

**CHAPTER 15 Streets**  
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**CHAPTER 15**  
**Streets**  
**ARTICLE I Use of Streets**

**Sec. 15-101 Statement of Purpose**

The provisions in this Chapter are intended to assure the public's safe and unhindered use of and passage through the City's streets, and to preserve the same from unauthorized encroachment, or damage or destruction.

**Sec. 15-102 Definitions**

For the purposes of this Chapter, certain words and phrases shall have the following meanings.

1. Emergency. "Emergency" shall mean any event which may threaten public health or safety including, without limitation, damaged or leaking water or gas conduit systems; damaged, plugged, or leaking sanitary or storm sewers; damaged underground electrical or communications facilities; or downed or seriously damaged utility poles.

2. Person. The term "person" shall refer to, in addition to any human being, any corporation, limited liability company, sole proprietorship, partnership, trust, association, organization, or other entity or combination of human beings other than the State of Maine or the City of Rockland or any department, division, or agency of the same.

3. Public Place. "Public Place," as used in this Chapter, shall include any State- or City-owned or controlled parking area, park, recreational area, playground, or public landing, including those parks established in Chapter 13, Article I.

4. Street. The words "street" or "streets" as used in this Chapter shall mean the entire right-of-way of any highway, road, ways, avenues, courts, lanes, alleys, sidewalk, bridge, parks, squares, other Public Places, and any non-public property owned or controlled by the City.

5. Undefined Words and Phrases. Words and phrases not herein defined shall have the meaning assigned to them in Chapters 17 or 19, as may be applicable or, in the absence of such definitions, their common and ordinary meanings.

**Sec. 15-103 Abandonment**

No person shall abandon any vehicle or other property on any street or upon the property of another person without consent of such person.

**Sec. 15-104 Assemblage**

No person or persons shall hold or address any public meeting or assemblage of people in any street without a permit to do so granted by the City Clerk and approved by the City Manager. In approving or denying a permit, the City Manager shall consider the following factors and may attach reasonable conditions of approval which relate to those factors: 1) volume of traffic normally using the street involved, 2) time of day and year and day of the week when the meeting will be held, 3) number of people expected to attend, 4) availability of parking in the area, 5) nature of the area where the street is located, and 6) volume of sound to be produced if amplification devices will be used.

**Sec. 15-105 Auction**

No person shall offer for sale or sell any goods, merchandise or other things at public auction in any part of any street, or from a building to any person on any street, without first obtaining a license therefor from the City Clerk.

**Cross Reference:** Chapter 11, § 11-201.

**Sec. 15-106 Awnings**

No owner of a building shall allow any part of an awning or other projection from the building over a public right-of-way authorized pursuant to Section 15-137 to be nearer than seven (7) feet to the surface of the right-of-way, and the fixtures thereof shall be securely fastened and supported in such a manner as not to interfere with pedestrians. No such awning or projection shall extend further than one (1) foot from the nearest edge of the area of a public right-of-way carrying vehicular traffic, or require the removal, displacement, or alteration of any traffic control device or City-owned or constructed amenity. No person shall hang up or expose for sale any goods, wares or other merchandise upon any awning in such a manner as to endanger or inconvenience the public travel. Eff: 03/08/10

**Sec. 15-107 Begging**

No person shall beg in any street or public place.

**Cross Reference:** Chapter 12, Article II.

### **Sec. 15-108 Blasting**

No person shall blast rock or any other substance without complying with the provisions of Title 25 and Title 17 of the Maine Revised Statutes Annotated and regulations promulgated by the Department of Public Safety.

**State Law Reference:** 17 M.R.S. § 2791; 25 M.R.S. § 2441 et seq.

### **Sec. 15-109 Business in Streets**

No person shall in any part of a street, public parking lot or other public property, except as specifically allowed by Ordinance, Order of the City Council, or permit issued by the Harbor Management Commission for waterfront parks under its jurisdiction, expose or display for sale, or sell any food, beverages, goods or wares. Food vendor vehicles may conduct business on city streets or other public property, however, such vendor may not remain on the same block for more than 10 minutes to conduct such business. This section shall not apply to vehicles delivering merchandise that has been previously ordered.

**State Law Reference:** 17-A M.R.S. § 505.

**Cross Reference:** Chapter 15, § 15-117 & 15-117A, Chapter 2 § 2-703. Chapter 9, §§ 9-106 & 9-121. Eff: 10/12/11

### **Sec. 15-110 City Clerk**

Unless otherwise ordered or provided, the City Clerk is hereby appointed to serve all notices and to issue all licenses and permits as required and provided under this or any other ordinance of the City, or as may be required by State law or otherwise.

**Cross Reference:** Chapter 11.

### **Sec. 15-111 Cleaning Sidewalks**

No person in removing dust, dirt, debris, snow, ice or mud from any sidewalk or crosswalk of the City, shall project or cause to be deposited any such material upon the person or apparel of any person nearby or passing, but in all cases such material shall be removed in a careful manner, and the person so engaged in removing the same shall if necessary discontinue such operation until the person passing or nearby shall have reached a safe distance.

**State Law Reference:** 30-A M.R.S. § 3001; 23 M.R.S. § 3658.

### **Sec. 15-112 Doors; Swinging to Sidewalk**

No person shall allow any gate or door belonging to the premises under his control and adjoining any public street, to swing on, over or into any street or on, over or into any sidewalk.

### **Sec. 15-113 Drain and Sewer Operations**

Every person who shall have obtained a permit to open or make or repair a drain in any street or other public place shall keep a good and sufficient fence or railing around the same during the whole time of making or repairing thereof, except when the laborers are actually at work.

**State Law Reference:** 23 M.R.S. §§ 3351-3360-A.

### **Sec. 15-114 Encroachment; By Structures; Duty of Council**

Whenever the City Council shall ascertain that any structure encroaches upon the limits of any street, it shall issue a notice to the owner of the structure that such structure be removed within a reasonable time as specified by the Council. If the owner fails to comply voluntarily with the Council's request, the Council shall seek a court order for the removal of the structure.

**State Law Reference:** 17 M.R.S. § 2802; 17-A M.R.S. § 505; 23 M.R.S. § 2952.

### **Sec. 15-115 Encumbrances; Permits**

No person shall occupy any part of any street, sidewalk, or public place in the City of Rockland for the purpose of operating or parking any vehicle, or placing or storing any construction materials, equipment, or any other object intended to be used in erecting or repairing any building on any land abutting on any of the streets or public places within the City, for a period longer than one work day without first obtaining and complying with the provisions of a permit therefor from the Code Enforcement Office, upon filing of a written application on a form provided by said Office, unless otherwise provided in this Chapter, Chapter 17, or by Order of the City Council. No permit shall be required for the temporary deposit of construction materials or contained debris on a sidewalk or the shoulder of any street or way for immediate conveyance from or to that location. The City Council

may establish a graduated fee for such permit, reflecting the duration and impact of the use thus permitted. Such permit may set forth conditions that, in the sole discretion of the Code Enforcement Officer, are reasonably required to minimize public inconvenience and protect the public health, safety and welfare, including, without limitation:

1. Purpose(s);
2. Duration and termination;
3. Maximum area that may be encumbered;
4. Securing or removing certain vehicles, equipment, and materials;
5. The requirement that the erection of staging, ladders, or other means for conducting or accessing construction or repairs, and/or for the protection of the public, shall be in compliance with the applicable sections of the Maine Uniform Building and Energy Code;
6. Upon consultation with the Police Chief, provisions for the safe and efficient passage of vehicles and pedestrians, including traffic and safety controls, barriers, and lights when needed;
7. Upon consultation with the Fire Chief or his designee, provisions for accommodating emergency response vehicles and personnel, and for fire prevention and suppression;
8. Signage, including notification of on-going business activities and events access to which is impeded by the permitted activities;
9. Temporary storage, containment, and removal of construction and demolition debris and rubbish; and
10. Provisions for minimizing and containing noise, dust, particulates, and other deleterious impacts of the permitted activities.

Whenever such temporary use of any portion of a street, sidewalk, or other public place is made necessary by construction or repairs for which the Code Enforcement Office has issued a building permit, the permissions and conditions authorized in this section may be set forth in such building permit, upon the payment of the additional, applicable fee, if any. Upon receipt of a permit for temporary use of a street, sidewalk, or other public place shall, prior to beginning work, provide the City with evidence of liability insurance that lists the City as an additional insured and in an amount not less than the maximum damages liability for municipalities set forth in the Maine Tort Claims Act. Nothing in this Article shall be construed as prohibiting the necessary use of the streets by any vehicles operated by the City or by any public utility; such public utility corporation shall however conform, so far as practicable, to the regulations contained herein or conditions imposed by order of the Code Enforcement Officer.

Eff: 07/10/13

**Sec. 15-116** [Reserved.]

**Sec. 15-117 Encumbrances; By Sales And Displays**

**1. Displays.** Rockland businesses are hereby authorized to display promotional materials and/or merchandise on City sidewalks, subject to the limitations and requirements set forth below, upon the issuance of a permit for the same by the Code Enforcement Officer.

- A. No more than two portable signs may be permitted per building on the City sidewalk;
- B. Where two portable signs are permitted for occupants of one building, the displays shall be placed no closer than twelve feet to each other or to a display adjacent to another building;
- C. Sales transactions shall not be negotiated or completed on the sidewalk, and hawking, music, and electrified promotional materials are prohibited from the sidewalk, except as provided for in Chapter 15, Section 15-109 of the Rockland Code;
- D. Displays shall be located only within the building's sidewalk frontage between lines extending from the building's front corners to form a ninety degree angle with the right of way;
- E. The area where the displays are placed shall be kept in a clean, neat and orderly condition at all times;
- F. No displays may be affixed or attached to the sidewalk in any way;
- G. The display shall leave an unobstructed pedestrian passageway of at least four feet in width at all times;
- H. No display or merchandise shall obstruct an entrance to a building;
- I. Displays may not be placed within two feet of the curb line unless placed adjacent to, but not toward the street from, a fixture such as a light pole or trash container;
- J. Where parking is prohibited adjacent to the sidewalk, displays may be placed as close as one foot to the curb line, so long as they do not obstruct the view of motorists on the street or side streets;
- K. Portable signs shall not exceed three feet in width and four feet in height;

- L. Display promotional materials and/or merchandise are permitted on public sidewalks only during the hours the permittee's business is open to the public;
- M. The display permittee is solely responsible for any personal injury or property damage resulting from permittee's placement of a display over or on a City sidewalk, and shall provide the City with a certificate of liability insurance therefor, of at least \$500,000/occurrence, which coverage shall identify the City of Rockland, Maine as an additional insured for this purpose. Permittee shall hold the City harmless from any and all claims, liabilities, lawsuits, damages and causes of action alleged to arise from or relating to the display.

**2. Display Permits.** The Code Enforcement Officer shall grant a permit for display of promotional materials and/or merchandise that complies with the criteria set forth in this section, for a period not to exceed one year from the date of issuance. The permit fee shall be established by Order of the City Council. The grant of such a permit shall not constitute or be construed as a grant of any property right or interest in the sidewalk.

The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer), may require the temporary removal of the displays for utility work, parades, snow removal, or other activities that may cause congestion in that area of the sidewalk;

The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer) may require the permanent removal of displays if changing conditions of pedestrian traffic cause congestion in the vicinity of the display, irrespective of permittee's compliance with the requirements of this section. Such decision shall be based upon findings that the minimum four-foot pedestrian pathway is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrian traffic.

The Code Enforcement Officer may deny, suspend, or revoke a display permit in the event of permittee's violation of any of the requirements of this section, or of any other applicable provisions of the Rockland Code. A denial or revocation of a display permit may be appealed to the City Council with the submission to the Code Enforcement Office of a written request therefor within thirty days.

**3. Violations.** It shall be a civil violation to place a display without a permit or fail to comply with any requirement of this section. Such a violation shall be penalized as set forth in Section 15-152. Eff: 04/07/10

### **Sec. 15-117A. Encumbrances; Tables and Chairs**

Business establishments which serve and/or sell food, including beverage products, may place tables and chairs on the public sidewalk directly adjacent to such establishment after receiving a permit to do so from the Code Enforcement Officer. Application for such permit shall be on a form and contains such information as required by the Code Enforcement Officer. Such permits shall be subject to the following restrictions:

- a. An unobstructed pedestrian passageway of at least four feet in width shall be maintained at all times. Tables and chairs may not be placed within two feet of the curb line;
- b. Permits shall be issued for the period beginning May 1<sup>st</sup> and ending October 31<sup>st</sup> of each year, and shall be renewed annually prior to May 1<sup>st</sup>. The permit shall be a license to use the sidewalk and shall not grant nor shall it be construed or considered to grant any person any property rights or interest in the sidewalk;
- c. The permit fee shall be set by Order of the City Council; Eff: 06/08/11
- d. The area in which tables and chairs are placed shall be restricted to the sidewalk frontage of the establishment;
- e. No food preparation shall be allowed on the sidewalk. There shall be no cooking, storage, cooling or refrigeration equipment located on the sidewalk; Eff: 05/24/06
- f. Alcoholic beverages are not allowed. This provision shall be enforced by the Rockland Police Department or other authorized law enforcement or State officials. Eff: 05/24/06
- g. Tables and chairs are allowed on the public sidewalks only during the hours of operation of the permitted business;
- h. The area where the tables and chairs are placed shall be kept in a clean, neat and orderly condition at all times;
- i. No tables or chairs may be affixed or attached to the sidewalk in any way; and no commercial logos shall be permitted on any of the tables, chairs or other installations set on the sidewalk. Eff: 05/24/06
- j. Use of the tables and chairs shall be for the general public and may not be restricted to use only by patrons of the permitted establishment, but those permitted establishments may deny access to unruly or disruptive persons;
- k. The permittee shall provide proof of liability insurance to the City and shall hold the City harmless from any and all claims, liabilities, lawsuits, damages and causes of action which may arise from this permit or the

permittee's activities, and shall name the City as an additional insured. An original certificate of insurance shall be submitted as part of the application for such permit;

- l. The permittee shall be responsible for repair of any damage that occurs to the sidewalk as a result of this activity;
- m. The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer), may require the temporary removal of the tables and chairs for utility work, parades or other activities that may cause congestion in that area of the sidewalk;
- n. The Code Enforcement Officer, or a Law Enforcement Officer (including the Parking Enforcement Officer) may require the permanent removal of tables and chairs if changing conditions of pedestrian traffic cause congestion. Such decision shall be based upon findings that the minimum four-foot pedestrian pathway is insufficient under existing circumstances and represents a danger to the health, safety, or general welfare of pedestrian traffic.
- o. The Code Enforcement Officer may deny, revoke or suspend such permit for violation of any applicable provisions of this Code. Denial, revocation or suspension of such permit may be appealed to the City Council. Variances of any of these restrictions shall not be granted. Eff: 10/08/03

### **Sec. 15-118 Excavation Near Street (Repealed 09/07/16)**

### **Sec. 15-119 Fences; Barbed Wire**

No fence of barbed wire, or of which barbed wire is a part, shall be constructed or maintained upon, or along, the line of any street or public place, in such a manner that any person passing along the street can come in contact with the barbed wire.

### **Sec. 15-120 Fence or Rail Required**

Owners and lessees of any lot of land abutting on a street in this City, which for want of a fence or rail shall be dangerous, shall place, or cause to be placed in front of the lot, upon or near the line of the street, a fence, rail or guard, which in the opinion of the Director of Public Works shall be a sufficient guard and protection to the public from danger, by reason of the situation of such lot. If any owner or lessee of such lot shall refuse or neglect compliance with the requirements of this Section, he shall on conviction pay a penalty of not less than five dollars (\$5) nor more than ten dollars (\$10) for every day during which such lot shall remain unfenced.

### **Sec. 15-121 Fireworks**

No person shall set off or explode any fireworks as defined in Title 8, § 211 of the Maine Revised Statutes within the City limits, except an event conducted by the City or by a non-profit organization with a permit from the City Manager. In deciding whether to grant a permit, the Manager shall determine that the organization is a non-profit organization, that it has obtained a State permit under 8 M.R.S. § 212, and that it can take adequate safety precautions in light of: 1) the nature and location of the area where the display will occur, 2) weather conditions at the time of the display, 3) knowledge and experience of the person setting off the fireworks, 4) number of spectators expected, 5) availability of parking, and 6) proximity to a fire hydrant or similar water supply. In approving a permit, the Manager may impose reasonable conditions related to these factors.

### **Sec. 15-122 Hydrants**

No person except one duly authorized shall remove the cap from any water hydrant in the City. No person shall interfere with or meddle with, obstruct the approach to, partially or wholly cover with snow or any other substance, or in any manner damage or deface such hydrant or decrease its immediate fully effective availability in event of an emergency.

### **Sec. 15-123 Lines and Grades of Streets**

No person shall proceed to erect or make alteration in the location or grade of any fence, wall, building, or other structure which is to be built upon land abutting on any public street, without first applying to the City Engineer for the lines and grade of such street upon which he intends to build. Such application shall be made in writing at least fifteen (15) days before the work is begun, and the City Engineer shall, within such time, furnish the required lines and grades without charge to the applicant, if in his power so to do. If there is no established grade on the street, the City Engineer shall so report to the City Manager, who shall proceed to cause such grade to be established. In default of such application by any person desiring to erect or alter any structure, as aforesaid, he shall be held to have waived all claims for damages resulting

from such default.

**Cross Reference:** Chapter 15, Article IV.

### **Sec. 15-124 Littering**

No person shall by hand, or by any conveyance not a vehicle, carry or convey dirt, manure, shavings, cinders, stone, sand, coal, wood, hay, straw, ashes, or other substances or materials on, over or across any street within the City and allow or permit any portion thereof to fall or be deposited upon the street, unless the material is forthwith and immediately removed therefrom.

**State Law Reference:** 17 M.R.S. §§ 2261-2276.

### **Sec. 15-125 Loitering On Street; Double Parking; On Hood or Roof of Vehicle**

No person or persons shall impede, interfere with or block any vehicle traffic on any street by standing in the street or by double parking of a vehicle on any street. No person or persons shall sit, stand or lay down upon the hood or roof of any motor vehicle parked or moving on any street in the City of Rockland.

**State Law Reference:** 17-A M.R.S. § 505. **Cross Reference:** Chapter 12, Article II.

### **Sec. 15-126 Monuments**

No person shall remove or conceal any monument set as a street boundary in the City; whoever violates this Section shall pay a penalty of twenty-five dollars (\$25). In case it becomes necessary for any City official or employee to remove or cover any such monument, he shall first notify the City Engineer that he may make such measurements and notes of the position of the monument as may be necessary for its accurate replacement at any time.

**State Law Reference:** 17-A M.R.S. §§ 507, 805, 806.

### **Sec. 15-127 Noise**

No person shall without a permit from the City Clerk, approved by the City Manager, use any device to amplify sound for commercial profit advertising purposes, either stationary or by any means of conveyance, upon any street or public place in the City. In deciding whether to approve a permit, the Manager shall consider the following factors and may impose reasonable conditions of approval relating to those factors: 1) area where device will be used, 2) time of day and day of the week when device will be used, and 3) volume of the sound produced by the device. The penalty for violation of this Section shall be not less than three dollars (\$3) nor more than twenty dollars (\$20).

**State Law Reference:** 17-A M.R.S. § 501.

### **Sec. 15-128 Notices**

No person shall deface or tear down any public notice, ordinance or advertisement posted in a street or public place by any public official in the performance of his duties.

### **Sec. 15-129 Numbers; Building**

No person shall remove, obliterate, mar, deface or destroy any house or building number attached to or painted on such house or building as required to be displayed.

### **Sec. 15-130 Obstruction; Gutter**

No person shall place any obstruction in any ditch or water-course by the side of any street in this City without providing a sufficient culvert for the passage of the water that shall be acceptable to the Director of Public Works, and then only with the approval of the Director of Public Works, under a penalty not exceeding ten dollars (\$10).

**State Law Reference:** 23 M.R.S. §§ 3251-3255.

### **Sec. 15-131 Obstructions; Liability**

Any person having the care either as owner or occupant of any premises bordered by a public street or alley shall be liable to the City for any legal liability that may be adjudged against the City as a result of the placing of obstructions of any nature in the public street or alley by such person, his employees, or agents.

**Sec. 15-132 Openings in Street or Sidewalk; Construction (Repealed 09/07/16)**

**Sec. 15-133 Openings in Street or Sidewalk (Repealed 09/07/16)**

**Sec. 15-134 Overhangings on Street or Sidewalk**

No person shall hang, or cause to be hung any goods or other things over any sidewalk or street, unless otherwise permitted by law unless a permit is granted therefor, provided, that this Section does not apply to non-commercial flags.

**Sec. 15-135 Paint on Sidewalk**

No person shall paint or cause to be painted any sign, advertising or any other matter upon the public sidewalks, or apply paint thereof for any purpose in any manner, except such paint as may be applied under the direction of a public official or employee for public purposes.

**Sec. 15-136 Poison**

No person shall leave any box, bottle or package of any kind containing poison or other dangerous matter or thing, in any street, public place, or in any doorway, in such manner that such box, bottle or package or dangerous matter or thing may be picked up or fall into the hands of children or cause injury to any person using the street.

**Sec. 15-137 Projections Onto Sidewalk or Over Street**

No person shall make or maintain any door-step, platform, portico or porch, or any entrance or passageway to any cellar or basement, or any other structure projecting into or upon any street or sidewalk without having first secured (A) review and approval of the same, except awnings, by the Planning Board pursuant to pertinent City of Rockland site plan and technical standards and requirements, and (B) a license or other authorization granted by the City Council to project upon, into, or over the street or sidewalk. **State Law Reference:** 23 M.R.S. § 2952. Eff: 03/11/09 Amend 03/08/10

**Sec. 15-138 Pumps; Sidewalk**

No sidewalk gasoline or other pumps shall hereafter be installed within the limits of any street or sidewalk or in any place where the stopping of vehicles to be served from such pumps shall be in any part of the street or sidewalk; provided, however, that any pumps, so installed, existing at the time of the passage of this Article may continue in operation and may be repaired or replaced but there shall be no extension or expansion of the existing space occupied by such pumps.

**State Law Reference:** 23 M.R.S. § 1401-A.

**Sec. 15-139 Raising or Lowering Objects**

No person shall raise anything from, or lower anything to any street or public place by means of a rope, chain, pulley, or similar device without first obtaining a written permit from the City Clerk, and providing protection satisfactory to the Police Chief for pedestrians or vehicles using the street.

**Sec. 15-140 Refuse; Conveying**

A. No person, corporation, or legal entity shall carry or convey in any way, through any street or public place, any refuse, garbage, decaying or decayed fish, meat or vegetables or any other offal or filthy substances giving off offensive odors or stenches, or any bag or package containing same, in such a manner that it drips, leaks, drops or scatters, or allows the escape of offensive odors or stenches nor shall such conveyance or containers be left standing in any street, public place or private property. Any such conveyance or container, whether transporting any of the above mentioned substances or containers or left standing, shall be covered in a manner that will prevent to the greatest extent reasonably possible any spillage, leakage, or pollution including but not limited to odor and noise.

B. Any corporation, partnership, proprietorship, person or business entity found guilty of a violation of this section (hereinafter referred to as the "nuisance") shall be subject to a penalty of not less than One Hundred (\$100.00) Dollars and not more than One Thousand (\$1000.00) Dollars or by imprisonment for not more than fifteen (15) days, or by both. The Court may order this nuisance to be discontinued or abated, and issue a warrant therefore. Eff: 9/11/85 alc

### **Sec. 15-141 Refuse; Placing or Throwing**

No person shall place, pile, throw, sweep, or deposit, or cause to be placed, piled, thrown, swept or deposited, any ashes, carrion, trash, dirt, cards, paper, glass, tacks, manure, rubbish, nuisance or refuse of any kind into any street or on any sidewalk or other public place, or upon the premises of another, except with the approval, of the private owner who then becomes responsible that it does not become a nuisance, and except at an officially designated dump.

**State Law Reference:** 17 M.R.S. § 2263-A.

### **Sec. 15-142 Removal of Building Materials**

No person shall remove any sand, dirt, or street building or repairing material owned by the City from any street or sidewalk without permission of the Director of Public Works.

### **Sec. 15-143 Roof Snow Fenders**

The owners of all buildings on both sides of Main Street between the junction of Main and North Main Streets and the junction of Main and Water Streets, whose slate, tin or zinc roofs slant toward the street and are sufficiently near to the street to permit snow to fall from the roof on a sidewalk or street, are hereby required, if so notified, to cause snow fenders to be installed within thirty (30) days, or as soon thereafter as reasonably practicable after such notice, upon the roof thereof next to the street, for the purpose of protecting persons and property from injury from snow and ice sliding from the roofs.

**State Law Reference:** 30-A M.R.S. §§ 3001-3007.

### **Sec. 15-144 Signs; Street Name**

No person shall injure, damage, deface, break, take down or remove, or in any manner interfere with any street-name sign placed in a street under authority of the City Council, except a public official or employee for repair or replacement purposes. No person shall place any street-name or sign on any street except by authority of the City Council.

**State Law Reference:** 17-A M.R.S. §§ 805, 806.

**Cross Reference:** Chapter 15, §§ 15-502, 15-503.

### **Sec. 15-145 Signs of Warning Required**

No person engaged in building, altering or repairing a street or sidewalk shall fail to provide such barricades, danger signs, lanterns, flares or other light as may be necessary during the process, day and night, for the purpose of guarding or enclosing unsafe or dangerous places or giving warning or notice thereof, in a manner approved by the Director of Public Works.

**State Law Reference:** 23 M.R.S. §§ 3351-3360-A.

**Cross Reference:** Chapter 15, Article IV.

### **Sec. 15-146 Signs of Warning; No Interference With**

No person shall damage, interfere or meddle with, remove, throw down, destroy or carry away from any street or public place, any lamp, lantern flare or other light, barricade or danger signal, erected and placed therein for the purpose of guarding or enclosing unsafe or dangerous places or giving warning or notice thereof.

### **Sec. 15-147 Snow**

No person shall deposit or cause to be deposited any ice or snow, in any street or public place in the City. Disposal of snow in Rockland Harbor by any entity, including the City of Rockland, shall be prohibited. Eff: 3/10/04; amended 09/10/14

**State Law Reference:** 17 M.R.S. § 2802; 17-A M.R.S. § 505; 23 M.R.S. § 3452.

### **Sec. 15-148 Sidewalks; Space Under**

No person shall use or appropriate any space under a sidewalk for cellar or other underground uses without first obtaining a permit from the City Clerk approved by the City Manager.

### **Sec. 15-149 Sidewalks; Water Draining Thereon**

No owner of any building, lot or premises shall allow rain water or drain water to drain from such building, lot or premises onto a sidewalk, or to allow ditches, leaders, ducts or drain pipes to empty on a sidewalk.

### **Sec. 15-150 Waste Paper**

No person shall deposit waste paper on Main Street nor on premises adjoining the street in such a manner that it can blow into Main Street.

**State Law Reference:** 17 M.R.S. § 2263-A.

### **Sec. 15-151 Sleeping**

No camping or sleeping during the nighttime will be allowed in any street or public place except in areas as authorized by the Police Chief and the City Manager and with written permission from those officials.

### **Sec. 15-152 Penalty**

Any person guilty of a violation of any provision of this Article to which a particular penalty is not attached, or provided by State law, shall be subject to a penalty of not less than twenty dollars (\$20) and not more than one hundred dollars (\$100) for each and every offense, or by imprisonment for not more than five (5) days, or by both. The imposition of a penalty for violation of this Article shall not excuse the violation or permit it to continue; such violation shall be remedied within a reasonable time, or within such time limit as may be specified in any notice given to the owner or occupant of the premises by the City Manager, and each day such violation continues to exist following the expiration of the time limit specified in any such notice shall constitute a separate offense. The application of a penalty shall not be held to prevent the enforced removal of prohibited conditions, nor preclude the City Attorney from causing to be instituted an appropriate action to prevent, restrain, correct or abate any violation of this Article.

## **ARTICLE II New Streets**

### **Sec. 15-201 Laying Out of Streets**

No street or way shall be laid out and accepted as a public street or way except in accordance with the provisions of this Article.

**State Law Reference:** 23 M.R.S. §§ 3021-3030.

**Cross Reference:** Chapter 14, § 14-417; Chapter 16, § 16-105.

### **Sec. 15-202 Street Must Be Fifty (50) Feet Wide**

No street or way less than fifty (50) feet wide shall be laid out and accepted by the City Council as a public street or way. Provided, however, that the Council may accept a lesser width when the fifty (50) foot street is impracticable.

### **Sec. 15-203 Petition For Laying Out Street**

A petition for the laying out and acceptance of a public street or way shall be submitted to the City Council upon a form prescribed by the Director of Public Works. Such petition shall be accompanied by plan in triplicate drawn to a scale of forty (40) feet to one (1) inch and shall show the street or way to be accepted and the names of the abutting owners thereon.

### **Sec. 15-204 Notice**

Upon receipt of the petition it shall be referred to the City Manager and the Planning Board for investigation, report and recommendation. Notice shall be given and a public hearing shall be held as provided for in the case of the passing of ordinances.

### **Sec. 15-205 Action Of City Council**

The City Council may designate such improvements or changes in accordance with Chapter 16, Article I, as it considers necessary or desirable before accepting any such street or way, and may refuse to accept any such street or way until such improvements or changes have been completed.

### **Sec. 15-206 Plan Required**

Upon acceptance of any street or way one copy of the plan thereof shall be filed in the office of the City Clerk.

### **Sec. 15-207 Condemnation**

Whenever the Council shall take any land for a public street or way without the consent of the owners, it shall proceed as provided for in the Revised Statutes of Maine.

**State Law Reference:** 23 M.R.S. §§ 3023, 3029.

## ARTICLE III Sidewalks

### Sec. 15-301 Authority

As provided by the Revised Statutes of Maine, the City Council by ordinance may reserve and set off portions of the various streets of the City, now or hereafter to be established, for sidewalks and regulate the use thereof, to such extent as the City Council deems expedient, for the safety, convenience and accommodation of pedestrians, and may regulate the height and width of sidewalks in any public street, place, square, lane or alley in the City, and may authorize poles and trees to be placed along the edge of the sidewalks.

**State Law Reference:** 30-A M.R.S. §§ 3001-3007.

### Sec. 15-302 Assessments

Assessments may be made for total amount not to exceed two-thirds of the cost of permanent sidewalks, subject to the same provisions applying to assessments for streets as provided by Article IV.

### Sec. 15-303 Snow Removal

**1. Purpose.** The purpose of this Snow Removal Ordinance is to prevent the accumulation and provide for the timely removal of snow and ice from City sidewalks.

**2. Sidewalk Clearance In Downtown Parking District.** The owner of every parcel of land within the Downtown Parking District, as defined in Chapter 19, Article III, Section 19-307(4), bordering upon the sidewalk of any public way, except single-family residences, shall, within three hours after the ceasing to fall of any snow or other accumulating precipitation, or by no later than 9:00 a.m. on the next day when the precipitation ceases after 6:00 p.m., cause the same to be removed from the sidewalk(s) immediately adjacent and contiguous with his parcel of land in a manner that forms a path that is clear of snow and is at least five feet in width, measured from the property line, and continuous with the sidewalk snow removal by his abutters. Such owners shall keep the sidewalk clear of snow and ice thereafter, including snow and ice placed on the sidewalk as a result of subsequent snow clearing and removal activities by the City in the adjacent street.

**3. Sidewalk Safety.** The owner of every parcel of land within the Downtown Parking District, as defined in Chapter 19, Article III, Section 19-307(4), bordering upon the sidewalk of any public way shall cause the sidewalk(s) immediately adjacent and contiguous with his parcel of land to be safe and convenient by removing ice therefrom and by applying sand, salt, or other suitable substance purposed to establish a reasonably safe walking surface.

**4. Limitation On Liability.** Nothing in the preceding subsections shall be construed as imposing upon any property owner liability for personal injuries sustained by any member of the public traversing a public sidewalk required to be cleared or treated by the property owner herein.

**5. Violation; Penalty.** Each infraction of Subsections 15-303(1) through 15-303(4) shall be a civil violation, the occurrence of which shall subject the violator to a summons issued by the Police Department and fine of not less than \$50.00 for a first violation, \$100.00 for a second or continuing violation in any given winter season. Each day that a violation of this Section continues uncorrected shall be a separate violation.

**6. Snow And Ice On Commercial And Multi-Family Structures.** When an accumulation of snow or ice on a commercial or multi-family structure poses a threat of falling onto any public street or sidewalk anywhere in the City, the owner of the property shall notify the Police Department of the hazard, and cause the accumulated snow or ice to be removed within a reasonable time. Nothing in this Subsection 15-303(6) shall be deemed to relieve any responsible party of liability to any person for personal injuries or property damage caused by falling snow or ice.

**State Law Reference:** 23 M.R.S. § 3658; 30-A M.R.S. § 30-A M.R.S. § 2004.

**Cross Reference:** Chapter 15, §§ 15-143, 15-147, 15-149. Eff: 01/13/10

## ARTICLE IV Street Construction and Excavations

Eff: 09/07/16

### Sec. 15-401 Street Excavations - Statement of Policy

The City of Rockland requires compliance with the provisions of Article IV of this Chapter in order to minimize, to the extent possible, the safety and road maintenance problems that have been associated with excavations and paving operations in the past. The protection of the City's streets and sidewalks and infrastructure on and under the streets in the City is vital for assuring safe and passable ways, protecting the public health, safety, and welfare, and for fostering economic activity and development. To that end, it is the policy of the City to require all repair and excavation work performed on City streets and

sidewalks to be done promptly, with due regard to the safety of the public, and in a skillful and workmanlike manner.

### **Sec. 15-402 Definitions**

For the purposes of this Article, certain words and phrases shall have the following meanings. Words and phrases not defined herein or elsewhere in Chapter 15 shall have their common and ordinary meanings.

1. Contractor. "Contractor" shall mean a person or entity retained to conduct the excavation(s) and other work authorized by a street opening permit and/or otherwise required under this Article or applicable law.
2. Excavation. "Excavation" shall mean any operation in which earth, rock, or other material below the surface is moved or otherwise displaced, by hand or by means of power tools, power equipment, or explosives, and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping, and cable or pipe driving, except tilling of soil and gardening or displacement of earth, rock, or other material for agricultural purposes.
3. Installation. "Installation" shall mean any pipe, equipment, vault, entrance, coal hole or other receptacle for goods, or other structure placed in a street.
4. Permittee. "Permittee" shall mean a person authorized to conduct an excavation in a street or sidewalk pursuant to Section 15-405.
5. Sidewalk. "Sidewalk" shall mean that portion of a street between the curb lines or, in the absence of curbs, the lateral lines of a roadway, and the adjacent property lines intended or available for the use of pedestrians.
6. Utilities in Good Standing. "Utilities in Good Standing" shall mean a public utility as defined in 35-A M.R.S. § 102, as amended, that is not – either at the time of application or anytime within the past year – in violation of any provision of this Chapter.

### **Sec. 15-403 Administration**

The Public Services Director (the "Director"), under the supervision of the City Manager, shall be responsible for administering the provisions of this Article, and for securing compliance with the City's street opening, excavation, connection, and restoration requirements.

Where the owner or operator of land retains a contractor to perform work regulated under this Article, such owner or operator and the contractor shall be jointly and severally responsible for complying with this Article; provided, however, that only one permit shall be granted and one performance guarantee required for each excavation.

### **Sec. 15-404 Street Paving; Notice; Moratorium**

1. Notice of Street Paving. Prior to paving or substantially repairing any City street, or of any state or state-aid highway within the Urban Compact area, the Director shall duly serve upon owners of property abutting on such street and upon all persons occupying such street, including public utilities that may have utility facilities in the street, directing such owners and persons to make sewer, water, and conduit connections or other work as may be designated by the Director or planned or reasonably foreseeable by the owner, within 60 days from the date of the notice. The Director shall maintain a current list of newly constructed, reconstructed, and repaved streets, and portions thereof, and make such list available to the public upon request at both the City Clerk's office and the Department of Public Services, and on the City's website.

2. Moratorium On Street Openings. At the expiration of the time fixed pursuant to the preceding paragraph and after the street has been paved or repaired, no permit may be granted to open that street for a period of 5 years, except as otherwise provided herein.

3. Exceptions. Notwithstanding the foregoing, the Director may issue a street opening permit to open a street within 5 years after that street was paved or substantially repaired if the Director requires such Permittee to either:

- A. Utilize trenchless construction techniques that obviate the need for disturbing the paved surface, or
- B. Upon disturbing the paved surface, to relay the full width of the road surface on both sides of the cut for a distance of at least 20 feet from the furthest outside edges of the cut. If that repair overlaps the edge of a repair from a previous opening, the Director may require the Permittee to relay the full width of the road to the furthest edge of that previous repair. The Director shall prescribe the depth and method of restoring the pavement based upon the class of the street, except that in no case may the depth of the restored pavement be less than 3 ½ inches.

**State Law Reference: 23 M.R.S. §§ 3351-3352.**

### **Sec. 15-405 Street Opening Permit**

1. Permit Required. No person may excavate, place any installation within, or fill an excavation in any street or sidewalk without having first obtained a Street Opening Permit therefor from the Director or his designee. The Director is

permitted to apply reasonable conditions to any permit to mitigate the unique circumstances of an application, as long as it doesn't have the effect of reducing the effect of the ordinance or limiting the adopted standards. The Director shall not issue such Street Opening Permit except upon receipt of:

- A. A completed application therefor, on a form prepared and provided by or on behalf of the Director;
- B. The permit or other applicable fee(s) established by Order of the City Council;
- C. A certificate of Public Liability Insurance evidencing liability coverage in conformance with Sec. 15-406(1); and
- D. The performance guarantee required under Sec. 15-406(2).

2. Exceptions. No street opening permit shall be required for:

- A. Curb cuts for which a curb cut permit is granted pursuant to Chapter 19, Article III, Section 19-307(9);
- B. Driveways for which a driveway permit is granted pursuant to Chapter 19, Article III, Section 19-307(9), where the work does not include the placement of a culvert or other subsurface disturbance that, in the discretion of the Code Enforcement Officer, may affect the stability of the right of way.

3. Permit Application. The written application for Street Opening Permit shall provide the following information:

- A. Name, physical, postal, and e-mail or other internet address, and phone number of the applicant and applicant's contractor, if any;
- B. Name(s), address(es), and license number and issuing state of the project manager and/or foreman for the excavation, and of every person who may operate excavating equipment in conducting the excavation, backfilling, compaction, and/or site restoration, and a statement as to whether each such manager, foreman, or operator has been denied an excavator license by any governmental entity or caused any damage to property or person while operating equipment at a worksite in the preceding 5 years. The Director may establish conditions to the permit that require that excavation work be performed, or not performed, by specified personnel.
- C. Purpose(s) for which the permit is sought;
- D. Street address and the type(s) and nature of the occupancy of building(s) to be served by the proposed excavation;
- E. Start date for the proposed excavation and the estimated time needed to complete the excavation;
- F. Detailed narrative description of the proposed excavation, including its purpose, the total area of street and/or sidewalk to be disturbed, volume of excavated material, trench width and length, and purpose and type of utility connections to be made in the excavated area;
- G. Diagram of the proposed excavation showing the location of proposed utility installations / connections, and the size of street or sidewalk excavation;
- H. Accurate estimate of the total cost for the excavation, including inspections, testing, and repaving;
- I. Evidence of Applicant's notification of, and where applicable permission from, the owner or operator of underground facilities in the proposed excavation area. Evidence of notification may be satisfied by providing the Applicant's Dig-Safe number;
- J. Signature of the City Engineer, when determined by the City Manager;
- K. Signature of Police Chief when the flow of traffic will be restricted or detoured;
- L. Signature of the City Clerk demonstrating that Applicant is current on all financial obligations to the City; and
- M. Signature of the Applicant. Applicant's signature shall be deemed to be Applicant's acknowledgement of, and agreement to comply with, the requirements of this Article. Applicant and, when different, the owner of the property to be served or benefitted by the street opening shall be jointly and severally responsible for compliance with this Article.

The Director shall grant, grant with conditions, or deny each application for a street opening permit within five (5) working days of submission of a complete application. All such permits shall be subject to the conditions stated therein, and to the requirements set forth in this Article, including those in Sec. 15-407 – General Requirements.

4. Permit Fee. Except as otherwise provided herein, each applicant shall pay to the City a permit fee in an amount reasonably calculated to reimburse the City for the direct cost(s) in labor and equipment typically expended by the City in administering permits issued pursuant to this Article.

The Director shall waive payment of all but \$50 of the permit fee for driveway repairs and repaving for which a driveway permit has been issued and that also require a street opening permit.

The Director shall waive payment of all the permit fees for excavations to be performed by or on behalf of the City or MaineDOT.

The City Manager may waive payment of the permit fee in the event s/he determines that special conditions exist relating to the protection of public health, safety, and welfare, and/or significant financial hardship to a home owner that, in the

absence of such waiver, would delay or make impossible needed repairs of such owner's residence or utility facilities serving the residence.

Utilities in good standing may opt to be billed for permit fees, so long as such utility remains current on the resulting permit fee invoices.

5. Permit Valid for 30 Days. Excavation work must be started no later than thirty (30) days from the date of issuance of the Street Opening Permit. At the expiration of this thirty (30) day period, such permit shall become null and void and must be renewed before any work may begin. The permit fee must be paid for each issuance and renewal.

6. Winter Moratorium; Emergency Excavations. Except in the event of an emergency, the Director may not issue a permit for, and no person may commence, an excavation in a City street, sidewalk, or other public place between December 1 in any one year and March 15 in the following year.

7. Emergency Action. Nothing in this Article shall be construed to prevent the making of such excavations as may be deemed necessary for the preservation of life or property, or for the identification of blockages, leaks, or other failures, and the repair thereof, of gas, water, or other utility facilities in the street; provided, however, that the person making such excavation shall apply to the City for a permit therefor on the first municipal working day after such work is commenced. Before any emergency excavation is commenced, the responsible party must take all reasonable steps to notify Dig-Safe pursuant to 23 M.R.S. § 3360-A, and to ascertain the location of underground utility facilities that may be affected by the excavation. In no event may blasting be conducted in an unpermitted emergency excavation.

8. City of Rockland. No permit shall be required for an excavation to be performed by or on behalf of the City of Rockland, provided that the Director first issues a work order that sets forth the pertinent information otherwise required under paragraph (2) of this section. In the event of an emergency excavation by or on behalf of the City, the Director shall be notified and shall issue such work order documenting the emergency and the work as soon as practicable.

## **Sec. 15-406 Liability Insurance; Performance Guarantee; Non-Waiver of Immunity**

1. Liability Insurance. All applicants for street opening permits shall provide with their applications a certificate of liability insurance naming the City as an additional insured for liability arising from the Permittee's excavation, in coverage amounts acceptable to the City Attorney.

2. Performance Guarantee.

A. Form. All applicants for a street opening permit, other than utilities in good standing, shall provide a performance bond or other bond, letter of credit, cash security deposit, or other guaranty of a type and in a form acceptable to the City to guarantee Permittee's performance in properly excavating, connecting to utilities, and restoring the excavated area (the "Performance Guarantee") in conformance with the applicable standards, rules, and regulations. In the event the Director determines that there has been a partial or complete failure of the trench or other portion of a right of way as a result of the street opening within two years of the Permittee's final completion of the street excavation and restoration, such failure shall be deemed to be the result of Permittee's failure to perform the excavation or restoration in conformance with the applicable standards, rules, and regulations.

Regardless of any other terms and conditions of said bond or other instrument, payment thereunder by said surety, guarantor, or other issuer to the City must be due immediately on demand upon Applicant's failure to restore the condition of the excavated way, sidewalk, or other public property to the satisfaction of the Director.

Letters of credit or other performance guarantees provided for permits issued prior to the effective date of this ordinance shall be retained and must remain valid for the entire term for which they were accepted by the City.

B. Exceptions.

(1) City Contract. No street opening permit shall be required of persons who are under contract with the City to perform the excavation if such persons provide a performance bond or other guarantee in an amount equal to or greater than that otherwise required hereunder.

(2) Waiver by City Manager. The City Manager may, upon written request by an Applicant, waive the requirement for a performance guarantee if the City Manager finds that the Applicant has insufficient financial resources to provide the guarantee and that the proposed excavation does not pose a significant risk of impairment to a street, sidewalk, or other City or utility infrastructure.

C. Amount. Licensed excavators or their employers may annually post a Performance Guarantee in the amount of \$25,000 to guarantee their performance under street opening permits for that calendar year. Alternatively, Permittees shall provide the City with a Performance Guarantee for each permitted excavation in the amount of the product of two times the project estimate stated in the application and accepted by the Director (Estimate x 2 = Performance Guarantee Amount). Bonds and other non-cash performance guarantees shall be in a form and issued by a surety, guarantor, or other issuer acceptable to the City, in its sole discretion, and shall remain effective and subject to negotiation and collection by the City for at least two years from the date of completion of the excavation and street restoration. Cash security deposits made in lieu of providing a bond or similar instrument of performance guarantee shall be refunded upon approved completion of all conditions and requirements of the permit, this Article, and applicable rules and regulations.

D. Corrective Actions; Payment.

The Director shall serve written notice upon any person or utility that fails to comply with or that violates any provision of this Article (a "Violator"), stating the nature of the failure or violation and providing a reasonable, specific time limit for the Violator to perform corrective actions; provided, however, that where such failure or violation may trigger tort or other liability for a street defect, the corrective action shall be commenced within 24 hours of the Director's notice. If the Violator fails to perform the corrective action within the specified time period, the City shall cause the necessary repairs, keeping an account of the expense thereof. Upon the completion of the corrective action by or on behalf of the City, the Director shall cause an invoice to be served upon the Violator for payment, in the amount of 200% of the whole of the expense incurred by the City, which invoice shall be due and payable immediately upon receipt. The Director shall issue no additional street opening permits to the Violator until such invoice is paid in full. Upon the Violator's failure to perform the corrective action or to pay the City's invoice therefor, the City shall reimburse itself from the Permittee's performance guarantee in an amount equal to 200% of the whole of the expense incurred by the City.

3. Non-Waiver. This Article shall not be construed as imposing upon the City or any official or employee of the City any liability or responsibility for damages to any person injured by the performance of excavation work for which an excavation permit is required under this Article, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. In the case of a dedicated-but-unaccepted street or way, this Article shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the City for highway or other purposes.

## **Sec. 15-407 General Requirements**

1. Excavation Standards. All street excavations and restorations and other work that cause a disturbance of any street must be conducted in compliance with applicable statutes, ordinances, technical standards, and rules and regulations relating to opening, excavating, working in, and occupying a street or other public way, including the Excavation Standards set forth in Section 15-409, Special Conditions set forth in Section 15-410, and the City's Technical Standards Manual adopted pursuant to Chapter 2, Article XIV, Section 2-1402.

2. Non-Interference. Contractors shall not interfere with any existing facility, structure or substructure without the written consent of the City or owner of the facility, structure or substructure. Contractors will assume all liability for all damaged facilities, structures or substructures regardless of ownership, and for any damage or injury sustained as a result of such facility, structure or substructure damage. All excavations shall be conducted so as not to interfere with access to fire hydrants, fire escapes, fire stations, police stations, underground vaults, and all other vital equipment identified by the City and/or Dig-Safe.

3. Inconvenience Minimized. Work shall be carried out in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and abutting property owners to the greatest extent possible; excavation work, noise, dust and unsightly debris shall be minimized. The work area must be cleaned up and all debris removed when construction is completed.

4. Blasting. If blasting is required as part of a project, the Contractor shall conduct a survey, prior to blasting, of the condition of all foundations and other structures and facilities standing at such distance from the proposed blast that they may, in the judgment of the Contractor, be affected by the blast. All property owners and lessees, if any, of buildings, structures and facilities within five hundred (500) feet of the site of the blast, or within the area likely to be affected, whichever is greater, shall be given adequate notice of the planned blasting by the Contractor as soon as possible after the need to blast becomes obvious. In addition, the Contractor shall cause "doorknob-hanger" notices of the blasting to be hand-distributed to these properties between 48 hours and 24 hours before the blasting is scheduled.

4. Seasonal Night Work. Excavations in Routes 1, 1A, 17, and 73 between June 1 and September 30, except in emergencies or with the prior consent of the Director, shall be performed after 6:00 PM and prior to 7:00 AM.

5. Monuments. Monuments designating property, street lines, or permanent survey markers shall not be disturbed, removed, or concealed without the prior, written consent of the Director, in which instance the Director shall direct the replacement or restoration of the monument by the Permittee or Contractor.

6. Manholes and/or Catch Basins. No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the City without first receiving written permission from the City. Any manhole and/or catch basin castings, frames, and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the Contractor in accordance with the specifications set forth by the Public Services Department.

7. Sewers, Sewer Connections. No person may uncover, make any connection with or opening into, use, alter, or disturb any public sanitary or storm sewer without first obtaining a written permit therefor from the Water Pollution Control Director pursuant to Chapter 20, Article III, Section 20-304, and paying all applicable sewer connection or other fees and charges.

8. Prompt Completion of Work. After an excavation is commenced, the Contractor shall proceed with diligence and expedite all excavation work covered by the excavation permit and shall promptly complete such work and restore the street as specified in this Article. The Contractor shall daily perform such restoration work as may be reasonably necessary so as not to obstruct, impede, or create a hazard to public travel by foot or vehicle. If the City determines that the safety of the public is not being protected, then the City may intervene and perform corrective actions after providing 24 hours' notice to the Permittee or Contractor. If the work is not done in accordance with the time frame outlined in the permit application, then the permit must be renewed or the City will consider the work incomplete and will take action accordingly.

9. Record of Installation. Drawings denoting installation of utility lines or service lines within the right-of-way of streets shall be filed with the Director of Public Works within sixty (60) days of completion of construction.

10. Unauthorized Excavations. Any person conducting an excavation in a street or sidewalk who is not authorized to do so under this Article is not excused from compliance with these general requirements, and a violation of the same shall be subject to penalties and/or fines in the amount of three times the applicable penalties and/or fines applicable to violations committed in conducting permitted excavations, in addition to and not as a substitute for any penalties, fines, and remedies imposed on the violator for conducting an unauthorized excavation.

## **Sec. 15-408 Protective Measures and Routing of Traffic**

1. Safe Crossings. Contractors shall, in general, maintain safe crossing for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossing for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and pedestrians. If the street is not wide enough to hold the excavated material, without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

2. Barriers and Warning Devices. It shall be the duty of every Contractor cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices, and to post flaggers to guide traffic, as may be necessary for the safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to final review and approval of the Police Department. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices." Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset on each day to sunrise of 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.

3. Normalization of Traffic Conditions. Contractors shall take appropriate measures to assure that, during the performance of the excavation work traffic conditions shall minimize inconvenience to the occupants of the adjoining property and to the general public.

4. Closing of Streets. When traffic conditions permit, the City may authorize the closing of streets to all traffic for a stated period of time. In an emergency, a street can be temporarily closed to prevent danger to the public. In such cases, a utility company or contractor responding to the emergency shall contact the Police and Fire Departments by phone before closing a street to traffic.

Closing of streets to all traffic for a limited period of time may also be approved by the Director of Public Services in conjunction with the City Manager, should an unforeseen risk to public safety arise during the completion of a non-emergency project.

5. Interference With Arterial Streets. Unless an emergency exists, construction activities shall not interfere with the normal flow of traffic on arterial streets of the City. The full inbound roadway lane width shall be maintained between the hours of 6:45 A.M. and 8:30 A.M. and the full outbound lane width shall be maintained between the hours of 4:00 P.M. and 5:45 P.M.

6. Shifting Traffic To Opposite Side. Contractors may shift traffic to the opposite side of the roadway to maintain required lane width. The Contractor may only make such shift with the approval of the Police Department following the proper review of detour plans to ensure adequate safe two-way traffic flow and proper number and placement of Police Officers or traffic safety flag persons.

### **Sec. 15-409 Excavation Standards**

1. Clearance for Vital Structures. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, traffic signal cables and loops, and all other vital equipment as designated by the City.

2. Breaking Through Pavement in Streets and Sidewalks.

a. All excavations on paved surfaces shall be pre-cut in a neat straight line with pavement breakers, saws, or asphalt cutters.

b. Heavy duty pavement breakers may be prohibited by the City when the use endangers existing substructures or other property.

c. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

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

e. When three (3) or more street openings are made in sequence fifteen (15) feet or less, center to center (between each adjacent opening), the CONTRACTOR shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.

f. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

g. When an opening is made in a street, where the surface is Portland Cement Concrete, the concrete shall be cut back at least twelve (12) inches beyond the edges of the trench before the new concrete patch is replaced. Sufficient reinforcing shall be furnished to provide the equivalent of one-half (½) inch steel rods on twelve (12) inch centers both ways, top and bottom in the new concrete patch. The thickness of the concrete in the new patch shall be at least four (4) inches thicker than the existing concrete and the top surface shall be finished to conform to the surface of the old concrete.

h. When an opening is made in a street where the surface is bituminous concrete, the edges of the pavement shall be cut back an additional eight (8) inches beyond the edges of the patch before the new and permanent surface is replaced.

3. Trenches. Contractors shall minimize the lengths of open, excavated trenches, to better protect public safety and minimize the impact of the excavation on vehicular and pedestrian circulation and access to adjacent properties. The maximum length of open trenches parallel to the travel lanes in a street shall be two hundred (200) feet, except on Routes 1, 1A, 17, and 73, where parallel trenches may not exceed one hundred (100) feet in length without the Director's prior consent. Open trenches that are not parallel with the travel lanes may not exceed the bounds of one travel lane. No greater length shall be opened at any one time for pavement removal, excavation, construction, backfilling, patching or any other operation without the written permission of the City. Trench sides shall be shored so as to prevent the undermining of undisturbed pavement. Contractors shall meet all applicable OSHA Safety Requirements.

4. Care of Excavated Material.

a. All materials excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using the streets and adjoining property. Materials that are not suitable under this Ordinance or other applicable regulations for reuse for backfilling shall, as soon as practicable, be removed from the site by the City for reuse by the City or, with the Director's prior approval, removed for other reuse or disposed by the Contractor. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, boards or bins may be required by the City to prevent the spread of dirt into the traffic lanes.

b. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the City shall have the authority to require that the Contractor haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the Contractor's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

5. Backfilling of Excavation. Backfilling shall conform with the specifications therefor in the Technical Standards Manual or, in the absence of the same, with regulations adopted by the Water Pollution Control Director for sewer connections, as may be from time to time amended. The Contractor shall conduct compaction testing of the backfill for conformance with such specifications. The City may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in its opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill has been compacted to 95% of its maximum density as determined by the modified Proctor test. All expense of such tests shall be borne by the Contractor. Authorization to resurface does not release the contractor from being responsible for the future condition of the excavated area as required by this Ordinance.

6. Resurfacing of Streets and Sidewalks

A. The Contractor may backfill the excavation from the bottom of the adjacent pavement to the surface of the pavement with base aggregate meeting the Maine Department of Transportation Specification 703.06(a) for Type B or C base. The Contractor shall maintain this temporary surface level with the surface of surrounding pavement for at least two (2) weeks but no longer than thirty (30) days. The backfill shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it, as well as for vehicular traffic to pass safely over it at a legal rate of speed. The Contractor shall maintain the temporary backfill and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian and vehicular traffic, then the Contractor shall maintain barriers and lights where required herein.

B. No later than thirty (30) days after the excavation has been backfilled, the Contractor shall install permanent paving equal to or exceeding the character, thickness and quality of the adjoining undisturbed surface. If hot bituminous asphalt is unavailable due to the season, the excavation shall be surfaced with cold bituminous pavement until such time as permanent pavement is available.

Permittees shall, for a period of two (2) years thereafter, be fully liable for all defects in materials, compaction, and workmanship relating to such backfilling and resurfacing, and shall promptly and satisfactorily repair or replace the same upon notice by the Director of Public Services. If the work is not corrected within thirty (30) days of such notice, the City in its sole discretion, may declare the work to be in non-compliance, and Section 15-412(1) will apply.

7. Inspections. The City shall make such inspections as may reasonably necessary to secure Permittees' and Contractors' compliance with the requirements of this Article. Such inspections may be performed by the Director, his designee, the Water Pollution Control Facility Director or his designee, or other authorized personnel. The Director may order such actions and corrections as may be reasonably necessary to obtain compliance and/or protect the streets and public places in the City, or any underground utility facilities in a street or public place. The decisions and instructions of the Director with respect to any matter relating to a Permittee or its Contractor's performance and compliance shall be final and binding upon such Permittee and its Contractor, until and unless appealed to a court of competent jurisdiction and therein stayed or overturned.

**Sec. 15-410 Special Conditions**

1. Where three (3) or more street openings are made in sequence fifteen (15) feet or less, center-to-center, between each adjacent opening, the estimated cost for such excavations shall be calculated on the basis of one opening measured from the outer perimeter of the first opening to the outer perimeter of the last opening.

2. The City, when the Director deems it to be reasonably necessary, shall retain, at the Permittee's expense, an on-site inspector to inspect, monitor, and/or supervise all excavation, backfilling, resurfacing, and/or other temporary or permanent repairs. The Permittee shall be charged at the appropriate hourly rate of the inspector, plus thirty-five (35%) overhead for the services of such inspector.

3. If the Director, in its sole discretion, determines that settlement, heaving, or other failure or defect of the backfilled excavation has occurred during the two (2) years immediately following the final surfacing of such excavation, the Permittee may, at its option, either repair the opening or remit to the City a sum equal to 200% of the cost to repair the excavation. Permits issued prior to the effective date of the initial adoption of this performance guarantee requirement shall remain subject to the prior, three-year contractor liability for the condition of the opened street or sidewalk.

If a Permittee does not remit payment on any invoice for repairs to defective excavations by or on behalf of the City within thirty (30) days of the date of such invoice, the City may decline to issue further permits to the Permittee or its Contractor until it receives payment of such outstanding bill and may take other appropriate legal action.

### **Sec. 15-411 Fees, Penalties and Enforcement**

1. Violations. The Owner and Contractor shall each be in violation of this Article if a street opening is commenced without a permit therefor, or if work relating to a permitted street opening, excavation, installation, connection, backfilling, street repair, or any other work or thing authorized or required thereunder is not in conformance with such permit, applicable law, ordinance, technical standard, or instruction of the Director.

2. Notice of Violations; Corrections. The Director shall provide written notice of all such violations to the responsible party(ies), stating the nature of the violation(s), the corrective action(s) required, and a reasonable time in which to perform such corrective actions. To assure public safety, the Director may provide oral notification and require immediate corrective action to avoid or mitigate a safety hazard.

A. Corrective Action By Contractor. The Permittee shall perform the corrective actions required by and to the satisfaction of the Director, within the period identified in the written or oral notice of violation. Permittee's failure so to do shall constitute a separate violation for each day Permittee remains out of compliance with such notice.

B. Corrective Action By the City. Upon Permittee's failure to perform corrective measures required by and to the satisfaction of the Director, the City may perform or cause to be performed the corrective measures, at Permittee's expense, in which event the Permittee shall be required to pay to the City an amount equal to ~~one and one-half~~ **two** times the whole of the expense incurred by the City. When the work is completed and the costs have been determined, the City shall issue no further permits to that Permittee until it has received full payment of the amount thus assessed to Permittee. Notwithstanding the City's performance of any work reasonably required to abate a violation of this Article, the Contractor shall remain fully responsible for performing the work in accordance with this Article and the Contractor's permit, and shall be subject to any applicable fine, penalty, or other remedy in addition to the payment imposed pursuant to this paragraph.

3. Fines and Penalties.

Irrespective of the Owner, Contractor, or City's correction of any violation, the Owner and Contractor shall be subject to one or more of the following fines and penalties, as may be applicable:

A. Commencing work without a permit (except emergencies): \$500 per day until permit issued or opening repaired;

B. Violation of any General Requirement (Sec. 15-407), Excavation Standard (Sec. 15-409), or Technical Standard: \$100 per day until corrected;

C. Failure to provide protective measure in violation of Sec. 15-408: \$250 per day;

D. Failure to comply with written or oral notice of violation: \$500 per day.

The violation of any requirement or standard under this Article shall constitute a separate offense and shall be subject to a separate fine or penalty as set forth herein.

The City Attorney is hereby authorized to commence legal action on behalf of the City in the Maine District Court for the imposition by the Court of such fines and penalties, and any other remedy available at law or in equity, and to enforce and collect the same.

4. Permit Invalidated; Additional Permits Prohibited. A violation of any provision of this Article, of a permit issued pursuant to this Article, or of a standard or requirement imposed by this Article, if uncorrected by the Contractor as provided

under paragraph 2(A) of this section, shall be deemed to invalidate all other permissions previously granted to Contractor, except the requirement that the work be corrected. No street opening permit shall be issued to any such Contractor until the Director is satisfied that the Contractor has abated its violation and fully complied with all the requirements of this Article.

### **Sec. 15-412 Annual Utility Work Plans.**

Prior to March 31 of each year, all utilities having existing or proposed underground utility facilities in any street or other public place in the City shall file with the Director such utility's proposed work program for the ensuing construction season. Such annual work plan need not include provisions for emergency excavations or private service line excavations. The City may deny applications for street opening permits for excavations required to be, but not included in such utility's annual work plan.

**State Law Reference:** 14 M.R.S. § 871; 35-A M.R.S. §§ 2301-2522;  
23 M.R.S. §§ 3301 – 3360-A.

**Cross Reference:** Ch. 15, Art. I, §§ 15-118, 15-123, 15-132, 15-133, and 15-145.

## **ARTICLE V Street Names and Numbers**

### **Sec. 15-501 Street Names**

The Director of Public Works shall prepare a Street-Name map, which map or any revision thereof after approval by the City Council is hereby incorporated and made a part thereof. Any ordinance enacted by the City Council naming any street, public park or square or changing the name of any street, public park or square shall amend the map.

### **Sec. 15-502 Street-Name Signs**

The Director of Public Works shall cause to be erected and maintained, at all street intersections within the City, substantial signs on which shall be marked plainly the names of the streets there intersecting, and he shall also erect and maintain name signs at all public squares and in all public parks. Street-Name signs shall consist of white letters on a green reflective surface. Street-Name signs designating private roads shall be displayed over a sign of equal dimensions bearing the legend "Private Road" in white letters on a blue reflective surface.

### **Sec. 15-503 Street Numbers**

1. Map. The City Assessor shall prepare a Street-Numbering Map, which map or any revision thereof after approval by the City Council is hereby incorporated and made a part hereof.

2. Display of Number. All premises shall bear a distinctive street number in accordance with and as designated upon the Street-Numbering Map on file in the office of the City Assessor. No person shall fail to place the correct number upon the front of occupied premises, the number facing the street and adjacent to the principal entrance and in such position as to be plainly visible from the street. Numbers hereafter placed shall be not less than three

(3) inches in height and shall contrast in color with the color of the building or background to which they are attached.

If storm doors are put on a house, the number assigned to the house shall be put on this door unless the number elsewhere placed is plainly visible from the street.

3. Use of Incorrect Number. No person shall affix or to be affixed, or allow to remain upon any building which he owns or occupies, a different number from the one designated on the Street-Numbering Map.

4. Penalty. Any person who, after being notified by the Police Chief, shall fail to comply with any of the provisions of this Section within the time limit of not less than thirty (30) days specified in such notice, shall pay a fine of not less than two dollars (\$2) nor more than five dollars (\$5), to be recovered on complaint by the Police Chief for the use of the City before the Sixth District Court.

**Cross Reference:** § 15-144.

### **Sec. 15-504 Way-Crossing Signs**

The Director of Public Works shall cause to be erected and maintained such guide-posts at crossings of ways as may be required, and in the manner required by the Revised Statutes of Maine.

**State Law Reference:** 23 M.R.S. §§ 3301, 3302.