

TOWN OF ANSON STREET OPENING ORDINANCE

Section I. Defamations.

As used in this ordinance, unless the context otherwise indicates:

- "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.
- "Public Place" shall mean any public street, way, place, alley, sidewalk, park, square, plaza, or any other similar property owned or controlled by the Town, and dedicated to public use.
- "Town" shall mean the Town of Anson or its Administrative Assistant.
- "Substructure" shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other similar structure located below the surface of any public place.
- "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 place.
- "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.
- "Utility" shall mean a private company, corporation or quasimunicipal corporation under the direction and control of the Public Utilities Commission.
- "Newly Constructed or Reconstructed Street" shall mean any street which has been newly built or rebuilt within the preceding three years.

Section II. Excavation Permit.

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, except as otherwise provided in this ordinance.

No permit to make an excavation or fill an excavation in any public place shall be issued except as provided in this ordinance.

Section III. Permit and Street and Sidewalk Opening Fees.

A permit fee of **\$20.00** shall be paid to the Town, a copy of the receipt shall accompany the application. The Town may charge reasonable costs of replacement of street and sidewalk openings.

Special Conditions:

All work to be done at the expense of the applicant, by the applicant or agent. Applicant or agent will be responsible for all work done for a term of 3 years and within 30 days of notification of deficiency or anytime over the 3 year period. All work will be remedied within 30 days within the date of notice.

Section V. 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 all other vital equipment as designated by the Town.

Section VI. Protective Measures and Routing of Traffic.

The permittee shall in general maintain safe crossings for two lanes of vehicle traffic at all street intersections 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 one half (1/2) of the sidewalk width shall be maintained along such sidewalk line.

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 Administrative Assistant or his/her designated representative.

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 flashers or markers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflective material may be used to supplement, but not to replace, light sources.

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.

When traffic conditions permit, the Administrative Assistant or his/her designated representative, with the approval of the Communication, Ambulance and Fire departments of the Town, may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion it is necessary. The written approval of the Administrative Assistant 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 written notice is given.

Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic, in accordance with the instructions of the Administrative Assistant, after his review of the proposed traffic control measures for the project.

The permittee shall hereby be informed that the Town may require special police protection at the location where the permittee, by his work, interferes with these designated school walk routes or crossing locations.

Section VII. Relocation and Protection of Utilities.

The permittee shall not interfere with any existing facility without the written consent of the Administrative Assistant and the owner of said 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 is borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless other arrangements are made with the owner of 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 said work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of said pipes, conduits, poles, wires or other apparatus should be damaged, and for this purpose pipe coating or other encasement 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 paragraph that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone due to 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 due, exclusively, to the negligence of the owning utility. The Town shall not be made a party to any action because of this paragraph. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

Section VIII. Protection of Public Property.

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.

Section IX. Care of Excavated Material.

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 the 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 haul it back to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

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 abate the dirt or dust nuisance, the application of calcium chloride may be required by the Town, at the expense of the permittee.

Section X. Breaking Through Pavement in Streets.

- A. All excavations on paved street surfaces shall be pre-cut in a neat straight line with pavement breakers or saws.
- B. Heavy duty pavement breakers may be prohibited by the Town when the use endangers existing substructures or other property,

- C. Cutouts outside 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.

Section XI. Breaking Through Pavement in Sidewalks.

- A. All parts of Section X shall apply to this Section in all cases except gravel sidewalks.
- B. On concrete sidewalks, all cuts shall be made from the nearest joint or score line on one side of the excavation to the nearest joint or score line on the other side of the excavation.

Section XII. Backfilling of Excavation.

Fine material, free from lumps, stones larger than three (3) inches in any diameter, and any frozen material selected from the spoil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed in lifts of eight (8) to ten (10) inches and compacted thoroughly by approved mechanical compactors. Within eighteen (18) inches of the subgrade of the pavement, backfill shall be of good, clean, bank run gravel, compacted in eight (8) to ten (10) inch lifts. 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, the 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 for such tests shall be borne by the permittee.

Section XIII. Restoration of Surface in Streets.

- A. Permanent resurfacing of excavations shall be made by the Applicant or Agent. The top surface of the backfill shall be covered with three (3) 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 conform closely enough to the level of the adjoining paving surface and 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 temporary paving for a period not exceeding six (6) months after all backfilling is completed, unless additional time is required by the Town and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, by the Town, except that if it is not possible to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and lights where required herein.
- B. 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 which 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 the final resurfacing. If such permanent resurfacing is satisfactory to the Town, all charges for resurfacing will be canceled.

Section XIV. Restoration of Surface Sidewalks.

- A. Permanent resurfacing of excavations in the sidewalk area shall be made by the Applicant or Agent.. If a large amount of square yardage is involved [one hundred (100) square yards or more] the permittee may repair the sidewalk area under the direct supervision and specifications of the Town.
- B. By the Permittee. Upon completion of the backfilling, the permittee shall place one (1) inch of temporary paving material [cold mix] on the top surface of the backfill to protect the pedestrian travel on the sidewalk excavated and shall maintain such temporary patch for ninety (90) days after backfilling is completed.

Section XV. Trenches.

The maximum length of open trench 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.

Section XVI. Prompt Completion of Work.

After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street as specified herein. 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.

Section XVII. Urgent Work.

When traffic conditions, the safety or convenience of the traveling public, or 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 of men and adequate facilities be employed by the permittee beyond the 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.

Section XVIII. Emergency Action.

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, or for making 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 is started, the person or utility excavating must contact all utilities for on-the-spot locations.

Section XIX. 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.

Section XX. 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 alternate route for the proposed substructure or conduit is available. If the Town is satisfied that no alternate 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.

Section XXI. Granite Curb.

No person or utility shall remove, damage, haul away or cause misalignment of any 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 permittee.

Section XXII. Bituminous Curb.

Any bituminous curbing damaged during the course of excavation work or any other reason, shall be replaced by the permittee.

Section XXIII. Excavation During Winter.

No person or utility shall be granted a permit to excavator open any street or sidewalk from the time of November 1, each year, to March 31, of the following year, unless an emergency condition exists and permission is obtained in writing from the Town. Any person or utility wishing to obtain a street opening permit between these dates shall first explain to the Town, fully, in writing, the emergency situation existing, before issuance is granted. If a hazardous condition, which could endanger life and/or property, exists, excavation work shall not be delayed by this section of this ordinance; however, a written explanation shall be delivered to the Town as soon as possible and a street opening permit for the opening made.

Section XXIV. Depth of Structures.

No person or utility shall, without written permission of the Town, install any substructure, except manholes, vaults, valve casings, culverts and catch basins at a vertical distance less than:

- A. Streets. Twenty four (24) inches below the established flow line of the nearest gutter.
 - a) If said flow line is not established, then the depth shall be at a minimum of twenty four (24) inches below the surface of the nearest outermost edge of the traveled portion of the street.
- B. The minimum depth of any substructure shall be eighteen (18) inches below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.
- C. Other Public Places. The minimum depth of any substructure on any other public place shall be eighteen (18) inches below the surface, provided, however; that the Town may permit a lesser depth in special cases.

Section XXV. Inspections.

The Town shall make inspections as are reasonably necessary in the enforcement of this ordinance. 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 Ordinance.

Section XXVI. Liability of the Town.

This ordinance shall not be construed as imposing upon the Town or any official or employee any liability of 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 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.

Section XXVII. Penalty.

Any person who continues to violate any provision of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor and subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is 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 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 said expense incurred by said Town Thereafter,

upon completion of the work and the determination of the costs thereof, the Town shall issue no further or a new permit to any person or utility until it has received payment of said costs.

Any person or utility continuing to violate any section of this Ordinance 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 Ordinance.

Section 8. Effective Date

Notwithstanding any law to the contrary, this Ordinance shall take effect upon adoption at a town meeting of the Town of Anson.

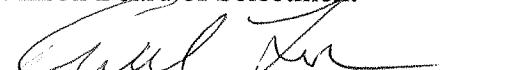
To the Town Clerk of the Town of Anson:

We hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled "Town of Anson Special Amusement Permit Regulations", which is to be presented to the voters for their consideration on March 5, 2016

Pursuant to 30-A M.R.S.A. §3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting on the day of the vote.

Dated: February 23, 2016

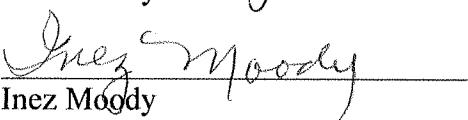
Anson Board of Selectmen:



Arnold Luce

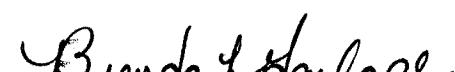


John H. Bryant

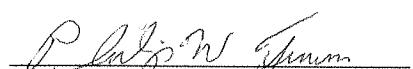


Inez Moody

Adopted:  35-16



Brenda L. Garland



Philip W. Turner

True Attested Copy

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