

Chapter 375

STREETS AND SIDEWALKS

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CANTON CODE

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[HISTORY: Adopted by the Town of Canton as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic — See Ch. 400.

Discarded vehicles — See Ch. 405.

ARTICLE I

Street Specifications**[Adopted 7-30-1949 by Ord. No. 30]****§ 375-1. Requirements for acceptance.**

Any highway or street that is to be accepted by the Town for maintenance shall meet with the following specifications: the right-of-way of said highway or street shall not be less than three rods wide; the traveled portion of said highway or street shall not be less than 20 feet wide, with shoulders of two feet wide on each side; and said highway or street shall be covered to a depth of 12 inches with gravel, of a quality satisfactory to the Selectmen, and shall be properly drained and cleared of trees, bushes, and stones. In the case of a dead-end highway or street, the circle at the end shall not be less than 100 feet in diameter to facilitate proper snow removal and operation of trucks and plows. All construction of said right-of-way shall be at the discretion of the Board of Selectmen.

ARTICLE II

Snow and Ice Removal**[Adopted 10-3-1960 by Ord. No. 49]****§ 375-2. Duties of owners and occupants. [Amended 4-5-1988 by Ord. No. 49-B; 1-24-1990 by Ord. No. 192]**

All owners, tenants and occupants of land or buildings adjoining which there has been constructed an artificial sidewalk shall at all times keep such sidewalk free from snow and ice, provided that:

- A. All snow and ice shall be removed as soon as possible and not later than 24 hours after the fall of such snow or the formation of such ice; and
- B. Prior to the removal of such snow and ice such sidewalks shall be kept in a safe condition by spreading thereon sand, ashes, or other similar material.¹

§ 375-3. Removal of sand or ashes. [Added 6-18-1987 by Ord. No. 189]

All owners, tenants, and occupants of land or buildings adjoining which there has been constructed an artificial sidewalk shall by April 1 of each year remove all sand, ashes, or other similar material and thereafter remove any further such material as may be deposited within one week of the passing of the weather condition which resulted in the deposit of such additional material.

§ 375-4. Liability for ice and snow on public sidewalks. [Added 12-14-2011]

The Town adopts the provisions of § 7-163a of the General Statutes.

§ 375-5. Penalties for offenses. [Amended 4-5-1988 by Ord. No. 49-B; 1-24-1990 by Ord. No. 192; 12-14-2011]

Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$35 for each offense.

§ 375-6. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

1. Editor's Note: Wording added to this ordinance 10-23-1985 which exempted owners, tenants and occupants of property abutting Route 44 from the requirement of removing snow and ice from sidewalks within 20 feet of Route 44 was rescinded 4-15-2009

ARTICLE III

Obstructions

[Adopted 7-29-1970 by Ord. No. 81]

§ 375-7. Authority of police officers. [Amended 12-14-2011]

Every police officer of the Town of Canton shall have the authority to keep the streets and public places of the Town open and free of obstruction and to require all persons unlawfully obstructing such streets and public places to desist therefrom whenever the act of obstruction is done in view of such officer.

§ 375-8. Interference with officer. [Amended 12-14-2011]

It shall be unlawful for any person to resist, molest, disobey, or interfere with any police officer, or the Director of Public Works or his agent, while such officer or agent is engaged in the performance of the duty of keeping the streets or public places of the Town free from obstruction and convenient for public use.

§ 375-9. Penalties for offenses; enforcement. [Added 9-25-2002 by Ord. No. 216]

- A. Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$100 for each offense. **[Added 12-14-2011]**
- B. This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE IV
Sliding on Public Ways
[Adopted 10-5-1970 by Ord. No. 82]

§ 375-10. Use of sleds or sliding devices.

It shall be unlawful for any person to slide either by use of sleds or other sliding devices on any public way in the Town of Canton unless the traffic authority of the Town of Canton has posted said public way as an area on which sliding is allowed.

§ 375-11. Penalties for offenses. [Amended 12-14-2011]

Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$25 for each offense.

§ 375-12. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE V
Sidewalk Displays
[Adopted 3-20-1975 by Ord. No. 95]

§ 375-13. Displays restricted.

No one shall display for sale any item of merchandise on a public sidewalk between 1/2 hour after sunset and 8:00 a.m. the following morning, nor shall merchandise be displayed in such a manner as to obstruct the free and easy passage of pedestrians on a public way.

§ 375-14. Penalties for offenses. [Amended 12-14-2011]

Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$100 for each offense.

§ 375-15. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE VI
Street Numbers

[Adopted 1-22-1976 by Ord. No. 126; amended in its entirety 1-17-2002 by Ord. No. 214]

§ 375-16. Authority to establish street numbers.

The Board of Selectmen or its designee may establish street numbers for all property in the Town and notify any and all property owners of said designated street number.

§ 375-17. Display of street number required.

Upon notification of said designated street number, the owner of the property shall display the street number within 10 calendar days on any property on which there has been an improvement. Street numbers shall be displayed on approved building lots prior to the commencement of any site work or construction. No building permits, including those for new construction, will be issued if the designated number is not properly displayed. Numerals shall be at least three inches in height and shall be clearly visible from the street.

§ 375-18. Penalties for offenses. [Amended 12-14-2011]

Any property owner who violates or fails to comply with the provisions of this article shall be subject to a fine of \$50 per calendar day beginning 10 days from the date of written notice of noncompliance.

§ 375-19. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE VII
Flow of Water on Public Ways
[Adopted 3-22-1978 by Ord. No. 138]

§ 375-20. Prohibited acts.

No owner or person in possession of any property in the Town of Canton, by diversion of a natural flow of water or by use of a pumping device or other means to create a flow of water, shall cause a flow of water to proceed onto the traveled portion of a public way and thereby substantially hinder, impede, or obstruct the passage of traffic, whether by the accumulation of soil or ice or by erosion or otherwise.

§ 375-21. Penalties for offenses. [Amended 12-14-2011]

Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$25 for each offense, and the continuation of said water flowage after notice by the Building Official or a member of the Police Department shall be considered a separate offense for each day of the continuation thereafter.

§ 375-22. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE VIII
Scenic Roads
[Adopted 2-24-1999 by Ord. No. 206]

§ 375-23. Purpose.

The purpose of this article is to establish a procedure for designating, and rescinding a designation of, a Town road or portion thereof as a scenic road pursuant to § 7-149a of the General Statutes ("scenic road") and to provide for the maintenance, alteration, and improvement of scenic roads.

§ 375-24. Authority to designate scenic roads.

The authority to designate any Town road ("highway") or any portion of any highway as a scenic road is hereby delegated to the Planning Commission² of the Town of Canton.

§ 375-25. Criteria for designation.

- A. To be designated as a scenic road, a highway or portion thereof must be free of intensive commercial development and intensive vehicular traffic. It must also meet at least one of the following criteria:
- (1) It is unpaved;
 - (2) It is bordered by mature trees or stone walls;
 - (3) The traveled portion is no more than 20 feet in width;
 - (4) It offers scenic views;
 - (5) It blends naturally into the surrounding terrain; or
 - (6) It parallels or crosses over brooks, streams, lakes, or ponds.
- B. In addition to these criteria, the Planning Commission³ shall consider the nature of vehicular and pedestrian traffic on, the accident history on, and the Plan of Conservation and Development roadway classifications for the highway and other highways in the vicinity, as well as the overall protection of the public's health and safety. Roads designated collector or local streets in the Plan of Conservation and Development are eligible for scenic road designation. All proposed scenic roads shall be referred to the Canton Traffic Authority for a report to be received prior to the public hearing provided for in § 375-26B hereof. No state highway or portion thereof may be designated as a scenic road under this article. [Amended 12-14-2011]

§ 375-26. Procedure for designation.

- A. Application procedure. A highway or portion thereof will be considered for designation as a scenic road by submitting to the Planning Commission⁴ applicable portions of Assessor's maps showing both the proposed length of scenic road and all the abutting property owners and a completed application

2. Editor's Note: Ordinance No. 236, adopted 9-25-2013, abolished the separate Planning Commission and Zoning Commission and created a Planning and Zoning Commission. See Ch. 145.

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form (available in the Town Planner's Office) that shall include a statement justifying the proposed scenic road designation, a list of the names and addresses of all property owners (based on the current Assessor's records) with frontage abutting the proposed length of scenic road, and an area for the abutting property owners to sign the application indicating their approval of the proposed length of scenic road. No public hearing shall be held and no highway or portion thereof shall be designated as a scenic road unless the owners of a majority of lot frontage abutting the highway or portion thereof agree to the designation of the scenic road by filing a written statement of approval with the Canton Town Clerk. The application signed by the abutting property owners may be filed with the Town Clerk to satisfy this requirement as long as the application clearly indicates that it will be used for this purpose.

- B. Public hearing. The Planning Commission shall hold a public hearing on the proposal to designate a highway or portion thereof as a scenic road. Hearing notices and deadlines shall be in accordance with the provisions of § 8-7d of the General Statutes. The Planning Commission shall have the right to designate an annual deadline or deadlines for the submission of new scenic road proposals and the right to conduct joint hearings on scenic road proposals. Notification of the public hearing shall be sent by the Planning Commission to the Board of Selectmen and the owners of lot frontage abutting the portion of the highway that is proposed to be designated as a scenic road.
- C. Vote and designation. Following the public hearing, the Planning Commission shall vote on the proposed designation pursuant to the procedures set out in § 8-7d of the General Statutes. The designation shall become effective on such date as the Planning Commission shall establish. Any or all of the proposed length of highway may be designated as a scenic road.
- D. Rescission. The scenic road designation may be rescinded by the Planning Commission using the same procedures as those for designation of a scenic road and with the written concurrence of the owners of a majority of lot frontage abutting the highway or portion of the highway.
- E. Appeals. Any person aggrieved by the Planning Commission's designation of a highway or portion thereof as a scenic road pursuant to this article may appeal such designation in the manner and utilizing the same standards of review provided for appeals from the decisions of the Planning Commission under § 8-8 of the General Statutes. **[Amended 12-14-2011]**

§ 375-27. Maintenance requirements.

- A. Routine, minor, and emergency maintenance. Routine, minor, and emergency maintenance on a scenic road shall be continued without a review or vote of the Planning Commission⁵ or a public hearing. Such maintenance shall include: removal of dead, diseased, damaged, or dangerous trees and branches of trees; trimming of tree branches that encroach on the traveled portions of the highway below the height needed to allow school buses and emergency vehicles to pass; trimming or removal of brush and removal of boulders or other obstacles that encroach on the traveled portion of the road; necessary trimming for utility lines; trimming of brush to enhance and protect scenic views, stone walls, and mature trees; correction of drainage problems; striping, graveling, filling, retreatment (including but not limited to overlay paving and chipsealing), and repair of existing roadway surfaces; grading; snowplowing; sanding; and emergency repairs to the scenic road in the case of natural disaster making it impassable or unsafe for public travel.
- B. Owners. Nothing in this article shall be deemed to prohibit a person owning or occupying land

5. Editor's Note: Ordinance No. 236, adopted 9-25-2013, abolished the separate Planning Commission and Zoning Commission and created a Planning and Zoning Commission. See Ch. 145.

abutting a scenic road from maintaining and repairing the land which abuts the scenic road if the maintenance or repair occurs on land not within the right-of-way, paved or unpaved, of the scenic road.

§ 375-28. Alterations and improvements.

- A. Any highway which has been designated a scenic road under this article may be altered and/or improved, including but not limited to widening of the right-of-way or of the traveled portion of the highway; paving; changing the grade; straightening; removing stone walls, ledge, or boulders; installing drainage facilities; and straightening or removing vegetation, including mature trees.
- B. An alteration or improvement of a designated scenic road by petition shall be determined by the Planning Commission.⁶
- (1) Any petition for an alteration or improvement, whether by public or private applicant, shall be submitted to the Planning Commission which shall hold a public hearing in accordance with § 375-26B above and shall follow the procedures listed in Subsection B(2) below. The Planning Commission shall forward the petition with its recommendations to the Canton Town Meeting for action to comply with § 8-24 of the General Statutes. The Town Meeting must approve the alteration or improvement by a simple majority vote if recommended by the Planning Commission under this section or by a two-thirds vote if not so recommended.
- (2) When contemplating alterations to a scenic road for common convenience and necessity, including but not limited to safety, fire, and police considerations, the following procedures shall be followed:
- (a) A suitable map will be reviewed, and, if deemed necessary by the Planning Commission, a technical report documenting the cited hazard and offering alternative solutions will be reviewed.
- (b) One or more public hearings will be held to allow full public participation.
- (c) The decisionmaking process for the recommendation will constitute a review of the specific safety features; take into account the overall impact of the possible change in the scenic road; and take into account comments stated at the public hearing(s).
- (d) The final decision shall reflect the least damage to the character of the scenic road. No alteration or improvement shall be recommended by the Planning Commission until potential alternative solutions have been considered thoroughly.
- C. An alteration or improvement of a designated scenic road by land use decision shall be determined by the Zoning Commission.
- (1) Any alteration or improvement that the Zoning Commission determines is necessary to protect and promote public safety in conjunction with the approval of a new driveway, a new highway, or a new subdivision or other land use development that is accessed by the scenic road and is under the Zoning Commission's regulatory jurisdiction shall be determined by the Zoning Commission. Any alteration or improvement to a scenic road shall not be approved unless a public hearing has been held on the project.

6. Editor's Note: Ordinance No. 236, adopted 9-25-2013, abolished the separate Planning Commission and Zoning Commission and created a Planning and Zoning Commission. See Ch. 145.

- (2) Any alterations or improvements authorized by the Zoning Commission shall, to the extent possible, be the minimum necessary to address safety issues associated with the new driveway, highway, or land use development, and any approved alteration or improvement shall, to the extent possible, be designated to minimize impacts on the scenic characteristics of the scenic road. Stone wall relocations and reconstructions, the planting of new trees, shrubs, or flowers, the installation of underground utilities, and other mitigating measures may be required by the Zoning Commission in conjunction with its authorization of alterations or improvements to scenic roads.
- D. If alterations or improvements under Subsection B or C above to a scenic road are required, then they shall be planned with due regard to the following parameters:
- (1) Speed limits. Scenic values are correlated with lower speeds. The speed limit shall be posted and enforced.
 - (2) Curves. Scenic values are correlated with the existence of curves, which allow a constant unfolding of new and changing views. Curves shall not be eliminated unless necessary for traffic safety.
 - (3) Grades. Hills and valleys are correlated with scenic values. They shall not be destroyed by cuts and fills unless necessary for traffic safety.
 - (4) Widths. Narrow roads are correlated with scenic values. Designated highways should not be widened unless necessary for traffic safety.
 - (5) Side slopes. Existing steepness of side slopes often is preferable to reduction of gradient by extensive removal of soil and rock. This is especially true where the slope is fully stabilized and where it is rich with existing ground cover, shrubs, and trees.
 - (6) Vistas. Vistas of distant landscapes shall be preserved by suitable vegetation management techniques.
 - (7) Utility lines. Wherever possible, utility lines should be put underground. Where they are overhead, the utility companies should be encouraged to cooperate by implementing suitable vegetation management techniques which preserve the wildflowers and the shrubs.
 - (8) Vegetation. Vegetation on the side of the road shall be managed to preserve wildflowers, shrubs of ornamental wildlife values, and trees. Overarching isolated trees and the canopy of a closed forest can have extremely high scenic value.
 - (9) Prohibited. Billboards, sand, gravel, and salt piles, refuse disposal, and other unsightly structures or situations shall be prohibited. Where possible, scenic and preservation easements should be acquired from adjacent owners to ensure the continuance of natural relief, desirable features, and scenic and historic values in the public interest.

§ 375-29. Penalties for offenses. [Amended 12-14-2011]

This article shall be enforced by the Planning Commission,⁷ acting through its designated enforcement official(s). Any person who violates or fails to comply with the provisions of this article shall be subject to a fine of \$100 for each day that such offense continues and such other legal remedies as may be available

7. Editor's Note: Ordinance No. 236, adopted 9-25-2013, abolished the separate Planning Commission and Zoning Commission and created a Planning and Zoning Commission. See Ch. 145.

to the Planning Commission.

§ 375-30. Enforcement. [Added 9-25-2002 by Ord. No. 216]

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.

ARTICLE IX

Excavations**[Adopted 6-15-2005 by Ord. No. 226]****§ 375-31. Purpose.**

The purpose of this article is to provide an overall plan for excavations, blockages, and closures of public streets and highways in the Town, pursuant to § 7-148(c)(6)(C)(iii) and (iv) of the General Statutes and Section 7.03D(1) of the Charter.

§ 375-32. Definitions.

As used in this article, the following words and phrases shall have the meanings indicated:

APPLICANT — One who has submitted an application for a permit.

CAO — The Chief Administrative Officer of the Town or his or her designee.

DRIVEWAY PERMIT — A permit issued under § 375-34B of this article.

EXCAVATION PERMIT — A permit issued under § 375-34A of this article.

PAVING — Any kind of hard surfacing, including but not limited to concrete, bituminous concrete, brick, stabilized gravel, or crushed stone, or combinations of such materials. Paving shall include oiled gravel surface.

PERMIT — A driveway permit or excavation permit.

PERMIT HOLDER — One who has been granted a permit under this article.

PUBLIC UTILITY — Any private or municipally owned water, gas, telephone, telegraph, electric, sewer, and railroad company or department thereof.

STREET — The entire right-of-way of a public street, highway, alley, way, road, or easement under the jurisdiction of the Town.

§ 375-33. Prohibited acts.

No person or entity shall open or make any excavation in any part or portion of any street, or place any equipment or obstruction within, upon, or over any street, except in accordance with the provisions of this article.

§ 375-34. Permit required.

- A. Excavation permit. Any person or entity desiring to open or make any excavation in any part or portion of any street or to place any equipment or obstruction within, upon, or over any such street must obtain an excavation permit in accordance with the procedures described in § 375-35.
- B. Driveway permit. Any person or entity desiring to proceed with the construction or reconstruction of a private way which intersects with any Town road or highway must obtain a driveway permit in accordance with the procedures described in § 375-35. **[Amended 12-14-2011]**
- C. Exceptions. Emergency excavation permits may be granted by the CAO in the case of broken water mains, gas mains, electric lines, or sewer mains or other similar emergencies, but the person or entity performing such excavation or creating such obstruction shall file a written application for an

excavation permit within 24 hours thereafter, in the manner prescribed by this article for nonemergency work.

§ 375-35. Permit procedure.

- A. Application for excavation permit. Any person or entity desiring to open or make any excavation in any part or portion of any street or place any equipment or obstruction within, upon, or over any street shall submit an application signed by the applicant to the CAO. Such application shall provide the applicant's name, address, and phone number; the names, addresses, and phone numbers of any of the applicant's subcontractors; a description of the work to be performed; the location, length of time, and purpose of the proposed excavation, blockage, or closure; a list of the equipment proposed to be used; and the indemnification required by § 375-38. Any information on the application that changes during the term of the excavation permit shall be promptly updated by the permit holder.
- B. Annual excavation permits. Any public utility may submit an application for an annual excavation permit to the CAO which will be updated at the time of each excavation, blockage, or closure.
- C. Application for driveway permit. Any person or entity desiring to construct or reconstruct a private way which intersects with any Town road or highway shall submit an application signed by the applicant to the CAO. Such application shall provide the applicant's name, address, and phone number; the names, addresses, and phone numbers of any of the applicant's subcontractors; the location and length of time of the proposed construction; and a plot plan and specifications for construction. Any information on the application that changes during the term of the driveway permit shall be promptly updated by the permit holder.
- D. Rejection of application. When, in the judgment of the CAO, the work called for in an application for an excavation permit would cause substantial or unwarranted damage to a street or create excessive disturbance to traffic or exceptionally dangerous conditions not commensurate with the benefits to the applicant, the request for such excavation permit may be denied by the CAO. When, in the judgment of the CAO, the work called for in an application for a driveway permit would result in a drainage problem, resulting in a hazardous condition on the public way, the request for such driveway permit may be denied by the CAO. The CAO shall inform the applicant of such rejection and the reasons for such rejection in writing within 15 calendar days. The CAO may reject an application when the applicant has failed to abide by the terms of a prior permit or has violated this article within the prior twelve-month period.
- E. Approval of permits. The CAO shall notify an applicant when the application has been approved.
- F. Compliance with safety requirements. All excavation permits shall require compliance with standard federal Department of Transportation safety requirements, as adopted by the state, and standard American Traffic Safety Services Association requirements.
- G. Compliance with plot plan and specifications. All work done in connection with a driveway permit shall be in accordance with the plot plan and specifications for construction included in the application.
- H. Expiration of permits. All permits, except annual excavation permits, shall expire on a date to be set by the CAO (which date shall not exceed one year), unless sooner revoked, and may be extended by the CAO.

§ 375-36. Application fees.

- A. Fees. An applicant shall pay a fee with its application for any permit. The Board of Selectmen shall set the application fee by regulation.
- B. Exceptions. No contractor or subcontractor performing work directly for the Town or any of its departments, agencies, or boards shall be required to pay any application fee.

§ 375-37. Operational requirements.

- A. Bond required. Before any applicant shall receive an excavation permit, the applicant shall post with the CAO a bond with surety, letter of credit, bank or cashier's check, or passbook. The bond shall stay in effect for a period of one year after the work under the excavation permit has been completed. The Board of Selectmen shall set the amount of the bond by regulation.
- B. Insurance required. Before any applicant shall receive an excavation permit, the applicant shall deliver to the CAO an insurance policy written by an insurance company authorized to do business in this state, upon which the Town is a named insured, which policy shall insure against bodily injury or property damage arising out of any action or activity or work of the applicant in connection with the work undertaken under the excavation permit. The insurance shall stay in effect for a period of one year after the work under the excavation permit has been completed. The Board of Selectmen shall set the required insurance coverage by regulation.
- C. Notice to CAO. Each permit holder shall notify the CAO in writing at least 72 hours prior to any excavation, blockage, closure, or construction of a private way that intersects with a Town road or highway.
- D. Barricades. When an excavation is made in any street, the person or entity by or for whom or which such excavation is made shall cause a rail, fence, or other sufficient barricade to be placed around the excavation, and such barricade shall remain until the excavation is closed.
- E. Lights to be maintained at night. Warning lights shall be fixed to some part of the rail or fence required by Subsection D, or placed over or near the excavation at night, sufficient to warn pedestrians and drivers of the existence of the excavation, dirt, gravel, and materials and the danger therefrom. The lights shall remain on from sunset to sunrise and shall be continued every night until the excavation is closed.
- F. Call Before You Dig. Before any applicant shall receive an excavation permit or driveway permit, the applicant shall provide the CAO verification that the applicant has received a response from the "Call Before You Dig" service.
- G. Other requirements. The permit holder shall follow all other requirements in its permit.
- H. Completion of work. Every permit holder shall cause every excavation where openings are made to be neatly cut, thoroughly filled with approved subbase material, tamped, and resurfaced and remove all surplus material from the site.
- I. Inspections. During any work related to a permit, the CAO may inspect all excavations for workmanship, materials and compliance with the permit and this article. Upon completion of the work authorized by the excavation permit, the CAO shall make a final inspection of the work, and upon approval and acceptance by him or her, the permit holder shall be notified of this approval and acceptance, and such approval shall be entered on the excavation permit. If on final inspection the CAO disapproves the work, the permit holder shall be responsible for adjusting and correcting the work until it shall meet the CAO's approval.

§ 375-38. Indemnification.

Prior to obtaining an excavation permit, an applicant shall accept and sign the following statement: "The applicant agrees to indemnify and save harmless the Town, its agents and employees from and against all loss or expense (including costs and attorneys' fees) arising out of or resulting from the performance of the work, including bodily injury or death sustained by any person or persons (including employees of the applicant or any subcontractor) or on account of damage to property, including loss of use thereof, whether such injuries or damages are caused in whole or in part by the negligence of the Town, its agents and employees or otherwise."

§ 375-39. Compliance with permit and laws.

All permit holders shall perform all work in compliance with its permit and all applicable federal, state and local laws, rules, regulations, and ordinances.

§ 375-40. Permit not transferable.

No permit holder shall allow his, her, or its name to be used by any other person or entity either for the purpose of obtaining permits or doing any work under the permit. No permit holder may transfer any permit to any other person or entity.

§ 375-41. Board of Selectmen regulations.

The Board of Selectmen shall establish and adjust fees, bond amounts, and insurance coverage amounts by regulation. Any regulations made by the Board of Selectmen pursuant to this article shall be made available at the Town Clerk's office.

§ 375-42. Penalties for offenses.

- A. Any person or entity who or which violates or fails to comply with the provisions of this article shall be subject to the following penalties and fines: **[Amended 12-14-2011]**
- (1) A fine of \$250 for each offense.
 - (2) The revocation of a permit by the CAO in accordance with § 375-43 of this article.
 - (3) The rejection of all applications for a permit for a period of 12 months.
 - (4) The reimbursement to the Town of expenses incurred by the Town in blocking, setting up barricades, filling, closing, removing, or altering any excavation which is in violation of this article.
 - (5) The making of one or more claims against the bond for any penalties imposed or expenses incurred by the Town, including any expenses to remedy the excavation, blockage, or closure.
- B. The CAO may seek enforcement of the provisions of this article by a civil action brought by the Town, and, in such event, the violator shall pay the Town's cost of any legal action, including reasonable attorneys' fees. In any such action, the CAO may seek a temporary and/or permanent injunction and removal of the violation.
- C. Any and all remedies which the Town has in enforcing this article, at law or in equity, shall be cumulative, and two or more or all of such remedies may be exercised at the same time.

§ 375-43. Rejection or revocation of permit.

- A. Permits issued under the provisions of this article may be revoked by the CAO, after reasonable investigation, for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for a permit;
 - (2) Any lapse or reduction in the bond or insurance required under this article; or
 - (3) Any violation of this article.
- B. Notice of the rejection of a permit shall be given to the applicant in accordance with § 375-35D. Notice of the revocation of a permit shall be given to the applicant in writing, specifically setting forth the grounds for revocation. Notice of either the rejection or revocation of a permit shall be mailed, postage prepaid, to the applicant at the address given in the application for the permit. The applicant or permit holder may appeal the decision to reject or revoke a permit to the citation hearing officer, who after notice and a hearing may overturn such decision.
- C. If a permit holder has a permit revoked, no new permit shall be issued to that person or entity for 12 months from the day said permit is revoked.

§ 375-44. Enforcement.

This article has been specifically designated for enforcement by citations issued by designated municipal officers or employees, and the citation hearing procedure established by Chapter 15, Citations, of this Code shall be followed.