

STREETS AND SIDEWALKS ORDINANCE

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CHAPTER 1 - STREET AND SIDEWALKS

SECTION 1. CONDUCT OF PERSONS

1.1 It shall be unlawful for any person to loiter in, on, or adjacent to a public way, after having been requested to disperse by a duly authorized law enforcement officer. For the purposes of this ordinance, loitering is defined as the act of standing, sitting, leaning or idling in, on, or adjacent to any street, way, sidewalk, or parking area adjacent to a public way, so as to hinder or impede the passage of pedestrians or vehicles.

1.2 No person shall in, on or adjacent to any of said streets, ways, parking area, or public places, make, continue or cause to be made or continued any loud, unnecessary, or unusual noise or noises which shall either annoy, disturb, injure, or endanger the comfort, repose, health, peace, or safety of others. The sounding of any horn or signaling device, except as a danger warning, the playing of any radio, musical instrument, phonograph, or any other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, and comfort of neighboring inhabitants and passers-by; the use of any loud speaker or amplifier for the purpose of commercial advertising or attraction of the public to a specific building, location or business, yelling, shouting, hooting, whistling, or singing shall be considered to be loud, disturbing, and unnecessary noises and a violation of this ordinance but such enumeration shall not be deemed exclusive.

1.3 It shall be unlawful for any person to drink any malt, vinous, or spirituous liquors upon any streets, sidewalks, or any public way, or parking area adjacent to a public way.

1.4 It shall be unlawful for any person or persons to enter or remain on public land known as Fort Hill Park, 1/2 hour after sunset up to sunrise.

SECTION 2. PARKING REQUIREMENT

2.1 Standing or parking close to curb - No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within twelve (12) inches of the curb or edge of the roadway except as otherwise provided in this article.

2.2 Signs or marking indicating angle parking

- A. The Police Chief shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets but such angle parking shall not be indicated upon any Federal-aid or State highway within this town unless the Maine Department of Transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.

2.3 Obedience to angle-parking signs or markings - Upon those streets which have been signed or marked by the Police Chief for angle parking, no person shall park or stand a vehicle other than at the angle at the curb or edge of the roadway indicated by such signs or markings.

2.4 Stopping, Standing, or Parking Prohibited in Specified Places

- A. No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

1. On a sidewalk

2. Within 5 feet of a public or private driveway.
3. Within an intersection
4. Within 10 feet of a fire hydrant
5. On a crosswalk
6. Within 20 feet from the center of a crosswalk at an intersection
7. Within 30 feet upon the approach to any flashing beacon, stop signs, or traffic-control signal located at the side of a roadway; unless otherwise indicated by signs or pavement markings.
8. Within 50 feet of the nearest rail of a railroad crossing
9. Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when property signposted).
10. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
11. On the roadway side of any vehicle stopped or parking at the end or curb of a street - so called "Double Parking"
12. Upon any bridge or other elevated structure upon a highway
13. At any place where official signs prohibit stopping

2.5 Parking not to obstruct traffic - No person shall park any vehicles in the travel lane of a street in a manner to obstruct traffic.

2.6 All night parking prohibited - No person shall park a vehicle on the street between the hours of midnight and 6 a.m. from November 1st to May 1st.

2.7 Parking for certain purposes prohibited - No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying such vehicle for sale.
- B. Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

2.8 Parking adjacent to schools

- A. The Police Chief is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.
- B. When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place.

2.9 Parking prohibited on narrow streets

- A. The Police Chief is hereby authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed 20 feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed 30 feet.
- B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

2.10 No stopping, standing or parking near hazardous or congested places

- A. The Police Chief is hereby authorized to determine and designate by proper sign areas in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- B. When official signs are erected at hazardous or congested places as authorized herein no person shall stop, stand or park a vehicle in any such designated place.

2.11 Handicapped parking

- A. It shall be unlawful for any vehicle to park in a parking space(s) designated as a handicapped parking space without first displaying a special registration plate or placard issued under Title 29A, Section 521 of M.R.S.A. or a similar plate issued by another state, providing that such area(s) after being designed as a handicapped parking space(s) are signed and posted adjacent to and visible for each handicapped parking space a sign consisting of a profile view of a wheelchair with occupant in white on a blue background, and bearing the following warning: Handicapped Parking.

SECTION 3 – LOADING ZONES

3.1 Police Chief to designate curb loading zones - The Police Chief is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

3.2 Standing in passenger curb loading zone - No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when regulations applicable to such curb loading zone are effective, and then only for a period not to exceed 5 minutes.

3.3 Standing in freight curb loading zone - No person shall stand or park a vehicle for any purpose or length of time than for the expeditious unloading and delivery or pickup and unloading of materials in any place marked as a freight curb loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed 30 minutes.

SECTION 4 - STOPPING, STANDING OR PARKING RESTRICTED OR PROHIBITED ON CERTAIN STREETS

4.1 Application of article - The provisions of this article prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when in compliance with the directions of a police officer or official traffic-control device.

4.2 Regulations not exclusive - The provisions of this article imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

4.3 Parking prohibited at all times on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described in Schedule A attached to and made a part of this ordinance.

4.4 Parking time limited on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle for longer than one hour at any time (a) between the hours of 7 a.m. and 7 p.m.

on any day except Sundays and public holidays upon any of the streets described in Section 1 of Schedule B attached to and made a part of this ordinance; or (b) between the hours of 7 a.m. and 4 p.m. of any day except Sundays and public holidays upon any of the streets described in Section 2 of Schedule B attached to and made a part of this ordinance.

4.5 Parking time limited on certain streets - When signs are erected giving notice thereof, no person shall park a vehicle for longer than two hours at any time between the hours of 7 a.m. and 7 p.m. on any day except Sundays and public holidays upon any of the streets described in Section 4 of Schedule B.

4.6 Parking prohibited at certain times on certain streets - When signs are erected giving notice thereof, no persons shall park a vehicle at any time between the hours of 6 a.m. and 4 p.m., Monday through Friday upon any of the streets described in Schedule D attached to and made a part of this ordinance.

4.7 Parking signs required - Whenever by this or any other ordinance of this Town any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the Chief of Police to cause to be erected appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense. Parking and No Parking signs are placed on the street at an angle, so that they may be viewed from a vehicle while parking. Signs have arrows indicating the direction of parking and no parking. You must picture the sign to be parallel with the roadway.

SECTION 5 – OVERHEAD SIGNS

5.1 The Town Manager is authorized to place overhead signs at appropriate locations indicating traffic movement and direction and also to place signs indicating that pedestrians have the right of way on crosswalks.

SECTION 6 - EMERGENCY HAZARDS

6.1 The Town Manager, or his designee, with the advice of the Chief of Police and the Public Works Superintendent, shall be authorized to establish emergency parking, traffic or pedestrian regulations in the instance of civil emergencies, including but not limited to fire, rescue, holocaust, construction, snow or other weather storms. Such regulations shall be of a temporary nature and shall be conspicuously posted. Any posting of such regulations adjacent to a street shall be prima facie evidence that such posting was done in conformance with this ordinance and it shall be unlawful for any person to violate any posted emergency regulations.

6.2 The Chief of Police or his designee may cause any vehicle parked, disabled or abandoned on any Town way at a place, in a manner or for a length of time prohibited by this ordinance or in violation of emergency parking, traffic or pedestrian regulations under Section 1 of this Article to be removed from the way and brought to a garage, storage place, parking place or Town property.

SECTION 7 - SIDEWALKS

7.1 It shall be unlawful for any person to use a sidewalk or other pedestrian way for the use of any motorized vehicle (except for the purpose of Public Works), or horseback riding.

SECTION 8 - STREETS RESTRICTED TO CERTAIN TRAFFIC

8.1 When signs are erected giving notice thereof no person shall drive a three (3), four (4), or five (5) axle through truck anytime upon the streets described in Schedule C, attached to and made part of this ordinance.

SECTION 9 - STREETS RESTRICTED TO ENTERING TRAFFIC

9.1 When signs are erected giving notice thereof no person shall drive a vehicle onto a street marked "Do Not Enter". The following locations are hereby authorized to display said signs:

- A. At State Street and Pine Street thereby prohibiting vehicles from entering Pine Street from State Street.
- B. At Narragansett Street and Alden Lane thereby prohibiting vehicles from entering Alden Lane from Narragansett Street.

SECTION 10 - STREETS RESTRICTED TO RIGHT-TURNS

10.1 When signs are erected giving notice thereof, no person shall turn left when exiting a street onto another street as described in Schedule E when an intersection is marked "No Left Turns".

SECTION 11 - REMOVAL OF SNOW FROM PRIVATE PROPERTY TO STREETS

11.1 No person shall lay, throw, place or plow or cause to be laid, thrown, placed or plowed on or into any public street, any snow or ice from private property. If in the removal of snow or ice from private property it is necessary to temporarily place snow or ice on any public street, such snow or ice shall be immediately removed from the public way by and at the expense of the person that caused it to be placed thereon or caused the hiring of a person to remove said snow or ice.

11.2 No person shall place snow or ice at any intersection or in such location so as to hinder vision of those persons entering a public way.

11.3 During snowplowing operations, the following procedure will be implemented for the night-time hours (12 midnight to 6 a.m.).

- A. In the event that a vehicle is parked in the street or otherwise inhibiting snow removal operations, the plow operators will:
 - 1. Radio to Public Safety Dispatcher with the plate number and description of the vehicle and the vehicle's exact location.
 - 2. Advise the area patrol officer of the violation and if he/she has not already done so on that particular shift he/she will go immediately to that location and issue a parking tag for: overnight parking and/or snow removal violations, (both on the same ticket, if applicable).
 - 3. The dispatcher will then utilize the directory, teletype, or similar communications to determine the registered owner or, if impractical, the responsible party and will call the residence and advise the party to immediately remove the vehicle and will also advise that if they refuse to remove it, the vehicle will be towed at their expense.
 - 4. If no contact is made by telephone, the Public Works Director or the working highway crew foreman will be called and will determine if the vehicle still needs to

be towed. If so, the officer will make a good faith attempt to notify someone at the residence at which it is parked. If the officer is still unable to make notification, the next available wrecker will be called to tow the vehicle.

5. The assigned wrecker will tow the vehicle to its own storage area. The wrecker operator will be responsible for collecting his/her towing charges.
6. Once a vehicle has been towed, the officer will then notify Dispatch to notify Public Works to return to the area to continue snow removal.

11.4 During other snowplowing operations between the "business hours" of 6 a.m. and 12 midnight the following procedures will be implemented.

- A. In the event that a vehicle is parked in the street, the plow operator will notify the responsible party and bring attention to the problem and ask that the vehicle be removed.
 1. Use their lights, horn, or similar communications in a good faith attempt to notify the responsible party and bring attention to the problem and ask that the vehicle be removed.
 2. Should these efforts fail, the plow operator will notify the Public Safety dispatcher of the vehicle plate number, description and exact location (in front of which house).
 3. The dispatcher will then utilize the directory, teletype, or similar communications to determine the registered owner or, if impractical, the responsible party, and will call the residence and advise the party to immediately remove the vehicle and that if they refuse to move it the vehicle will be towed at their expense (if the vehicle is immediately removed no ticket will be issued).
 4. If no contact is made by the telephone, the area patrol officer will be dispatched to the scene and he/she, if not making immediate contact with the registered owner or, if impractical, the responsible party at the residence, will issue a ticket for interfering with snow removal operations.
 5. The Public Works Director or working crew foreman will be called and will determine if the vehicle needs to be towed. If so, the officer will make any additional reasonable attempts at notification (calling known work number, etc.) and being unsuccessful in this attempt will cause the vehicle to be towed as outlined above.
 6. The assigned wrecker will tow the vehicle to its own storage area. The wrecker operator will be responsible for collecting his/her towing charges.
 7. Once the vehicle has been towed, the Officer will then notify Dispatch to notify Public Works to return to the area to continue snow removal.

SECTION 12 - PENALTIES

12.1 Any violation of Section 1 through Section 11 of this ordinance, except as specified in Section 12, paragraph 12.2, shall be punishable by a fine not to exceed \$100 to be recovered for the use of the Town of Gorham, Maine.

12.2 The fact that a motor vehicle is unlawfully parked shall be prima facie evidence of the unlawful parking of such vehicle by the person in whose name such vehicle is registered. Said person charged with a violation of the parking regulations contained in the Streets and Sidewalks Public Safety Ordinance of the Town of Gorham, Maine may waive his right to court action by the payment to the Town of the fees specified below within a period of 15 days from the date of the violation.

- A. For violation of the parking regulations contained in Section 2 of this ordinance, a fee of Twenty-Five (\$25.00) Dollars.
- B. For violation of Section 6, paragraph 6.1 of this ordinance (parking in violation of emergency hazard regulations) a fee of Fifty Dollars (\$50.00)
- C. Immobilize (booting) vehicles with three or more outstanding (unpaid) tickets may be booted if they are ticketed for a violation. In order to get a boot removed, the owner must first pay all unpaid parking tickets, plus a boot fee of Fifty (\$50.00) Dollars. Payments must be made in cash, money order or bank check. No personal checks will be accepted. Payments are to be made at the Gorham Police Department, 270 Main Street, 207-839-5581, Monday through Friday, between the hours of 8:30 a.m. and 4:30 p.m. After 6:00 p.m., we begin towing and impounding immobilized vehicles at the owner's expense. All outstanding parking tickets and boot fees must be paid to the Town of Gorham as well as any towing and storage fees to the tow company before said vehicles will be released. The individual tow company sets the tow fee. After the first 24 hours, there is an impound/storage fee that is also set by the individual tow company.

12.3 The Town Manager is hereby authorized to have prepared in such form as he deems appropriate, for the use by the Police Department, tickets notifying violators of their right to waive court action upon payment of the fees specified herein within the time limits specified herein.

SCHEDULE A - No Parking Allowed

SECTION 1

Parking shall be prohibited on the following streets:

Academy Street	The easterly side from College Avenue to State Street. The westerly side from 170 feet from College Avenue to a point 45 feet from State Street.
Access Road	The northerly side from Ball Park Road continuing westerly to the driveway of #6 Access Road, a distance of 1,815 feet. The southerly side from the driveway of #7 Access Road easterly to the designated parking spaces located on Access Road for a distance of 200 feet
Alden Lane	Both sides from State Street to College Avenue, a distance of 107 feet.
Church Street	The northerly side 260 feet from School Street The southerly side 190 feet from School Street
College Avenue	The southerly side from 100 feet west of School Street to State Street for a distance of 1,400 feet. The northerly side 160 feet from School Street. The northerly side from State Street to the University of

	Southern Maine fire lane, a distance of 860 feet.
Cross Street	The easterly side 168 feet from Church Street.
Elm Street	The westerly side from Main Street to Preble Street
Gray Road	The westerly side from Huston Road 125 feet southerly. The westerly side from Huston Road 162 feet northerly to the fire hydrant near utility pole #125.
Green Street	On the northerly side 160 feet from South Street
Johnson Road	The westerly side from Main Street to Gray Road. The easterly side 100 feet from Gray Road. The easterly side 75 feet from Main Street.
Lincoln Street	The northerly side from the entrance of Village School to South Street, a distance of 848 feet. The southerly side from the entrance of Village School 100 feet westerly to the driveway of #29 Lincoln Street.
Lombard Street	The west side of Lombard Street
Main Street	The northerly side from 100 feet east of New Portland Road to Cross Street. The southerly side from New Portland Road to South Street. The southerly side beginning 190 feet west of the midpoint of the intersection of Route 202 and Route 25 and extending 310 feet easterly.
Mechanic Street	The easterly side from the New Portland Road to Railroad Avenue. The westerly side from the New Portland Road to Railroad Avenue.
Middle Jam Road	The easterly side from the North Gorham Road to 400 feet north of the North Gorham Road The westerly side from North Gorham Road to 400 feet north of the North Gorham Road
New Portland Road	The northerly side from Main Street to 100 feet east of Mechanic Street The southerly side from Main Street to 100 feet east of Mechanic Street
North Gorham Road	On either side from a distance of 850 feet westerly from the intersection of the North Gorham Road and the Gorham-Windham Municipal boundary. On both sides 200 feet westerly from the intersection of Standish Neck Road.
Ball Park Road	The west side of Ball Park Road from Morrill Avenue to the Access Road
Pine Street	The westerly side from State Street to 200 feet south of State Street
Preble Street	The southerly side from South Street to Elm Street
School Street	The westerly side beginning at CMP pole #1 to the intersection of College Avenue, a distance of 203 feet.

	<p>The easterly side beginning at a point 270 feet north of Main Street and continuing north to the intersection of Church Street, a distance of 60 feet.</p> <p>The westerly side beginning at CMP pole #8 and continuing north to the compact zone line.</p> <p>The easterly side beginning at CMP pole #8 and continuing north to the compact zone line.</p>
South Street	The easterly side from Main Street to 120 feet south of Main Street.
Standish Neck Road	On both sides 125 feet from the intersection of North Gorham Road.
State Street	<p>The southerly side from South Street to 200 feet east of Pine Street within the right-turn lane.</p> <p>The southerly side from Pine Street continuing westerly to the compact zone line.</p> <p>The northerly side from the driveway of #35 State Street continuing westerly to the compact zone line.</p>
Water Street	<p>The westerly side from Main Street to the intersection of Church Street</p> <p>On the easterly side 470 feet from Main Street</p>

SECTION 2

Parking shall be prohibited within the boundaries of Robie Park. These boundaries being: Morrill Avenue on the south side, Ball Park Road on the east side, Access Road on the north side, and the high school parking lot and the unnamed roadway that runs from Morrill Avenue to the high school parking lot on the west side of the park.

SCHEDULE B - Limited Parking

SECTION 1 (One Hour Limit: 7 a.m. – 7 p.m.)

Parking shall be limited to a maximum of one hour between the hours of 7 a.m. and 7 p.m. on the following streets:

Gray Road	<p>The westerly side of Gray Road, between CMP pole #126 southerly to CMP pole #127 for a distance of 164 feet.</p> <p>The easterly side of Gray Road directly across the street from the same CMP poles and for the same distance.</p>
Main Street	The northerly side from School Street to Cross Street
School Street	<p>The easterly side from Main Street continuing north to a point 90 feet from Main Street.</p> <p>The westerly side from State Street continuing north to a point 96 feet from State Street.</p>

SECTION 2 (One Hour Limit: 7 a.m. – 4 p.m.)

Parking shall be limited to a maximum of one hour between the hours of 7 a.m. and 4 p.m. of any day except Sundays and public holidays upon the following streets:

CHAPTER 2 - STREET OPENING ORDINANCE

Section 1. Purpose

- 1.1 The purpose of this ordinance is to protect the enormous public investment in the streets and roads of Gorham and also to protect the health, safety, and welfare of the traveling public.

Section 2. Definitions, License, Insurance Permit

Definitions:

The following words and phrases, when used in Chapter 2 of this ordinance, shall have the meanings respectively ascribed to them:

- 2.1 Town shall mean Town of Gorham and/or its public works authority.
- 2.2 Excavation shall mean any opening in the surface of a public place made in any manner whatsoever, except an opening in a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.
- 2.3 Facility shall mean pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire tower, pole, pole line, anchor, cable, junction box, or any material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under, or over any public place.
- 2.4 Licensed excavator shall mean any person who has been issued a license by the Town of Gorham to excavate in public places in the Town.
- 2.5 Newly constructed, reconstructed or repaved streets shall mean any street that has been newly constructed, reconstructed or repaved within the last five (5) years.
- 2.6 Permittee shall mean a person who has obtained a permit as required by this article.
- 2.7 Public place shall mean any public street, way, place, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the Town and dedicated to public use, and any dedicated-but-unaccepted street or way.
- 2.8 Substructure shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, wire or utility system appurtenance, or any other similar structures located below the surface of any public place.
- 2.9 Utility shall mean a private company, corporation or quasi-municipal corporation under the direction and control of the Public Utilities Commission, as defined in 35-A M.R.S.A., Section 102 as it may hereinafter be amended.
- 2.10 Major Excavation shall mean repair or replacement of any main utility line, repair or replacement of the majority of utility services lines on any street, any excavation project of a one hundred (100) foot length, or more, or a two hundred and fifty (250) square foot area or greater, or any project complex enough to be deemed major by the Public Works Director.

- 2.11 Minor Excavation shall be any repair or replacement that is not a Major Excavation.
- 2.12 Person shall mean any individual, firm, company, association, corporation, trust or governmental authority, partnership, public or private corporation or authority, trust, estate, governmental entity, or agency or political subdivision of a municipality, the State of Maine, or other legal entity, or their representatives, agents or assigns. The singular shall include the plural where indicated by the context.
- 2.13 Emergency shall mean any event which may threaten public health or safety, including but not limited to leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communication facilities, or downed overhead pole structures.

Section 3. License Required

- 3.1 No person or utility shall excavate in a public place without holding a valid license for such work from the Town of Gorham. The public works authority shall issue such license upon receipt of an application therefore and the annual license fee, after having satisfied himself or herself of the competency and ability of the applicant to carry on the business of excavating. No person or utility possessing such license shall allow his or her name to be used by any person or utility, directly or indirectly, either to obtain a permit to do any work under this license; provided, however, that nothing herein shall be construed to prohibit a licensed excavator from doing such work through an authorized agent or employee who is directly and continuously supervised by him while in the performance thereof. A license issued to an excavator may be revoked after notice and hearing, if it is determined by the Town that the licensed excavator has willfully disobeyed any portion of this article.
- 3.2 The excavator may, within 30 days from the date the permit was revoked, appeal this decision to the Board of Appeals.
- 3.3 The annual non-refundable excavator license fee shall be established by the Town Council and the Town Council may change the fee at any time as they determine to be in the Town's best interest. The license shall be valid from January 1 to December 31 and contains no prorated provisions.

Section 4. Insurance

- 4.1 This article shall not be construed as imposing upon the Town of Gorham or any official or employee of the Town any liability or responsibility for damages to any person injured by the performance of an excavation work for which an excavation permit is required under this article, nor shall the Town 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 that is inconsistent with any private rights in said street or way by the Town for highway or any other purposes. For purposes of this section, every licensed excavator shall maintain at all times a minimum of \$1,000,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. Evidence of such coverage shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the public works authority.

Section 5. Permit

- 5.1 No person or utility shall make any excavation or fill any excavation in any public place without first obtaining a permit to do so from the Town. A certificate of Public Liability Insurance is required prior to the issuance of any excavation permit, with a minimum of \$1,000,000.00 coverage naming the Town as an additional insured.
- 5.2 No excavation permit shall be issued unless a written application on a form provided by the Town for an issuance of an excavation permit is submitted to the Town. The written application shall state the name and address of the applicant, the name of the public place to be excavated and street number, the beginning date of proposed work, the type of work to be done, signatures of utility approval, the signature of Town departments (if involved), a diagram of the planned excavation on the back of the form.
- 5.3 Utilities, although having to submit an application for a permit to the Town, may contact other utilities involved by phone and the authorized person doing so shall sign the application in the appropriate place. All applications shall be presented to the Town for the issuance of an excavation permit within thirty (30) days from the date of the last utility approval. After the expiration of this thirty (30) day period such application shall become null and void and shall have to be renewed.
- 5.4 In order to obtain a permit, the applicant must be in possession of a current excavator license from the Town of Gorham, and the applicant must be current on all of its financial obligations to the Town.
- 5.5 Excavation work must be started no later than sixty (60) days from this date of the issue of the excavation permit. After the expiration of this sixty (60) day period, such permit shall become null and void and shall have to be renewed.

Section 6. Special Conditions

6.1 Relocation and protection of utilities

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner. No facility owned by the Town shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus, which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along, or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall

inform itself as to the existence and location of all underground facilities and protect the same against damage.

6.2 Protection and non interference of public property:

- a. The permittee shall not remove, even temporarily, any trees or shrubs which exist in the street area without first obtaining the consent of the appropriate Town department or Town official having control of such property.
- b. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, traffic signal cables or loops and all other equipment designated by the Town.

6.3 Urgent Work

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours including up to twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible.

6.4 Emergency action

Nothing in this article shall be construed to prevent the making of such emergency excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations in accordance with 23 MRSA, Section 3360-A.

6.5 Noise, dust and debris

Each permittee shall conduct and carry out excavation work in such a manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the Town or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb sleep or occupants of the neighboring property.

6.6 Preservation of monuments

Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or bench marks shall be granted only when no alternative route for the proposed substructure or conduit is available. If the Town is satisfied that no alternative route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such

permission shall pay all expenses incident to the proper replacement of this monument by the Town or permittee.

6.7 Granite and bituminous curb

No person or utility shall remove, damage, haul away or cause misalignment of any bituminous curb, granite curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the Town. Any curb missing, damaged or misaligned shall be replaced or aligned by the Town at the rate set forth herein and will be charged to the permittee; provided, however, that the Town, at its option, may allow the permittee to replace or realign that portion of the curb damaged by the permittee's excavation. In such event, replacement or realignment shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete such work. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such work and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

6.8 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 Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames, and/or covers missing damaged or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Public Works Department.

6.9 Excavations in reconstructed streets

Whenever the Town has developed plans to reconstruct a street, the Town or its representative shall give written notice thereof to all abutting property owners, to the Town departments, and to all public utilities that have or may wish to lay pipes, wires or other facilities in or under the highway. Upon receipt of such written notice, such person or utility shall have sixty (60) days in which to install or lay any such facility. If an extension of time is needed by a person or utility for the installation of such facilities, the person or facility shall make a written application to the Town explaining fully the reasons for requesting such an extension of time. At the expiration of the time fixed and after such street has been reconstructed, no permit shall be granted to open such street for a period of five (5) years unless an emergency condition exists or unless the necessity for making such installation could not reasonably have been foreseen at the time such notice was given. The above mentioned five (5) year moratorium for street openings also pertains to all new public or private streets, i.e. new subdivisions or developments that have been accepted in accordance with Town specifications.

6.10 Incurred expenses through repairing and backfilling by Town of Gorham

- a. If the work or any part thereof mentioned in this article for repairing or backfilling the trenches or excavations shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall keep an account of the expense thereof, and in such case such person or utility shall pay the Town an amount equal to the whole of the expense incurred by the Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the

determination of the costs thereof, the Town shall issue no further or new permits to any person or utility until it shall receive payment of the estimated costs.

- b. Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

6.11 Maintenance of drawings

Every person or utility owning, using, controlling, or having an interest in substructures, under the surface of the public way used for the purpose of supplying or conveying gas, electricity, communication, impulse, water, steam, ammonia or oil in the Town, shall file with the Town, a map or set of maps each drawn to scale of not less than one (1) inch to fifty (50) feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures, except service lines designed to serve single properties. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction.

6.12 Annual work program to be submitted by utilities

Each year on or before March 31st, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, no permit shall be issued to a utility for excavations not contained within its planned work program, except for emergencies and house service lines, until a prior written application for such excavation shall have been submitted to and approved by the public works authority.

Section 7. Excavation, Resurfacing

7.1 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 Town.

7.2 Protective measures and routing of traffic

- a. Safe crossings. The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians. If any excavation is made across any public street or sidewalk, adequate crossings shall be maintained for vehicles and for 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.
- b. Barriers and warning devices. It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for 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 Public Works 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 of each day to sunrise of the next day. Electrical markers or flashers shall emit light at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace light sources.

- c. Normalizations of traffic conditions. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.
- d. Closing of streets. When traffic conditions permit, the Public Works Department, with the approval of the police and fire departments of the Town, may by written approval (or by verbal approval in case of an emergency), permit the closing of streets to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. The written approval of the Public Works Department may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency on week nights, weekends or holidays the utility company having such emergency shall contact the police and fire departments by phone before closing a street to traffic.
- e. Interference with arterial streets. The permittee is also informed that construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town. 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 roadway lane width shall be maintained between the hours of 4:00 p.m. and 5:45 p.m.
- f. Shifting traffic to opposite side. The permittee may shift traffic to the opposite side of the roadway to maintain required lane width. The permittee may only make such shift with the approval of the Public Works Department following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of police officers.

7.3 Breaking through pavement in streets and sidewalks

- a. All excavations on paved street and sidewalk 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 Town when the use endangers existing substructures or other property.
- c. Cutouts of the trench lines must be normal or parallel to the trench line.
- d. Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.
- e. Unstable pavement shall be removed over cave-outs and over breaks and the sub grade shall be treated as the main trench.
- f. The permittee shall not be required to pay for repair of pavement damage existing prior to the excavation unless his or her cut results in small floating sections that

may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.

- g. When three (3) or more street openings are made in sequence fifteen (15) feet or less, center to center, between each adjacent opening, the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall patch as one trench.
- h. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on the other side of the excavation.

7.4 Care of Excavated material

- a. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such 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 streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Town shall have the authority to require that the permittee haul the excavated material to a storage site and then re-haul it to the trench site at the time of backfilling.
- b. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.
- c. All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Town. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, the boards or bins may be required by the Town to prevent the spreading of dirt into traffic lanes.

7.5 Backfilling of excavation

Crushed stone or sand shall be used to bed all underground utilities and shall be thoroughly compacted under, around and to a minimum of 6 inches above the structure. After being properly bedded, the backfill material, if suitable, shall be the excavated material. If the excavation is not suitable, backfill shall be of a like material approved by the Town. All backfill materials shall be placed in eight (8) to ten (10) inch lifts and thoroughly compacted with approved mechanical compactors. Within eighteen (18) inches of the sub grade of the pavement, gravel shall be used as backfill material consisting of fifteen (15) inches of bank run and three (3) inches of crushed or screened gravel in accordance with the Town's specification. The Town 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 material meets the minimum requirements as prescribed by the Town. All expense of such tests shall be borne by the permittee.

7.6 Trenches

The maximum length of open trench in an excavation permissible at any time shall be two hundred (200) feet, and no greater length shall be opened for pavement removal,

excavation, construction, backfilling, patching or any other operation without the written permission of the Town.

7.7 Prompt completion of work

After an excavation is commenced, the permittee shall prosecute 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 permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel by foot or vehicle.

7.8 Excavation during winter

No person or utility shall be granted a permit to excavate or open any street or sidewalk from the time of November first of each year to April fifteenth of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town. Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation existing to the Town before issuance is granted. If a hazardous condition, which could endanger life of property exists, excavation work shall not be delayed by this section, however, a written explanation shall be delivered to the Town as soon as possible and a street opening permit obtained for the opening made.

7.9 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 Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames, and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the permittee in accordance with the specifications set forth by the Public Works Department.

7.10 Resurfacing of Streets and Sidewalks

- a. Permanent resurfacing by the Town. Permanent resurfacing of excavations in streets shall be made by the Town.
- b. Temporary resurfacing by the permittee. The top surface of backfill shall be covered with four (4) inches compacted depth of bituminous temporary resurfacing material, by the permittee. Such temporary paving material shall be cold mix, except that the permittee may use or the Town may require hot mix. All temporary paving material 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 permittee shall maintain the temporary paving and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving by the Town, 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 permittee shall maintain barriers and lights where required herein.
- c. Permanent resurfacing by the permittee. Upon completion of the backfilling and temporary resurfacing of an excavation within a public place for the installation or removal of a substructure, the Town, at its option, may allow the permittee to

permanently resurface that portion of the street surface damaged by the permittee's excavation. In such event, permanent resurfacing shall be done in a manner and under specifications prescribed by the Town and subject to inspection by the Town and shall be completed within a period of ninety (90) days after such authorization to complete final resurfacing. If such permanent resurfacing is satisfactory to the Town, all charges for resurfacing except for permit fees, long-term maintenance reserves and Town inspection charges, as herein set forth, will be canceled. The permittee shall, for a period of three (3) years thereafter, be fully liable for all defects in materials and workmanship relating to such resurfacing and shall promptly repair or replace the same upon notice of the public works authority and to the satisfaction thereof.

7.11. Inspections

The Town shall make such inspections as are reasonably necessary in the enforcement of this article. The Town shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

Section 8. Fees and Charges

- 8.1 Fee. A non-refundable fee of twenty five dollars (\$25.00) shall be paid for each issuance and for each renewal of an excavation permit. A non refundable fee of fifty dollars (\$50.00) shall be paid for each application and for each renewal of a major excavation permit.
- 8.2. Waiver of Fees. The Town Manager may waive all permit fees in streets, sidewalks, or driveway areas to contractors under contract to the Town (including the Portland Water District), the Maine Department of Transportation, or the Town of Gorham.
- 8.3 Cost of Replacement. Charges shall be established and updated from time to time by order of the Town Council to cover the cost of replacement of the street or sidewalk after openings under this article, which charges shall not be in excess of the reasonable cost of such replacement.
- 8.4 Major Excavation Projects.
- a. For major excavation projects (as defined in Section 2.10 of this ordinance), the application fee shall be fifty (\$50.00) dollars. Applicants must post a performance bond equal to 105% of the estimated excavation costs of the project (as determined by the Public Works Director or the Director's designee) or twenty thousand (\$20,000) dollars, whichever is more, for a minimum of twelve (12) months or the duration of the project, whichever is more.¹
 - b. Applicants must agree in writing to repair any excavation work to Town standards.
 - c. Applicants must agree in writing to warranty their work until the street, where the excavation work was done, is repaved.

¹ Amended July 7, 2009

8.5 Special Conditions.

- a. Where three (3) or more street openings are made in sequence (fifteen (15) feet or less, center to center, between each adjacent opening), the permittee shall be charged for one opening measured from the first opening to the last opening.
- b. The Town of Gorham reserves the right, after due notice:
 1. To provide such supervision and inspection as the Town may deem necessary.
 2. To re-excavate and backfill as may be necessary.
 3. If the area is improperly and unsatisfactorily cleaned up, to clean up the area.
 4. To charge the holder of the permit the cost of all work performed under reservations (1,2, and 3 above); which charge will be in addition to the normal fee for street openings and will be included in the final bill to permit holder.
- c. In streets where the Town has installed new sanitary sewer or storm drain and the pavement on such streets is in need of major repair, the Town may waive up to fifty (50) percent of the total street opening repair charge to utilities and individuals having work to do on such streets.

Section 9. Billing Procedures:

- 9.1 Upon completion of the excavation work and after settlement has stabilized, a measurement shall be made by the Town of the size of the opening and a bill will be mailed to the permittee depending upon the costs of the opening to be repaired. Cost of repair of the opening will be a factor of the total number of square yards multiplied by the appropriate rate as set forth herein. Bills rendered in accordance with this section shall be due and payable by the permittee immediately upon receipt thereof. If a permittee does not pay any such bill within thirty (30) days after receipt, the Town shall issue no further permits to any such permittee until it receives payment of such outstanding bill.

Section 10. Penalty

- 10.1 Any person, firm or corporation who violates any of the provisions of Chapter 2 of this ordinance shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than One thousand dollars (\$1,000.00) for the first offense and not less than Two thousand (\$2,000) dollars for the second and subsequent violation and shall be subject to any legal and equitable remedies as may be available to the Town. Each day such violations continue shall constitute a separate offense.

If the work or any part thereof mentioned in the preceding sections of repairing or backfilling the trenches or excavations aforesaid shall be unskillfully or improperly done, the Town shall cause the same to be skillfully and properly done, and shall pay the Town an amount equal to the whole of said expense incurred by said Town with an additional amount of fifty (50) percent. Thereafter, upon completion of the work and the determination of the costs thereof, the Town shall issue no further or new permits to any person or utility until it shall receive payment of said costs.

Any person or utility who continues to violate any section of this article shall receive no further permits until such time as the Town is satisfied that the person or utility shall comply with the terms of this article.

Section 11. Liability of Town

- 11.1 This article shall not be construed as imposing on the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which an excavation permit is issued hereunder; nor shall the Town or any official or employee of the Town be deemed to have assumed any such liability or responsibility by reason of inspections authorized by this ordinance, the issue of any permits, or the approval of any excavation work.

Section 12. Validity and Severability

- 12.1 If any section or provision of this ordinance is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

Section 13. Conflicts with Other Ordinances

- 13.1 This ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw or provision of law. If this ordinance conflicts with any other ordinance, regulation, bylaw, or provision of law, the greater restriction shall prevail.