

**STREET EXCAVATION ORDINANCE  
CHAPTER 15**

**TOWN OF FREEPORT  
AN ORDINANCE RELATING TO ENTRANCES, UTILITY EXCAVATION AND CONSTRUCTION,  
HEAVY LOADS, AND CONTRACTOR APPROVAL  
IN THE PUBLIC RIGHT-OF-WAY**

**Article 1. General**

**A. Purpose**

This Ordinance has been enacted by the Town Council to regulate the use of public rights-of-way in the interest of public safety and convenience, and to protect public infrastructure. Excavation and restoration standards, control of access, and regulation of vehicle loads are required to preserve the integrity, operational safety, and function of the public right-of-way.

**B. Definitions**

1. Town shall mean the Town of Freeport and/or its Public Works Authority.
2. Director shall mean the Director of Public Works and/or his designee.
3. Contractor shall mean anyone licensed by the Town of Freeport to work in the public right-of-way.
4. Emergency shall mean any event, which may threaten public health or safety, where action is necessary to prevent personal injury, death or the loss or disruption of a private or public utility or service. The burden of proof of such emergency rests with the applicant.
5. Excavation shall mean any operation in which earth, rock, paving or like material, on, or below the surface of the ground, is moved, displaced, dug, trenched, tunneled or in any similar manner disturbed, except the agricultural tilling of soil or gardening.
6. Applicant shall mean a person applying for a permit required by this Ordinance.
7. Permit Holder shall mean a person who has obtained a permit as required by this Ordinance. A applicant may be 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.
8. Public right-of-way shall mean the entire width between property lines of every way and place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of traffic, except for private roads and private ways. The definition shall include the area on, above and below the public right-of-way, dedicated to public use, and any dedicated, but unaccepted street or way. The definition shall also include any publicly owned space or park. 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.
9. Entrance shall mean direct vehicular access to property abutting the public right-of-way.
10. M.D.O.T shall mean the Maine Department of Transportation.
11. Technical and Design Standards shall mean the standards cited herein and adopted by the Town of Freeport including the Maine Department of Transportation (MDOT) Standards and Specifications for Highways and Bridges, latest edition.
12. 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.

## C. Administration

1. The Director is the responsible authority for the enforcement of this ordinance.
2. A Highway Opening and/or Entrance permit is required prior to the commencement of any excavation in the right-of-way. It shall be unlawful for any person to excavate, or to place, deposit or leave upon any street any earth or other material, equipment or structure tending to interfere with the free use of the street, unless such person shall first have obtained a permit.
3. All Federal and State requirements for safe operation within the right-of-way shall be followed, including, but not limited to, OSHA and the Manual of Uniform Traffic Control Devices (MUTCD).
4. The permit holder shall hold harmless the Town of Freeport and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of any permits issued under this ordinance.
5. Only contractors and Public Utilities with a valid license are permitted to work in the public right-of-way. Refer to Article 5 – Approved Contractors.
6. Environmental Considerations
  - a) In the course of any work in the right-of-way, the permit holder shall not remove any trees or shrubs which exist in the street area without first obtaining the approval of the Director.
  - b) Best Management Practices (BMP's) as defined in the Maine Department of Transportation Practices for Erosion and Sedimentation Control, dated September 1997 shall be followed for all construction in the public rights-of-way.
7. The Public Works Director or his/her designee shall make such inspections as are necessary in the enforcement of this ordinance.
8. Permit holders shall maintain accurate drawings, including plans, and profiles showing the location and character of all underground structures including abandoned installations proximate to their work. Corrected as-built plans shall be filed with the Director within sixty (60) days after new installations, changes or replacements are completed.
9. Penalty. Any person, firm or corporation who shall violate any provision of this Ordinance shall be subject to a fine in an amount established by order of the Town Council. Each day of continued violation, and every violation of a provision of this Ordinance shall constitute a new and separate offense.
10. If any work performed under any permit issued under this ordinance is not completed in compliance with the terms of this ordinance, the Town may cause such work to be repaired and deduct the costs of such work from the performance guarantee or surety. In the event such repair was undertaken without a permit, the Town shall prepare a bill for the cost of the repair, plus an additional amount of fifty (50) percent to be paid by the person doing the work. The Town shall issue no further permits to any person who has performed such work until the Town receives payment from the person for the repair work.
11. Working Hours: Except for emergency repairs or as approved by the director, working hours shall be between the hours of 7:00 a.m. and 6:00 p.m., prevailing time. Starting or warming up equipment prior to 7:00 a.m. is prohibited. Work on the weekend or legal holidays is prohibited unless specifically authorized by the director.

## Article 2. Entrances to Public Right-of-Ways

### A. Purpose

This Article 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. A permit is not required for paving, culvert replacements, sealing, or repairs to any existing access.

**B. Permit Required.**

No person shall construct, cause or permit to be constructed, alter or relocate, any driveway, entrance, or approach or other improvement within the right-of-way of such road or extending from such road onto his property except in accordance with an entrance permit. This Ordinance applies to all proposed entrances or substantive changes to existing entrances to public roads after the effective date of the Ordinance.

**C. Administration**

1. A permit will be issued upon application to the Director for the purpose of securing access to private property.
2. An entrance permit does not authorize parking or servicing vehicles within such right-of-way.
3. A permit fee established by order of the [Town Council] shall be paid for each permit.
4. The Director may establish a review fee for staff or consultant review of the application. This fee shall be based on the estimated time for review and be placed in a cash escrow account with the Town prior to issuance of a permit.
5. Performance Guarantee. Prior to the issuance of any permit for highway entrance, the Applicant shall secure surety in the amount of \$250.00. Said surety shall be set aside in an escrow account with the Finance Director – Town of Freeport or designee listed as the only authorized signature for withdrawal or release of funds as approved by the Director said surety shall be held in non-interest bearing account to secure the completion of all work approved under the permit issued under this ordinance. Once the work has been inspected and approved the security money will be refunded.
6. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Director together with an application fee. The applicant shall furnish a copy of plans or sketches showing the following information:
  - (a) location(s), width, and arrangement;
  - (b) distance between existing entrances within 100 feet of the proposed entrance(s);
  - (c) distance(s) from the centerline of the traveled way to any structures, gasoline pumps, or other obstructions within 100 feet of the proposed entrance(s) etc.;
  - (d) property lines and easements;
  - (e) length, size and location of existing pipes, culverts, catch basins or manholes, curbing, curb and gutter, and/or sidewalks, and above ground utilities within 100' of the proposed entrance(s); and
  - (f) The proposed location of new pipes, culverts, catch basins or manholes, curbing, etc.
7. The entrance permit shall be valid for a period of twelve months from the date of original issue.
8. A contractor, licensed with the Town, must complete all work within the right-of-way.
9. The Director must approve any variances from the Entrance Standards contained in the permit.

TOWN OF FREEPORT  
PUBLIC WORKS DEPARTMENT  
APPLICATION FOR ENTRANCE

Application/Permit No. \_\_\_\_\_ Date \_\_\_\_\_

Return to:  
TOWN OF FREEPORT  
30 MAIN STREET  
FREEPORT, ME 04032

ATTN: PUBLIC WORKS DEPT

Owner Information:  
Name \_\_\_\_\_  
Street & No. \_\_\_\_\_  
City \_\_\_\_\_  
State & Zip \_\_\_\_\_  
Telephone \_\_\_\_\_

In accordance with Title 23, Revised Statutes Annotated, Application is hereby made to construct an entrance to my property on the (North) (South) (East) (West) side of Town Road/Highway Rte. No. \_\_\_\_\_ in the Town of Freeport a point (Circle Appropriate Direction)  
point about \_\_\_\_\_ ft. (North) (South) (East) (West) from \_\_\_\_\_ for the following purpose:  
(Circle Appropriate Direction) (Town Line, Road, or other)

Residential , Commercial , Industrial , Or Other Land Use   
description \_\_\_\_\_

**INFORMATION REGARDING TO THE LOCATION OF THE REQUESTED ENTRANCE(S):**

1. Frontage of lot along highway \_\_\_\_\_ ft. 2. Depth of Lot \_\_\_\_\_ ft.
3. Number of Entrances requested \_\_\_\_\_ 4. Proposed width of Entrance(s) \_\_\_\_\_
2. Setback from center of Highway: (A) to Buildings \_\_\_\_\_ ft. (B) to Other Structures \_\_\_\_\_ ft.
3. The surface on the proposed driveway is to be \_\_\_\_\_
4. Construction desired to commence on \_\_\_\_\_ 20 \_\_\_\_\_ and to be completed on \_\_\_\_\_ 20 \_\_\_\_\_
5. Is this entrance part of a project/development requiring a D.E.P. Site Location Permit? Yes \_\_\_\_\_ No \_\_\_\_\_

**THE PERMIT HOLDER HEREBY AGREES:**

- (1) To provide, erect and maintain all necessary barricades, lights, warning signs and other devices to safeguard traffic properly while to work is in progress.
- (2) That the highway will at no time be closed to traffic.
- (3) The entrance will be located and constructed in accordance with the entrance standards included herein.
- (4) To Notify the Public Works Department at least 24 hours before starting work on the entrance.
- (5) To maintain said entrance and approach in accordance with this permit.
- (6) FURTHER CONDITION OF THE PERMIT: the permit holder shall well and truly pay all damages, fines, and penalties for which he shall become liable, and shall indemnify and save harmless said Town against all suits, claims, damages and proceedings of every kind arising out of the construction and maintenance of said entrance and approach, including snow removal.
- (7) To limit work days in the hours between 7:00 A.M. and 6:00 P.M. (See Article 1.C.12)
- (8) The Applicant holds Utility Location Permit No. \_\_\_\_\_ (Dig Safe)
- (9) The Applicant is required to secure a surety in the amount of \$250.00, prior to the issuance of this permit. Upon satisfactory completion of work, and upon inspection and approval by the Town of Freeport, such funds shall be returned in their entirety.

DATE

SIGNATURE OF OWNER

**PLEASE NOTE:** Section 512 of the Freeport Zoning Ordinance states the following standards for single and two-family dwellings: Driveways, roads, rights-of-ways, or other means of access from single and two-family dwellings or public or private ways shall not have an average slope in excess of eight percent (8%) within fifty (50) feet of the point of intersection. The angle of intersection between the access road and the way shall not be less than sixty degrees (60), nor to exceed one hundred twenty degrees (120)

(Over)

*Amended March 4, 2008*

**Sketch or blueprint is required as a part of the application. Blueprints must be furnished in duplicate.  
(Show description from town line, road intersection or other identifying landmark.)**

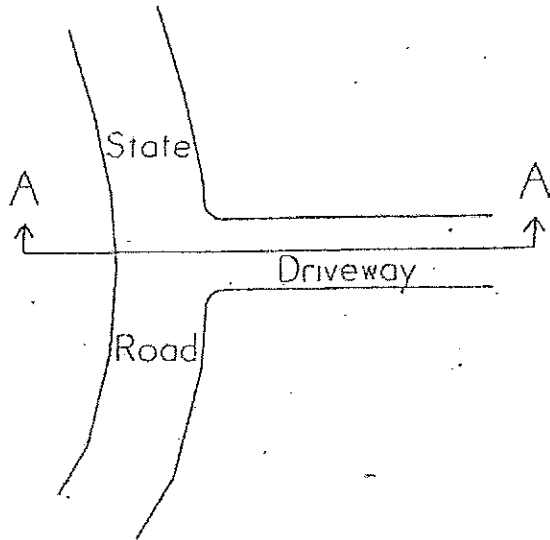
**SKETCH**

### **INSTRUCTIONS**

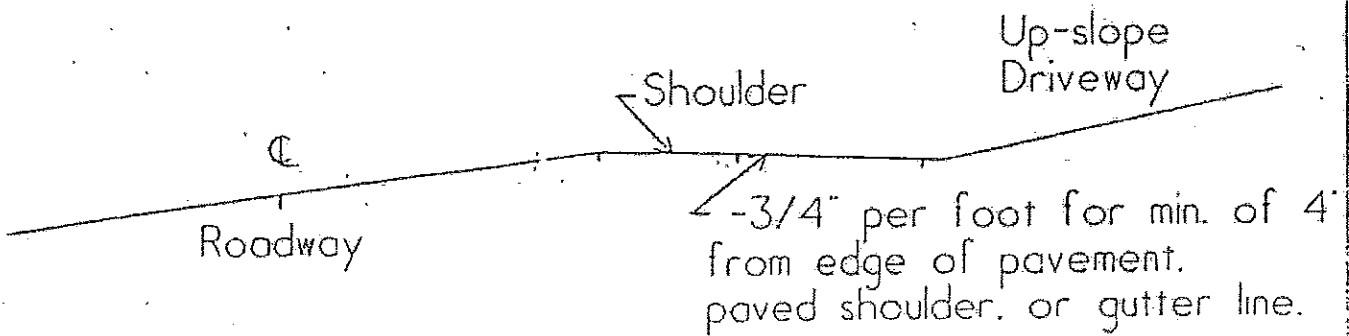
For securing a Permit

The owner of the property desiring to construct an entrance(s) connecting with any Public Way, State or State Aid Highway should forward the completed application and permit fee to the Freeport Public Works Department.

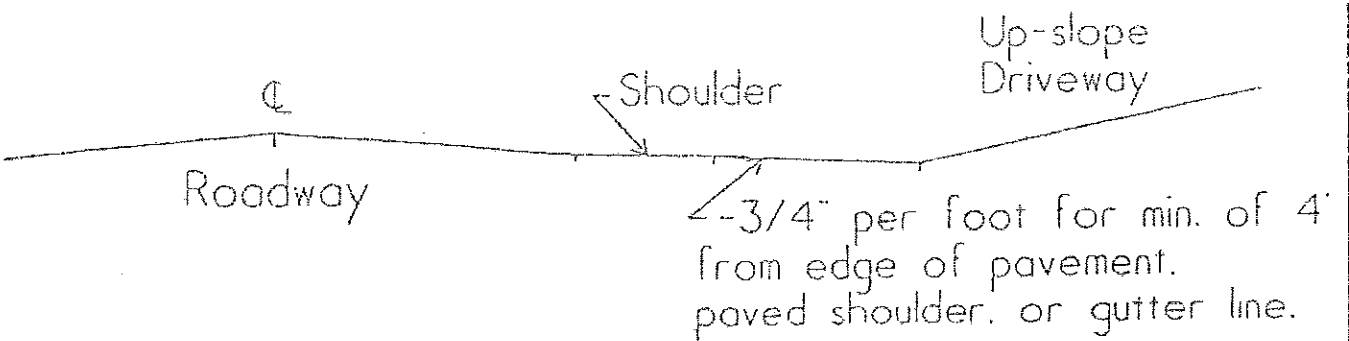
TYPICAL FOR  
UP-SLOPE  
DRIVEWAY



SUPERELEVATED HIGHWAY  
SECTION A-A



NORMAL HIGHWAY  
SECTION A-A



## A. Entrance Standards

### 1. Sight Distance Criteria:

- a) 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 and to maneuver safely and without interference with traffic: Unobstructed sight distance both ways for an exiting vehicle shall be in accordance with the following schedule:

Posted Highway Speed (MPH)	Minimum Sight Distance (in feet)
25	250
30	300
35	350
40	400
45	450
50	500
55	550

Minimum sight distance shall be increased by 50% for industrial use.

- b) Unobstructed sight distance shall be that distance of clear sight measured from a point 10' from the edge of pavement or curb line at a height of 3.5 feet to an object in an approaching lane with a height of 2.0 feet.
- c) Clearing, limbing and removal of other obstructions within the right-of-way necessary to provide the required sight distance shall be the responsibility of the permit holder and require the approval of the Director.

### 2. Geometry

- a) The entrance shall be designed such that the grade within the right-of-way does not exceed 10%.
- b) In rural sections the entrance grade shall match the edge of the existing shoulder and slope away from the road surface at a rate of one half inch per foot, for a distance of ten (10) feet from the edge of pavement.
- c) In curbed sections, the entrance grade shall match the existing gutter line and slope up at a rate of one inch per foot for a distance of not less than six (6) feet from the curb line.
- d) 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.
- e) No part of the entrance shall extend beyond the property lot frontage for the lot being served.
- f) The entrance shall not be located closer than 50 feet from an intersection.
- g) Not more than two entrances (or exits) shall be allowed on any parcel of property for which the frontage is less than two hundred (200) feet. Additional entrances for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing of necessity. When frontage is fifty (50) feet or less, only one entrance is permitted, the width of which shall not exceed thirty (30) feet.

3. Drainage

- a) Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the entrance. The permit holder shall provide suitable and approved drainage structures/culverts at all entrances.
- b) Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.
- c) Where a drainage culvert is required to maintain roadside drainage the Director must approve the pipe diameter, length and material type prior to installation. Minimum pipe size shall be 12 inch diameter.

4. Construction Standards

- a) The Permit Holder is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the Right of Way.
- b) The entire portion of any entrance within the limits of the Right of Way shall be stripped of all organics. The base for the entrance shall be constructed with a minimum 15-inch well-graded gravel base course conforming to MDOT Standard Specifications, Section 703.
- c) 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.
- d) Where culverts are not required or where they are continuous between multiple entrances, an island raised not less than six (6) inches above the surface of the adjacent drives shall be provided. The island shall be curbed, loamed and seeded, or paved. If an open swale is used between entrances, the raised island is not necessary.
- e) When sidewalk, curbing or curb and gutter is to be removed, it shall be replaced in kind at the transition points of the entrance. All curbing at the side of entrance shall be rounded with a radius of not less than five (5) feet.

5. Curb and Sidewalk

- a) When sidewalk or curb exists at the proposed entrance the permit holder shall remove and replace such materials at the permit holder's expense. Any granite curb to be removed by the permit holder will remain the property of the Town.
- b) Curb transitions shall be provided at each side of a new entrance.
- c) 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 shall meet handicap accessibility requirements and conform to the American with Disabilities Act guidelines. In general sidewalks shall meet the following:
  - 1) The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal.
  - 2) The maximum sidewalk cross-slope is not to exceed 2%.
  - 3) No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.

### Article 3 Excavation and Utility Installation in public Right-of-Way

#### A. Purpose

The purpose of this Article 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.

#### B. Highway Opening Permit Required.

No person, except utilities performing emergency excavations, shall make any excavation in any public right-of-way without first obtaining a Highway Opening permit from the Director. All such excavations are governed by 23 M.R.S.A., Sec. 3381 et seq. as amended from time to time, and this Ordinance.

#### C. Administration

1. A permit will be issued upon application to the Director for the purpose of excavation and utility construction within the public right-of-way.
2. A application fee established by order of the (*Town Council*) shall be paid for each permit.
3. The Director may establish a consultant review fee for staff or consultant review of the application. This fee shall be based on the estimated time for consultant review and be placed in cash escrow account with the Town prior to issuance of the permit.
4. Performance Guarantee. Prior to the issuance of any permit for highway opening, the Applicant shall secure surety in the form of cash bond or irrevocable letter of credit equal to the estimated cost of restoring the highway to the pre-construction condition. Said surety shall be set aside in an escrow account with the Finance Director – Town of Freeport or designee listed as the only authorized signature for withdrawal or release of funds as approved by the Director said surety shall be held in non-interest bearing account to secure the completion of all work approved under any permit issued under this ordinance an amount equal to fifteen percent (15%) of the opening fee shall be in cash ten percent (10%) of which shall be non refundable.
5. No person shall be granted a permit to excavate or open any street or sidewalk from November 15 of each year to March 31 of the following year, unless an emergency or special condition exists and permission is obtained in writing from the Director. Any person wishing to obtain a Highway Opening permit between these aforementioned dates shall first explain fully in writing the emergency or special condition to the Director before issuance is granted. If a hazardous condition which could endanger life and/or property exists, excavation work shall not be delayed by this section of this Ordinance; however, a written explanation shall be delivered to the Director within two (2) working days, and a Highway opening permit obtained for the work.
6. The Application on standard form available at the Town Office or Public Works garage shall be filed with the Director together with the Application review and opening fee (if applicable) and plans and specifications of the work including property lines and easements.
7. Upon review for completeness and submission of all fees the Director will issue the Highway Opening Permit.
8. In cases of emergency as defined in Section 1.B.4 above or in cases of minor alteration, the Director shall have the authority to waive the provisions of this ordinance.

**TOWN OF FREEPORT  
PUBLIC WORKS DEPARTMENT  
HIGHWAY OPENING PERMIT**

Application/Permit No. \_\_\_\_\_ Date \_\_\_\_\_

Return to:

Owner Information:

**TOWN OF FREEPORT  
30 MAIN STREET  
FREEPORT, ME 04032**

**ATTN: PUBLIC WORKS DEPT**

Name \_\_\_\_\_  
Street & No. \_\_\_\_\_  
City \_\_\_\_\_  
State & Zip \_\_\_\_\_  
Telephone ( ) \_\_\_\_\_

Permission is granted the applicant, \_\_\_\_\_ to open Town Road/Highway Rte  
No. \_\_\_\_\_ in the Town of Freeport at the location shown in the application, for the purpose  
of \_\_\_\_\_

The work shall be performed between the dates of \_\_\_\_\_ and \_\_\_\_\_.

**ESTIMATED SQUARE YARDAGE TO BE OPENED**

	Cost/S.Y.	S.Y.	Amount
Bituminous concrete surface, shoulder or sidewalk	\$75.00		
Bituminous concrete surface, over PCC concrete base	\$100.00		
Gravel surface or shoulder	\$10.00		
PCC sidewalk	\$70.00		
Brick sidewalk Brick	\$150.00		
Turf slopes and ditches	\$2.00		
Replace Granite Curb \$50.00 Linear Foot			
Plowed-in buried cable (per lin. ft.)	\$0.50		
Other			
Subtotal – Opening Fee			
Application Fee	\$125.00		
Consultant Review Fee			
<b>TOTAL – ESTIMATED FEE*</b>			

\*Minimum fee \$50.00

1. Actual square yards opened or disturbed will be measured by the Public Works Department's representative and the permittee will be billed for the difference between estimated fee paid and the final fee as determined by measurement of the opening. Additional costs to the Public Works Department as outlined in Highway Opening Permits, may be billed.
2. This permit fee is based on estimated areas to be opened in the various surface types and shall be deposited into an escrow account as surety. (see Article 1.C.9)

Upon satisfactory completion of the restoration work in accordance with the terms and condition stipulated herein, the Permit Holder will be credited for the areas permanently and satisfactorily restored, except that the Town will retain an amount to provide for future maintenance. Said amount to be computed at the rate of 10% of the final opening fee.

Upon request of the Permit Holder, the Town may consider making a partial release to the permit holder for portions of the work satisfactorily completed

(OVER)

Amended March 4, 2008

3. The permit is issued in accordance with Title 23, Sec. 54, Title 35-1, Sec. 2507, 2508, and 2510 and Title 23, Sec. 3351 to 3360, M.R.S.A. and is subject to the following conditions.

The Permit Holder hereby agrees:

1. To abide by the rules, regulations and policies of this Highway Opening permit. Conditions pertaining to performance of work, are included herein.
2. To provide, erect, and maintain all necessary barricades, lights, warning signs, traffic officers and other devices to safeguard vehicular and pedestrian traffic while the work is in progress. All traffic control devices shall be in accordance with the manual on Traffic Control Devices for Streets and Highways (MUTCD).
3. To notify the Public Works, Police and Fire Departments at least 24 hours before starting work.
4. The permit holder shall well and truly pay all damages, fines, and penalties for which he shall become liable, and shall indemnify and save harmless said Town against all suits, claims, damages and proceedings of every kind arising out of the construction and maintenance of said opening, including snow removal.
5. Final restoration of the affected area shall be completed to the satisfaction of the Director of Public Works Department.
6. To limit work to weekdays, in the hours between 7:00 A.M. and 6:00 P.M. (See Article 1.C.12)

The Applicant holds Utility Location Permit (Dig Safe) No. \_\_\_\_\_

FREEPORT PUBLIC WORKS

By: \_\_\_\_\_

Title \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF APPLICANT

## 1. General Policy and Construction Standards

### A. Protection and Restoration of Highway Items and Protection of the Traveling Public.

#### 1. Maintenance

The permit holder/contractor shall be responsible for maintaining the excavated/ construction area in a safe, passable condition satisfactory to the Director until the project is accepted. A temporary bituminous patch shall be placed on all trenches that cannot be permanently patched within 48 hours of initial disturbance. Permanent restoration of the pavement structure including hot bituminous base and surface shall be made within 15 days.

One lane of traffic shall be maintained at all times, unless traffic has been detoured. The permit holder/contractor shall provide traffic control officers, barricades, lights, warning signs and other devices to safeguard traffic and pedestrians while the work is in progress.

Two-way traffic shall be maintained during all non-working hours, unless approved by the Director. In the event that two-way traffic cannot be maintained during these hours, the permit holder/contractor shall install and maintain barriers and lights, as specified in the MUTCD until a permanent surfacing has been installed.

All equipment, and materials shall be removed and located off the highway during non-working hours.

A highway opening permit does not authorized parking or servicing vehicles within such right-of-way.

#### 2. Removal and Protection of Utilities

The permit holder/contractor shall not interfere with any existing utility other than their own facilities without the written consent of the utility company or person owning the utility. If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Town shall be moved to accommodate the permit holder unless the cost of such work be borne by the permit holder/contractor. The cost of moving privately owned utilities shall be borne by the permit holder unless he makes other arrangements with the utility owner. The permit holder/contractor shall support and protect all pipes, conduits, poles, wire or other apparatus which may be in any way affected by the excavation work. In case any of said pipes, conduits poles, wire or apparatus should be damaged, they shall be repaired by the utility or person owning them and the expense of such repairs shall be charged to the permit holder/contractor. The permit holder/contractor shall be responsible for any damage done to any public or private property by reason of the damage any water, sewer, gas pipe, electric conduit or other utility. Permit holder/contractor shall inform itself as to existence and location of all underground utilities and protect the same against damage. Above ground utilities abandoned as a result of relocation or replacement shall be removed in its entirety.

#### 3. Protection of Adjoining Property

The permit holder/contractor shall at all times and at his own expense preserve and protect from damage any adjoining property by providing proper protection and taking other measures necessary for the purpose. Where- the protection of such property is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permit holder/contractor shall obtain a

release from the owner of such private property. The permit holder/contractor shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property resulting from its failure properly to protect said work facilities.

#### 4. Restoration and Replacement

The Permit Holder/Contractor shall be responsible for permanently restoring or replacing roadway items damaged as a consequence of any construction operations. These items are to be permanently replaced in kind, in the same thickness and to the same grade as originally found and shall include, but not be limited to, the following items:

- a) Bituminous pavement;
- b) Portland Cement Concrete Pavement, including that displaced by blasting, undermined, or broken by construction equipment. Concrete pavement under, bituminous pavement shall be replaced with a digable concrete fill of equal thickness;
- c) Bituminous, concrete and brick sidewalks;
- d) Aggregate base and subbase material under roadways, shoulders, and walks;
- e) Curbing, all types
- f) Gravel surfacing and shoulders;
- g) Turf slopes and ditches;
- h) Drainage pipes, structures, and ditches;
- i) Guard rail and fencing;
- j) Property and other survey monuments

The contractor shall guarantee the restoration/ replacement against defects in material and workmanship for a period of one (1) year from the date of acceptance, and shall replace any defective work at the written directive of the Director. Failure to replace any defective work shall be cause for the Director to revoke the contractor's license and remove his firm from the list of approved contractors.

#### 3. Emergency Coordination

- a) The permit holder/contractor shall furnish the Director, local and State Police Departments with a list of names, addresses and telephone numbers of Contractor personnel who may be reached in case of emergency during hours when no work is being performed. On weekends and during storms the Permit Holder/Contractor shall assign certain personnel to stand-by duty and shall inform the Director of the arrangements.

### **B. Construction Standards**

1. All excavations on paved street surfaces shall be precut in a neat straight line with pavement breakers or saws. Cutouts of the trench lines must be normal or parallel to the trench line. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench. Unstable pavement over cave-ins shall be removed and aggregate bases restored. Jointed or broken pavement within one (1) foot of the restoration edge shall be removed. Prior to permanent surfacing the pavement shall be saw cut an additional six inches beyond the disturbed edge and removed.
2. When multiple openings are located with less than five (5) feet of original pavement remaining between adjacent openings, the permit holder/contractor shall neatly cut and remove the area of pavement between these adjacent areas and shall patch as one trench.

3. All previous sections shall also apply to sidewalks in all cases except concrete sidewalks. Concrete sidewalks shall be saw cut. Use of pavement breakers will not be allowed. On concrete sidewalks, all cuts shall be made to the nearest joint or score line on either side of the excavation. All sidewalk restorations shall be in accordance with the requirement of paragraph B4.
4. All backfilling of street openings shall be done in accordance with the following standards:
  - a). All work must be conducted in strict accordance with the latest regulations of OSHA for excavations, and other applicable safety regulations;
  - b) All work must be protected from freezing;
  - c) Whenever water is found standing in the excavation area, the water shall be removed by pump or other means before backfilling operations can commence.
  - d) Backfilling of excavations shall be performed by the Permit Holder/Contractor as soon as practicable so that the least possible subsequent settling will occur. Backfill material 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 as established by ASTM D1557. Rocks, broken pavement, or ledge particals larger than six (6) inches will not be allowed in the backfill. The Permit Holder/contractor shall notify the Director, prior to beginning the backfilling operations to allowing adequate time for inspection.
  - e) Where the excavated material is primarily silt or rock, it shall be allowed for use as backfill only upon the express approval of the Director, with the intention of minimizing differential settling.
  - f) All remaining excavated material shall be removed from the job site and disposed of by the permit holder/contractor, 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.
5. Temporary resurfacing shall be provided on all arterial and connector type streets and when directed by the Director. Temporary resurfacing shall consist of a minimum of two (2) inches of compacted temporary bituminous surfacing. Such temporary material shall be cold-mix except that the permit holder under this article may use or the Town may require hot-mix. The temporary surface material shall be placed and compacted to provide smooth even surface for the safe passage of pedestrian traffic and safe vehicular travel at the legal posted speed. The permit holder/contractor shall maintain the temporary paving for a period not to exceed 15 calendar days. At such time, the permanent restoration shall be made.
6. Permanent restoration of the pavement structure shall consist of aggregate subbase and base and hot bituminous pavement base and surface conforming to the following:

<u>Layer</u>	<u>M.D.O.T. Specification</u>	<u>Minimum Compacted Thickness</u>
Subbase Course	Aggregate Subbase – 703.06 Type D	18"
Base Course	Aggregate Base – 703.06 Type A	4"
Pavement Base	19.0 MM Superpave	3"
Pavement Surface	9.0 MM Superpave	1 1/2"

- b) Aggregate material 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 as established by ASTM D1557.
- c) 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 a permit. The Town reserves the right to verify maximum density and field density at any time.

- d) Hot bituminous pavement (Superpave) shall be placed and compacted in accordance with the latest MDOT specification.
7. All Temporary resurfacing shall be maintained for the safety of pedestrian and vehicular traffic until the permanent restoration is made. The permit holder shall erect and maintain warning signs, barriers, lights, as specified in the MUTCD until a permanent surfacing has been installed.

**E. Excavations in reconstructed or repaved roads.**

- 1 After a public road has been reconstructed or repaved, a Highway Opening Permit shall not be granted for five (5) years unless an emergency condition exists or unless the necessity for making such installation could not have been reasonably foreseen at the time of the reconstruction or repaving. This section shall be void unless the Town shall have given sixty (60) days notice by registered and/or certified mail of the impending work to all public utilities serving the road.

**Article 4. Regulation of Heavy Loads**

Heavy Load Limits. Upon the recommendation of the Director, and after seven (7) days' notice published once in a newspaper of general circulation in the community, the Town, may post registered gross vehicle weight limits on any town road or state highway within its jurisdiction.

**Article 5 – Approved Contractors**

**A. Purpose**

The purpose of this Article is the regulation of Contractors and Utilities performing work in public rights-of-way in the interest of public safety and protection of public works infrastructure.

**B. License Required**

No person, including utilities shall perform work in any public right-of-way without first obtaining license from the Director.

**C. Administration**

1. A license will be issued upon written request to the Director accompanied by proof of insurance listed below and a license fee.
  - A) The Director shall issue licenses annually to companies who have been identified as having the ability to perform work to Town standards in the right-of-way.
  - B) The annual contractor license fee (*set by the Town Council*).
  - C) Each license holder shall maintain at all times a minimum of \$400,000.00 public liability insurance coverage protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town of Freeport as an additional insured. 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 Director. Coverage shall be maintained throughout the period of work performed under this ordinance and shall not be less than the following amounts:

- 1) General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operations, contractual, independent contractors, broad form property damage and personal injury.
  - \$300,000 Bodily Injury and Property Damage Each Occurrence
  - \$500,000 Bodily Injury and Property Damage Aggregate
  - \$300,000 Personal Injury Aggregate
- 2) Automobile liability including any vehicle, hired vehicle and non-owned vehicle- \$300,000 bodily injury and property damage combined.
- 3) Workers' Compensation and Employers' Liability
  - \$100,000 each accident
- D) A license, issued to a contractor, may be revoked after notice and hearing, when the Licensee has willfully disobeyed any portion of this article.

**TOWN OF FREEPORT**

**SCHEDULE OF FEES**

As of May, 2006

1. Highway Entrance Permit (Per Application)	<del>\$125.00</del>	150. <sup>w</sup>
2. Highway Opening Permit (Per Application)	<del>\$125.00</del>	150. <sup>w</sup>
3. Approved Contractor License (Annual Fee)	\$150.00	185. <sup>w</sup> ?
4. Winter Openings Permit	\$750.00	800. <sup>w</sup> ?

Contractor License fees are non-proratable or non-refundable and are issued on a calendar year basis.

November 10, 2004

Dear

The Town does not object to the installation of a \_\_\_\_\_  
(Type of Utility)

for a \_\_\_\_\_ in Freeport, Maine  
(Road)

approximately \_\_\_\_\_  
(Distance from closed intersection, stream, crossing, etc.,

subject to the conditions listed herein. These conditions are substantially the same as would be included in a Utility Location Permit to be issued to a utility for the same installation and are further in compliance with the Federal Highway Program Manual, pertaining to utility type installations within a Federal Aid Highway.

**Minimum depth of cover shall be 36 inches.** Construction of this installation shall be evidenced on your part of acceptance of the conditions and regulations.

This is not authorization to occupy or use jointly the plant of any utility without its consent, or to locate on private property. Highway opening permits must be obtained prior to the work from the **Freeport Public Works Department**. The owner or his contractor shall be responsible for determining the presence of underground utility facilities prior to commencing any excavation work and shall notify utilities of proposed excavation in accordance with M.R.S.A. Title 23 3360-A, Maine "Dig Safe" System.

Unless otherwise provided, access for construction, inspection, maintenance and operation of the facility may be made from the public way.

\_\_\_\_\_, his successors or assigns, shall be fully responsible for  
(Name)

the design, construction, maintenance and operation of the facility, including **all costs associated with future relocation or adjustment which may be necessary to accommodate the highway.** \_\_\_\_\_, his  
(Name)

successors or assigns, shall be responsible for any damages resulting from the permitted installation and shall obtain any and all other permits or licenses which may be required.

\_\_\_\_\_, his successors, or assigns, shall provide such  
(Name)

protective services, including flaggers and police, as may be necessary to safeguard traffic during construction, inspection, maintenance, and operation; and shall remove all equipment and material not in actual use for construction, inspection, maintenance and operation from the highway as expeditiously as possible. "The Manual on Uniform Traffic Control Devices, Part VI", shall be complied with.

Noncompliance may be cause for objections by the Department. In which case, the Department will take such action, as it considers necessary to obtain compliance with the applicable laws, policies, conditions, and regulations.

Please sign on the line below and return the signed letter to me in the enclosed envelope to acknowledge that you have been made aware of the above stated responsibilities and concur with them. Please retain the enclosed duplicate of this letter. This decision is not active until we receive your signed acknowledgment. If you have any questions, please do not hesitate to call me at 865-4461.

Very truly yours,

FREEPORT PUBLIC WORKS DEPARTMENT

By \_\_\_\_\_  
Jim Plummer  
Public Works Director