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RIGHT OF WAY ORDINANCE

DIVISION 1. GENERAL

Sec. 1-1. Intent And Purpose

The purpose of this Ordinance is the regulation of the use of public Right of Ways in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public Right of Way.

Sec. 1-2. Administration

The Director\(^1\) is the principal Town official responsible for the administration of the Right of Ways, Right of Way Permits, and the ordinances related thereto. The director of the public works authority shall establish Rules & Regulations governing street excavations and implementing this ordinance. The Director may delegate any or all of the duties hereunder.

Sec. 1-3. Definitions

The following words and phrases, when used in this ordinance, shall have the meanings respectively ascribed to them:

Dig Safe shall mean the “Underground Protection of Facilities Act,” commonly known as the Dig Safe law, found at 23 MRSA § 3360-A. Any excavation undertaken or authorized by this ordinance shall comply with all requirements of this law. In the State of Maine a One-Call system has been established for obtaining locations of underground facilities prior to excavation. The utilities required to join the One-Call Dig Safe system include those who furnish electricity, gas, oil, cable TV, telephone, or telegraph services by underground lines. Utilities not required to join are water districts, sewer districts, municipal underground facilities, and utilities having fewer than 5 full-time employees or fewer than 300 customers. The excavator is solely responsible to notify all possible utilities with underground facilities at least 3 full business days prior to the start of any excavation, trenching, or boring work.

Director shall mean Public Works Administrator and/or designee as assigned by issuing authority.

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

Excavate shall mean to dig into or in any way remove or physically disturb or penetrate any part of a Right of Way.

Facility or Facilities shall mean any tangible asset in the Right of Way required to provide Utility Service.

\(^{1}\) The Town Manager would make the appointment

10/16/98

Maine Chapter- APWA
**Licensed excavator** shall mean any person who has been issued a license by the Town to excavate in public places in the Town.

**Newly constructed**, reconstructed or rehabilitated streets shall mean any street that has been newly constructed, reconstructed or rehabilitated within the past five- (5) years.

**Permittee** shall mean a person who has obtained a permit as required by this ordinance.

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

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

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

**Rehabilitation** shall mean that activity of work on any street which provides structural improvement having a minimum service life of fifteen (15) years with minor maintenance, which includes pavement overlay of one and one-half (1½) inches minimum depth, and partial or full depth reconstruction.

**Right of Way** shall mean the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the Town has an interest, including other dedicated Right of Ways for travel purposes and utility easements of the Town. A Right of Way does not include the airwaves above a Right of Way with regard to cellular or other non-wire telecommunications or broadcast service.

**Rules & Regulations** shall mean the Director of the public works authority shall establish rules & regulations governing street excavations and implementing this ordinance. The Director may delegate any or all of the duties hereunder.

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

**Town** shall mean Town and/or its Public Works Authority.

**Utility** shall mean a public utility, as defined in 35-A M.R.S.A. § 102 as it may be hereinafter amended and shall specifically include the non-regulated activities of such a utility.
Sec. 1-4. Protective Measures And Routing Of Traffic

(a) **Safe crossings.** The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least forty-eight inches (48") in width shall be maintained along such sidewalk line.

(b) **Barriers and warning devices.** It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control near all excavations affecting vehicular, pedestrian and other traffic shall be subject to final review and approval of the Director. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Manual on Uniform Traffic Control Devices" (MUTCD).

c) **Normalization of traffic conditions.** The permittee shall take appropriate to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

(d) **Closing of streets.** When traffic conditions permit, the Director, with the approval of the police department of the Town, may by written approval (or by verbal approval in the case of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed by him or her, if in his or her opinion it is necessary. The written approval of the Director may require that the permittee give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given. In case of emergency work during non-business hours, the utility company having such emergency shall contact the **Town Dispatch Center at 000-0000** before closing a street to traffic.

(e) **Warning signs to channel traffic.** Warning signs shall be placed in accordance with the applicable section of the most current edition of the MUTCD in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to safely channel traffic, in accordance with the instructions of the Director, after his or her review of the proposed traffic control measures for the project.

(f) **Special police protection for interference with school walks route map.** The permittee shall hereby be informed that the Town has or may have a "school walk route map", and that the Director will require special police protection at locations where the permittee, by his or her work, interferes with these designated school walk routes or crossing locations. Copies of school walk route maps for various locations in the Town may be procured from the Director.

(g) **Interference with arterial streets.** Construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town. A list of **arterial** streets shall be kept at the offices of the public works authority.
Sec. 1-5. Relocation And Protection Of Utilities

The permittee shall not interfere with any existing facility without the written consent of the Town and the owner of the 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 it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

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 loops and all other vital equipment as designated by the Town and/or Dig-Safe.

Sec. 1-6. Abandonment Of Structure

(a) Whenever the use of a substructure is abandoned or becomes an unusable facility, except the abandonment of service lines designed to serve single properties, the person or utility owning, using, controlling, or having an interest therein, shall within thirty (30) days after such abandonment, file with the Town a statement in writing giving in detail the location of the substructure so abandoned. If such abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the Town or any other public body, the owner of such substructure, after having been contacted by the excavator, shall establish if the substructure is abandoned and make the first cut or tap before allowing the substructure to be removed by the excavator.

(b) When gas or other flammable service to buildings is discontinued, the existing service line for such service shall be terminated at a point outside the building.
Sec. 1-7. Protection Of Public Property

(a) The permittee shall not remove, even temporarily, any trees or shrubs which exist in a public place without first obtaining the consent of the appropriate Town department or Town official having control of such property.

(b) 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 benchmarks 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.

(c) No person or utility shall remove, damage, haul away or cause misalignment of any curbing, including radius curb and catch basin, stones, for any reason whatsoever without first receiving written permission from the Town.

(d) No person or utility shall remove, damage, haul away, or otherwise disturb any manhole and/or catch basin castings, frames, and/or covers owned by the Town without first receiving written permission from the Town. Any manhole and/or catch basin castings, frames and/or covers missing, damaged, or disturbed shall be repaired and/or replaced by the Town, and the cost will be charged to the permittee.

Sec. 1-8. Prompt Completion Of Work

After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the permit and shall promptly complete such work and restore the street or sidewalk as specified in this ordinance and the Rules & Regulations enacted by the public works authority. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel.

All excavations shall be covered or backfilled at the end of each workday. Covered shall mean steel plated over the entire trench plus 2’ around the edges. The steel shall be of strength to hold pedestrian traffic. Barriers approved by the Director must be installed if the excavation is to be plated.
Sec. 1-9. Urgent Work

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the Town shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the permittee beyond normal working hours, including up to twenty-four (24) hours a day, to the end that such excavation work may be completed as soon as possible.

Sec. 1-10. 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 which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations.

Sec. 1-11. Noise, Dust And Debris

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the permittee shall act to reduce noise, dust, and unsightly debris in the performance of the excavation work. Excavation work, including the use of any tool, appliance, or equipment, shall be performed between the hours of 7:00 a.m. and 7:00 p.m. only, exclusive of emergency work. Time waiver requests may be submitted to the public works authority for work outside of this time period and will be subject to neighborhood concerns. Excavation work shall not occur on Sundays, holidays or on major holiday weekends, unless expressly authorized by the public works authority or as a result of emergency need.

Sec. 1-12. Excavations During Winter

   (a) No person or utility shall be granted a street opening permit or open any street or sidewalk from the time of November 1st of each year to April 15th of the following year unless an emergency or special condition exists and permission is obtained in writing from the Town.

   (b) Any person or utility wishing to obtain a street opening permit between these aforementioned dates shall first explain fully in writing the emergency situation or special condition existing to the Town before a permit may be granted. If an emergency condition which could endanger life or property exists, excavation work shall not be delayed by this section; however, a written explanation shall be delivered to the Town as soon as possible and a street opening permit obtained for the opening made. A moratorium surcharge shall be added to the regular permit fee for any permit issued between the aforementioned dates for an excavation that is not due to an emergency condition.

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

Sec. 1-13. Restoration Of Streets And Sidewalks

All street and sidewalk restorations, including temporary and permanent work within any street
shall be performed by and at the Permittee’s sole expense and in accordance with the Town's code
of ordinances and according to the Rules & Regulations promulgated by said authority pursuant
to Section 1-2 of this code. All repairs and restoration work shall be completed by the Permittee
in a manner and to the extent deemed acceptable to the Director.

Sec. 1-14. Warranty Of Work

The permittee shall, for a period of two (2) years thereafter, be fully liable for all defects in
materials and workmanship relating to such replacement or realignment and shall promptly repair
or replace the same upon notice of the public works authority and to the satisfaction thereof.

A) Pavement repairs guaranteed by each permittee shall meet all of the following conditions
in order to remain in conformance with this ordinance

(1) The entire area shall be free from delamination of the approved surface material.
(2) No distortion of one-half inch (1/2” or greater shall exist over more than five
percent (5%) of the total surface area of the repair.
(3) No cracks of one-quarter inch (1/4”)or greater shall exist in the surface or edges of
the repair totaling more than five percent (5%) of the repair perimeter.
(4) The hot-mixed asphalt within the trench shall not be completely flushed and
bleeding.

(B) Non-conformance with any of the above conditions shall constitute a breach of guarantee
and subject the permittee to remedial actions as provided in the Rules & Regulations.

(C) Severe [over one inch (1”)] distortion conditions shall be considered Tort liability and
street defect conditions and shall necessitate that full repairs be completed within
twenty-four (24) hours of notification by the Town.

Sec. 1-15. Liability Of Town Insurance

This ordinance shall not be construed as imposing upon the Town or any official or employee any
liability or responsibility for damages to any person injured by the performance of an excavation
work for which a permit is required under this ordinance, 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. In the case of a dedicated-but-unaccepted street or way, this ordinance shall not be
construed as authorizing any action which is inconsistent with any private rights in said street or
way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street
or way by the Town for highway or any -other purposes. For purposes of this section, every
licensed excavator shall maintain at all times comprehensive general liability and property damage
insurance coverage in a suitable amount, not less than $300,000, protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. All such insurance shall include, without being limited to; endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the Town. Evidence of such coverage shall be a condition precedent to the issuance of any license hereunder and shall be submitted in a form satisfactory to the public works authority.

Sec. 1-16. Maintenance Of Excavation Areas

(a) If any part of any excavation, including the excavation, backfilling and repairs fails to conform with the standards of this chapter and the rules, the Town shall notify the permittee and require the appropriate corrective actions to be undertaken. Permittee shall take corrective action within twenty-four (24) hours after the issuance of notice if the failure could trigger tort liability or liability for a street defect, as defined in 23 M.R.S.A § 3651, et seg. In all other instances, permittee shall have a reasonable time as provided in section 1-21 to undertake corrective action.

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

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

Sec. 1-17. Inspections

(a) The Town shall make such inspections as are reasonably necessary in the enforcement of this ordinance and the Rules & Regulations.

(b) The public works authority may order such actions as it deems necessary to ensure that this ordinance and the Rules & Regulations implementing it are not violated.

(c) In the event that any dispute exists as to the amount, nature, or scope of the work required under this ordinance or the Rules & Regulations, the decision and judgment of the responsible Town official will be final and binding unless appealed to or stayed by a court of competent jurisdiction.
Sec. 1-18. Testing Requirements

The Town may order a test (at its own initial expense) on any subsequent restoration of a street excavation in order to determine if the work has been or is being completed in accordance with Town specifications and regulations. If the test shows the street restoration phase or phases to be in material violation of this ordinance and the Rules & Regulations, the permittee shall pay the cost of the testing and all required subsequent tests to verify the proper restoration in accordance with this ordinance and the Rules & Regulations.

Sec. 1-19. Maintenance Of Drawings

Every person or utility owning, using, controlling or having an interest in substructures under the surface of the public way or public property, used for the purpose of supplying or conveying gas, electricity, communications, impulse, water, steam, ammonia or oil in the Town, shall file with the Town a map or set of maps each drawn to a scale of not less than one (1”) inch to fifty (50’) feet, showing in detail the plan, location, size and kind of installation, if known, of all new or renewed substructures. These maps shall be provided to the Town no later than sixty (60) days after the completion date of construction in paper and in digital file form acceptable to the public works authority.

Sec. 1-20. Fees And Charges

(a) Each street opening permit may be assessed two (2) fees; an administrative charge, a permanent pavement restoration charge.

(1) **Administrative**: This fee shall reimburse the Town for the direct cost of labor and equipment necessary to administer this ordinance and the Rules & Regulations and the rehabilitation of Town streets primarily due to excavations.

(2) **Permanent pavement restoration**: This fee shall cover the Town’s cost of permanently restoring the disturbed pavement area and shall be based on the final measured size of each permitted street opening.

(b) All fees shall be enacted annually by order of the Town Council. The public works authority shall endeavor to notify currently licensed excavators in advance of any fee revisions.

(c) Upon permit application, the administrative charge, estimated permanent pavement restoration charge, and moratorium/remaining life fees shall be paid to the street openings clerk unless waived by the public works authority as provided below. No permit shall be issued without appropriate payment of fees. Utility applicants in good standing shall be granted the option of being invoiced by the Town for these fees.
(d) Waiver of fees:

(1) To prevent untimely delays to construction activities within the limits of Town and/or MDOT planned reconstruction areas, the Town shall waive street opening repair charges for utilities and individuals having work to do in such areas until the time reconstruction takes place.

(2) The director may waive all permit fees in streets or sidewalk/driveway areas to contractors under contract to the Town or MDOT.

(3) To promote the use of tunneling, jacking, and boring technologies, permanent restoration and moratorium/remaining life fees will not be assessed to any excavation area achieved by these technologies which does not result in pavement damage.

(4) No permanent pavement restoration fee or moratorium/remaining life fee will be assessed for excavations into streets classified with a pavement condition index (PCI) requiring rehabilitation per the Town's pavement management and maintenance program.

(5) No permanent pavement restoration fee will be assessed to public utilities in good standing under the Rules & Regulations who are allowed to perform their own permanent pavement restorations in conformance with the Rules & Regulations.

(6) The Town Manager may authorize special, waivers of permit fees if special conditions exist which can be supported by the director in writing.

Sec. 1-21. Violations

(a) Any person or utility failing to comply with or violating any provision of this ordinance or the rules shall be served by the public works authority with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.

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

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

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

(e) (1) Any violation of this ordinance which is also a violation of 35-A M.R.S.A. § 2509 or 2511 or a violation of 23 M.R.S.A. § 3353 or 3355 shall subject
the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time.

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

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

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

Sec. 1-22. Failure To Obtain A Permit

Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of two hundred fifty dollars ($250.00) shall be required in addition to all applicable permit fees.

Sec. 1-23. Appeals Process

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

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

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

End of Section
DIVISION 2. UTILITY LOCATION PERMIT

Town of
Public Works Department
Utility Location Permits
Preparation of Application For a Utility Location Permit
(And Additional Requirements and Information)

Sec. 2-1. Definitions

Application: A written statement, requesting a location permit from the licensing authority, describing the work proposed by the applicant.

General Location (or permit area): That portion of the highway to be occupied or crossed by the proposed installation.

Specific Location Plan: A plan or sketch showing the location within the highway or the principal units of the proposed installation.

Sec. 2-2. Application

The application is designed for publication without plans. The statement in the application must provide:

1. Description of the general location.
2. Description of the proposed installation.
3. Minimum depth below ground or height above ground.

Four copies of each application shall be submitted to the Town Office, Maine 00000.

Any number of general locations and proposed installations may be included in one application. However, each general location and the applicable proposed installation shall be stated separately.

Sec. 2-3. Plans

Unless otherwise noted general location maps (provided by the Utility Section), 4 copies showing each or all general locations and specific location plans, 4 copies for each specific location, shall be submitted with the application.

An as-built survey of the Utility post construction to a scale of 40’ = 1” on a 24” x 36” Vellum must be provided. A Digitized electronic drawing file copy, in an approved format, on a 3-½” inch floppy disk or CD will be required for larger projects as determined by the Town.
Sec. 2-4. General Location

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

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

Sec. 2-5. Proposed Installation

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

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

Sec. 2-6. Specific Location Plan

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

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

Sec. 2-7. Supporting Data

The application should contain or be accompanied by a statement indicating:

1. That a copy of the application has been given to the municipal officers.
2. The newspaper in which the application will be published.
3. Any proposed joint use or ownership of the facility.
4. Any existing facility or permit of the applicant at this location.
5. Any existing facility of others with which the proposed installations may conflict.
6. Person available to review proposed locations at the site. NAME, ADDRESS, TELEPHONE NUMBER
7. An as-built survey of the Utility post construction to a scale of 40’ = 1” on a 24” x 36” Vellum must be provided. A Digitized electronic drawing file copy on a 3 ½ inch floppy disk or CD will be required for larger projects as determined by the Town. The Director shall approve the format of the digitized file drawing.

Sec. 2-8. Publication

Per MSRA Title 35A Chapter 25 Section 2503, the applicant shall give public notice by publishing the text of the application once in a newspaper circulated in the municipality or municipalities encompassing the limits of the proposed location. The publication shall include a statement equivalent to the following: “Any person, firm, or corporation claiming to be adversely affected by this proposed location, shall file a written objection with the Town stating the cause of said objection within fourteen (14) days after the publication of this notice.” Evidence of publication shall be submitted to the Town before a permit can be issued.

Sec. 2-9. Bridges

If the installation is to be made on or close to a bridge, the application must be accompanied by plans showing the location, method of construction, clearances and other data pertinent to the safety and use of the bridge. For detailed requirements and more information of installations adjacent and/or attachments to bridges, please contact Bridge Maintenance, Maine Department of Transportation, in the Augusta office.

Sec. 2-10. Highway Construction

In order that an adequate permit may be issued for the location of utility plant relocated because of highway construction or retained within the limits of highway construction, the utility shall submit a statement in substantially the same form and substance as an application for a Location Permit with these exceptions or additions the same form and substance as an application for a Location Permit with these exceptions or additions.

1. Reference shall be made to the highway construction project.
2. The specific location plan shall show highway stations, except for project for which highway construction plans are not available.
3. If highway construction is a federal aid project, the specific location plan shall show the normal edge of pavement, the curb or outside edge of shoulder, Right of Way line and other pertinent highway features.

If highway construction is in an urban or congested area the Municipal Construction Standards shall be followed with exceptions only if an undue hardship may be created.
Sec. 2-11. Application

The Application shall be of sufficient detail to permit review without the need of a site visit.

Sec. 2-12. Permits

As far as practicable, the utility’s description and specific location plan will be made a part of the permit.

Sec. 2-13. Highway Construction

Title 35A M.S.R.A. Section 2503 Ordinance 9 requires the licensing authority to issue Location Permit for facilities relocated because of highway construction.

Highway construction changes the relationship between existing utility plant and the new highway without any utility relocation. The licensing authority should issue a Location Permit to confirm that any utility plant which has not been relocated does not impair the highway improvement or interfere with the free and safe flow of traffic.

When Right of Way is taken from a utility for highway Right of Way and the utility must, or chooses to, leave its plant in the public way, the licensing authority should issue a Location Permit as evidence of the legality of the location.

Federal regulations require the equivalent of the above wherever utility plant is to be retained, relocated or constructed within the limits of federal aid highway project.

Sec. 2-14. Work Not Requiring A Permit

A new location permit is not required for:

a. Replacements, repairs or reconstruction in place.*
b. Additions provided for in the original permit.
c. Improvements provided for in the original permit.
d. Services.
e. Hydrants, transformer, street lights, valves, switches, etc. and associated equipment.
f. The applicant is advised to read the law for conditions under which a Location Permit is not required.

*If the existing installation appears to impair the highway improvement or to interfere with the free and safe flow of traffic, and if anything more than a minor replacement or reconstruction is planned the utility should move its plant to a location which is in compliance with the current standards.
Sec. 2-15. Advance Installation

A Conditional Location Permit for Utilities may be issued to allow a utility to be placed in advance of this permit process, but the applicant does so at his/her own Risk *. Any conditions, changes, re-locations resulting from the formal permit being issued will be the sole responsibility of the applicant for compliance. The Conditional Permit shall be issued in written letterform on a case by case basis. No formal Application is attached.

*However, if the existing installation appears to impair the highway improvement or to interfere with the free and safe flow of traffic and if anything more than a minor replacement or reconstruction is planned the utility should move its plant to a location which is in compliance with the current standards.

The Town objects to each application for a Utility Location Permit pending review by a representative of the Town. Issuance of the permit shall be evidence that the objection has been withdrawn.

End of Section
DIVISION 3. STREET OPENING PERMIT

Sec. 3-1. Required.

No person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town except as otherwise provided in this ordinance. Any excavation within the Town's streets, sidewalks, esplanades or other public Right of Way shall only be permitted in accordance with this code or the Rules & Regulations. The granting of such a permit shall cover all required activities to conform to this ordinance and the Rules & Regulations.

Sec. 3-2. Application.

(a) No street opening permit shall be issued unless a written application on a form provided by the Town for the issuance of a street opening permit is submitted to the Town. The written application shall contain such information as reasonably required by the public works authority and identified in the Rules & Regulations. The permit shall expire thirty (30) days from the date of issuance.

(b) In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town.

(c) All applicants with the exception of utilities in good standing as defined in the Town municipals standards or in accordance with The Town Public Works Department’s Contractors Handbook shall be required to post a two (2) year bond or appropriate security deposit in order to apply for any permits.

Sec. 3-3. General Conditions.

(a) Permits shall be granted only if the applicant has properly notified all utilities, contacted "Dig-Safe", and obtained an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities' satisfaction.

Sec. 3-4. Annual Work Program To Be Submitted By Utilities

Each year on or before March 31st, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies defined in Section 3-1 and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not contained within each utility's respective planned work program, except for emergencies and house service lines.
Sec. 3-5. Duration

Excavation work must be started no later than thirty (30) days from the date of issue of the street-opening permit. After the expiration of this thirty- (30) day period, such permit shall become null and void unless renewed by the Director. Permits can be extended up to a maximum of one year at the discretion of the Director.

Sec. 3-6. Fees and Charges

Fees and charges shall be adopted by the Town Council.

Sec. 3-7. Bonds

Bonds or deposits shall be required of all applicants other than utilities in good standing under the Town municipal standards or in accordance with the Rules & Regulations in order to guarantee their performance. Bonds shall be posted for a minimum of two (2) years and shall not exceed Twenty-five Thousand Dollars ($25,000). The required bond value shall be equivalent to the estimated cost of the number of excavations performed in the previous season, or Twenty-five Thousand Dollars ($25,000) whichever is less. Instead of a bond, an applicant may substitute a deposit equal to the anticipated cost of excavation repair for each application it seeks. Deposits shall be refunded upon approved completion of all conditions of this ordinance and the Town municipal standards or in accordance with the Rules & Regulations.
Division 4 – Driveway/Entrance Permit

Sec 4-1. Purpose

A. This Division provides for the review of any entrance onto a public way for compliance with sound construction and design practices to ensure that traffic safety, drainage and public improvements are not adversely affected.

Sec 4-2. Permit Required

A. No driveway, entrance or approach or other improvement within the limits of the Right of Way for any public road may be constructed, altered or relocated except in accordance with an Entrance Permit issued by the Town upon application.

B. The Town Council may establish the fee for such permit.

C. The entrance permit shall be valid for a period of twelve months from the date of original issue.

D. No entrance, approach or other improvement constructed on the Right of Way shall be relocated or its dimensions altered without an Entrance Permit from the Town.

E. The Owner is responsible for future maintenance of the entrance within the limits of the Right of Way and shall maintain the entrance in accordance with the approved permit.

Sec 4-3. Town Held Harmless

A. The applicant shall hold harmless the Town and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of an Entrance Permit.

Sec 4-4. Approval Criteria

A. **General.** Entrances should be designed and constructed to provide safe access to the public way. Applicants are encouraged to comply with the “Access Management Handbook for Local Officials” as developed by the Maine Department of Transportation, 1994.

B. **Applicant.** The applicant for a permit shall be the owner of the property being served. Any driveway or approach constructed by the Owner shall be for the bonafide purpose of securing access to the Owner’s property and not for the purpose of parking or servicing vehicles on the road Right of Way.

C. **Sight Distance Criteria:**
   1. All entrances shall be so located such that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the public way or to maneuver safely and without interference with traffic.
   2. Measurements to determine sight distance shall be made in the proposed entrance at a point ten (10’) feet from the edge of shoulder line with the height of eye three and one-half

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2 “Access Management Handbook for Local Officials” as developed by the Maine Department of Transportation, 1994
(3.5’) feet above the pavement. The sight distance shall be computed from this point measuring along the roadway to a point where an approaching height of object four and one quarter (4.25’) feet is first seen.

3. Driveway placement shall be such that an exiting vehicle has an unobstructed sight distance according to the following schedule:

<table>
<thead>
<tr>
<th>Highway Speed (MPH)</th>
<th>Minimum Sight Distance (in feet)</th>
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<td>25</td>
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D. Geometry:

1. The entrance shall be designed such that the grade within the Right of Way does not exceed 10%.
2. For uncurbed public ways the entrance shall in general slope away from the road surface at a rate of not less than one quarter inch per foot, nor more than one inch per foot for a distance of not less than the prevailing width of the existing shoulder, but in no case less than four (4) feet from the edge of pavement.
3. The entrance should intersect the traveled way at a horizontal angle of 90 degrees but in no case shall the horizontal angle be less than 75 degrees.
4. No part of the entrance shall extend beyond the property lot frontage for the lot being served.
5. The entrance shall not be located close to an intersection and should be back at least 50 feet.

E. Drainage:

1. Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the applicant. The applicant must provide at his/her expense suitable and approved drainage structures at all entrances.
2. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.
3. Where a drainage culvert is required to maintain roadside drainage the Town must approve the pipe diameter/length and type pipe material prior to installation. In any case, the pipe size shall be at least 12 inches in diameter.

F. Construction:

1. The Owner is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the Right of Way.
2. The entire portion of any entrance within the limits of the Right of Way shall be constructed with a minimum 15-inch well-graded gravel base course (MDOT Type C).
3. If the entrance grade within the Right of Way exceeds five (5%) percent slope then the entrance shall have a paved surface within the limits of the Right of Way.
G. **Curb and Sidewalk:**

1. When sidewalk or curb exists at the proposed entrance the applicant shall remove and replace such materials at the applicant’s expense. Any granite curb to be removed by the applicant will remain the property of the Town.

2. Where curb exists, curb tip-downs shall be provided at each side of a new entrance.

3. Where sidewalk is removed to accommodate a new entrance a new walk surface of equal type construction is to be provided. The sidewalk area at all entrances is to meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines. In general sidewalks shall meet the following:
   a.) The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal.
   b.) The maximum sidewalk cross-slope is not to exceed 2%.
   c.) No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

*End of Section*
SECTION 4.0
TECHNICAL STANDARDS - STREET EXCAVATIONS

Sec. 4.01 Technical Standards

Any person or utility having first obtained a street opening permit shall be fully responsible for restoring streets and their appurtenances (e.g. granite curb, under-drain, filter fabric, sewer and drainage structures, etc.) in complete compliance with the City's Technical and Design Standards and Guidelines. [All persons and utilities are encouraged to obtain a current copy of said standards from the City's Engineering office located at the Department of Public Works.]

Sec. 4.02 Excavation Requirements

(A) All work must be conducted in strict accordance with the latest regulations of OSHA for excavations.

(B) All excavations shall be performed in accordance with the City of Portland Department of Public Works specifications or in a manner as prescribed by the Director of Public Works for circumstances not covered by the specifications.

(C) 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 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 city shall have the authority to require that the permittee haul the excavated material offsite.

(D) It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

(E) 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 city. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, boards or bins may be required by the city to prevent the spreading of dirt into traffic lanes. If any portion of the excavated material is allowed to be used as backfill, it shall be stockpiled separately from all other materials.

(F) Breaking through pavement in streets.
   (1) The Permittee shall make every effort to keep the amount of pavement damage to a minimum. Pavement shall be cut in a rectangular shape to ensure a proper repair. Any pavement damage created by permittee's excavation shall be repaired by the permittee.
(2) All excavations on paved street surfaces shall be pre-cut in a neat straight line with pavement breakers or saws.

(3) Heavy-duty pavement breakers may be prohibited by the city when the use endangers existing substructures or other property.

(4) Cutouts of the trench lines must be normal or parallel to the trench line. No irregular shapes will typically be allowed.

(5) Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench.

(6) Unstable pavement shall be removed over cave-outs and over-breaks; and the sub-grade shall be treated as the main trench.

(G) The permittee shall not be required to repair pavement damage outside of the requirements of Section 4.04 existing prior to the excavation unless his or her cut results in small floating sections that may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.

(H) When two or more street openings are made under the same permit in sequence seven (7) feet or less (edge to edge) between each adjacent opening, the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall repair the entire area as one trench.

(I) Where additional excavations are made for the same client or utility which are within seven (7) feet (edge to edge) of previous excavations still under a guarantee period, the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall repair the area between openings and the most recent opening as one trench.

(J) At the time of permit application the applicant will be required to pay an assessment for all Belgian Pavers/granite paving blocks, cobblestones, or bricks expected to be removed as a result of excavations within the right of way unless these material are required to be replaced or are delivered in good condition to the City's Recycling Center.

Sec. 4.03 Backfill Requirements

(A) All work must be conducted in strict accordance with the latest regulations of OSHA for excavations.

(B) All work must be protected from freezing.

(C) Temporary or permanent sheeting must be used to support the sidewalls where necessary to prevent undermining of the pavement and/or maintenance of traffic or safety of personnel.
(D) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.

(E) Backfilling of excavations shall be performed by the Permittee as soon as practicable so that the least possible subsequent settling will occur. Before backfilling operations shall begin, the Permittee must notify the Director, allowing adequate time as determined by the Director for inspection.

(F) Granular Borrow material selected from the spoil, or delivered to the site, shall be spread in layers not exceeding eight inches (8") in loose depth and thoroughly compacted around and under the appropriate bedding material for any substructure, and used as backfill up to the bottom of the pavement structure sub-base.

(G) Where the excavated material is primarily clay, it shall be allowed for use as backfill only upon the express approval of the Director, with the intention of minimizing differential settling.

(H) All remaining excavated material shall be removed from the job site and disposed of, as the Permittee's responsibility, in such a manner that will minimize interference with pedestrian and vehicular traffic. No material shall be left within the right-of-way once the repair and/or installation is complete.

(I) Pavement structure base and sub-base materials:

   (1) The pavement structure sub-base shall be back filled with Crushed Type D gravel (or better) conforming to Section 4.05 (B). The crushed aggregate shall be spread in layers not exceeding eight (8") inches in loose depth and compacted to no less than 95% of the maximum dry density of the material, ASTM D1557, to the depth required by the City's Technical and Design Standards and Guidelines.

   (2) The pavement structure base material will be Crushed Type B gravel conforming to Section 4.05 (A) and compacted to no less than 95% of the maximum dry density of the aggregate base course materials, ASTM D1557, to the depth required by the City's Technical and Design Standards and Guidelines.

   (3) The maximum dry density of the material to be used in the trench along with the corresponding moisture contents, in accordance with ASTM D1557, shall be filed at the time of application to obtain the permit. The City reserves the right to verify maximum density and field density at any time.

(J) The City will allow, as an alternate, digable, pourable backfill, otherwise known as Controlled Density Fill (CDF), under the following conditions:

   (1) The requirements of Section 4.03 (1) shall be met.

   (2) Only Type IE, Excavatable, Flowable Fill will be allowed. These mixes are designed to have very flowable characteristics for filling small areas or hard to reach areas such as multiple duct trenches whereby compaction equipment maneuvering would be difficult.
cause floating of the utility lines, or in the presence of cast iron or steel pipes.

(4) CDF placement in trenches must be fully barricaded or police protected for a minimum of three (3) hours after the pour or until a set is reached that will prevent a hazard to animals or humans.

(K) The requirements of this Section are intended to maximize compaction and therefore minimize settling.

Sec. 4.04 Restoration of Streets

(A) If excavation (or pavement damage) occurs at or within twenty-four (24) inches of the edge of pavement, the permittee shall be responsible for repair to the edge of pavement.

(B) Where two (2) or more street openings are made under the same permit in sequence seven (7) feet or less (edge to edge) between each adjacent opening, the permittee shall be responsible for repairing the entire area between openings measured from the first opening through to the last opening.

(C) Where additional excavations made for the same client or utility are within seven (7) feet (edge to edge) of previous excavations still subject to a guarantee, the permittee shall be responsible for repairing the area between openings.

(D) Upon the completion of proper backfilling, the Permittee shall construct temporary pavement. (See section 4.08 (G) for details of construction methods.) Before paving operations shall begin, the permittee must notify the Director, allowing adequate time as determined by the Director for inspection. All hot-mixed asphalt paving must first be approved by the Director or designee as to depth and materials. Should the circumstances of the trench backfilling require City personnel to be on-site after 5:00 PM, or on holidays, the permittee shall be required to pay for the cost of overtime (one and one-half hours, minimum, as required by current Union contracts).

(1) Notification of the anticipated timing of all paving activity must be acknowledged by the Director; any notification delivered by facsimile machine must be preceded or followed up by a telephone conversation to assure its proper and timely receipt.

(2) Permittees shall endeavor to make notification by 9:00 AM of each workday that paving is anticipated. In the event of schedule changes or emergencies, the permittee is requested to provide a minimum of one-hour notification to assure inspection availability.

(3) If a City inspector is not able to be on-site within 30 minutes of the acknowledged anticipated start time of paving activity, the permittee shall be allowed to commence paving in accordance with this Section.
(E) All temporary pavement shall be installed according to these specifications which include a minimum of three (3) inch thickness hot-mixed asphalt Grade B placed in two (2), one and one half (1 1/2") inch compacted lifts. The temporary pavement shall meet the guarantee standard of Section 4.10 for the applicable guarantee period of Section 4.09.

(F) Hot-mixed asphalt paving of trenches greater than one hundred (100') feet in length shall be paver applied unless otherwise authorized by the Director.

(G) The Permittee shall be responsible for the proper placement and maintenance of the temporary pavement and shall keep the temporary pavement level with the surface of the surrounding existing pavement and in proper repair and condition, within the tolerances provided in Section 4.10, until the end of the guarantee period.

(H) Any street markings or traffic loops disturbed by the permittee shall be promptly replaced by the permittee.

(I) It shall be the responsibility of the Permittee to perform the necessary restoration beyond the limits of the pavement which shall include but not be limited to restoration of lawns, esplanades, shrubs, gardens, curbing, sidewalks, under-drains, separations fabrics, fences, walls, etc. Upon completion of the permanent repairs outside the limits of the pavement, the Permittee shall notify the Director of Public Works in writing that the permanent repairs or replacement has been completed, setting forth the date of completion. The Permittee shall, and has the duty and responsibility to, maintain the replacement area outside of the pavement for a period of five (5) years after completion.

(J) Refilling of bar holes. Any person or utility making bar holes in the street or sidewalk of any public place shall immediately, upon completion of the work, fill these bar holes by the use of an approved asphalt plug.

(K) Permanent Pavement Restoration:
   (1) Permanent restoration of streets shall, with the exception noted below, be made by the City through a separate bid contract with qualified contractors commencing within twenty-four (24) months after termination of the appropriate guarantee period; typically 3 or 5 years.
   (2) The City shall allow those Permittees representing Utilities (as defined in Sec. 2.01) whose performance is considered good (as defined in Section 7.0) to undertake their own permanent pavement restorations, provided that the restoration meets or exceeds the specifications in Section 4.08. In addition, those Permittees choosing to conduct permanent pavement restorations shall be deemed to have agreed to all terms of Section 5.0 below.

(L) Permanent restorations shall not be allowed to commence until at least one (1) winter moratorium cycle has passed since the installation of approved temporary hot-mixed asphalt.
Sec. 4.05 Material Specification

(A) Pavement structure base material shall be crushed Type B gravel conforming to MDOT Standard Specifications Section 703.06 with the exception that all material must pass a two inch (2") square mesh sieve.

(B) Pavement structure sub-base material shall be crushed Type D gravel or better conforming to MDOT Standard Specifications Section 703.06 with the exception that all material must pass a three inch (3") square mesh sieve.

(C) Granular borrow used as backfill material, whether delivered to the site or selected from the spoils, shall conform to MDOT Standard Specifications Section 703.19 with the following revisions. All material must pass a three-inch (3") square mesh sieve and shall not contain frozen material or pavement. The gradation requirements of 703.19 shall not apply for the purposes of these Rules & Regulations.

(D) Controlled Density Fill (CDF) Type IE Excavatable

(1) The CDF ingredients shall comply with the following:

(i) Portland Cement AASHTO M85
(ii) FLY ASH AASHTO M295, Class F
(iii) Fine Aggregate MDOT Strnd. Spec. 703.01
(iv) Water MDOT Strnd. Spec. 701.02
(v) Air Entraining Admixtures MDOT Stnd. Spec. 701.03

(2) The CDF must meet the following requirements:

(i) Compressive Strength @ 28 days = 30 - 80 psi (210-550kPa)
(ii) Compressive Strength @ 90 days = 100 psi max. (700kPa max.)
(iii) Slump = 10 - 12 inches (250-300 mm)
(iv) Air = 1%-30%

(E) Temporary pavement shall be Grade B hot-mixed asphalt conforming to MDOT Standard Specification Section 403.

(F) Permanent pavement shall meet the specifications detailed in the City's Technical and Design Standards and Guidelines Section I. Paving materials shall conform to MDOT Standard Specifications Section 403.

(G) Bar holes shall be plugged with an appropriately sized asphalt plug or other material approved by the Director.

(H) Modified Winter Patching Material: See Appendix A.

(I) Portland Cement Concrete shall conform to the requirements of Section 502 of the MDOT Standard Specifications for Structural Concrete, Class "A".
(J)  Welded Steel Wire Fabric shall be six inch by six inch (6" x 6") mesh with No. 10 wire and shall conform to the requirements of AASHTO designation M55, Welded Steel Wire Fabric for Concrete Reinforcement. Substitution of welded wire fabric with FIBERMESH fibers (100% virgin polypropylene, collated, fibrillated fibers) at a rate of 1.5 lb. per cubic yard of concrete will be allowed for non-structural reinforcement. Installation shall be per manufacturer's recommendations.

(K)  New Brick shall conform to the various subsections of the specifications listed below.

1. Brick shall conform to requirements of ASTM Standard Specifications for Building Brick (made of clay or shale) Designation C62-66 for Grade SW with the following modifications:
   (i) The absorption limits shall be from 8 to 12 percent for the average of 5 bricks.
   (ii) The compressive strength shall not be less than 8000 pounds per square inch (psi).
   (iii) The modulus of rupture shall not be less than 1000 pounds per square inch (psi).
   (iv) The bricks shall be No. 1, wire cut type for paving.

2. Bricks shall be of standard size (2-1/4" x 3-3/4" x 8") with permissible variations not to exceed 1/16" in depth, 1/8" in wide or 1/4" in length. Bricks shall be manufactured by the Morin Brick Co. of Danville, Maine or an approved equal.

3. Sand-Cement Base for Brick: A layer of sand-cement base course material one (1") inch in thickness shall be spread upon the properly prepared bituminous base course. The course shall be thoroughly compacted and present a hard smooth surface parallel to the proposed finish slope and grade. The ratio shall be six (6) parts of washed mortar sand to one (1) part Portland Cement.

(L)  Mortar shall conform to MDOT Standard Specification Section 705.02 "Joint Mortar".

(M)  Underdrain shall be six (6) inch diameter SDR 35 or approved equal with perforations laid downwards. See Figure 11-14 in the City's Technical and Design Standards and Guidelines for construction details. Coiled pipes shall not be used.

(N)  Filter Fabric for underdrain shall be equal to Mirafi 140 by Fiber Industries.

(O)  Loam shall conform to MDOT Standard Specification Section 615 "Loam". Loam shall have a finished depth of four (4) inches (minimum).

(P)  Seeding shall be MDOT Method Number 1 and shall conform to the requirements of MDOT Standard Specification Section 618. Permittees shall be required to continually seed areas of loam and seed until a satisfactory growth of grass is established.
Sec. 4.06 Winter Excavations

(A) If work is conducted in the winter moratorium period, the following specifications shall apply:

(1) The temporary pavement repair shall be hot-mixed asphalt as specified unless hot-mix material is documented to not be available within a seventy-five (75) mile radius of the city. As an alternate the Permittee may use:

   (i) Modified Winter Patching Material as specified in Appendix A placed in one lift of three inches (3") compacted thickness. This material must then be removed within forty-five (45) days of the opening of local hot-mixed asphalt plants and replaced with three (3") inches compacted thickness of hot-mix asphalt as defined in Section 4.08 (G). The applicable guarantee period will begin when the hot-mixed asphalt repair is completed. No pavement shall be allowed of frozen materials unless it is expressly understood that complete trench reconstruction will be completed by the permittee during the following spring. In this case, the guarantee period begins after the spring reconstruction by the permittee.

(2) In all cases of Modified Winter Patching Material use, the permittee shall take all reasonable measures, including blotting the material, to prevent against vehicular or pedestrian tracking of the asphalt material.

(3) If the trench area is saturated, the following experimental backfill method shall apply:

   (i) Filter fabric meeting Section 4.05 (N) shall be placed to form a lining for the crushed stone backfill to be wrapped in, leaving extra material to completely cover the stone when placed.

   (ii) Crushed stone meeting the City's Technical and Design Standards and Guidelines Figure U-20 must be placed to the height of saturation and completely wrapped in filter fabric.

   (iii) Backfill requirements shall be dependent on vertical trench area absent of saturation. A minimum of twenty-four inches (24") of crushed Type D gravel shall be spread in layers not exceeding eight inches (8") in loose depth and compacted to no less than 95% of the maximum dry density of the material, ASTM D1557, up to the base of temporary pavement. Should a vertical zone exist between the saturation zone and Type D gravel zone, the backfill methods outlined in Section 4.03 (F) may be utilized within this zone.

(4) The Public Works Authority shall waive the required guarantee period and the applicability of Section 7.02 and 7.03 if the properly constructed crushed stone-backfill method is proven to breach the guarantee definition of Sec. 4.10. In this event, the Public Works Authority shall revise the required backfill method as necessary.
Sec. 4.07 Special Condition W

(A) Geofabric Material

(1) If an excavation cuts through an area that has been constructed with geofabrics, the following restoration procedures shall be strictly adhered to:

(i) Use a fabric replacement piece that has similar properties as that of the cut fabric. The most important property is that of the 095 Sieve Test or that property of the fabric, which has an opening, mesh size which allows 5% of glass beads to pass through when sieved (ASTM D4751-87).

(ii) Overcut the trench walls by a minimum of 4" in the area of the fabric replacement being careful not to disturb the existing 4" width of fabric exposed. Place a minimum of a 4" overlap of new fabric. Do allow soil migration in this seam area. Increase the seam width if the subgrade is very soft. If soft sub-grade and if the trench lies directly beneath a wheel path, increase the seam width to 12".

(iii) Sew or staple the seams in accordance with manufacturer's recommendation. If sewn, use colored thread, do not sew near the edge, double sew at 10-15 stitches per inch, and use thread material that closely matches fabric properties. If stapled or pinned, pin on 2 foot (0.6m) centers; use 6"x1" wide staples which can be applied by foot activated guns.

(iv) Caution must be exercised when placing and compacting the first twelve-(12) inches of material so as not to puncture the fabric.

(B) Underdrain

(1) If an excavation cuts through an existing underdrain system, it shall be repaired by the permittee in accordance with the city's Technical and Design Standards and Guidelines.

(2) The Director shall have the right to require a permittee to install underdrain within any major excavation zone if conditions warrant.

Sec. 4.08 Methods of Construction

(A) Workmanship

(1) The permittee is required to furnish all materials and will be responsible for the job to be done in an orderly, timely, quality controlled manner, and will be required to utilize quality workmanship and construction techniques conducted in accordance with industry standards for the successful completion of the utility work, backfilling, appurtenant restorations and temporary pavement repair.

(2) The Permittee shall keep a competent foreman and sufficient competent employees to carry on the work with all proper speed and in accordance with the requirements of law and other public authorities and to the reasonable satisfaction of the Director.
(3) The Permittee shall conduct the work in such a manner as not to unreasonably interfere with other work being done by the City, by contract or otherwise. If deemed necessary by the Director, the work done under these specifications shall conform to the progress of said other work. The Permittee shall cooperate with the contractors or employees who may be doing work for the City, and with public service corporations affected by the work in arranging for storage places, temporary support for structures, repairs, etc.

(4) All temporary repairs must be maintained by the Permittee until the end of the guarantee period or until permanent repair has been made, whichever first occurs.

(B) Length of Trench Opening

(1) The maximum length of open trench in an excavation permissible at any time shall be two hundred (200') feet, and no greater length shall be opened for pavement removal excavation, construction, backfilling, repairing or any other operation without the express written permission of the City.

(C) Placement of backfill material

(1) The backfill material shall be spread and compacted in layers not exceeding eight inches (8") in loose depth.

(D) Placement of Crushed Type D Gravel

(1) The aggregate pavement structure sub-base shall be spread and compacted in layers not exceeding eight (8") inches in loose depth except the last layer of material shall be six (6") inches in depth. The crushed aggregate shall be compacted to not less than 95% of the maximum dry density of the material, ASTM D1557.

(2) The maximum dry density of the material to be used as subbase along with the corresponding moisture contents, in accordance with ASTM D 1557, must be filed at the time of application to obtain the permit. Single source documentation will be acceptable for multiple permits in a season, provided that every stockpile utilized is accounted for.

(E) Placement of Crushed Type B Gravel

(1) The aggregate pavement structure base shall be compacted to not less than 95% of the maximum dry density of the base material, ASTM D 1557, to the depth required by the City's Technical and Design Standards and Guidelines.

(2) The maximum dry density of the material to be used as base along with the corresponding moisture content, in accordance with ASTM D1557, must be filed at the time of application to obtain the permit. Single source documentation will be acceptable for multiple permits in a season, provided that every stockpile utilized is accounted for.
(F) Temporary Asphalt Pavement

1. All temporary pavement shall be installed according to these specifications which include a three (3") inch (minimum) thickness of Grade B hot-mixed asphalt placed in two or more, 1 1/2" compacted lifts. All materials, placement, compaction and workmanship shall be in accordance with the applicable provisions of the Maine Dept. of Transportation Standard Specifications for this material.

2. Each 1 1/2" layer of hot-mixed asphalt is to be compacted separately meeting the requirement of 92 % minimum compaction of standard laboratory maximum theoretical density for the specific material.

3. Mechanical compactors will be permitted for repairs less than 10 square yards; repairs exceeding 10 square yards shall be rolled with an appropriately sized, power driven, steel-wheeled roller to obtain specification density.

4. Hot-mixed asphalt materials shall be laid upon an approved clean, dry, compacted surface, spread and struck off to the established grade and elevation giving regard to the loss in depth between loose and compacted mixtures. Immediately after the bituminous mixture has been spread, struck off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted.

5. The placing temperature of the hot-mixed asphalt mixture shall be between 325°F and 255°F. All compaction rolling shall be completed before the mixture cools below 185°F. This can be checked using a thermometer suitable for this type of work.

(G) Permanent Pavement Restoration

1. All materials, placement, compaction and workmanship shall be in accordance with the applicable provisions of the Maine Dept. of Transportation Standard Specifications for this material.

2. Temporary paving material shall be saw cut and neatly removed, or milled, as needed to comply with all provisions of this subsection.

3. Pavement structure base and sub-base should be checked for compliance with 95% compaction requirement, if the permittee elects or is required to remove the entire temporary paving material. If compaction is found to be less than 95%, trench must be re-compacted to meet specifications before paving will be allowed.

4. The surrounding pavement shall be milled a minimum of twelve inches (12") beyond the original excavation cut, and to a depth of one and one-half (1 1/2) inches, minimum.

5. The permanent pavement materials and depths shall conform with the specifications found in the City's Technical and Design Standards and Guidelines, which vary for different street classifications, or match the existing depths, whichever is greater. The requirement to match existing depths shall be waived if the permittee is able to show good cause, including demonstrated performance.

6. Each 1 1/2" layer of hot-mixed asphalt is to be compacted separately meeting the requirement of 92% minimum compaction of standard laboratory maximum theoretical density for the specific material.
(7) Mechanical compactors will be permitted for repairs less than 10 square yards; repairs exceeding 10 square yards shall be rolled with an appropriately sized, power driven, steel-wheeled roller to obtain specification density.

(8) Hot-mixed asphalt materials shall be laid upon an approved clean, dry, compacted surface, spread and struck off to the established grade and elevation giving regard to the loss in depth between loose and compacted mixtures. Immediately after the bituminous mixture has been spread, struck off, and surface irregularities adjusted, it shall be thoroughly and uniformly compacted.

(9) The placing temperature of the hot-mixed asphalt mixture shall be between 325°F and 255°F. All compaction rolling shall be completed before the mixture cools below 185°F. This can be checked using a thermometer suitable for this type of work.

(H) "Tack" Coating

(1) All vertical surfaces of the existing hot-mixed asphalt pavement shall be tack coated with an approved asphalt emulsion by thoroughly swabbing or brushing the vertical edges to fully cover with the liquid material prior to pavement installation.

(I) "Top" Joint Sealing

(1) All top surface joints between the pavement repair and the existing pavement are to be sealed with an asphaltic emulsion by swabbing or brushing a minimum three (3) inch width paint-like application over the joint to seal the surface air voids.

(J) Depth of Substructures

(1) No person or utility shall, without written permission from the city, install any substructure, except manholes, valve casings, culverts, and catch basins at a vertical distance less than:

(i) Twenty-four (24) inches below the established flow line of the nearest gutter. If the 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.

(ii) The minimum depth of any substructure shall be twenty-four (24) inches below the established gutter grade when the substructure parallels the street.

(iii) The minimum depth of any substructure shall be twenty-four (24) inches below the established sidewalk or curb when such substructure is at a right angle to the street.

(iv) The minimum depth of any substructure on any other public place shall be twenty-four (24) inches below the surface; provided, however, that the city may permit a lesser depth in special cases.
(v) Nothing in this section shall impose a duty upon the permittee to maintain the specifications as required herein upon subsequent changes of grade in the surface unless the grade in the substructure interferes with the maintenance of or travel on a public street.

(vi) Refer to City’s Technical and Design Standards and Guidelines for typical cross-section and depth requirements for substructures in City streets.

Sec. 4.09 Guarantee Period

(A) All street excavation repairs shall be guaranteed to conform to the requirements of Section 4.10 for a minimum of three (3) years unless the conditions of (B)(2) below are met, in which event the guarantee period may be reduced to one (1) year.

(B) Temporary Repairs

(1) The temporary repair will be guaranteed by the Permittee for a three-(3) year period for not all trenches found in clay or plastic soils. At the end of the guarantee period, the City will construct, through an annual contract, the permanent repair in accordance with the specifications in 4.08 (H) unless the permittee has been allowed to construct their own permanent repair.

(2) This three-(3) year period may be reduced to one (1) year if all of the necessary inspection certifications are filed with the City for the depth, quality and compaction of the materials placed. The submission of inspection/testing certificates of acceptance may be completed by either the City, if available, or a certified, independent materials testing laboratory authorized under a registered professional engineer. These certifications shall include the following, at a minimum:

(i) Written verification from the City inspector of the in-place pavement structure depths (including pavement, base, and sub-base materials).

(ii) Laboratory certified maximum dry density and corresponding moisture content (ASTM D 1557) of the in-place gravel base and sub-base.

(iii) Laboratory certified gradation results of the in-place gravel base and sub-base materials.

(iv) Laboratory certified in-place compaction of the gravel base and sub-base materials.

(v) Laboratory certified pavement mixture aggregate type and gradation, bituminous material type and amount, including additives, and material preparation and placement temperature ranges.

(3) Those repairs that are constructed in clay or plastic soil deposits will be guaranteed by the permittee for a period of five (5) years. At the end of the guarantee period, the City will construct, through an annual contract, the permanent repair in accordance with the specifications in 4.08 (G) unless the permittee has been allowed to construct their own permanent repair.

(4) As with (B)(2) above, the five-(5) year period may be reduced to two (2) years if all of the necessary inspection certifications are filed with the City for the depth, quality and compaction of the materials placed.
(C) Permanent pavement restoration performed by the permittee shall be guaranteed in accordance with Sec. 5.02 (A)(3).

(D) All street excavation repair guarantee periods shall begin upon the approved placement of hot-mixed asphalt in accordance with these Rules.

(E) Guarantee periods shall end if the street is rehabilitated by the City before the expiration of the guarantee period.

(F) Maintenance of restored items other than pavement and trench material (such as driveways, esplanade, and sidewalks) shall be the responsibility of the permittee for a period of five (5) years from approved completion of work. Documentation submitted to show healthy grass growth after two (2) mowings shall exclude grass growth from this five-(5) year guarantee.

(G) See Section 25-139 and 25-160 of the Portland City Code for enforcement details.

**Sec. 4.10 Definition of Guaranteed Pavement Repair Cond-**

(A) Pavement repairs guaranteed by each permittee shall meet all of the following conditions in order to remain in conformance with these Rules & Regulations and Chapter 25 Article VU of the City Code of Ordinances.

1. The entire area shall be free from delamination of the approved surface material.
2. No distortion of one-half inch (1/2 or greater shall exist over more than five percent (5%) of the total surface area of the repair.
3. No cracks of one-quarter inch (1/4 or greater shall exist in the surface or edges of the repair totaling more than five percent (5%) of the repair perimeter.
4. The hot-mixed asphalt within the trench shall not be completely flushed and bleeding.

(B) Non-conformance with any of the above conditions shall constitute a breach of guarantee and subject the permittee to remedial actions as provided in Sec. 25-139 and 25-160 of the Portland City Code.

(C) Severe [over one inch (1")] distortion conditions shall be considered Tort liability and street defect conditions and shall necessitate that full repairs be completed within twenty-four (24) hours of notification by the City as provided in Sec. 25-139 (a) of the Portland City Code.

**Sec. 4.1 L Pavement Management Maintenance Program**

The city is initiating a pavement management maintenance program at the Dept. of Public Works. This integrated system will play an important part of the city street excavation ordinance. Work/cost/history documentation of work completed on streets will be initiated and a better system to maintain and track excavation repairs and pavement condition performance will be created; as well as the necessary foundation for the documentation of the city roadway distress conditions for estimating service life performances. These systems will enable the city to provide users with more objective and readily available data on pavement distress information.
pavement inventory information, age of street since last structural improvement, utility repair performances, work/cost/complaint information on streets, budget projections of future rehabilitation needs as well as objective information as to why streets are prioritized for repair. After five years of implementation of such systems, the city will reassess the moratorium / remaining life fees in consort with the anticipated improved repair performances.
APPENDIX B

SAMPLE UTILITY LOCATION PERMIT APPLICATION
Town of
Public Works Department
Application for Utility Location Permit

DATE____________________

The ____________________________

(Name of Utility)

duly authorized under the laws of the State of Maine to construct, maintain and
operate __________________________

(Type of Utility)

within the Right of Way of highways within the State, hereby applies, pursuant to Title 35A
following installation in the Town
Description:

Minimum Depth of Cover _______________

(If applicable)

“Any person, firm or corporation claiming to be adversely affected by this proposed location
shall file a written objection with the Town, stating the cause of said objection within fourteen
(14) days after the publication of this notice.”

*______________________________

The text of this application will be published:

______________________________

NAME OF NEWSPAPER           By______________________________

                     SIGNATURE

*The entire application above this line.

is to be published

______________________________

TITLE

10/16/98                     41             Maine Chapter- APWA
APPENDIX C

SAMPLE STREET OPENING PERMIT APPLICATION
Town of
Public Works Department
APPLICATION FOR STREET OPENING

<table>
<thead>
<tr>
<th>Applicant:</th>
<th>Contractor Performing Work:</th>
<th>Property Owner:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address:</td>
<td>Address:</td>
<td></td>
</tr>
<tr>
<td>Applicant’s Phone No.:</td>
<td>Contractor’s Phone No.:</td>
<td>Owner’s Phone No.:</td>
</tr>
<tr>
<td>24-Hour On Call Phone No.</td>
<td>Contact Person (if different from applicant)</td>
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</tr>
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</table>

**Location of Excavation:**

(Street/Box Number & Name of Street)

Map Page: ____
Map Lot: ______

**Purpose of Work:**

| Proposed Starting Date | Proposed Completion Date | Dig Safe Ticket # | Except in an Emergency, no excavation is permitted from Nov. 1st of each year to April 1st of the following year. |

Describe Proposed Opening on Sketch Below or Attach Sketch or Plan to This Application

Show distance of opening from curb or pavement edge, width, depth and length of opening, nearest intersecting street, street numbers and abutting properties, existing utilities, proposed locations of barricades, warning signs, detour signs and detour routes.

☐ Check here if sketch or plan is attached. Please reference the sketch or plan to this application.

**Notice To Applicant**

1. This form is an application only & no excavation work is to commence until the Street Opening Permit has been issued.
2. No excavation work is to commence until DIG SAFE and all underground facility operators have been duly notified of the work 3 business days in advance in accordance with the current State of Maine statutory requirements.
3. All work must conform to the requirements of the Street Opening Permit and the current copy of the “Rules & Regulations” as issued by the Town.
4. **Fee________** Make checks payable to Town of _______.

**Statement of Agreement**

I am duly authorized to execute this application and have reviewed and will comply with the above. I further agree to comply with all requirements of the Street Opening Permit and agree to pay any subsequent charges which may become due as a result of my failure to comply with any of the permit requirements of the ROW Ordinance.

Signature of Applicant ___________________________ Date __________

10/16/98 43 Maine Chapter- APWA
APPENDIX D

SAMPLE DRIVEWAY / ENTRANCE
LOCATION PERMIT APPLICATION
<table>
<thead>
<tr>
<th>ID No.</th>
<th>Width Entrance</th>
<th>Surface Type</th>
<th>Culvert</th>
<th>Sidewalk</th>
<th>Public Catch Basins</th>
<th>Replaces Existing Entrance ID No.</th>
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<td></td>
<td>At Edge Of Road</td>
<td>At Property Line</td>
<td>(Within Town Way)</td>
<td>Pipe Size</td>
<td>Pipe Type</td>
<td>Lengt h</td>
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**Detail Proposed Entrances (distances in feet)**

<table>
<thead>
<tr>
<th>ID No.</th>
<th>Width Entrance</th>
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</tbody>
</table>

Proposed Starting Date: ____________________________  Proposed Completion Date: ____________________________  Dig Safe Ticket #: ____________________________
Public Works Department
APPLICATION FOR ENTRANCE

Application No.: __________________
Page Two

Describe Proposed Entrance(s) on Sketch Below or Attach Sketch or Plan to This Application

Show proposed entrance locations, width and arrangement; distance between entrances; setback (from edge of traveled way) of buildings, gasoline pumps, etc.; location of existing culverts, pipes, catchbasins or manholes, curbing, gutter, and sidewalks; and the location of proposed culverts, ditches, curbing, and sidewalks.

☐ Check here if sketch or plan is attached. Please reference the sketch or plan to this application.

Notice To Applicant
1. This form is an application only & no entrance work is to commence until the Entrance Permit has been issued.
2. No excavation work is to commence until DIG SAFE and all underground facility operators have been duly notified of the work 3 business days in advance in accordance with the current State of Maine statutory requirements.
3. All work must conform to the requirements of the Entrance Permit and the current copy of the “Rules & Regulations” as issued by the Town.
4. Fee ____________.

Statement of Agreement
I am duly authorized to execute this application and have reviewed and will comply with the above. I further agree to comply with all requirements of the Entrance Permit and agree to pay any subsequent charges which may become due as a result of my failure to comply with any of the permit requirements of the Right of Way Ordinance.

__________________________________
Signature of Applicant

(For Office Use Only)

☐ Check here if Entrance Site Inspection Report is attached

10/16/98 46 Maine Chapter- APWA
APPENDIX E

FEES & PERMITS ORDINANCE

Optional