



TOWN OF DOVER

MAYOR AND BOARD OF ALDERMEN

ORDINANCE NO. 09-2014

ORDINANCE OF THE MAYOR AND BOARD OF ALDERMEN OF THE TOWN OF DOVER AMENDING CHAPTER 337, STREETS AND SIDEWALKS.

BE IT ORDAINED by the Mayor and Board of Alderman of the Town of Dover, County of Morris and state of New Jersey as follows:

Section 1

The Code of the Town of Dover, Chapter 337, STREETS AND SIDEWALK, Article II, Street Opening Permits, is replaced with the following.

Article II. Right of Way Encroachments and Permits

§337-4. Purpose.

The public right-of-way is a unique public resource held in trust for the benefit of the public. This physically limited resource requires proper management to maximize its efficiency and minimize the costs to taxpayers, to protect the capital investment made by the Town of Dover in the public right-of-way, and to minimize the inconvenience to and negative effects on the public from use of the public right-of-way by contractors and utility companies.

To achieve the purpose of this chapter, the Town of Dover shall endeavor to coordinate its Capital Improvement Programs with those of utility companies and franchisees with facilities in, on, under or above the public right-of-way. Information about any planned work in the right-of-way shall be shared at the earliest possible time. Utility owners and franchisees are encouraged to coordinate their street encroachments so that all work is done simultaneously with the Town of Dover and/or other Utilities.

§337-5. Definitions.

As used in this chapter:

"Encroach or Encroachment" means constructing or placing temporary or permanent structures, improvements, facilities or materials in, on, over, or under any public right-of-way or using any right-of-way so as to prevent, obstruct, or interfere with the normal use of that way, including but not limited to the performance of any of the following acts:

- A. Excavating or disturbing the public right-of-way;
- B. Erecting or maintaining any post, sign, pole, fence, scaffolding, guard-rail, wall, pipe, conduit, well casing, cable, wire, communication service equipment, or other facility or structure, whether permanent or temporary, on, over, or under a public right-of-way;

- C. Planting any tree, shrub, grass, or other growing thing, whether permanent or temporary within the public right-of-way;
- D. Placing or leaving on the public right-of-way any rubbish, brush, earth, or material;
- E. Constructing, placing, or maintaining on, over, under, or within a public right-of-way, whether permanent or temporary, any pathway, sidewalk, driveway, or other surfacing; any culvert or other surface drainage or subsurface drainage facility; or any pipe, conduit, cable, well casing wire, communication service equipment or facility, or cable;
- F. Constructing, placing, planting, or maintaining any structure, embankment, excavation, tree, or other object, whether permanent or temporary, adjacent to the public right-of-way which causes or may cause an encroachment.

"Engineer" means the Town of Dover Engineer, his or her designee.

"Excavation" means any trench cuts within the street right-of-way to access or install a utility line or any related facility. All such excavations shall require an encroachment permit.

"Excavator" means the applicant/permittee to whom an encroachment permit is issued for the purposes of excavation.

"Facility" means any fiber optic, coaxial, or copper cable; communication service equipment; telephone, telecommunications, electric or other wire, line or equipment; utility structure; oil, gas, or other pipeline; duct; conduit; cabinet; tunnel; vault; drain; manhole; splice box; surface location marker; pole; subsurface tiebacks; soil nails; stairs; access ramps; subsurface foundations; landscape features, including curbs around planter areas; planter boxes; clocks; bus shelters; phone booths; bike racks; fencing; retaining walls; benches; stockpiles; building materials; and other appurtenances or tangible things located in, upon, above, beneath, or across any public right-of-way.

"Permittee" means any person, contractor, utility or special district that has been issued a permit pursuant to this chapter, including any lawful successor, transferee, or assignee of the original permittee. All obligations, responsibilities, and other requirements of the permittee shall be binding on successors in interest of the original permittee.

"Person" means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them or any other entity which is recognized by law as the subject of rights or duties, not including the Town of Dover, the Richmond Community Redevelopment Agency, or the Town of Dover's or Agency's officers, employees, or agents.

"Prohibition street" means streets that have been reconstructed or resurfaced within the past five (5) years (see Section §337-6., below).

"Public right-of-way" means the area in, upon, above, beneath, or across any land or interest which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for travel, and includes any public street, road, highway, freeway, bridge, lane, court, alley, boulevard, sidewalk, median, parkway, or emergency vehicle

easement.

"Public street" means the full width of the surfaced or travel portion, including shoulders, of any road, street, path, lane, or alley dedicated to, reserved for, or used by or for the general public when those roads, streets, paths, lanes, and alleys have been accepted as and declared to be part of the Town of Dover system of public streets, except those under the jurisdiction of the County of Morris and the New Jersey Department of Transportation.

"Lane width" means, on a two way street, the width of one half of the paved width of the street from the face of curb (or edge of pavement where no curb exists) to the centerline of the street. On a One way street it means the full paved width of the street from the face of curb (or edge of pavement where no curb exists) on one side to the face of curb (or edge of pavement where no curb exists) on the opposite side.

"Street overlay" means one or more courses of asphalt construction on an existing pavement; usually greater than 1 inches in thickness; generally includes an asphalt leveling course to correct the contour of the old pavement.

"Structure" means any physical alteration or improvement, including but not limited to a building, post, cabinet, fence, vault, sign, pole, guard rail, wall, facility, pedestrian walking path, sidewalk, driveway, track, surfacing, culvert, drainage facility, pipe, embankment, or excavation.

"Utility" means any person or entity providing Town of Dover electric, gas, telephone, telecommunications, water, or other services to customers, and which pursuant to state law or local franchise is entitled to install its facilities in the public right-of-way.

"Wearing surface defects" mean the defects in the surface of a roadway that is in direct contact with traffic and that resists the resulting abrading, crushing, or other disintegrating action.

§337-6. - Prohibition period.

A. Newly constructed or resurfaced streets shall be termed "prohibition streets" within this section. Permission to excavate in prohibition streets will not be granted for five (5) years after the completion of street overlays. Utilities shall plan well enough in advance to determine alternate methods of making necessary repairs to avoid excavating in newly resurfaced streets. Exceptions to the above policy are as follows:

- (1) Emergencies that endanger life or property.
- (2) Interruption of essential utility service.
- (3) Work that is mandated by local, state, or federal law.

The Town Engineer or his designee shall maintain a list of all "Prohibition Streets" indicating the location limits, the date of the overlay and the date the prohibition expires. Said list shall be made available to the public and be kept current.

B. Approval by the Town Engineer or his designee shall be obtained prior to any excavation in a prohibition street under the exceptions listed above. To request a waiver, the applicant must

submit a written request to the Town Engineer or his designee immediately, or within 24 hours under an eminent hazard condition where time is of the essence. In granting the waiver, the Town Engineer or his designee shall consider the following:

- (1) The location of the excavation.
 - (2) Description of the work to be performed.
 - (3) The reason(s) the work was not performed before the street was paved.
 - (4) The reason(s) the work cannot be deferred until after the prohibition period.
 - (5) The reason(s) the work cannot be performed at another location.
 - (6) The reason(s) it is justified as an emergency to excavate the prohibition street.
 - (7) The Town Engineer or his designee will verify that the applicant has analyzed all feasible alternatives to make the necessary repairs using a trenchless method in prohibition streets to avoid excavating a newly resurfaced street whenever possible
- C. Any person seeking a waiver for any other reason than those listed in the Exceptions listed above, shall require approval from the Mayor & Board of Aldermen. The Mayor & Board of Aldermen shall only grant a waiver after determining that the waiver is deemed in the best interest of Town of Dover and that the waiver is necessary for unforeseen circumstances not anticipated in this chapter.

§337-7. – Encroachment Permits.

- A. Any and all Encroachments as defined herein, within the public right-of-way shall require an Encroachment Permit. Anyone doing excavation work within the Town of Dover of County of Morris public right-of-way shall obtain a Right of Way Encroachment Permit for the purpose of excavation in addition to any other required permits. The contractor performing the work shall apply for the permit.
- B. The permit application may be obtained from the Town of Dover Engineering Department.
- C. The permit application shall be accompanied by the following:
 - (1) An Application Fee in as indicated below:

Encroachment Type	Application Fee
Excavating or disturbing the Public Street portion of the public right-of-way	\$200.00
Erecting or maintaining any post, sign, pole, fence, scaffolding, guard-rail, wall, pipe, conduit, well casing, cable, wire, communication service equipment, or other facility or structure on, over, or under a public right-of-way, whether permanent or temporary, without excavating or disturbing the Public Street portion of the public right-of-way	\$150.00
Constructing, placing, or maintaining on, over, under, or within a public right-of-way, outside the limits of the Public Street, whether permanent or temporary, any pathway, sidewalk, driveway, or other surfacing; any culvert or other surface drainage or subsurface drainage facility; or any pipe, conduit, well casing, cable, wire, communication service equipment or facility, or cable	\$100.00

Planting any tree, shrub, grass, or other growing thing, whether permanent or temporary, within the public right-of-way	\$50.00
Constructing, placing, planting, or maintaining any structure, embankment, excavation, tree, or other object, whether permanent or temporary, adjacent to the public right-of-way which causes or may cause an encroachment	\$50.00

- (2) A cash deposit equal to the estimated cost of restoration, but not less than five hundred dollars (\$500) as a performance bond. Utility Companies working under an annual guarantee (bond) are not required to post the cash deposit.
 - (3) A certificate of insurance specifically naming the Town of Dover as "Additionally Insured" shall be provided to the Town of Dover, 37 N. Sussex St., Dover, New Jersey 07801, which meets or exceeds the following coverage and includes the following information:
 - (a) Workmen's Compensation and Employer's Liability Insurance the Contractor shall take out and maintain during the life of this Contract adequate Workmen's Compensation and Employer's Liability Insurance for all employees employed in connection with the work, and in case any work is sublet, the Contractor shall require each Subcontractor similarly to provide Workmen's Compensation and Employer's Liability Insurance for the employees of the latter, unless such employees are covered by the protection afforded by the Contract. Employee's Liability insurance shall have limits not less than \$500,000 per accident, or for disease \$100,000 per claim.
 - (b) Public personal injury liability and property damage liability, including contingent liability and contractual liability and independent contractors.
 - Any one occurrence.....\$1,000,000
 - Annual Aggregate\$3,000,000
 - (c) Automobile Liability Insurance:
 - Per Occurrence Limit of.....\$1,000,000
 - (d) The policy number and period.
 - (e) A description of work for which the certificate covers.
 - (f) Name and address of insured.
 - (4) 24-hour phone number for emergencies.
 - (5) The name, telephone number, and mailing address (fax number, cell phone, and e-mail address if available) of the person who will receive all office correspondence from the Town of Dover.
 - (6) Individual property owners performing work within the public right of way, but outside the Public Street, shall be exempt from providing a performance bond and Workmen's Compensation & Employer's Liability Insurance. All other insurance requirements shall be met.
- D. All applications shall include plans and details indicating the following:
- (1) Name of the street to be encroached and the nearest cross street.
 - (2) Distance of proposed encroachment from the face of curb or edge of pavement.
 - (3) Distance of proposed encroachment from the intersection.

- (4) The size of the encroachment (length and width).
 - (5) The location of any above ground facilities to be installed, showing:
 - (a) Distance from curb or edge of pavement and any street facilities/furnishings.
 - (b) Purpose of the facility.
 - (c) Size of the facility.
 - (d) Location of doors and door swings.
 - (6) The location of any existing underground facilities and the location of underground facilities to be installed showing:
 - (a) Conduit vaults, maintenance holes, pipes, etc.
 - (b) Structural detail and additional information for structures to be installed such as vaults and maintenance holes.
 - (c) The construction method of the structure to be installed.
 - (d) Construction detail, location, size, design criteria and the purpose of the facility to be installed.
 - (7) Cross section of a typical trench indicating:
 - (a) The approximate depth of the facility to be installed.
 - (b) Trench backfill depth, compaction and layer depths.
 - (c) Pavement section detail (type and depths).
 - (d) Plans, structural details, and trench cross section must be signed and stamped by a licensed civil engineer, when legally required.
 - (8) The plan may show the approximate location of the encroachment provided that on an "as-built" plan, the exact location of the encroachment is shown. The "as-built" plan shall be submitted prior to the permit being closed out.
 - (9) A traffic control plan.
 - (10) Property owners performing sidewalk repair and/or replacement work shall be exempt from submitting items (3), (5), (6), (7) and (8), but shall construct/replace any sidewalk in accordance with the standard details provided by the Town of Dover Engineering Department.
- E. All encroachment permit fees are due at the time the permit is issued. These fees represent the value of staff time in processing a permit application and are non-refundable.
- (1) All past due fees, fines and penalties owed by the applicant must be paid before a permit will be issued.
 - (2) If a permit violation occurs no other application will be processed until the fines and penalties have been paid and all permit conditions are met.
- F. If an account for an Encroachment Permit is past due or not in good standings, a permit cannot be issued until the account is brought into good standing. To bring the account to good standing, all fees and fines must be paid.
- G. As a condition of the permit to excavate, the applicant shall provide evidence the Underground Facility Protection Act, better known as the "One Call Law," has been adhered to by calling the One-Call Center (1-800-272-1000 or 811) and providing all the required information, not less than three (3) nor more than ten (10) business days before the start of any excavation, by providing the date and confirmation number given by the One Call Center.

Work lasting more than 45 days from the date of the notifying the One Call Center will require additional One Call Notifications.

- H. Permittees and excavators shall pay close attention to the location and alignment of all Mark-Outs while performing their work and hand dig within 2 feet of markouts before using mechanized equipment.

Mark-Out Codes are as follows:

Electric	Red
Gas, Oil, Dangerous Materials, Product and Steam Lines	Yellow
CATV Communication	Orange
Water	Blue
Sewer	Green
Proposed Excavation	White

- I. If an excavator damages other facilities during their excavation work the excavator will need an additional Encroachment Permit if additional excavation and trenches are needed to repair the damaged facility. The original permittee shall maintain the site and restore the pavement and any affected signage or striping.
- J. Except in an emergency, Encroachment Permits shall be taken out at least five (5) business days in advance of excavation work. An emergency is considered to exist only when life or property is endangered or when an essential utility service is or may be interrupted during weekends, holidays, or between 4:30 p.m. and 8:30 a.m. of normal working days.
- K. In the event of an emergency, the excavator shall notify the Town of Dover and apply for a Encroachment Permit for "emergency work" within four (4) hours after the Town of Dover's office opens.
- L. Pre-construction meeting:
 - (1) A pre-construction meeting shall be held for all projects that are scheduled to take longer than 15 working days to complete.
 - (2) The owner, contractor, any other agency that is involved and the Town of Dover shall attend this meeting.
 - (3) For projects that are supposed to be completed within 15 days, and are not completed within the allowed time, the Town of Dover may issue Notice of Violations if a pre-construction meeting was not held.
 - (4) The traffic control plan shall be approved prior to the pre-construction meeting.
- M. Permit duration shall be indicated on the permit:
 - (1) All permits shall include estimated start and completion dates. A permit is valid from the construction start date specified on the approved permit until the specified completion date.
 - (2) Encroachment permits are not valid if other required permits are not obtained or required notifications are not given.
 - (3) No disruption of traffic is allowed after 4:00 p.m. and before 8:30 a.m. unless specifically approved and noted in the permit.

- (4) Some permits may be valid on specific dates. They may be approved with special conditions specifying dates:
 - (a) When work shall be done.
 - (b) When work shall be completed.
 - (c) Before which work shall not start.
- (5) Permits expire and become void, unless otherwise amended:
 - (a) Sixty (60) days after the start date, if no work has begun.
 - (b) If the work is not diligently proceeding and there are delays of more than four (4) working days after the work has started, unless the delays are caused by weather or other circumstances beyond the permittee's control.
 - (c) When the encroachment, including the trench restoration, is completed or on the date specified on the permit as the expiration date.
- (6) The work is determined to be proceeding diligently if:
 - (a) After a project begins, work continues on a regular basis, except for weekends, holidays, inclement weather, labor disputes, or any emergency beyond the control of the permittee.
 - (b) The permittee ensures that all necessary materials and supplies are on hand and ready for use so as not to delay the encroachment and the prompt restoration of the public right-of-way.
- N. A valid permit may be extended by requesting an extension prior to the expiration date by specifying the dates that need to be changed and explaining the reason for the extension. The Town Engineer or his designee reserves the right to deny a request for extension.
- O. If an application has been withdrawn or an approved permit is cancelled prior to the start of work the applicant or permittee may request a refund of the bond funds; all other permit fees are non-refundable.
 - (1) To request a refund, submit a written request to the Town Engineer or his designee.
 - (2) The request shall include:
 - (a) The reason for cancellation or withdrawal.
 - (b) The permit number.
- P. By accepting an Encroachment Permit, the permittee and the owner of the facility(ies) for which the permit has been issued agree:
 - (1) To follow all laws, rules, regulations, and permit conditions.
 - (2) To assure that their employees, contractors, and subcontractors, comply with all laws, rules, regulations, and permit conditions.
 - (3) To indemnify the Town of Dover against all claims for personal injury or property damage that may arise in connection with the work.
- Q. The encroachment permit shall be available during work periods at the encroachment site, until the project is completed and approved by the Town Engineer or his designee. Permit(s) shall be shown to the Town of Dover employees upon request.
- R. The excavator shall provide public notifications when excavating in the street portion of the public right-of-way.
 - (1) Minor projects lasting longer than 48 hours but less than 15 working days shall provide 11" x 17" posters with 1-inch minimum letters at the beginning and end of the project

and every 300 feet between the beginning and the end of the project. Notes must contain:

- (a) The names, address, and telephone number of the owner and the permittee.
- (b) The start and completion dates of the project.

(2) Major projects lasting 15 working days or longer, the excavator shall:

- (a) After the permit has been issued and at least five but no more than 30 calendar days before the anticipated start date of work, mail or deliver written notice to:
 - [1] Residents and occupants along the affected street.
 - [2] Schools, churches, and other assembly uses within 300 feet of the affected street.
 - [3] The Town of Dover Engineering Department and Public Works Departments.
- (b) At least five calendar days but not more than 15 calendar days prior to starting work, post and maintain 11" x 17" notices in accordance with paragraph (r)(1) above. The notices must contain:
 - [1] The name, address, and telephone number of the owner and the permittee.
 - [2] A description of the project.
 - [3] The start and completion dates of the project.
 - [4] The name, address and 24-hour telephone number of a contact person.

§337-8. – Excavation material.

- A. Pavement shall be cut to a straight, neat, vertical line prior to excavation.
- B. All excavated material shall be removed from the job site within twenty-four (24) hours. Any excavated material removed from the job for deposit within the Town of Dover will require a separate Soil Disturbance permit in accordance with Chapter 236, Article VII of the Code of the Town of Dover.
- C. Every trench must be backfilled and topped with temporary asphalt or covered by trench plates the same day. The Town of Dover may issue Notice of Violations or pursue any other legal remedy if the trenches are not properly covered or backfilled in a timely manner. Backfill must meet the requirements of the details provided by the Town Engineer or his designee.

§337-9. – Backfill.

- A. Trenches shall be backfilled with in details provided by the Town Engineer or his designee.
- B. When undermining occurs, remove existing pavement as required to properly compact the backfill and restore the pavement.
- C. Compaction tests may be required at the direction of the Town Engineer or his designee, and shall be certified by an independent laboratory and submitted to the Town Engineer or his designee, who may require the contractor to recompact and retest until the test results show that proper compaction is being achieved.

§337-10. – Paving.

- A. Excavations shall be milled and paved for the entire lane(s) width of the excavation and/or disturbance for a minimum of twelve (12) inches beyond the limit of the excavation/disturbance, in accordance with details provided by the Town Engineer or his designee

To allow for proper placement of the new pavement section, damaged pavement outside of

the original trench cut lines shall be removed by cutting in lines perpendicular to or parallel to the original trench lines. No diagonal cuts are to be made. Undamaged pavement of three (3) feet or less between two damaged areas shall also be removed.

- B. Excavations in concrete streets shall be repaved with concrete. The thickness of the new pavement shall be equal to the thickness of the existing pavement with the minimum thickness to be six (6) inches in the roadway. Steel reinforcing shall be provided in accordance with Town of Dover Standard Plans and Specifications.
- C. Trenches in streets shall be surfaced after properly backfilling with not less than 2 inches of Hot Mix Asphalt 9.5M64 Surface Course over 4 inches of Hot Mix Asphalt 19M64 Base Course over 4 inches of Dense Graded Aggregate Base Course.
- D. Final restoration by milling and paving shall be completed not sooner than 30 days, not later than 90 days from the time the entire trench is backfilled, unless delay is excused due to circumstances beyond the contractor's control, such as inclement weather.
- E. On all streets steel plates shall be used to facilitate traffic flow and to protect the excavation until backfill and temporary pavement is installed. Steel plates used to bridge a street opening shall be ramped to the elevation on the adjacent pavement and secured against movement in any direction. Temporary ramps shall be constructed of asphalt in accordance with details provided by the Town Engineer or his designee.
- F. All damaged pavement markings and striping shall be replaced and restored in accordance with details provided by the Town Engineer or his designee.

§337-11. – Defects.

- A. Depressed trench pavement shall be repaired in accordance with details provided by the Town Engineer or his designee
- B. Work not in compliance with the above requirements shall be rejected, removed, and redone by the permittee to the satisfaction of the Town Engineer or his designee.
- C. The owner of the facility/utility company is responsible for any roadway defects in the area over and adjacent to the trench appearing after the permittee restores the trench. The owner is responsible for maintenance, repair or reconstruction of the encroachment site's affected area until the Town of Dover releases the required Maintenance Bond.
- D. If there is a trench-related failure after the Town of Dover reconstructs, repaves, or resurfaces the street, the owner of the facility/utility company is responsible for its repair if the failure occurs within the Maintenance Bond period.
- E. When the Town of Dover determines that an encroachment or a defect is hazardous or constitutes a public nuisance or other imminent threat to public health, safety, or welfare, the Town Engineer or his designee may order the responsible party to remedy the condition immediately.

If the responsible party refuses or fails to make the needed repairs immediately, the Town of Dover will make the repairs and:

- (1) The responsible party will be charged all the actual costs including administration, construction, consultant fees, equipment, inspection, notification, and remediation made necessary by the action or inaction of the permittee.

- (2) The repair or restoration by the Town of Dover does not relieve the responsible party from liability for future pavement failures.
- (3) If the responsible party fails or refuses to pay the restoration cost, the Town of Dover may use any legal means to recover the costs, including but not limited to property liens and/or court action.

§337-12. – Maintenance Bond.

After the final inspection and prior to acceptance of the repaired excavation by the Town Engineer or his designee, the permittee shall post a Maintenance Bond equivalent to 15 percent of the value of the Performance Bond. The Maintenance Bond shall be for a period beginning on the date of the acceptance of the work by the Town Engineer or his designee and terminating:

- A. Five (5) years later for an encroachment made within the pavement area, or
- B. Three (3) years later for an encroachment made outside the pavement area.

Property owners performing sidewalk repair and/or replacement work shall be exempt from providing a Maintenance Bond, but shall be responsible for maintenance and repair of the work under the Town of Dover Property Maintenance Code.

§337-12.1. – Violations

- A. Any person, firm or corporation violating any provision of this article shall be subject to one or more of the following: a fine outlined in the table below, a term of imprisonment not exceeding 90 days or a period of community service not exceeding 90 days. This shall be in addition to any other remedies available to the Town to enforce this article.

VIOLATIONS	ACTION / FINE
1. Working without a permit.	Notice of Violation, stop work, and apply and pay for the required permit followed by a \$750.00 Fine if non-compliant within 7 days
2. Encroachment without providing public notice.	Notice of Violation and stop work followed by a \$500.00 Fine if non-compliant within 2 days
3. Beginning a "Major Project" without having a pre-construction meeting.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 2 days
4. Violation of permit conditions.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 2 days
5. Improper site protection: improper plating, path of travel, barricading, etc.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 1 day
6. No permit on site.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 1 day
7. Improper trimming of trench.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 2 days
8. Any trench left open after the allowed work hours that is	Notice of Violation followed by a \$500.00 Fine if non-compliant within 1 day

not backfilled and covered.	
9. Improper public notice: no notice sign, wrong information on sign/notice.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 1 day
10. Non-compliance with trench restoration requirements.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 7 days
11. Improper housekeeping: failure to remove spoil, dirty site, no sweeping, etc.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 2 days
12. Other encroachment code violations.	Notice of Violation followed by a \$500.00 Fine if non-compliant within 2 days

The above fines, when assessed, may be deducted from the cash deposit required by §337-7.E.(1) of this section or will be paid by the applicant if there is not a cash deposit.

B. Suspension. Whenever the Town Engineer or his designee finds that a suspension of an encroachment permit is necessary to protect the public health or safety from imminent danger, the Town Engineer or his designee may immediately suspend any such permit pending a hearing for remedial action or revocation. The Town Engineer or his designee shall, within three (3) working days of the emergency suspension, give a written notice of such suspension to the permittee, by personal service or by first class mail, postage prepaid, to the last known address of the permittee. The permittee may, within fifteen (15) days after service of such a written notice of suspension, file with the Town of Dover Administrator a request for hearing regarding the suspension. The Town of Dover Administrator or his or her designee shall schedule a hearing on the suspension within five (5) working days of receipt of a request for hearing. If the Town of Dover Administrator or his or her designee, after the hearing, finds that the public health or safety requires correction or alteration of any condition caused by, or existing on the site of the encroachment, he or she shall issue one or more of the following:

- (1) An order to correct any particular noncompliance.
- (2) A revocation of the encroachment permit.
- (3) A continued suspension of the encroachment permit, until such time as the dangerous condition is corrected.
- (4) A modification or reinstatement of the encroachment permit, with conditions as necessary to prevent harm to the public.

The Town of Dover Administrator or his or her designee shall, within ten (10) days of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the Town of Dover Administrator or his or her designee shall be final, except a decision to revoke the permit which may be appealed to the Town of Dover Governing Body.

C. Revocation. The Town Engineer or his designee may recommend that the Town of Dover Administrator revoke a permit where he or she finds that:

- (1) The permittee has violated any provision of this Code or conditions of the permit; or
- (2) The permittee has failed to pay any required fees, or to post or maintain any bond or insurance required by this chapter; or
- (3) The encroachment for which the permit was granted adversely affects the safety, capacity, or integrity of the Town of Dover's public right-of-way or increases the Town of Dover's liability exposure; or
- (4) The encroachment is causing the Town of Dover to incur substantial additional maintenance costs; or
- (5) Material misrepresentations, omissions, or inaccuracies were made in the application for the permit.

The Town Engineer or his designee shall give the permittee at least ten (10) days' written notice of a hearing before the Town of Dover Administrator or his or her designee on the proposed revocation of a permit issued pursuant to this chapter, setting forth the grounds for such action. If, after reviewing all evidence presented before or at the public hearing, the Town of Dover Administrator or his or her designee makes any one of the five findings set forth above, he or she may revoke the permit. The Town of Dover Administrator or his or her designee shall, within ten (10) days after the close of the hearing, render a written opinion, stating the findings upon which the decision is based, and the action taken. The decision of the Town of Dover Administrator or his or her designee may be appealed to the Town of Dover Governing Body.

Section 2

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistencies.

Section 3

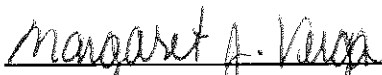
If any article, section, subsection, paragraph, phrase or sentence is, for any reason, held to be unconstitutional or invalid, said article, section, subsection, paragraph, phrase or sentence shall be deemed severable.

Section 4

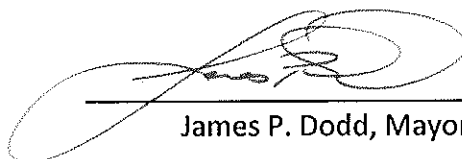
This ordinance shall take effect immediately upon final publication as provided by law.

ATTEST:

TOWN OF DOVER



 Margaret J. Verga, Clerk



 James P. Dodd, Mayor

Introduced:

Adopted: 3/11/14