

## CHAPTER 12 STREETS AND SIDEWALKS

### SECTION 12.1 - Excavate, Obstruct or Encumber

**PERMIT REQUIRED:** No person, firm or corporation, or any agent or servant thereof, shall excavate, obstruct, or in any way encumber any street, sidewalk or other City-owned property or right-of-way in the City of Somersworth without first having obtained a written permit to do so from the Director of Public Works, or designee, except where such licensing power is particularly vested in the City Council (see RSA 231:184). Any person, persons, firm or corporation violating any of the provisions of this section shall be fined not less than \$500.00 nor more than \$1,000.00 for each violation, pay for any repairs necessary to bring the trench into compliance, and may subject the Permittee/contractor to revoked digging privileges.

**EXCEPTION, PER RSA 236:9:** The exception to the above shall be in cases of emergency where the public health or safety is endangered. Such immediate action as may be necessary may be taken without such permission, but in such cases the person directing or taking such action shall at once notify the Director of Public Works, or designee.

**REGULATIONS:** Permittees shall obtain a copy of and adhere to all provisions of the Somersworth Construction Standards by the Department of Public Works and Utilities.

**WORK SCHEDULE:** Except for emergencies as may be deemed essential by the Department of Public Works and Utilities, no person, firm or corporation or any agent or servant thereof, shall excavate, obstruct, or in any way encumber any street, sidewalk, or other City-owned property or right-of-way in the City of Somersworth between the 15<sup>th</sup> of November and the 15<sup>th</sup> of April. The Director of Public Works, or designee, must approve the schedule of work. Scheduling will be such as to not unreasonably interfere with traffic.

**FEES:** Every permit will require the Permittee to pay a fee to the City to cover the City's cost of reviewing, processing, inspecting, and executing the permit. The amount of the fee will be established by the Department of Public Works and Utilities.

**BONDS AND LETTERS OF CREDIT:** Every Permittee will be required to furnish one of the following:

- Bonds - Permittees who regularly work in the City can opt to provide an annual bond to the City, with the approval of the City Engineer. The amount of the bond will be established by the Department of Public Works and Utilities.
- Letters of Credit - Permittees who regularly work in the City can opt to provide a Letter of Credit from a New Hampshire bank to the City, with the approval of the City Engineer. The amount of the Letter of Credit will be established by the Department of Public Works and Utilities.

**BACKFILLING, PAVING, DUST CONTROL, AND TRAFFIC CONTROL:** These items will be done in accordance with the Somersworth Construction Standards.

**INSPECTIONS:** The Director of Public Works and Utilities or his/her designee may inspect the site prior to the commencement of backfill, during the backfill operation, prior to the commencement of paving and during the paving operation. It shall be the responsibility of the licensee to arrange for these inspections during normal working hours, and he/she shall provide a 24-hour notice.

**MORATORIUM PERIOD:** In an effort to protect the City's investment in its infrastructure, excavations in newly constructed, reconstructed, rehabilitated, or overlaid pavements anywhere within the public right-of-way or on City property, to include streets and sidewalks, are prohibited as follows:

- For pavements that have been overlayed, the excavation moratorium shall be three (3) years after the effective date of completion or acceptance.
- For pavements that have been reclaimed, reconstructed, rehabilitated, or are newly constructed, the moratorium period shall be five (5) years after the effective date of completion or acceptance.

**INSURANCE:** As a condition of this permit, the Permittee shall agree to provide insurance to indemnify the City of Somersworth and the Department of Public Works and Utilities, including all officials and employees thereof. Required policies shall include, but not be limited to. Comprehensive General Liability and Workman's Compensation. The requirements of the policies will be according to the Somersworth Construction Standards.

**REVOCATION OF PERMIT:** The City of Somersworth, Department of Public Works and Utilities, or the City Engineer may revoke any permit issued under this regulation at any time.

#### Section 12.2 - Use of Sidewalks

No person shall drive any vehicle or equipment on any sidewalk in the City, except for strollers, wagons, carriages, or other methods of transporting small children.

#### Section 12.3 – Signs and Awnings

No person shall place, establish or maintain any sign, awning or shade before his/her place of business, dwelling house or tenement, over any part of any street or sidewalk, unless the same be safely fixed and supported so as in no way to incommode or endanger persons passing upon such street or sidewalk and so that the lowest part of such sign, awning or shade shall be at least seven and one-half feet above the sidewalk; nor shall any person hang, affix, fasten, place or allow to remain upon the outer edge of any sidewalk, any sign or showcase except in conformance with the requirements of the Zoning Ordinance. (Amended 7/18/1994.)

#### Section 12.4 - Rubbish, Refuse and Garbage

(See Chapter 7 - STREETS, SIDEWALKS, SEWERS).

#### Section 12.5 - Snow and Ice

- 1) No person shall deposit, or cause to be deposited, any ice or snow that has been removed from private property in or upon any street, sidewalk or public place in the City, nor shall such snow or ice be put or placed in a public road so as to block access to hydrants or sidewalks maintained by the City during snow events.
- 2) No person shall deposit, or cause to be deposited, including, but not limited to deposits from roof and/or foundation drains/pumps, any liquid from private property in or upon any public road, sidewalk, or City property, in such a manner so as to cause a condition

hazardous to pedestrian movements and/or to the normal and reasonable flow of vehicle traffic.

#### Section 12.6 - Transporting Buildings

No person shall move, or assist in moving, any house, shop, or other building through any street, lane or alley, without first obtaining a written license therefore in the manner prescribed in Section 1 of this chapter.

When the City Engineer shall, as aforesaid, grant permission to any person, firm or corporation, to encumber any street sidewalk or public square, for the purpose of erecting, altering or moving buildings, or to dig up or encumber the same in any other manner, he may, as a condition to granting such permission, require the party obtaining the same to furnish a bond of indemnity to the City of Somersworth in such sum and with such sureties as he may deem proper.

#### Section 12.7 - Driveways

**PERMIT REQUIRED:** It shall be unlawful to construct, or alter in any way that substantially affects the side or grade of, any driveway, entrance, exit, or approach within the limits of any street, sidewalk or other City-owned property or right-of-way in the City of Somersworth without first having obtained a written permit to do so from the Director of Public Works and Utilities, or designee, except where such licensing power is particularly vested in the City Council (see RSA 236:13). Any person, persons, firm or corporation violating any of the provisions of this section shall be fined not less than \$500.00 or more than \$1,000.00 for each violation, pay any late fees as part of an after-the-fact the permit application, and pay for any repairs the City deems necessary.

**REGULATIONS:** Permittees shall obtain a copy of and adhere to all provisions of the Somersworth Construction Standards by the Department of Public Works and Utilities.

**FEES:** Every permit will require the Permittee to pay a fee to the City to cover the City's cost of reviewing, processing, inspecting, and executing the permit. The amount of the fee will be established by the Department of Public Works and Utilities.

#### Section 12.8 – Outdoor Dining

This section (12.8 A and 12.8 B) is only applicable to the use of public space such as sidewalks, street side parking spaces, and any other City-owned public rights of way; it does not apply to the use of private property which may need Land Use Board/s review and approval.

##### A) Sidewalk Dining

**PERMIT REQUIRED:** A business owner shall obtain a permit to encumber the sidewalk from the Director of Public Works, or their designee, to operate an outdoor seating area on a sidewalk, for service and consumption of food or drink prepared on premises.:

**FEE:** Each permit requires a non-refundable fee of \$50 payable to the City of Somersworth at the time of application.

1) The permit Applicant shall:

a. Provide a Certificate of Insurance naming the City of Somersworth as additional insured. The terms of the Certificate of Insurance shall be in a form and amount acceptable by the City.

b. Agree to indemnify and hold harmless the City of Somersworth, New Hampshire from all claims for damage or injury whatsoever, that may arise from the encumbrance, obstruction, occupation, or use of the aforesaid sidewalk.

2) The building in which the licensed business operates must share a common boundary with a sidewalk. Sidewalk encumbrances shall allow a minimum four (4) foot-wide unobstructed pedestrian corridor at all times, and at least five (5) feet wide when located along a street corner. Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances, at the discretion of the Director of Public Works and Utilities, or their designee.

3) Egress from the building must be maintained free of obstruction per the Building Code, NFPA 101 Life Safety Code, and any other applicable Local, State, or Federal Regulations, as amended.

4) Permits may only allow encumbrances between April 15 to November 1, and as weather conditions allow.

5) The encumbered area must not block access to public street furniture, trash receptacles, street signage, fire hydrants, or other public structures or infrastructure.

6) The encumbered area and any furniture or feature within the area must be kept in a clean, safe, and sanitary condition, and all trash shall be properly disposed.

7) Planters or pots may be used to assist in defining a dining area, however these are not required.

8) Lighting must not cause glare to pedestrians or vehicular traffic and must not be affixed to City trees or other City structures or infrastructure.

9) Table umbrellas without logos are allowed, however these must not extend beyond the permitted Area, and must be anchored properly.

10) No advertising signs of any kind shall be allowed in the permitted Area unless duly licensed in compliance with all City regulations.

11) All outdoor dining areas where alcohol service is provided shall comply with the following requirements:

- Outdoor dining establishments shall agree at all times to comply with all laws, rules and regulations of the New Hampshire State Liquor Commission and all other Local, State and Federal regulations.
- Be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system that is safe.

The enclosure system, tables, chairs, and other features shall be movable/non-permanent, and shall not damage the underlying sidewalk or other City infrastructure or structures in any way.

Permits issued under this section may be revoked at any time by the City for failure to comply with the approved permit, or to deal with emergencies, maintenance of infrastructure, public safety, or any other reason determined to be in the best interest of the City.

## B) On Street Dining

PERMIT REQUIRED: A business owner shall obtain a permit from the Director of Public Works to encumber and utilize street side parking space(s) or any other City-owned parking areas for service and consumption of food or drink prepared on premises.

FEE: Each permit requires a non-refundable fee of \$50 payable to the City of Somersworth at the time of application.

- 1) Applications for On-Street Dining shall be reviewed and approved by the Somersworth Technical Review Committee (SRTC).
- 2) All On-Street dining must use jersey barriers as a safety precaution.
- 3) Public on-street parking space(s) encumbrances must provide an accessible path of travel to the area from abutting sidewalks. Such expansions must occupy the area directly in front of the proposed business and may request to expand to be in front of the adjacent properties with abutting property owner and/or business permission.
- 4) All other regulations contained in Section 12. A – Sidewalk Dining shall apply to this section. Permits issued under this section may be revoked at any time by the City for failure to comply with the approved permit, or to deal with emergencies, maintenance of infrastructure, public safety, or any other reason determined to be in the best interest of the City.

#### Section 12.9 – Decorative Sidewalk Landscaping and Sidewalk Sales

The use of adjacent sidewalks for decorative landscaping and sidewalk sales does not require a permit but is subject to the following regulations;

- 1) The program is active April 15 to November 1 each year.
- 2) Decorative sidewalk landscaping and sidewalk sales are allowed as long as they may be placed within 5 feet to either or both side(s) of your front door entrance, and don't encumber the normal flow for pedestrians on the sidewalk.
- 3) Landscaping features and sidewalk sales shall allow a minimum four (4) foot wide unobstructed pedestrian corridor at all times, and at least five (5) feet wide when located along a street corner. Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances, at the discretion of the Director of Public Works, or their designee.
- 4) Landscaping features shall not be directly attached to (e.g., bolts, nails, screws) or damage the underlying sidewalk in any way.
- 5) The business displaying decorative landscaping or conducting sidewalk sales is responsible for cleaning/repairing any damage or staining to the sidewalks.  
Decorative sidewalk landscaping and sidewalk sales are allowed from April 15 to November 1 as conditions allow.

The City reserves the right to required business to remove decorative landscaping or discontinue sidewalk sales immediately for violations of the requirements of this Section, or to deal with emergencies, maintenance of infrastructure, public safety, or any other reason determined to be in the best interest of the City.

Section 12.10

The Director of Public Works and Utilities, or designee, shall issue permits in accordance with rules and regulations promulgated by the Planning Board. June 6, 1972.

Amended 06/18/2001

Amended 01/08/2020 – Delete Chapter 12 and replace entirely. (ORD 15-20)

Amended 10/11/2021 – Add Sections 12.8 and 12.9 (ORD 2-22)