

**TOWN OF ARUNDEL
STREET AND SIDEWALK EXCAVATION ORDINANCE**

Section 1: Permit Required

It shall be unlawful for any person, firm or corporation to tunnel under or to make any excavation in any street, alley, sidewalk or other public place in the Town without having first obtained a permit as herein required, or without complying with the provisions of this Ordinance, or in violation of or variance from the terms of any such permit. Prior to applying for a permit the applicant shall have marked the excavation in the field and have their dig safe permit number.

Section 2: Applications

Applications for such permits, accompanied by an application fee in the amount of \$20.00, shall be obtained from the Town Clerk and shall describe the location of the intended excavation or tunnel; the size thereof, the purpose therefore, the person, firm or corporation doing the actual excavating work and the name of the person, firm or corporation for which the work is being done; and shall contain an agreement that the applicant will comply with all ordinances, rules, regulations, statutes and other laws relating to the work to be done.

The permit application shall be presented to the Highway Foreman for approval no less than 48 hours prior to the proposed excavation, except in emergency situations as hereinafter provided. Notation of approval by the Highway Foreman on the body of the application shall be a prerequisite to its submission to the Town Manager/Road Commissioner, The Town Manager/Road Commissioner shall review all excavation applications presented and issue excavation permits pursuant to this Ordinance for all proposed projects satisfying the requirements of the Ordinance, subject to such additional conditions as this Ordinance allows and as the Town Manager/Road Commissioner deems necessary, desirable or appropriate.

Section 3: Bond

No such permit shall be issued unless and until the applicant has filed with the Town Clerk a performance bond in accordance with the following schedule:

- a) \$ 1,000 for cross-cut openings;
- b) \$10 per foot or \$1000, whichever is greater, for parallel openings.

Such bond shall have as surety a corporation licensed to do business in the State of Maine as a surety company, and shall extend for a term of at least two years after completion of the project (two one year periods will not be acceptable). An equivalent amount of cash or certified funds

payable to the Town may be deposited in an escrow account for the same purpose in lieu of the surety bond by this section.

The Town Manager/Road Commissioner may require surety in an amount greater than those set forth in the preceding schedule or for a term in excess of two years in projects where it is determine that the project, because of its nature, magnitude, or for any other reason, warrants such additional security.

Notwithstanding any of the above requirements the Town Manager/Road Commissioner is hereby given the authority to allow utility companies, in lieu of posting any other surety or performance bond required by this section, to instead post an annual bond of \$15,000 for the purposes set forth in this section.

Applicants other than utility companies may post an aggregate bond in January of each year to secure a designated number of cuts during that year. The terms of that bond and per-cut amount shall be as provided herein for single-cut bonds. Any portion of such an aggregate bond not used by December 31 of the year it was posted may not, without approval of the Town Manager/Road Commissioner, be carried over to the following year.

Section 4: Insurance

No such permit shall be issued unless and until a certificate or other proof is filed showing that the applicant carries public liability insurance with coverage limits deemed by the Town Manager/Road Commissioner to be sufficient to provide adequate protection to the Town, its citizens and the general public. The Town of Arundel is to be named as an additional insured for all work performed within the Town limits.

Section 5: Manner of Excavating

Prior to any excavation, all erosion control measures shall be in place. Erosion control measures must comply with the most recent edition of the MDOT Erosion Control Handbook. It shall be unlawful to make such excavation or tunnel in any way contrary to or at variance with the terms of the permit. Proper bracing shall be maintained to prevent the collapse of adjoining ground and excavations shall be of uniform cross section from the surface to their point of lowest elevation.

No damage shall be done to any adjoining utilities (pipes, cables or conduits) in the making of such excavations or tunnels. Adequate notice shall be given to the owners, or persons maintaining any such pipes, cables or conduits or to the municipal department or officer charged with the care thereof prior to the start of any excavation in their vicinity.

No unnecessary damage or injuries shall be done to any tree, shrub or the root thereof.

Section 6: Sidewalks

If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users. The temporary sidewalk is subject to inspection by the Highway Foreman, and shall not be open for use until approved by him.

Section 7: Restoring Surface

Any person, firm or corporation making any excavation or tunnel in or under any public street, alley or other public place in the Town shall restore the surface to its original condition if there is no pavement there. Backfilled material shall be properly compacted.

Any opening in a paved or improved portion of a street shall be repaired and the surface replaced by the applicant, in compliance with the Ordinances of the Town, including this Ordinance, and under the supervision of the Highway Foreman.

Section 8: Surfacing Materials

Where Parallel or Diagonal street openings in excess of ten feet in width or twenty feet in length and Cross or Right Angle openings in excess of twenty feet in width are proposed, the asphalt paving for these openings shall consist of two and one half (2 1/2) inches of binder or base mix, or thickness equivalent to the existing pavement, whichever is greater, confined within the limit of the opening. The full width of the paved street or sidewalk to a point 20 feet beyond the end of the opening and 20 feet prior to the beginning of the opening will be overlaid with not less than one (1) inch of the surface mix.

Cross, or Right Angle street openings, twenty feet or less in width- The asphalt paving for these openings shall consist of 2 1/2 inches of binder or base mix, or thickness equal to the existing pavement, whichever is greater, confined within the opening limits, plus I inch of surface mix raised slightly above the existing street or sidewalk surface to allow for settling. Openings wider than 20 feet will fall within the preceding paragraph, and resurfacing of those openings shall comply with those provisions.

All asphalt paving contractors must be approved in writing by the Highway Foreman prior to beginning work.

All asphalt paving shall be completed within 14 days following the final day of backfill.

Section 9: Supervision

The Highway Foreman shall, from time to time, inspect or cause to be inspected, all excavations and tunnels being made in or under any public street, alley or other public place in the Town to see to the enforcement of the provisions of this Ordinance. Notice shall be given to him at least 10 hours before the work of refilling any such tunnel or excavation commences.

Section 10: Protective Measures & Routing of Traffic

It shall be the duty of every person, firm or corporation cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for the safety of the general public. No lanterns or open flame devices may be used for this purpose. Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic, in accordance with the Maine Department of Transportation Standards (unless instructed to do otherwise by the Town's Highway Foreman or Commissioner).

The permittee shall take appropriate measures to assure that during the performance of 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. When traffic conditions permit, the Town Manager/Road Commissioner may, by written approval, permit the closing of streets to all traffic for a period of time. Such written approval 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.

Section 11: Relocation and Protection of Utilities

The permittee shall not interfere with any existing utility without the written consent of the Town Manager/Road Commissioner and the owner of the utility. If it becomes necessary to relocate an existing utility this shall be done by its owner or through an agreement with said owner. No utility 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 utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise 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 said work. The permittee shall secure approval of method of support and protection from the owner of the utility. In case any of said 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 owners thereof. All damaged utilities 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 paragraph that the permittee shall assume all liability for damage to utilities and any resulting damage or injury to anyone because of such utility 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 utility itself. 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.

Section 12: Abandonment of Substructures

Whenever the use of a substructure is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein, shall within 30 days after such abandonment file with the Highway Foreman 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 entity, the owners shall remove such abandoned substructures or pay all associated costs for its removal during the course of excavation or construction.

Section 13: Protection of Adjoining Property

The permittee shall at all times, and at their expense, preserve and protect from injury any adjoining property. Where, for the protection of said property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall first obtain consent from the owner of said private property for such purpose. The permittee 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 or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area said area shall be restored to its previous condition immediately upon completion of the trench backfill. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which without first obtaining the consent of the appropriate property owner.

Section 14: Placement of Excavated Material

All material excavated from trenches and piled adjacent to the trench or in *any* street shall be piled, and maintained in such a manner so 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 the 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, such as might be the case in a

narrow alley, the Town Manager/Road Commissioner shall have the authority to require that the permittee haul the excavated material to a storage site and then return it to the trench site at the time of backfilling, It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

Section 15: Clean Up

As the excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Highway Foreman. From time to time, as may be ordered by the Highway Foreman and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four hours after having been notified to do so by the Highway Foreman, said work may be done by the Highway Foreman and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

Section 16: Protection of Watercourses

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutter line. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained. In addition, all storm drainage structures and ditches shall be kept open and operable during construction

The permittee shall make provisions to take care of all surplus water, muck, silt, and other run-off pumped from excavations or resulting from other operations and shall be responsible for any damage resulting from its failure to so provide.

Section 17: Breaking Through Pavement

1) Pavement will be cut only with a pavement saw unless a different method is authorized by the Highway Foreman.

2) Heavy duty pavement breakers may be prohibited by the Town Manager/Road Commissioner when the use endangers existing substructures or other property.

3) Saw cutting of Portland cement concrete may be required when the nature of the work or the condition of the street warrants. When required, the depth of the cut shall be not less than one

inch. Depths greater than one inch may be required by the Highway Foreman when circumstances warrant.

4) Cutting of bituminous pavement surface, ahead of excavations, will be required by the Highway Foreman to keep pavement damage within the limits of the trench.

5) Sections of sidewalks shall be removed to the nearest score line or joint.

6) All unstable pavement adjoining the trench cut shall be removed and the subgrade shall be treated in the same manner as the main trench.

7) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

8) Cutouts outside of the trench lines must be normal or parallel to the trench line.

9) Boring or other methods to prevent cutting of new pavement may be required by the Highway Foreman.

10) Permittee shall not be required to repair pavement damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

Section 18: Backfilling

Fine material, free from lumps and stone, selected from the excavated material, shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the degree of consolidation specified by the Highway Foreman. Broken pavement, large stones over three inches in diameter, roots and other debris and peat-type material shall not be used in the backfill. The backfill material will be placed in one foot lifts with each lift compacted with compaction equipment approved by the Highway Foreman. The last eighteen inches of backfill material will be placed in three six-inch lifts. Each lift being compacted with the same approved equipment used on the lower layers. Backfilled material is generally required to be compacted to 95% density. Exceptions to this rule may be made by the Highway Foreman when, in his judgment, this is warranted by the nature of a specific project. Such backfill shall be done in a manner that will permit the restoration of the surface to a density condition not less than that existing prior to excavation unless otherwise specified. The Highway Foreman may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted or inadequate material is

being used. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed. All expense of such tests shall be borne by the permittee.

Section 19: Prompt Completion of Work

After an excavation is commenced, the permittee shall complete the work covered by the excavation permit as expeditiously as possible and restore the street to its original condition, or as near as may be, so as not to obstruct the traveling public any more than is reasonably necessary.

Section 20: Urgent Work

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

Section 21: Emergency Action

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary in emergency situations for the preservation of life or property, provided that the person making such excavation shall apply for such a permit on the first working day after such work is commenced.

Section 22: 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. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10 PM and 7 AM shall not use, except in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property,

Section 23: Preservation of Monuments

Any monument set for the purpose of locating or preserving the lines of any street, parcel of land, 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

bench marks shall only be granted upon condition that the person applying for such permission shall pay all expenses incidental to the proper witnessing and replacement of said monument by the Town.

Section 24: Inspections

The Highway Foreman shall make such inspections as are reasonably necessary in the enforcement of this Ordinance.

Section 25: Winter Permits

No permits will be issued between December 1 of any one year and March 15 of the following year except when, in the judgment of the Town Manager/Road Commissioner and the Highway Foreman, a situation of extreme emergency exists,

Section 26: Conflict with Other Enactment's

When this ordinance is in conflict with any other ordinance, rules or regulations of the Town of Arundel, the provisions of the ordinance, rules or regulations which impose the greater restriction shall prevail.

Section 27: Penalty

Any person, firm or corporation violating any of the provisions of this ordinance shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. All fines collected hereunder shall inure to the Town.

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