

Town of Allenstown, New Hampshire  
Municipal Code of Ordinances

CO 218 Roadway Excavation Regulations.

218:1 Authority.

The Allenstown Board of Selectman by the power granted to them pursuant to RSA 31:39, RSA 41:11 and RSA 47:17 VII, VIII, and XVIII enact the following regulations governing the excavation, filling, paving on ways in Allenstown.

218:2 Purpose.

The purpose of these regulations are to ensure consistent and uniform treatment of individuals and private contractors who conduct operations on public ways in Allenstown involving excavation, filling, paving and/or repaving of such ways. The Board of Selectmen seeks to protect the public health and safety by ensuring work is performed in a manner which meets certain minimum standards. The public shall not have to bear the burden of unsafe practices and poor or shoddy workmanship.

218:3 Definitions & Interpretation.

The following definitions shall apply to the regulations set forth herein.

- (A) "Applicant" a person or business entity seeking a permit under this ordinance who submits an application to the Town for approval.
- (B) "Town" shall mean the Town of Allenstown.
- (C) "Permit Holder" a person whether an individual or business entity who obtains a permit pursuant to this ordinance to conduct work in the Town.
- (D) "Permitted Work" the tasks allowed to be performed under the terms of the permit issued by the Town in accordance with this ordinance and the standards specified herein.
- (E) "Board of Selectmen" shall mean the Board of Selectmen acting in the official capacity or there lawfully appointed designee. The Board of Selectmen has designated the Road Agent as their lawful designee under this ordinance to issue permits, determine compliance with the standards and regulations promulgated herein.
- (F) "Way" shall mean the entire width between the boundary lines of any public highway, street, avenue, road alley, park or park way or any private way laid out under authority of statute or any such way provided and maintained by a public institution to which state funds are appropriated for public uses, or any such way which has been used for public travel thereon other than to form a toll bridge or ferry,

- for 20 years, or any public or private parking lot which is maintained primarily for the benefit of paying customers as defined by RSA 259:125, I.
- (G) “Standard Specifications” shall mean Standard Specifications for Road and Bridge construction promulgated by the State of New Hampshire Department of Transportation.
  - (H) Any word or term not defined herein or otherwise defined in an applicable Town ordinance or statute shall be construed according to its plain and ordinary meaning.
  - (I) Where there is an ambiguity or conflict between this ordinance and another statute or regulation the more specific or restrictive statute, regulation, or ordinance shall apply unless the ordinance has been pre-empted by State law.

#### 218:4 Permits.

- (A) Anyone excavating, filling, or paving in a way shall be required to obtain and pay for a Road Excavation permit from the Town in advance of the work.
- (B) Road Excavation permits shall be \$200.00, which is non-refundable. Renewal permits shall be \$50.00 and must be requested prior to the expiration of the original permit. Anyone applying for a permit after excavation, filling or paving has begun in a public way shall be charged \$100.00.
- (C) No permits shall be issued for a period longer than 30 days unless the applicant requests and the Town find the excavation, filling or paving cannot be reasonably completed within 30 days. The fee for permits longer than 30 days shall be the price for a regular permit plus an additional \$50.00 for every thirty days requested thereafter, which is also non-refundable. Renewal permits shall not exceed 30 days. No renewal permits shall be issued or granted to an applicant who holds a permit which was granted a permit that was longer than 30 day period without prior approval from the Board of Selectmen.
- (D) In the event the Town requires review of the permit application or review of the applicants work by an outside consultant, the fees required for the consultant shall be paid by the applicant.
  1. Prior to engaging in outside consultant the applicant shall be informed of this and be required to deposit with Town a sum reasonably estimated to cover the expense of the consultants.
  2. No permit shall be processed or work permitted until this estimated payment is received.
  3. If the Town in its reasonable discretion determines the amount deposited will be insufficient to cover the cost of the consultant’s services, the applicant shall

deposit such additional sums with the Town which the Town requests within 5 business days of the request.

4. The failure to deposit the requested sums within the time frame specified herein shall be grounds for immediately suspending the permit.
- (E) All applicants for a permit shall provide the Town with the permit application a plan drawn to an approved scale with sufficient details to enable easy field location of the work. As a condition of the permit, the Town may require a permit holder to submit an as built plan of their work.
- (F) By applying for a permit, the permit holder is agreeing to hold harmless and indemnify the Town from any and all claims for damage or injury arising from the encumbrance, obstruction or use of the way and any claims for injury or damage arising out of impeding the flow of traffic, blocking access, loss or interruption of business or actions or omissions of the permit holder, their contractors, agents, employees, or servants.

#### 218:5 General Provisions

- (A) No permitted work shall be performed before 7:00 a.m. or after 6:00 p.m. unless specified in the permit. No permitted work shall be performed on Saturdays, Sundays, or legal holidays unless approved by the Board of Selectmen and specified in the permit.
- (B) The permit holder must notify DIG SAFE and any other local agencies where applicable of the intended work and receive confirmation of utility locations prior to commencing work.
- (C) No opening or excavation in any public way shall extend beyond the center line of the public way, before being back filled and the surface of the way made passable to traffic.
- (D) No more than three hundred feet measured longitudinally shall be open in any one way at one time except as may be specifically authorized in the permit.
- (E) Every permit holder shall place barriers, barricades, lights, warning flags and signage around openings and excavations as required by the Town and/or New Hampshire Department of Transportation. All barricades, warning signs, lights, temporary signals, and other protective devices shall conform to the most recent edition of the "Manual on Uniform Traffic Control Devices" for Street and Highway Administrators.
- (F) Every traffic control device shall be set up and operational prior to the start of work and shall remain in place only so long as required by the Town. No advertisements,

notices, and signs other than for traffic control shall be displayed or attached to any barricade or highway fencing.

- (G) No rubber wheeled equipment having a gross vehicle weight of greater than 12,000 pounds and no tracked equipment of any weight shall be loaded or unloaded or operated on the paved portion of any way unless specifically permitted in the permit. Anyone loading or unloading equipment on the paved portion of way shall ensure that ramps for equipment do not contact or rest on the way by placing planks or blocks to keep the ramp off the pavement.
- (H) All permit holders shall also comply with the Town's traffic detail regulations, see Town Ordinance 405.

#### 218:6 Surety Requirements.

- (A) All permit holders prior to commencing work shall post a surety bond in a form acceptable to the Town or provide cash security which will be held by the Town in a passbook account in an amount equal to 110% of the cost of the work being performed in the way.
- (B) Within five business days of completion of the permitted work, it shall be inspected by the Town and if satisfactory 90% of the surety bond amount or cash security shall be released and the remaining 10% shall be held for 30 months thereafter to ensure any repair work to the permitted work is completed by the applicant. To the extent the work is unsatisfactory to the Town the permit holder will be so notified and the surety bond or cash security shall not be released until the deficiencies are corrected.
- (C) The Town may waive the surety bond or cash security requirements for good cause shown for permitted work which will cost less than \$10,000.00.

#### 218:7 Insurance Requirements.

1. All permit holders shall have insurance in the following minimum amounts and coverage's:
  1. Comprehensive General Liability  
\$1,000,000.00 per occurrence bodily injury.  
\$500,000.00 per occurrence property damage.
  2. Motor Vehicle Liability  
\$500,000.00 per person bodily injury.  
\$1,000,000.00 per occurrence bodily injury.  
\$500,000.00 per occurrence property damage.
  3. Workers' Compensation Insurance including Employer's Liability in the amount of \$100,000.00 whether or not required by the statute.

2. Each policy shall include:
  1. The Town and its employees, agents and officials as named insured's.
  2. All activities including use of all vehicles.
  3. Contractual liability covering this permit.
  4. Coverage for collapse of building, blasting and damage to underground property also known as the "x,c,u" hazards.
  5. Completed operations hazard for at least 30 months following acceptance by the Town of the completed work.
  6. "Personal Injury" coverage in addition to "Bodily Injury" coverage.
3. All permit holders shall provide a certificate of insurance evidencing the coverage's specified herein and covering the entire period of the permitted work. No permit shall be issued until the certificate received.
4. All independent contractors employed or utilized by a permit holder in performing the permitted work shall meet the same insuring requirements.
5. The purchase of said insurance and furnishing of the required certificates in no way satisfies or discharges any liabilities of the permit holder or obligations to indemnify the Town.

#### 218:8 Street Opening Requirements.

- (A) The minimum width of temporary traffic lanes shall be eleven feet.
- (B) A minimum of one traffic lane shall be provided shall be provided on all public streets, roads and highways at all times.
- (C) Access shall be provided to all properties at nights and on weekends. Access to businesses shall be provided at all times.
- (D) In the event the permitted work can only be performed by closing the public street, road or highway the applicant shall inform the Town of this and include with their application, the alternatives to street closure which they have considered. If the Town concurs that closure is necessary, the permit issued shall state so. At least 14 working days prior to the closure the permit holder shall give the Town Highway, Police, and Fire Department written notice of the intended closure and the date of closure. In addition, the permit holder shall confirm to the Town, Highway, Police, and Fire Departments 3 business days before the street closure in writing their intention to proceed with the closure as originally scheduled.
- (E) Any detours required because of the permitted work must be disclosed on the application to the Town and approved specifically by the Town.

- (F) Permitted work areas which encroach upon a side walk, walkway or cross walk passage for pedestrians must safely ensure pedestrian passage and use through the use of protective barriers, warning signs and guidance signals.
- (G) All utility facilities shall be located and marked prior to any cutting or excavation work. All markings must be in a manner and location such that they are clearly visible to equipment operators, inspectors and the Town.
- (H) No monuments, boundary markers, survey reference points or permanent survey bench markers shall be moved, altered or disturbed unless the property owner affected is first notified in writing and the Town approves the disturbance or movement of the monument or marker. Any monuments or markers which are moved, destroyed or disturbed shall be replaced by a New Hampshire licensed land surveyor and a plot plan of the affected boundary prepared all at the permit holder's expense. A copy of the plot plan showing the affected boundary shall be provided to the Town and the affected property owners.
- (I) No trees shall be cut down, removed or trimmed except with the express written approval of the property owner of the Town. Excavations which may affect trees shall take appropriate precautions to prevent any damage to the tree or root system. Trees which are removed, permanently damaged or destroyed by permitted work shall be replaced at the permit holder's expense by trees of substantially similar species, size and shape as approved by the Town and/or property owner as may be applicable.
- (J) The permit holder shall be responsible for ensuring proper drainage during all permitted work. The permit holder shall be responsible for all claims of damage or injury that may arise from the obstruction or impairment of any sewer, drain, culvert or the like in connection with the permitted work.
- (K) The permit holder shall repair or replace any disturbed grassland, area of plantings or areas of natural growth with similar vegetation upon completion of the excavation or other permitted work. All grass which is replaced shall be hydro seeded and watered by the permit holder.
- (L) The permit holder shall replace any sidewalk, walkway or path disturbed by the excavation or other permitted work with the same kind of material with equal width, depth, kind and quality as specified by the Town.
- (M) The permit holder, on a daily basis, shall remove all rubbish, excess earth, rock, and other debris resulting from the permitted work. The permit holder shall be responsible for ensuring the work area is cleaned and maintained as necessary but no less than daily.
- (N) After the permitted work is commenced, it shall be performed with diligence and expedition and the road shall be maintained in a safe, well-marked manner with

required signage in a well graded condition to permit public travel and not obstruct access to public or private properties.

- (O) The surface of the way shall be restored to its original or better condition no less than five days from completion of the permitted work. All work must be performed in a manner satisfactory to the Town and in accordance with the permanent patch standards of this ordinance. In the event the permit holder fails to restore the surface of the way or fails to restore it to the satisfaction of the Town within five days of the completed, permitted work, the Town reserves the right but does not assume the obligation to restore the way or have the public way restored at its direction. The permit holder shall be responsible for reimbursing the Town for all costs incurred in connection with restoration. The Town shall have the right to obtain reimbursement from any surety bond or cash security posted by the permit holder.
- (P) The permit holder shall be responsible for all excavation and permitted work for 30 months following completion of the permitted work. Any deficiencies or deterioration in the permitted work during the 30 month period following completion, shall be the responsibility of the permit holder. The permit holder shall perform such improvements or repairs as the Town may require to the permitted work during the aforementioned 30 month period. The failure of the permit holder to perform subsequent repair or replacement work within a reasonable period of time following the Town's request but in case more than thirty days later, shall entitle but not obligate the Town to take such corrective action as may be reasonable and to obtain reimbursement from the permit holder including but not limited to any surety bond or cash security held by the Town.
- (Q) The permit holder shall notify the Town immediately upon completion of the permitted work.

#### 218:9 Technical Standards

All permit holders and anyone conducting permitted work shall comply with the following standards.

##### A. Excavation

1. Excavated material shall be replaced or backfilled in layers or courses not to exceed twelve inches in compacted thickness; and shall be compacted at or near optimum moisture content using pneumatic tampers, vibratory compactors or other methods approved in advance by the Town.
2. The material shall be compacted to not less than 98% maximum dry density as determined by the Standard Proctor Method in accordance with the Standard Specifications.
3. Excavated material which is unsuitable for backfill shall be replaced with granular backfill in accordance with the Standard Specifications.

4. Water shall be uniformly applied during compaction in the amount necessary for proper consolidation. Under no circumstances shall puddling be permitted.
5. The minimum depth to any sub surface structure except manholes, vault entrance tubes, valve casing and catch basins shall be twenty four inches below the surface of the nearest edge of the traveled portion of the public way.
6. No excavation shall be less than twenty inches in length or width.
7. Within the asphalt paved areas, crushed gravel as described in the Standard Specifications equal to the existing gravel course shall be placed in layers not exceeding six inches loose depth and thoroughly compacted. In no case shall the compacted depth of crushed gravel be less than twelve inches in contiguous depth.
8. In unpaved surface areas, the present surface area shall be restored by placing similar material on top of the trench to a depth equal to that existing in the disturbed area immediately prior to the excavation.

#### B. Patching

1. Cuts shall be parallel or perpendicular to the line of the trench. In the case of transverse or diagonal trenching, the pavement shall be cut to provide a flat diamond shaped patch with a two foot minimum overlay on undisturbed material that will permit only one wheel of a motor vehicle to strike a patched area at a time.
2. Within the sawn limits of the final patch, the existing pavement and any temporary patch material shall be removed and replaced with an equal depth of Type 1-1 asphaltic concrete.
3. In situations where multiple excavations are made in a paved public way which would result in the edge of patches being closer than 20 feet apart, the Town may require a continuous patch or complete overlay. Such a patch or overlay shall be the entire width of the road and a minimum of 25 feet beyond the outer most limits of each trench or patch.
4. On surface treated gravel highways, feathering the edge of patches may be allowed at the discretion of the Town.
5. In an area of cement concrete or stone base overlaid with asphalt which is being disturbed or excavated, it shall be replaced with cement concrete or stone base with Class "A" Portland Cement Concrete, reinforced or non-reinforced, as required in the Standard Specifications to a depth equal to that removed and then overlaid with Type 1-1, asphaltic concrete.

- (A) IN the event of an emergency requiring excavation in a way, it shall be performed pursuant to an emergency permit issued by the Town through the Road Agent or his designee.
- (B) In the event such an emergency exists, the person seeking to perform the emergency excavation shall notify the Police Department, Fire Department, Water Department and Sewer Department prior to commencing work by telephone and obtain an emergency permit from the Town.
- (C) The Town may waive the requirements of this section for good cause shown in the case of emergency and impose such additional requirements as circumstances warrant.
- (D) On the next business day following an emergency requiring excavation in a public way, the person conducting an excavation shall obtain an excavation permit.

#### 218:12 Penalty

Anyone found violating this ordinance shall be subject to a penalty of \$1,000.00 for each violation under this ordinance. Each day which a violation remains shall be considered a separate offense.

#### 218:13 Enforcement

- (A) Enforcement and administration of this ordinance shall be the responsibility of the Board of Selectmen or their designee. Administration of the ordinance including the issuance of all permits shall be the responsibility of the Road Agent.
- (B) The ordinance shall be enforced by either the Road Agent or the Code Enforcement Officer in conjunction with their ordinary duties as prescribed by statute or otherwise assigned to them by the Board of Selectmen. For purposes of this ordinance, the Road Agent and Code Enforcement Officer are designees of the Board of Selectmen.