

# **Street Excavation Ordinance**

## **I. PURPOSE AND AUTHORITY**

The purpose of this Ordinance is to regulate excavation on the public streets or paved public ways of the Town of Chelsea in order to assure proper restoration of Town roads to their original condition. The Ordinance is adopted pursuant to the home rule authority of the Town, including 30-A M.R.S.A. §2101 et seq.

## **II. DEFINITIONS**

Street and/or paved public way means any street, road or drive either owned by the Town, maintained by the Town or a public right-of-way assigned to the Town.

## **III. PERMIT REQUIRED**

A permit shall be required prior to the opening or excavation of any street or way, as described in section II, within the limits of the Town of Chelsea. Said permit shall be issued within five business days and enforced by the Road Commissioner of the Town or its designated agent on a form provided. The cost of the permit shall be determined annually each year by the Board of Selectmen. A separate permit is required for each project. The permittee shall certify that notice to Public Utilities has been given pursuant to 23 M.R.S.A. § 3360.

## **IV. NOTICE TO OWNERS TO CONNECT**

Whenever the paving or repairing of any street or public highway shall have been ordered by the Town the Road Commissioner of the Town or its designated agent, the permit holder shall duly serve upon owners of property abutting on such street or highway and upon all corporations, persons, firms and water districts occupying such street or highway a notice directing such owners, corporations, persons, firms and water districts to make such sewer, water and conduit connections or other work as may be designated, within 60 days from date of such notice. At the expiration of the time fixed and after such street has been paved or repaired, no permit shall be granted to open such street for a period of 5 years, except in the event of an emergency as determined by the Town Manager.

## **IV. RESPONSIBILITIES OF PARTIES PERFORMING THE WORK**

The party performing the street opening work by virtue of having acquired a permit, is required to perform the work in accordance with the following:

- (a) The street and/or paved public way surface shall be cut in a straight line prior to excavation. The cut portion of the surface of the street and/or paved public way shall be cut back a minimum of six (6) inches on each side beyond the sides of the actual opening necessary to perform the work.
- (b) All open trenches shall be barricaded with adequate warning lights lighted prior to sunset and kept lighted during all hours of darkness.
- (c) The street and/or paved public way shall be back filled with gravel per state specifications with compaction to take place for every eight (8) inch layer and all gravel shall be firmly compacted.
- (d) The street and/or public way shall be restored to the original grade and surface. Paved surfaces shall be restored with a minimum of two and one half (2 1/2) inches of black top compatible to the original surface.

(e) All drainage ditches and culverts shall be restored as closely as possible to their original condition.

(f) All material, signs, barricades and machinery shall be completely removed when the work is completed.

#### **V. CONTINUING RESPONSIBILITY**

The party performing the street opening work shall continue to be responsible for the condition of the opening and return to the site to make such repairs as are necessary in order to maintain the resurfaced excavation in a condition compatible with the original surface, for a period of 180 one hundred and eighty (180) days; said time period beginning with the time of completion of work at the site.

#### **VI. LIABILITY**

The party performing the street opening work shall be liable to the Town of Chelsea for any work the Town might be required to perform in those instances where the party fails to complete work or to correct faulty work, after being given a reasonable opportunity to do so. This liability shall be to the extent of Town funds expended to complete or repair the work and said amount shall be due upon presentation of a statement to the party liable.

#### **VII. VIOLATIONS**

Any person performing work under the terms of a permit, who violates the terms of said permit, shall be subject to damages the Town incurs in restoring the site to a condition compatible with the original surface. The amount of damages shall be in addition to any amounts due and owed the Town under Section VI above. In addition, the Road Commissioner or his designee shall have the authority to terminate all work until such party is in full compliance with the terms of the permit and all charges are paid in full.

#### **VIII. APPEALS**

An appeal may be taken from any decision of the Road Commissioner to the Board of Selectmen. The Board of Selectmen shall affirm, modify or set aside the decision appealed from according to the terms of this Ordinance. The failure of the Board of Selectmen to issue a written notice of its decision, directed to the appellant, within thirty (30) days from the date of filing of the appeal shall constitute a denial of the appeal. An appeal to the Superior Court may be filed within thirty (30) days after the decision of the Board of Selectmen.

#### **IX. VALIDITY**

The validity of any section or provision of this Ordinance shall not invalidate any other section or provision thereof.

#### **X. AMENDMENTS**

This Ordinance may be amended by a majority vote at a duly noticed town meeting.

#### **XI. EFFECTIVE DATE**

This Ordinance shall become effective on the date of adoption.