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CHAPTER 15. STREETS.

ARTICLE 1. ELECTRIC WIRES AND POLES

Section 15-1. Erecting electric wires and poles; permit required.

No person shall erect or maintain or cause to be erected or maintained, any poles or other structure designed to support any wire or cable for the transmission of electric energy in any of the streets or public places in the City or attach any wire or cable to any building owned by the City, without first obtaining a permit from the City Manager and Council, on written application therefor, and after due notice and hearing, as required by law.

Section 15-2. Permit subject to conditions.

(a) All permits issued by the City Manager and Council pursuant to Section 15-1, shall be subject to the following conditions:

- (1) That no permanent rights shall be obtained in the streets or public places by reason of the continuous use of such poles or other structures, or of the wires and cables thereby supported;
 - (2) That such poles, wires and cables shall be subject to change of location or removal, when deemed necessary for the public interests, on order of the City Manager and Council; and,
 - (3) In case of fire, if necessary, such poles, wires and cables may be cut or removed by order of the Fire Chief or his designee without the owner or lessee thereof having any claim against the City thereof.
- (b) All poles and other structures erected and maintained under the provisions of this Article shall be of such height, and be finished and painted in such manner as the City Manager and Council may prescribe.

Section 15-3. Liability of permittee.

Every person erecting, maintaining or using such poles, wires or cables, shall indemnify and hold the City harmless from and against all lawful claims and demands for injuries to persons or property occasioned by the existence thereof, or by the transmission of electric energy by means thereof. The erection, maintenance and use of such poles, wires and cables shall be deemed an assent on the part of the person so erecting, maintaining or using the same to all the provisions of this Article.

Section 15-4. Listing of poles and wires upon request.

Upon request of the City Manager and Council, every person operating electric or any other wires upon, over or under any street or building, shall within thirty (30) days thereafter, furnish to the City Manager and Council accurate lists of the locations of all poles, the number of cross-arms thereto affixed, and the number of wires thereto attached, the locations of sub-ways, manholes, and other information in relation to their methods, together with information as to where service is rendered, whether telegraphic, telephonic or electric lighting, specifying the type of lighting, or electric power.

Section 15-5. Authority to order shut off of electric power.

The City Manager shall have authority, whenever in his opinion the public safety demands it, to direct any person using or operating any such wires, to shut off the electric current therefrom for such period of time as he may deem necessary. The City Manager or his designee shall have authority, in case of fire, to order the current shut off from such wires as he knows or believes to be dangerous to life or property. No person shall refuse or neglect to shut off such current, when so directed by the City Manager or designee.

Section 15-6. Pieces or loose ends in public ways prohibited.

No person shall permit pieces of wire to be left on the surface of any street or sidewalk, or permit unused coils or loose ends of wires to remain attached to any poles or cross-arms for more than twenty-four (24) hours.

Section 15-7. Duty to place underground or in metal conduits; grounding low potential circuits.

- (a) Every person owning, maintaining or using wires above ground shall, when required by the City Manager and Council, take down and remove at their own expense all poles used as the support of such wires, and place such wires beneath the ground.
- (b) Whenever the laying of interior wires in metal construction in the fire district shall be deemed necessary by the City Manager and Council, all persons owning such wires shall install such wires in a form approved under the standards of the National Electrical Code, 1984 Edition, as published by the National Fire Protection Association.
- (c) All low potential circuits supplying current to consumers must be grounded at the transformer or at each service entrance to the buildings, and comply with the rules and standards of the National Electrical Codes, 1984 Edition, as published by the National Fire Protection Association. All expense of the above grounding shall be paid for by the person supplying the current.

Section 15-8. Use of poles by City.

The City shall have the exclusive use of the upper gain on all poles for the purposes of placing arms and wires thereon for municipal uses. Where an arc light is to be installed by the City, it shall have the use of such top of pole as is necessary to accomodate such lights.

Section 15-9. Crossing of high tension wires; distance between wires.

All wires carrying a current sufficiently powerful to be dangerous, shall, whenever they are crossed by an overhead wire, be brought to a junction pole of sufficient height to allow placing of all arms at least forty (40) inches apart. Such wires must be of sufficient cross section to withstand any arching of electricity or ordinary sleet storm.

ARTICLE 2. SNOW AND ICE.

Section 15-20. Removal of snow and ice.

Whenever ice shall have formed upon any sidewalk in the Downtown Commercial Zoning District, the owner of the property abutting the sidewalk shall cause the ice to be removed or to be properly treated with sand or other suitable substance to keep the footing secure. (Ord. 11/15/2023)

Section 15-21. Depositing snow on streets and sidewalks.

No person shall deposit or cause to be deposited any large body of ice, or heap of snow, or water that will become ice in any street, sidewalk, lane, or public square of the City. Any material plowed from driveways or from private property shall be disposed of without piling in a public way or on a sidewalk. It shall be the owner's responsibility to see to the proper disposal of the plowed material. (Ord. 11/15/2023)

Section 15-22. Penalty.

Any person violating any of the provisions of Section 15-20 and Section 15-21 of this Article, in the initial instance, shall be issued a written warning. Any second or subsequent violation shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00) payable to the order of the City of Bath. Each day that such violation is permitted to continue shall constitute a separate violation. (Ord. 2/3/2016)

Sec. 15-23. Snow or Ice Threatening Use of Public Streets or Sidewalks.(Ord. 2/3/2016)

A. Applicability: The following provisions shall apply to all property owners with buildings or structures that abut the public sidewalks and/or streets, or are in proximity to public sidewalks and/or streets such that falling ice or snow falling from the building or structure would fall on the public sidewalks and/or streets.

B. Duty to Remove: When an accumulation of snow or ice on a building or structure poses the threat of falling onto public sidewalks and /or streets, it shall be the duty of the property owner to cause the removal of such accumulations in order to make passage along sidewalks and/or streets safe and convenient and to eliminate any danger from falling ice or snow to pedestrians, vehicles, and/or personal property.

C. Commencement of Duty, Notice: Such removal shall take place either: (1) whenever a threatening condition occurs; or (2) within twenty-four (24) hours after the Code Enforcement Officer or his/her designee has verbally or in writing given notice as provided below of the condition and ordered the removal of such accumulations, whichever occurs first. Whenever snow or ice accumulates in such a manner as to hang over a street or sidewalk, such a condition shall constitute prima facie evidence that the condition is a threatening condition. A determination by the Code Enforcement Officer or his/her designee that an accumulation of snow or ice is a threatening condition shall be conclusive and not subject to challenge or appeal until after the building owner has removed the snow or ice. Notice shall be given to the owner or to an owner's agent who has maintenance responsibility for such building. The record owner of each such building shall be the owner as appears in the records at the Sagadahoc County Registry of Deeds.

D. Failure to Remove: In instances where the owner has not caused the removal of the accumulated ice and snow, then the Code Enforcement Officer or his/her designee may arrange for the removal of snow and ice accumulations which exists in violation of subsections (B) and (C) above in order to eliminate any danger to pedestrians, vehicles and/or personal property.

E. Enforcement; Penalties:

(1) This Article shall be enforced by the Code Enforcement Officer and/or his designee.

(2) The City Manager may declare a delay of enforcement of this Article. Such a declaration shall be for the purpose of giving property owners additional time to clear their ice or snow from buildings upon which ice or snow has accumulated, or for such other good cause shown. Any such declaration shall be reduced to writing as soon as practicable thereafter, stating the reasons therefore. Such declaration shall be communicated to such representatives of the communications media as the city manager may direct.

(3) Pursuant to 30-A M.R.S.A. § 3007, after a building owner or lessee has been given one (1) notice and order under subsection (C) above and failed to comply and the City has removed the snow or ice, or when a building has been the subject of three (3) or more notices within an eighteen-month period, the Code Enforcement Officer or his/her designee may require the owner of a building to install roof guards, or take other measures approved by the Code Enforcement Officer or his/her designee, at the owner's expense to prevent the fall of snow or ice.

(4) The penalty for an offense shall be two hundred fifty dollars (\$250.00), plus attorney's fees and costs. When the City removes or arranges for the removal of snow or ice accumulations, the owner shall also be charged the costs of removal, plus a ten (10%) percent charge for administration. A separate bill for each such removal shall be submitted to the record owner of the building as soon as practicable after the charges have been incurred.

(5) Liens. In addition to other collection methods authorized by law, and the penalties provided herein, charges assessed pursuant to this Article shall be enforceable by lien for the benefit of the City. If the penalties, assessments and costs are not paid within thirty (30) days of notice to the owner of the amount due, then the non-payment shall be provided to the Tax Collector who shall collect the amount as part of the next year's ad valorem property taxes for the property. In addition, a notice of lien may be filed in the Sagadahoc County Registry of Deeds.

F. Liability: Where there is a failure of the owner after notice to remove the accumulated ice or snow from a building or structure pursuant to this Article, and the City must perform the removal, then the City shall be held harmless from any form of liability with regard to the removal

ARTICLE 3. EXCAVATIONS AND STREET OPENINGS (12/18/02)

Section 15-31. Purpose.

The purpose of this Article is to regulate excavation on public property, and in public rights-of-ways and streets including sewer and storm water easements in the interest of protecting public safety and convenience, and to protect and allow for the operation of public infrastructure. Excavation and restoration standards set forth herein or referred to herein are deemed to be necessary to protect the use and operation of public property, and public streets and rights-of-ways and to preserve and protect their integrity, operational safety, and function.

Section 15-32. Scope of Article.

The requirements defined herein shall apply to all new facilities and any additions, alterations, adjustments, relocations or replacements of existing facilities within the limits of public property, and in public rights-of-ways and streets and including City sewer and storm water easements. Unless specifically stated otherwise, this policy is not intended to require the adjustment of existing facilities that do not constitute a safety hazard to the public or do not conflict with the use, construction or maintenance of public property, and public rights-of-ways and streets. Notwithstanding the foregoing, the duties and responsibilities set forth in this Article apply to all facilities, whether existing or proposed.

Section 15-33. Administration.

The City official responsible for the administration of this Chapter shall be the Public Works Director. Any and all duties and obligations incurred to that administration may be delegated.

Section 15-34. Definitions.

The following words and phrases, when used in this Article, shall have the meanings respectively ascribed to them. All other words and phrases not defined herein, shall be ascribed their normal and customary meaning:

Dig Safe shall mean the “Underground Protection of Facilities Act,” commonly known as the Dig Safe law, found at 23 MRSA § 3360-A.

Director shall mean director of public works and/or designee.

Edge of Traveled Way shall mean the outer edge of the outmost lane intended for vehicular traffic and exclusive of shoulders, turning lanes or climbing lanes.

Emergency shall mean any event which may threaten public health or safety, including, but not limited to, damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged underground electrical communications facilities, or downed or seriously damaged overhead pole structures.

Excavation shall mean any operation in which earth, rock, or other material below the ground is moved or otherwise displaced, by means of power tools, power equipment or explosives and including grading, trenching, digging, ditching, drilling, augering, tunneling, scraping and cable and pipe driving, except tilling of soil or gardening or displacement of earth, rock or other material for agricultural purposes, and except installation and maintenance of sign performed by the City or Department of Transportation.

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 other 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 way or place.

Guarantee Period shall mean a minimum two (2) year period of time from completion of construction for which the permittee will be responsible for making any repairs to the excavation. In instances, due to the extent, depth, location or other factor relating to the construction warrant, the guarantee period may be extended by the Public Works Director upon notice to the permittee prior to completion of construction, for an additional period of time not to exceed a total of four (4) years.

Newly constructed, reconstructed or rehabilitated streets shall mean any street which has been newly constructed, reconstructed or rehabilitated for a period of five (5) years from the completion of the new construction, reconstruction or rehabilitation.

Paved Area shall mean an area with a paved surface of material such as hot-mixed asphalt, concrete, brick, cobblestone, or granite pavers. These areas are typically referred to as streets, driveways, alleys, sidewalks or walkways.

Person shall mean any natural or corporate Person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a limited liability company, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Pole placement shall mean an excavation associated solely with a single placement or replacement of a utility pole.

Public place shall mean any public street, way, place, alley, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the City and dedicated to public use, and any dedicated-but-unaccepted street or way.

Rehabilitation shall mean that activity of work on any street which provides structural improvement having a minimum service life of fifteen (15) years with minor maintenance, which includes pavement overlay of one and one-half (1 ½) inches minimum depth, and partial or full depth reconstruction.

Rules and regulations shall mean the rules and regulations promulgated under Section 15-34 of this Article.

Substructure shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, utility system appurtenance, or any other similar structures located below the surface of any public place.

Technical and design standards and guidelines shall mean the standards and guidelines promulgated by the Public Works Director or designee as part of the rules and regulations required under Section 15-35 of this Article.

Traveled Way - That portion of a public rights-of-way or street designated for the use of vehicular traffic excluding any shoulders, sidewalks or parking spaces.

Utility shall mean every public or private entity operating telephones or transmitting television signals; every public or private entity that owns, controls, operates or manages any pipeline within or through

this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every public or private entity making, generating, selling, distributing and supplying gas or electricity; every water or sewer company, district or system owned or operated by a public or private entity; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35 (Title 35-A MRSA); and any other public or private entity engaged in telecommunications or the transmission of heat, or electricity. [35-A MRSA §2501] For the purposes of this policy, this definition incorporates entities beyond those defined as a “Public Utility” in Title 35-A MRSA and is not intended to affect the applicability of that definition for purposes beyond the scope of this policy.

Section 15-35. Rules and Regulations.

The Public Works Director shall establish rules and regulations governing excavations at all public places within the limits of the City of Bath. These rules and regulations shall contain technical and design standards and guidelines regarding the methodology under which excavations are undertaken and restoration of the excavated areas are accomplished. They may also contain any other provisions necessary and appropriate to the implementation of this Ordinance.

Section 15-36. Permit Required/Fees.

No person or utility shall make any excavation, modify, or fill any excavation, excluding a previously permitted location, in any public place which shall include all City sewer and storm water drainage easements without first obtaining a permit to do so from the City except as otherwise provided in this Article or the rules and regulations. Any excavation within the City’s streets, sidewalks, esplanades or other public rights-of-way including City sewer and storm water drainage easements shall only be permitted in accordance with this Article or the rules and regulations. The granting of such a permit shall cover all required activities and mandate conformance with this Article and the rules and regulations. The fee for the permit required under this Section shall be set at fifty dollars (\$50.00). This fee may be subsequently amended and reestablished by Resolution of the Bath City Council. (Ord.9/3/14)

Section 15-37. Applications.

Prior to the issuance of the permit required in Section 15-36 above, and prior to any excavation work or activity taking place, there shall be submitted to the Public Works Director or designee an Application containing such information in sufficient detail of the project to permit review without the need of a site visit. At the time of submission of an application, the Public Works Director or designee shall verify that the applicant has provided evidence of insurance coverage in accordance with the requirements of Section 15-49.

A. Application Without Plans. Where the Application is of a nature not to require plans, the Application must, at a minimum, contain information that designates the specific location of the excavation, a description of the proposed installation, repair or renovation, the nature of the excavation in terms of its depth or height. Each location and proposed installation shall be stated separately.

B. Application With Plans. For larger projects, and for those projects deemed to be of a nature where plans are required by the Public Works Director, supporting plans shall be submitted with the Application. The plans shall contain the following:

(1) General Location. The purpose of the general location (or permit area) description is to fix the location along the highway, to identify the highway system and to determine the licensing authority. The location shall be established by reference to a town line, readily identified intersection, major stream crossing, railroad crossing, or bridge number.

A general location map is required and shall be tied to the highway system. The map may be a photocopy of a portion of an accurate area map or sketch traced from such a map.

(2) Proposed Installation. Describe the immediate proposed installation and the ultimate reasonable replacement or addition, which may be anticipated without seeking a new permit. Indicate the size, type and purpose of pipes, poles, voltage and phase of electrical line, number of cables or strands, etc. Mention hydrants, services, protective and supporting equipment and associated appurtenances or any other proposed utility not listed above.

In urban or congested areas, the proposed installation should be in compliance with the existing Municipal Construction Standards. If not, the Application should be accompanied with a statement indicating reasons for non-compliance.

(3) Specific Location Plan. The specific location plan or sketch shall show the location of the principal units of the installation. Longitudinal distances between control points, bends, manholes, poles, etc. shall be given. Offset distances from the highway centerline, edge of pavement, curb or other well-defined applicable reference shall be given. Offsets shall be to the centerline of underground installations. Offsets shall be in feet and inches to the near side of poles, hydrants, etc., which are less than 10 feet from the face of curb or outer edge of shoulder. The safety minimum offset for the location is acceptable for all poles, which will be at, or beyond that offset. Edge of traveled way or assumed Right of Way lines, and other pertinent highway features shall be indicated.

A separate specific location plan shall be submitted for each proposed installation. No more than two highways should be shown on one sheet.

(4) Supporting Data. The application should contain or be accompanied by a statement indicating:

That a copy of the application has been given to the municipal officers.

The newspaper in which the application will be published.

Any proposed joint use or ownership of the facility.

Any existing facility or permit of the applicant at this location.

Any existing facility of others with which the proposed installations may conflict.

Personnel available to review proposed locations at the site, by name, address and telephone number.

An as-built survey of the Utility post construction to a scale of 40' = 1" on a 24" X 36" Vellum must be provided. A digitized electronic drawing file copy on a 3 ½ inch floppy disk or CD will be required for larger projects as determined by the City. The Director shall approve the format of the digitized file drawing.

(5) Utilities. Natural gas pipeline utilities and natural gas utilities shall also provide maps of existing substructures and shall meet all other requirements in 23 M.R.S.A. § 3360-A(3-C) as those requirements may be amended from time to time.

C. Submission of As-Built Drawing. Within sixty (60) days of the completion of an excavation, there shall be submitted to the City an as-built survey of the installation, renovation or repair, depicting all post-construction conditions, to a scale of not less than 1" = 50'. A digitalized electronic drawing file copy, in an appropriate format acceptable to the Public Works Director, will be required for larger projects as may be determined by the Director.

D. Notices. Prior to the issuance of any Permit, and the commencement of any excavation activities, the Applicant shall certify to the Public Works Director that all notice requirements pertaining to the type of excavation work to be undertaken, have been met, all proper parties notified, and all time frames regarding notice have been met. Compliance with notice requirements shall be the sole and exclusive responsibility of the Applicant.

E. Dig Safe. Prior to the issuance of a Permit under this Article, the Applicant shall demonstrate to the Public Works Director or designee that all requirements of the Maine "Dig Safe" Law, 23 M.R.S.A. § 3360-A have been met.

F. Denial; Revocation. The Director shall have the right to deny any permit application where the area is considered newly constructed, reconstructed or rehabilitated, the excavation is proposed between November 15th and April 15th, where a significant public hazard would be a result of the excavation, or where the Applicant has demonstrated an inability to meet the requirements of this Ordinance and the rules and regulations promulgated hereunder. The Director shall have the right to revoke a permit that has been issued under this Article where a public safety hazard has been created, where the excavation activity is being conducted in a manner which violates any of the terms and conditions of this Article or the rules and regulations promulgated hereunder, or for any other just cause. Upon issuance of an Order of Revocation, all work on the excavation shall cease except work specifically designated by the Director to cure a safety hazard, or to provide a location that will be safe to the general public and vehicular and pedestrian traffic.

G. Other Permits. The issuance of a permit under this Article, shall not be deemed, or imply that it is in lieu of or constitutes a waiver of any other City permit requirements under this Chapter or any other City Code.

Section 15-38. Emergency Action.

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 City 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.

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the City 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 Dig-Safe and all utilities that may be located near the excavation site.

Section 15-39. Preservation of Monuments.

Any monument set for the purpose of locating or preserving the lines of any street or other private property, property subdivision, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the City is satisfied that no alternate route is available, permission shall be granted 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 City.

Section 15-40. Hours of Excavation.

Under normal construction circumstances, construction activity shall not begin earlier than 7:00 a.m. nor continue beyond 7:00 p.m. of any regular business day. Under circumstances where emergency conditions exist, where there are safety hazards or concerns, or where the construction needs to be completed without delay, the Public Works Director may authorize work outside the specified time period. Neither construction work nor excavation work shall not occur on Sundays, holidays or on major holiday weekends, unless expressly authorized by the Public Works Director or as needed to address an emergency situation.

Section 15-41. Restrictions on Excavation.

A. Winter Excavations. No person or utility shall be granted a street opening permit or open any paved area from the time of November 15th of each year to April 15th of the following year unless an emergency or special condition exists and permission is obtained in writing from the City.

Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation or special condition existing to the City before a permit application will be considered for approval. If an emergency condition which could endanger life or property exists, excavation work shall not be delayed by this section; however, a written explanation shall be delivered to the City as part of the street opening permit application made in accordance with Section 15-37. In the rare event that a non-emergency permit is issued between the aforementioned dates for an excavation permit into a paved area, a moratorium surcharge of five hundred dollars (\$500.00) will be added to the regular permit fee. This moratorium surcharge may be waived by the Director if specific weather conditions exist and paved area restorations are in compliance with normal construction season standards, as described in the rules and regulations.

For the purpose of this Section, an emergency shall be defined as one (1) of the following: damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed or seriously damaged overhead pole structures; all remaining excavations will be considered non-emergency situations and may only be authorized upon written documentation of special circumstances.

B. Newly Constructed, Reconstructed or Rehabilitated Streets. The Public Works Director reserves the right to deny an application for any street or public way that has been constructed, reconstructed or rehabilitated within a five (5) year period as provided in 23 M.R.S.A. § 3351 and as that Section may be amended from time to time. Any excavations into such streets shall be subject to moratorium restoration requirements as set forth in 23 M.R.S.A. § 3351-A as may from time to time be amended. Where excavation is permitted within the five (5) year period, the full width of the road surface on both side of the cut for a distance of ten (10) feet from the outside edge of the disturbed pavement shall be relaid. Such restoration shall comply with applicable technical and design standards and guidelines in the rules and regulations promulgated by the Public Works Director.

Section 15-42. Performance Standards.

The following general performance standards shall apply to all excavations permitted under this Article:

A. Noise, Dust and Debris. Each excavator shall conduct and carryout excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the excavator shall take appropriate measures to reduce noise, dust and unsightly debris in the performance of the excavation work.

B. Preservation of Curbing. No person or utility shall remove, damage, haul away or cause misalignment of any curbing, including radius curb and catch basin stones, for any reason whatsoever without first receiving written permission from the City. Any curb missing, damaged or misaligned shall be replaced or aligned by the City and will be charged to the permittee; provided, however that the City, at its option, may allow the permittee to replace or realign that portion of 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 City and subject to inspection by the City and shall be completed within a period of thirty (30) days after such authorization to complete such work. If such replacement or realignment is satisfactory to the City, all charges therefore except for permit fees, long-term maintenance reserves, if applicable, and City inspection charges, 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 replacement or realignment and shall promptly repair or replace the same upon notice from the Public Works Director or designee and to the satisfaction thereof.

C. 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 City, and the cost will be charged to the permittee.

D. Restoration of Paved Areas. All paved area restorations, including temporary and permanent work within any street, driveway or sidewalk shall be performed in accordance with the City's Code of Ordinances and technical and design standards and guidelines available through the Public Works Director, and according to the rules and regulations promulgated by said Director pursuant to Section 15-35 of this Article. The Director may choose to waive specific repair requirements for just cause, including utility work being conducted prior to or in conjunction with a planned City/MDOT construction project.

E. Protection of Public Property. The permittee shall not remove, even temporarily, any trees or shrubs which exist in a public place without first obtaining the consent of the appropriate City Department or City Official having control of such property.

F. Prompt Completion of Work. After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the street opening permit and shall promptly complete such work and restore the street or sidewalk as specified in this Article and the rules and regulations enacted by the Public Works Director. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel.

Section 15-43. Relocation and Protection of Utilities.

The permittee shall not interfere with any existing facility without the written consent of the City and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by or with the written consent of its owner. No facility owned by the City shall be moved to accommodate the permittee unless the cost of such removal 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 or utility 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 City 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 in accordance with 23 M.R.S.A. § 2260-A as may be amended from time to time.

Section 15-44. Ownership of Material.

Any material excavated from a City street, public way or other public place shall remain the property of the City of Bath unless otherwise determined by the Public Works Director. The material shall be

disposed of in a manner and at a location determined by the Public Works Director and shall be indicated on the Application.

Section 15-45. Repair to Damaged Facilities; Corrective Action.

A. Repairs. The Public Works Director shall notify any excavator that any public facility or property or the property of any utility has been damaged by the excavation activity. That damage shall be repaired in accordance with a time frame determined by the Public Works Director. Failure on the part of any excavator to make the required repairs may result in the City utilizing the corrective action procedures in Subparagraph B below.

Corrective Actions. If any part of any excavation, including the excavation, backfilling and repairs fails to conform with the standards of this Chapter and the rules, the City shall notify the permittee and require the appropriate corrective actions to be undertaken. Permittee shall take corrective action within twenty-four (24) hours after the issuance of notice if the failure could trigger tort liability or liability for street defect, as defined in 23 M.R.S.A. § 3651 et seq., as amended from time to time. In all other instances, the permittee shall have a reasonable time to undertake corrective action.

If the permittee fails to respond within the required time period, the City shall cause the necessary repairs to be accomplished, and shall keep an account of the expense thereof, and in such case the permittee shall be billed an amount equal to one hundred fifty (150) percent of the whole of the expense incurred by the City. Bills rendered in accordance with this Section shall be due and payable by the permittee immediately upon receipt. The City shall issue no further or new permits to the permittee until full payment of the billed costs has been received.

If for any reason the City has to perform repair work to an excavation after the permittee's guarantee period has started, that guarantee period shall start over again upon completion of the repairs.

Section 15-46. Inspections.

(a) The City shall make such inspections as are reasonably necessary in the enforcement of this Article and the rules and regulations.

(b) The Public Works Director may order such actions as it deems necessary to ensure that this Article and the rules and regulations implementing it are not violated.

(c) In the event that any dispute exists as to the amount, nature, or scope of the work required under this Article or the rules and regulations, the decision and judgment of the responsible City Official will be final and binding unless appealed to or stayed by a Court of competent jurisdiction.

Section 15-47. Testing Requirements.

The City may order a test (at its own initial expense) on any subsequent restoration of a street excavation in order to determine if the work has been or is being completed in accordance with City specification and regulations. If the test shows the street restoration phase or phases to be in material violation of this

Article and the rules and regulations, the permittee shall pay the cost of the testing and all required subsequent tests to verify the proper restoration in accordance with this Article and the rules and regulations.

Section 15-48. Traffic Control.

- (a) Safe crossings. The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley 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 forty-eight (48) inches in 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 other traffic shall be subject to final review and approval of the Public Works Director. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual of Uniform Traffic Control Devices" (MUTCD). 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 sufficient intensity and frequency to be visible 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 Director, with the approval of the police and fire chiefs of the City, may by written approval (or by verbal approval in the case of emergency), permit the closing of streets and alleys 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 Director 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 during non-business hours, the utility company having such emergency shall contact the police and fire departments by phone before closing a street to traffic.
- (e) Warning signs to channel traffic. Warning signs shall be placed in accordance with the applicable section of the most current edition of the MUTCD in advance of the construction operation to alert traffic within a public street, and cones or approved devices shall be placed to channel traffic, in accordance with the instructions of the Public Works Director and/or Police Chief, after his or her review of the proposed traffic control measures for the project.
- (f) Special police protection for interference with school walk route map. The permittee shall hereby be informed that the City has or may have a "school walk route map," and that the Public Works Director will require special police protection at locations where the permittee, by his or her work,

interferes with these designated school walk routes or crossing locations. Copies of school walk route maps for various locations in the City may be procured from the Public Works Department.

(g) Interference with arterial streets. Construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the City. A list of arterial streets shall be kept at the offices of the Public Works Director. The full inbound roadway lane width shall be maintained between the hours of 7:00 a.m. and 9:00 a.m. and the full outbound roadway lane width shall be maintained between the hours of 3:30 p.m. and 6:00 p.m.

(h) Shifting traffic to opposite side. The permittee may shift traffic to the opposite side of the roadway to maintain the above required lane width. The permittee may only make such shift with the approval of the Public Works Director following proper review of detour plans to insure adequate safe two-way traffic flow and proper number and placement of traffic control devices, including flaggers and/or police officers.

Section 15-49. Liability of City/Insurance.

This Article shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of an excavation work for which a street opening 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 any other purposes. For purposes of this Section, every permittee shall maintain at all times comprehensive general liability and property damage insurance coverage in a suitable amount, not less than four hundred thousand dollars (\$400,000.00), protecting himself, his agents and the City from all such claims for damages or injuries. All such insurance shall include, without being limited to, endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the City. Evidence of such coverage shall be a condition precedent to the issuance of any license/permit hereunder and shall be submitted in a form satisfactory to the Public Works Director.

Section 15-50. Bond-Surety.

In instances where the Public Works Director feels that there may be a potential liability upon the City of Bath in reference to the excavation activity, or where the excavator requesting the permit has had performance issues regarding past activities, the Public Works Director may require, as a condition of issuing the permit, a bond or other surety, in an amount sufficient to protect the City of Bath from any liability relating to the excavation activity including, but not limited to, completing the excavation activity, providing appropriate safety controls, and potential liability to third parties.

Section 15-51. Out-of-Service Facilities

All Facilities taken out of service and located aboveground shall be removed within 60 days of their last use. Underground Facilities that are taken out of service may remain in their existing locations providing the owner or operator retains full responsibility for the Facility as provided herein. Should a remaining Out-of-Service Facility degrade the public property, or public rights-of-way and streets or interfere with their use, construction or maintenance, the owner of that Facility is responsible for either correcting the conflict or removal of the Facility at the Public Work's Director's option.

Section 15-52. Appeals Process

(a) Whenever a person shall deem themselves aggrieved by an order made by the public works director, the person may file an appeal to the City Manager within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the City Manager or designee, and unless by Manager's authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

(b) In cases of applicability or interpretation of the rules, the City Manager may revoke such order made by the public works director.

(c) In cases where compliance with such order made by the public works director would cause undue hardship, the City Manager may extend the time limit of such order, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of the rules, subject always to the rule that the City Manager shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

Section 15-53. General Utility Location Requirements – Utility Corridors

The general requirements for facilities within public property, public rights-of-way, streets, and sewer and storm water easement areas, shall be outlined as part of the Rules and Regulations promulgated under the authority of Section 15-35 of this Ordinance. These general requirements shall include the designation of utility corridors within the public rights-of-ways and streets in order to maintain consistency and to interfere as little as possible with the use of said properties.

Section 15-54. Violations

(a) Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of two hundred fifty dollars (\$250.00) shall be required in addition to all applicable permit fees. This section does not apply to excavations necessitated by an emergency situation, as previously defined.

(b) Any person or utility failing to comply with or violating any provision of this ordinance or the rules shall be served by the public works director with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or

utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.

(c) In order to ensure public safety, the public works director shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this ordinance or the rules could cause a safety hazard.

(d) Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this ordinance or the rules shall be guilty of a violation of this ordinance.

(e) Any person or utility violating any of the provisions of this ordinance or the rules shall be liable to the City for any expense, loss, or damage occasioned by the City by reason of such violation. The City may seek injunctive relief for the purposes of enforcing this ordinance or the rules.

(f) Any permittee or party who continues to violate any section of this ordinance or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the City is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this ordinance and the Rules & Regulations.

(g) The City reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

Section 15-55. Costs & Penalties

(a) Any violation of this ordinance which is also a violation of 35-A MRS.A. § 2509 or 2511 or a violation of 23 M.R.S.A. § 3353 or 3355 shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.

(b) Any violation of this ordinance other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a \$50.00 fine per day for each day that a violation continues.

ARTICLE 4. STREET ADDRESSING ORDINANCE (12/02/1998)

Section 15-401. Purpose.

The purpose of this Ordinance is to provide for the rapid and accurate location of properties and structures in order to provide emergency response by law enforcement, fire, rescue, and emergency medical services personnel in the interest of the health, safety and welfare of the Inhabitants of the City or Bath.

Section 15-402. Authority.

This Ordinance is adopted pursuant to and consistent with Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A.

Section 3001. Reference is also made to 25 M.R.S.A. Section 2921 et. seq., concerning E-911 legislation. Further reference is made to 23 M.R.S.A. Section 3022 establishing the authority of municipalities to layout municipal ways and the inherent authority to deal with the naming and numbering of locations along those ways.

Section 15-403. Administration.

A. Administrative Officer/Duties. This Ordinance shall be administered by the Assessor of the City of Bath who is hereby authorized to assign road names and numbers to all properties both on existing and proposed roads, in accordance with the criteria in Sections 15-404 and 15-405 hereunder, and to perform such other duties as may be required under this Article.

B. Official Record. The Assessor shall be responsible for maintaining the following official records regarding implementation and administration of this Ordinance:

- (1) A city map with coverage or layer for official use depicting all assigned road names and numbers;
- (2) A listing of all physical addresses to which numbers are assigned, listed alphabetically by the last name of property owners as identified by current assessment records, showing the assigned street name and number(s);
- (3) A listing of all physical addresses to which numbers have been assigned, listed alphabetically, by roads with the property owner as identified by current assessment records and with the assigned street and number(s).

Section 15-404. Naming Standards.

A. General/Definitions.

All roads that service two or more properties or structures with separate and distinct ownership and use, whether the road is considered a public way or a private way, shall be named. For purposes of this Article only, a road means any highway, road, street, avenue, lane, private way, or similar paved, gravel or dirt thoroughfare. Property means any definable lot or area on which a permanent structure has been erected or placed or could be erected or placed. The assignment of a name to a particular road shall not constitute or imply acceptance or status of the road as a public way. Where a road services a single property or structure and the public safety purposes of this Ordinance requires, or it appears appropriate, such road may be named under this Section.

B. Criteria.

- (1) Roads with the same name shall be eliminated and shall be avoided in the future;
- (2) Roads with similar sounding names shall be eliminated and shall be avoided in the future;
- (3) Each road shall have the same name throughout its entire length;
- (4) Other factors, such as historical information regarding certain areas, may be taken into consideration in naming or renaming roads but these other factors shall be subject to and not interfere with the stated purposes of this Article as set forth in Section 15-401;
- (5) In the process of evaluating existing street names in accordance with the above criteria, renaming shall cause the least disruption possible but shall nevertheless be subject to the purposes of this Article as stated in Section 15-401 above.

{6} Names of projects, complexes, subdivisions, condominiums and the like must not be the same as or similar sounding to existing or proposed street names.

Section 15-405. Numbering Criteria.

A. Intervals.

Due to a large area of the City of Bath being built up and urban in nature and intervals already established in these areas, it is impractical to establish uniform intervals for numbering purposes throughout the City. Where intervals are necessary, they will be assigned on as needed basis in accordance with the density of the area and its potential for growth. When the interval has been established on a particular road, then a number shall be assigned based on the structure location if it is visible from the road; if not visible, then it will be based on the driveway location.

B. Origins.

All number origins shall begin at the southern or eastern terminus of roads and shall run from south to north and from east to west. For dead end roads, numbering shall originate at the intersection where the road begins and shall run through to the terminus at the dead end.

C. Odd/Even.

Numbers appearing on the left side of the road shall be even numbers and numbers appearing on the right side of the road shall be odd numbers ascending from the road origin which shall be its southern most terminus or eastern most terminus.

D. Multi Use Structures.

Every structure with more than one principal use or occupancy, which is serviced by a separate entrance, shall have a separate number or unit designation at that entrance for that use or occupancy.

E. Multi-Family Structures.

Multi-family structures of two or more units will have a separate number or unit designation for each entrance. If that entrance services more than one unit, then those units shall be identified by a separate apartment number and floor designation.

F. Whole Numbers.

To the extent possible, all locations will be identified with whole numbers. Use of other identifying nomenclature such as letters and fractions shall be eliminated wherever possible. Where it is impossible to utilize whole numbers for existing locations, an additional identification shall be by the use of letters only beginning alphabetically with the letter A.

G. Cul-de-sacs and Circular Streets.

Streets which run in an arc with intersections at both ends, or cul-de-sacs, shall be numbered from left to right, as left and right appear facing the arc or cul-de-sac.

H. Exemption from Numbering Criteria for Public Buildings on Single-Purpose Streets

Property serving a public non-profit purpose(s), and designated as tax-exempt by the Assessor, with a building[s] served by a street developed solely for access to the property and not providing access to any other property, may be numbered without strict application of the numbering criteria in this section, as long as the Assessor determines that the following conditions are met:

1. The assignment of an alternate street number satisfies the overriding purpose of this Street Addressing Ordinance to provide for the rapid and accurate location of properties and structures in order to provide emergency response, as set forth in Section 15-401 of this Ordinance, and that the numbering of the structure/property clearly locates the property without ambiguity or confusion.
2. The Property Owner shall document the exemption to this Ordinance from requirements in Section 15-405 and a notarized statement to that effect shall be recorded in the Sagadahoc County Registry of Deeds, clearly identifying the parcel by Book and Page, address, and Property Owner at the time of the exemption. A copy of this document shall be permanently retained in the Assessor's Records.

Any exemption issued under this Section shall be based on the conditions that exist at the time the exemption is issued. Any change in the conditions that give rise to the exemption will cause the exemption to be reexamined and redetermined to confirm that the property/structure(s) continue to be eligible for the exemption, and will not create any circumstances that would create confusion or an inability to accurately locate properties and structures for the purpose of providing emergency response.

Section 15-406. Display of Location Identification Numbers.

All owners of structures shall, by the date stipulated in Section 15-408, display and maintain in a conspicuous and visible place, the assigned numbers in the following manner:

A. Number on the Structure.

Where the structure is within fifty (50) feet of the edge of the road right-of-way, and visible from the road right-of-way, the assigned number shall be displayed on the front of the structure in the vicinity of the front door or entry.

B. Number at the Street Line.

Where the structure is over fifty (50) feet from the edge of the road right-of-way, or is not visible from the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line adjacent to the walk or access drive to the numbered structure.

C. Size and Color of Number.

Numbers shall be a minimum of four (4) inches high and be of a contrasting color to its background.

D. Non-conforming Numbers.

Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this Ordinance.

E. Interior Location.

All residents and other occupants are requested to post their assigned number and road name adjacent to their telephone for emergency reference.

Section 15-407. New Construction/Locations

All new construction and all new locations including subdivisions shall be named and numbered in accordance with the provisions of this Article and in accordance with the following:

A. New Construction.

Whenever any residence or other structure is constructed or developed, it shall be the duty of the developer or new owner to procure an assigned number and, if applicable, a road name designation from the Assessor. On new structures, numbering will be installed prior to final inspection and no occupancy permit will be issued by the Codes Enforcement Officer unless numbering is in place which is in compliance with this Article.

B. New Locations/Subdivisions.

Any new location or any subdivision shall show proposed road names and a lot numbering system on the pre-application submission to the Bath Planning Board. The pre-application submission shall contain a sign off by the Assessor indicating that he has approved the proposed name and numbering system for the new location and/ or subdivision. Approval by the Bath Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets at appropriate intervals as determined under Section 15-405(A) so as to aid in the assignment of numbers to structures subsequently constructed.

Section 15-408. Effective Date.

This Ordinance shall become effective as of December 23, 1998.

Section 15-409. Notice.

Where an existing address or designation has been changed, the Assessor shall notify by mail each owner and the United States Post Office of the new address at least sixty (60) days prior to the date the change becomes effective.

Section 15-410. Appeal.

Any property owner aggrieved by a decision of the Assessor to assign a road name or location number, may appeal that determination to the Addressing Ordinance Appeals Board by filing a notice in letter form to that effect in the Clerk's Office within ten (10) days of receipt of notice of the determination by the Assessor. The Addressing Ordinance Appeals Board shall consist of the Police Chief, the Fire Chief, the Chairman of the City Council or his designee, and two citizens appointed by the Chairman of the City Council. The appeal shall be on the sole issue of whether or not the designation of the road name and/ or location number by the Assessor meets the purpose and expressed conditions of this Article. The Board shall have the right, in making this determination, to affirm the designation by the Assessor, to modify that designation in any manner consistent with this Article, or to adopt a new designation also in

conformity with this Article. Since the property owner has no inherent rights with respect to street naming and numerical designation of locations, the decision of this Board shall be final and binding.