

CHAPTER 18 Utilities

ARTICLE I Utility Facilities; Location Permits

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CHAPTER 18 Utilities

ARTICLE I Utility Facilities; Location Permits

Sec. 18-101 Purpose

The purpose of this ordinance is to protect the public health, safety, and welfare by assuring the proper placement of utility facilities in public ways and on City property, in such manner as to improve and avoid the impairment of, vehicular and pedestrian access to and passage over and along streets and sidewalks or the use of City property, and as otherwise required or deemed appropriate in the best interests of public safety and travel.

Sec. 18-102 Definitions

Utility Facility. “Utility Facility” means:

- A. If under the surface of the public way, any pipe, cable, or conduit; and
- B. If on or over the surface of the public way, any pole, guy, hydrant, cable, wire, or any other plant or equipment located or proposed to be located on or over the surface of the public way.

State Law Ref.: 35-A M.R.S. § 2502(3).

Sec. 18-103 Conduit Districts

Conduit Districts. The City Manager is authorized to effect agreements with public utility companies using the streets of the City relative to conduit districts, subject to the approval of the City Council; thereafter no person shall set any additional electric power, telegraph or telephone poles within the conduit districts thus established, subject to such reasonable exceptions as may be contained in such agreements. Such agreements shall provide, free of cost to the City, one duct in each conduit excavation for the use of the City.

Sec. 18-104 Location Permits and Requirements

1. **Permit Required.** No person, firm or corporation shall place, maintain, or change the location of or cause to be placed, maintained or the location changed, of any utility facility under, on, or above any public right-of-way, including streets and sidewalks, or property of the City without first applying in writing for and obtaining a permit therefor from the City. No such permit shall be required (A) when, pursuant to Title 35-A, Maine Revised Statutes, Section 2502 or other Maine statute the City is not the primary licensing authority, or (B) for any facility installed by or on behalf of the City, or serving any building or facility of the City. The location of underground utility facilities may be permitted in the street opening permit issued pursuant to Article IV of this chapter, so long as such permission is not inconsistent with any applicable provision of this Article.

2. **Permit Terms.** The terms of the permit, which shall be included in the application and agreed to therein by the applicant over his signature, shall include:

A. **One Gain Reserved for Municipal Use.** Agreement that one gain on each pole, below the electric power company's wires and above the telephone company's lines or cables shall be reserved on all new and reconstructed pole plant for municipal purposes free of cost to the City;

B. **No Permanent Rights.** Agreement that no permanent rights shall be obtained in the streets or public grounds by reason of such erection or other action for which permit is requested, or by reason of continuous use of streets, or for any other reason;

C. **Subject to Removal.** Agreement that such utility facilities shall be subject to change of location or removal when deemed necessary for the public interests by the City Council;

D. **Fire Fighting.** Agreement that in case of fire, if necessary, such poles and wires may be cut or removed by order of the Fire Chief without claim upon the City therefor;

E. **Height; Finish.** Agreement that all poles and other facilities, as applicable, shall be of such height, and be finished and painted in such manner as the City may prescribe;

F. **Compliance With Ordinance.** Agreement and assent to all of the applicable provisions of this Chapter;

G. **Indemnification.** Agreement to indemnify and save harmless the City of Rockland against all liability, judgments, costs and expenses which may in any manner accrue against the City because of any negligence or alleged negligence in the

performance of the work for which the permit is granted, or because of any negligence or alleged negligence in connection with the maintenance and use of such poles and wires, or in consequence of the granting of this permission;

H. Compliance With Conditions of Permit. Agreement that the applicant will in all things comply strictly with all the conditions of the permit.

I. Location. Agreement that utility facilities will be placed only at the specific locations identified in the permit. Utility poles shall be placed at the outer edge of the right-of-way except where such placement is precluded by existing principal structures or underground utilities, in which instances the poles shall be placed next to but outside the street and any paved or unpaved shoulder if such location is not otherwise prohibited hereunder. When sidewalks are substantially repaired, or reconstructed, when any curb shall be replaced or realigned, and when any new sidewalks are constructed, utility poles and other facilities within the sidewalk area shall be relocated, at the utility's expense, to between the proposed edge of the sidewalk and the property line upon thirty (30) days' notice by the City of Rockland of the proposed sidewalk installation. In no event shall any utility pole or other facility be placed, replaced, or remain, in any sidewalk in such a manner as to reduce the useable sidewalk width below the minimum appropriate width for passage by the disabled and others pursuant to the Americans with Disabilities Act.

J. Poles; Identification. All poles placed or maintained by any public utility company shall be designated, by stencil, with the name of the company owning the same.

K. Poles; Maintenance and Replacement. Whenever from any cause any of the poles get out of an upright position, so that they become unsightly and disfigure any street, alley, lane or court, the owner thereof shall right the same as soon as possible, and shall keep the same at all times in good appearance. Whenever the utility shall install a replacement pole, such utility shall (1) size and equip the pole as to accommodate all existing and proposed above-ground utilities located in or above the street in the vicinity of the replacement pole; (2) locate the pole outside the area of the street and sidewalk; (3) immediately remove the replaced pole; and (4) fully restore the condition of the street, sidewalk, or soil, as may be applicable, at the location of the replaced pole, to the satisfaction of the Public Works Director.

5. City Wires; No interference. All persons and corporations are prohibited from affixing or attaching any wire or cable to any pole in the gain or space provided and maintained for the wire of police signal and communication lines of and/or other uses by the City, which, in the judgment of the City Electrician may interfere in any manner with the City's wire operations.

State Law Reference: 35-A M.R.S. §§ 2301-2309, 2509-2515.

6. Administration. The City Clerk may not issue a location permit for any utility facility until the City Manager shall have reviewed and indicated his assent to the same, listing any additional conditions that, in the best interests of the City and to assure unobstructed vehicular and pedestrian travel, may be reasonably required. The City Council shall, in conformance with 35-A M.R.S. § 2503, hear and rule upon any objection to a location permit application and, upon the applicant's written application therefor within 30 days, of any appeal by an applicant of the denial, or conditional grant, of a location permit. The City Manager shall order the removal of utility facilities installed in any street, sidewalk, or public place without a permit.

ARTICLE II General

Sec. 18-201 Agreement To Ordinance Provisions

The erection by any person or corporation of any wire, pole or other fixture for the purposes aforesaid in the City of Rockland, or the installation of any new underground structure or facility, after the passage of this Chapter, shall be held to be an agreement, on the part of such person or corporation, to all of the requirements, rules, conditions and provisions contained in this Chapter.

Sec. 18-202 Information

All public utilities operating in the City shall file with the City Manager whenever so requested by him, details of their underground structures within the public street or alleys and likewise file copies of their general layout maps insofar as public streets, alleys and other public property are affected, including information as to location of poles, number of wires thereon, and such other information as the City Manager may deem necessary and require to comply with the requirements of any ordinance.

Sec. 18-203 Liability

Every person or corporation erecting, maintaining or using any such poles or wires shall, in case of loss or damage, indemnify and save harmless the City of Rockland its officers, agents and servants from and against all claims and demands for

injuries to persons or property, occasioned or alleged to be occasioned by the existence or use of such poles, wires, or the transmission of electric currents by means thereof; and the City, its officers, agents and servants, exercising the rights and powers given to them by any ordinance, shall not be held liable by such person or corporation on account thereof, by reason of any injury or damage caused thereby.

State Law Reference: 14 M.R.S. §§ 8101 *et seq.*

Sec. 18-204 No Bond Requirement

No recognized public utility company shall be required by the City to furnish a bond or insurance in connection with any of its operations in the City.

State Law Reference: 14 M.R.S. § 871.

Sec. 18-205 No Permanent Rights

No permanent rights shall be obtained in the streets or any public grounds by reason of erection of any poles, placing of any wires or poles, or by reason of continuous use of streets, or for any other reason.

Sec. 18-206 Ordinances

All public utility companies operating in the City shall be subject to the provisions of all ordinances of the City, with regard to all portions of their operations carried on in the public streets.

Sec. 18-207 Shut Off Electric Current

The Fire Chief in case of fire, if in his opinion necessary, and the City Electrician, whenever in his opinion the public safety so requires, shall have authority to direct any person or corporation using or operating any wires strung anywhere in the City for purposes of carrying electric current, to shut off the electric current from such wires as he knows or believes are dangerous to life or property for such a period of time as he may deem necessary. Any such person or corporation who shall refuse to shut off such current in accordance with such order shall be liable to a penalty of fifty dollars (\$50) for each and every hour during which such order shall be disregarded. It shall be the duty of all power companies to post a rule in their power houses and elsewhere as they may deem necessary to insure instruction of their employees of this Section and their compliance therewith.

Sec. 18-208 Penalty

Any person violating the provisions of this Chapter, except as otherwise provided, shall be subject to a fine or penalty of not exceeding five hundred dollars (\$500) for each offense, to be recovered by complaint before the Maine District Court, for the use of the City.

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