20 After an excavation is commenced, the work shall proceed in a continuous manner with diligence and expedition and shall be completed and the street restored, as nearly as possible to its original condition, so as not to obstruct travel thereon more than is reasonably necessary. The period of time is not to exceed five (5) days from the date of completion of the project. In any event, the Permittee shall place and maintain a temporary surface immediately upon back filling which shall be maintained on a daily basis agreeable to the Road Agent. Road Agent may require temporary "hot-patch" or "cold-patch" dependent upon the location of the opening, season and weather conditions.
- Section 18.21 No permanent street restoration will be allowed between November 15 and April 1st.
- Section 18.22 Upon completion of the pavement restoration, the Road Agent shall be immediately notified as to the location and time of completion.
- Section 18.23 The Road Agent, as a condition of the permit, reserves the right to restore the roadway or cause the same to be restored under his directions and the Permittee shall reimburse the Town for any or all liability and expense suffered by reason of such work. If the final restoration is not completed in a prompt manner, the Highway Department will, after notice has been given to the Permittee, make final restoration which may be done after their normal working hours (overtime rate). The Permittee shall reimburse the Town for any liability and expense suffered by reason of such work.
- Section 18.24 Patching Guidelines
- a. Cuts shall be parallel or perpendicular to the line of the trench. In the case of transverse or diagonal trenching the pavement shall be sawed so as to provide a flat diamond shaped patch, the existing pavement and any temporary material shall be removed and replaced to an equal depth with a minimum of three (3) inches (two (2) inches of base and one (1) inch of top) of bituminous pavement, laid and compacted in a maximum of two (2) inch thick layers to meet the existing pavement edge exactly. The face of all joints shall be painted with asphalt emulsion.
 - b. In the event Permittee disturbs a road surface that has been overlaid within the past six (6) years, a curb to curb repairing will be ordered by the Road Agent. Also, in any major excavation (defined as over 100') which does not follow an appropriate longitudinal line, the Road Agent may require curb to curb repaving of the affected area.
 - c. In cases where multiple excavations are made in a street which would result in the edge of patches being closer than 20 feet, the Road Agent may require a continuous patch.

- d. On surface treated gravel highways, feathering the edges of patches shall be allowed. Within areas of cement concrete or stone base overlaid with asphalt, the Road Agent will require the replacement of the cement concrete or stone base with Class "A" Portland Cement Concrete, reinforced or non-reinforced, as specified in the New Hampshire Standard Specifications to a depth equal to that removed and then overlaid with hot bituminous pavement as specified above.

Section 18.25 Insurance Requirements

- a. The Permittee agrees to furnish a continuing Surety Bond if required by the Road Agent, for a period of thirty (30) months in the amount of five thousand (\$5,000) (except that the Road Agent may require up to ten (10) times that amount depending upon the volume of the work being performed by the Permittee) guaranteeing the fulfillment of the provisions, instructions and regulations prescribed above, and/or later instructions issued by the Road Agent during the performance of the work, and satisfactory maintenance of the disturbed areas for a period of eighteen (18) months following the completion of the work and the payment of charges owed the Town of Moultonborough Highway Department.
- b. The person, partnership, firm, corporation, etc., who obtains the permit to excavate a Town Roadway, shall be responsible for said excavation for eighteen (18) months after all work conducted under the permit has been completed and may be ordered by the Road Agent at any time during the eighteen month period to improve or replace the work.
- c. The Permittee further agrees to indemnify and save harmless the Town of Moultonborough, New Hampshire from all claims for damage or injury whatsoever, that may arise from the encumbrance, obstruction, occupation, or use of said highway and the applicant shall be accountable for all damage that may occur on account of said encumbrance, obstruction, occupation or use of the aforesaid highway, the Town of Moultonborough in no case assuming any responsibility or liability by reason of granting this permit.
- d. The Permittee, as a condition of the permit, shall agree to indemnify and protect the Town of Moultonborough against all liability, claims or demands for injuries or damage, including claims for loss or interruption of business in cases where the encumbrance or construction impeded the flow of traffic to any person or property arising out of activities of the Permittee, its servants, employees, agents, representatives or subcontractors.

In the case of major excavation (defined as over 100') the Permittee, as a condition of the permit, shall agree to carry the following insurance:

- a. Comprehensive General Liability Insurance with limits not less than \$1,000,000.00 per occurrence for bodily injury and \$500,000.00 per occurrence for property damage and automobile liability insurance with not less than \$500,000.00 per occurrence for property damage covering all activities of the Permittee for the full period of the permit. Such insurance shall include the Town of Moultonborough, including all officials and employees thereof. Such insurance shall include:
 - 1. All activities including use of all vehicles.
 - 2. Contractual liability covering this permit.
 - 3. Coverage for the so-called "x,c,u" hazard, i.e. collapse of buildings, blasting, and damage to underground property.
 - 4. Completed operations hazard for a period of at least two (2) months following the acceptance by the Highway Department of the completed permit.
 - 5. "Personal" injury coverage (in addition to "Bodily Injury").
- b. In the case of minor excavations (defined as less than 100') the Permittee shall carry Workmen's Compensation Insurance including Employer's Liability Insurance with limits of \$100,000.00 whether or not required by the New Hampshire Revised Statutes Annotated, 1955 as amended, for all activities of the Permittee during the period of the permit.
- c. Insurance similar to that required or the Permittee shall be provided by, or on behalf of all independent contractors used by the Permittee shall be held responsible for any modifications in these insurance requirements as they apply to independent contractors.
- d. Insurance certificates evidencing the above coverage are to be furnished the Town of Moultonborough prior to issuance of the permit, and shall provide for not less than thirty (30) days prior notice to the Town of Moultonborough of any cancellation or major change in policies.
- e. The purchase of the insurance required or the furnishing of the aforesaid certificates shall not be a satisfaction of Permittee's liability hereunder or in any way modify the Permittee's indemnification responsibilities to the Town of Moultonborough.

The Road Agent may revoke any permit issued under this regulation at any time for violations of this Ordinance. Permittee may appeal decision to the Board of Selectmen within 48 hours of notice.

Section 18.26 Emergency Provisions

- a. Emergency excavations or closing of a town roadway shall be done by obtaining an Emergency Permit from the Road Agent or acting Road Agent.

- b. If such an emergency exists, the Police Department, Fire Department and Road Agent, Chairman of the Board of Selectmen, as a minimum, shall be notified immediately by telephone. At the earliest opportunity available, a representative of the Permittee shall obtain a regular permit at the office of the Road Agent.
- c. The Road Agent reserves the right to waive any of the provisions of this regulation in case of an emergency and to impose such conditions as he may require as part of an emergency permit.

This ordinance to be in force as of September 16, 1993.

Tina C. Borrin, Chairman
 Ernest E. Davis, Jr.
 Edwin A. Wakefield

BOARD OF SELECTMEN

This Ordinance received review, revision and update. The Ordinance, as revised, received acceptance and enactment on [September 21, 2006](#).

[Karel A. Crawford, Chairman](#)
[Edward J. Charest](#)
[Ernest E. Davis, Jr.](#)
[James F. Gray](#)
[Joel R. Mudgett](#)
[BOARD OF SELECTMEN](#)

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