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MaineDOT Highway Opening Permit Policy, November 7, 2011

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MaineDOT Highway Opening Permit Policy

I. REGULATIONS

Pursuant to the authority contained in the 23 MRSA §52, and to the rights, powers and duties contained in 23 MRSA §54, the following is hereby adopted to regulate and control the application and issuance of Highway Opening Permits granted by the Maine Department of Transportation (hereinafter MaineDOT), and the excavation, use and repair of state and state aid highways by permittees.

A Highway Opening Permit shall be obtained before any excavation is made within the highway right-of-way, except for emergency maintenance of an existing facility. If an opening is made for emergency purposes a written permit shall be obtained on the first business day thereafter.

II. APPLICATION

A. All applications shall be made on the most current forms supplied by the MaineDOT through any of its region offices or from the MaineDOT web site (<http://www.maine.gov/mdot/utilities/highwayopen.htm>).

B. All applications shall be signed by an authorized employee of the company, corporation, district or municipality for whom the work is to be done (i.e., the owner of the proposed facility).

C. Every application shall contain:

- a) The name, address, and contact information of the applicant or applicants,
- b) The purpose of the opening,
- c) The estimated start and completion dates of the work,
- d) A plan showing the location and size of the cuts to be made,
- e) An agreement that the applicant shall comply with all applicable rules, regulations and statutes of this State which pertain to highway openings; such agreements to be joint and several with multiple applicants,
- f) An estimate of the square yards of roadway and shoulder area to be opened,
- g) An estimated cost to replace the highway surface and shoulders, based on the schedule included as part of the application. This amount shall be known as the "Impact Value", and
- h) Every application shall be accompanied by a check in the amount of 10% of the estimated Impact Value (the permit fee), made out to "*Treasurer, State of Maine*", except as noted in Section II E. This application fee is non-refundable, except as noted in Section IV, D. 9 (Special Opening Permits with Escrow Accounts). The permit holder shall be responsible for all final restoration of the affected area to the satisfaction of the Department. Upon satisfactory

completion of the repairs, the permit shall be deemed complete. If satisfactory repairs are not done in a timely fashion and upon reasonable notice to the permit holder to do the same, the Department will accomplish the final restoration and bill the permit holder for the cost.

D. Every application shall be identified with the permit number when the permit is issued.

E. For instances where the estimated Impact Value exceeds \$2500 for Public Utilities, Municipalities or other Governmental Institutions or \$1,000 for all other applicants, application shall be made for a Special Opening Permit. Under this Special Opening Permit, the Impact Value is held in escrow and refunded to the applicant upon satisfactory repair of the roadway, minus an amount equal to the permit fee calculated from the final disturbed area. A Special Opening Permit will not be required when an applicant is authorized to utilize the Funding Agency Addendum.

III. PERMIT

A. All permits shall be made on prepared forms.

B. All permits shall be signed by an authorized employee or representative of the MaineDOT.

C. Every permit shall contain:

1. A permit number
2. Date of issuance
3. Name(s) of the applicant (a.k.a. “permittees”)
4. Location of the purpose excavation
5. Time limitation or period during which the excavation may remain open
6. Any standard or special instruction together with such safety precautions to be observed as may be required due to the particular circumstances

IV. ADMINISTRATION

A. Issuance. The MaineDOT Director of the Bureau of Maintenance and Operations, Highway Maintenance Engineer, Region Manager, Region Engineer, or any employee designated by them may execute and issue a Highway Opening Permit on behalf of the MaineDOT.

B. Limitation. Permits for any portion of a highway, the construction of which was completed within the time frames detailed below prior to the date of the permit, will be referred to the Director, Bureau of Maintenance and Operations in Augusta before the permit is granted; except in the case of an emergency no work shall be done by the utility on any such section of highway until the permit has been approved by the Director, Bureau of Maintenance and Operations or his/her designee.

- Any overlay more than 5/8 inch “maintenance paving”: 3 years
- Any construction work of higher order than an overlay, such as; “reclaiming”, “foamed asphalt”, and full depth base replacement; 5 years

If the applicant can show that the need for an opening permit could not have been reasonably anticipated before the highway was paved, and has made an effort to investigate alternate installation procedures, an "emergency" permit may be issued. For any Opening Permit issued within the time frame mentioned above, the MaineDOT may make sufficient charge, over and above the normal opening charge, to offset the cost of additional inspection and/or paving adjacent to the opening.

C. Location. No Highway Opening Permit shall be issued for an installation for which the MaineDOT may also issue a Location Permit, as required by Title 35A M.R.S.A. Section 2501 thru 2503, without prior approval of the Utility Engineer. In no case shall an opening permit for an Interstate Highway be issued to an applicant who does not hold a Location Permits for the same installation. Regulations and conditions pertaining to Location Permits will be provided in another agreement.

D. Conditions. All permits shall be granted subject to the following conditions.

1. The traveling public shall be adequately protected.
 - a) At least one-way traffic shall be maintained at all times.
 - b) Work shall be signed, lighted and traffic officers will be supplied when necessary. All traffic controls shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as issued by the Federal Highway Administration.
2. Construction methods shall be such that excessive excavation and excessive destruction of pavement will be avoided. Pavements shall be cut in advance along the proposed edges of excavation. All trench work shall comply with current OSHA regulation.
3. The backfill material shall be as follows:
 - a) Top 12 inches, or full depth of gravel base in more recently constructed highways, shall conform to the Department's gravel base specifications.
 - b) All other backfill shall be equivalent to material removed, except that special backfill of suitable material may be used immediately around pipe, cable, conduit, etc. or to replace material which cannot be compacted.
 - c) The permittee may, in the interest of good public relations, place a temporary bituminous mix on trench. The placing of the temporary bituminous mix will not reduce the opening fee.
4. Backfill material shall be uniformly distributed in layers of not more than 8 inches and thoroughly compacted by use of approved mechanical compactors before successive layers are placed. Water shall be added when necessary to increase the moisture content of the backfill material in order to obtain adequate compaction. Puddling or jetting of backfill will not be allowed. Base materials for highways under construction shall be compacted in accordance with the applicable Department specifications.

5. Surplus material shall be removed from the site and the area shall be left in a clean, presentable condition.

6. Permanent pavement shall be replaced to the full depth and extent of the existing pavement removed. This work is to be done by the permittee as described in Section II.c and as shown in MaineDOT's Trench Repair Typical, available on the MaineDOT web site.

7. Compliance with the terms and conditions of this permit shall be the responsibility of the permit holder. The Department of Transportation will not assume any liability for damages arising out of or resulting from a violation of the permit terms.

8. If MaineDOT determines that work is being conducted in an improper manner, MaineDOT will notify the permittee, both verbally and in writing, of the deficiency (or deficiencies) and may also require additional actions to correct and/or verify work that has been accomplished and to prevent further issues on the project. Examples of such actions may include:

- a) requiring the permittee to retain the inspection services of an engineering firm, at the permittee's expense,
- b) re-excavating and backfilling questionable or deficient areas as may be necessary, or
- c) cleaning areas that were not properly addressed

If the permittee does not undertake the required corrective actions, MaineDOT reserves the right to address the issues as necessary and will charge the permittee for all associated costs.

9. After the excavation has been made and backfilled, the actual square yardage of disturbed area, including any areas adjacent to the installation disturbed by blasting or other similar cause, will be measured by a representative of the MaineDOT. If the final permit fee based upon actual measurements differs from the estimated permit fee, an adjustment will be made either in the form of a refund or bill showing the additional amount due. In the case of a Special Opening Permit, the estimated permit held in escrow will be refunded to the permittee, less 10% of the final permit fee, upon satisfactory repair of the roadway by the permittee.

E. Policy - Conditions.

1. The MaineDOT shall limit the permit by setting the time within which the work must be accomplished and may prohibit work on Saturdays, Sundays, and holidays.

2. No permit, except in the case of an emergency, shall be granted unless the work contemplated is to be completed within the paving zone dates specified in MaineDOT's Standard Specifications (Rev. Dec. 2002), Section 401.06. This provision will not apply where the location of the facility or the method of installations proposed by the Utility and approved by MaineDOT is such that damage to or opening of the pavement is not anticipated. When an opening is deemed to be an emergency, MaineDOT will require more stringent winter conditions

and the permit holder will be required to provide temporary paving and to maintain the trench until the frost is out of the ground.

3. It should be noted that the total bill to the permit holder is dependent on the damage done to the highway facility. There is no opening fee unless the opening of a paved area (areas surfaced with gravel are considered paved), a shoulder area, or an opening between a normal ditch cut, or bottom of slope in fills and the shoulder is required.

4. In general, there is no opening fee if an installation is made immediately before or during reconstruction of the highway. Although an opening fee may not be charged, the permit holder will be billed for any damage to the highway facility. If traffic is to pass over the location, the trench shall be capped with 3 inches of cold mix bituminous pavement for openings made before construction, and shall be subject to the highway contract specifications made during construction. The permittee shall be responsible for maintaining the trench area until such time that the roadway falls under jurisdiction of the construction project.

5. Installations proposed to be made under paved areas shall be designed to use the shortest possible distance under the pavement consistent with the particular installation involved. The MaineDOT may require, or the permittee may propose, a method of installation (such as tunneling or jacking) which will not cause damage to or opening of the pavement. When such method is required or proposed; the method to be used shall be developed by the Utility and approved by the MaineDOT. Approval by the MaineDOT will not relieve the Utility of its responsibility for performing the work in a satisfactory manner.

6. When the crossing of a major highway is involved, the permittee shall give due consideration to the installation of a conduit or sleeve of adequate design to permit the operating facility to be removed for repair or replacement without opening the highway.

7. Private water, power and cable crossings shall be placed through a suitable pipe sleeve extending not less than out to out shoulder.

8. Installations subject to freezing shall be sufficiently deep so that it will not be damaged frost penetration.

F. Policy - Locations.

Facilities shall be located in accordance with the most current version of MaineDOT's Utility Accommodation Policy (17-229 CMR Chapter 210) and the license/permit that authorizes the facility within the limits of the highway corridor.