

# Sabattus, Maine – Code of Ordinances

## STREET OPENINGS - EXCAVATIONS ORDINANCE

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### **SECTION 1. PURPOSE**

The Purpose of this ordinance is to regulate and control the application and issuance of Street Openings-Excavations Permits granted by the Town of Sabattus (hereinafter "Town"), and the excavation, use and repair of Town roads by permittees. Furthermore, this ordinance seeks to ensure that proper and safe standards of work are achieved when performing any Street Openings-Excavations on a Town street or sidewalk and that the work to close and seal the roadway or sidewalk after the opening-excavation is complete is done to an acceptable and safe standard to ensure public safety, protect property, and protect Sabattus taxpayer infrastructure assets.

### **SECTION 2. RULES AND REGULATIONS**

- A. Issuance. The Sabattus Road Foreman may execute and issue a Street Openings-Excavations Permit on behalf of the Town and establish such rules as to implement the provisions of this ordinance.
- B. Limitation. Permits for any portion of a road or sidewalk, the construction of which was completed within the time frames detailed below prior to the date of the permit, will be referred to the Sabattus Selectmen before a permit may be granted; except in the case of an emergency no work shall be done on any such section of road or sidewalk until the permit has been approved by Sabattus Selectmen or their designee.
1. Any overlay more than 5/8 inch "maintenance paving": 3 years
  2. Any construction work of higher order than an overlay, such as; "reclaiming," "foamed asphalt," and full depth base replacement; 5 years

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

No Permit, except in the case of emergency, shall be granted unless the work contemplated is to be completed within the paving zone dates specified in Section 4 of this ordinance.

When an opening is deemed to be an emergency, The Town 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.

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

1. The traveling public shall be adequately protected.
2. At least one-way traffic shall be maintained at all times unless the Road Foreman approves full road closure to improve safety and/or shorten construction time.
3. 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.
4. 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.
5. The Town shall limit the permit by setting the time(s) of day within which the work must be accomplished and may prohibit work on Saturdays, Sundays, and holidays.
6. The backfill material shall be as follows:
  - a) Top 12 inches, or full depth of gravel base in more recently constructed roads, shall conform to the Maine Department of Transportation'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.
7. Backfill material shall be uniformly distributed in layers of not more than 12 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.
8. Surplus material shall be removed from the site and the area shall be left in a clean, presentable condition.

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9. Permanent pavement shall be replaced to the full depth and extent of the existing pavement removed.
  10. Compliance with the terms and conditions of this permit shall be the responsibility of the permit holder. The Town will not assume any liability for damages arising out of or resulting from a violation of the permit terms.
  11. If the Town determines that work is being conducted in an improper manner, the Town 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.
  12. If the permittee does not undertake the required corrective actions, the Town reserves the right to address the issues as necessary and will charge the permittee for all associated costs.
- D. In general, there is no opening fee if an installation is made immediately before or during reconstruction of a road. Although an opening fee may not be charged, the permit holder will be billed for any damage to the road. 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. The permittee shall be responsible for maintaining the trench area until such time that the roadway falls under jurisdiction of the construction project.
- E. 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 Town 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 permittee and approved by the Town. Approval by the Town will not relieve the permittee of its responsibility for performing the work in a satisfactory manner.
- F. Installations subject to freezing shall be sufficiently deep so that it will not be damaged by frost penetration.
- G. All permits shall be made on prepared forms.
- H. All permits shall be signed by the Sabattus Road Foreman.
- I. Every permit shall contain:
1. A permit number
  2. Date of issuance

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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.
- J. Permittee must contact and notify Dig Safe and the Sabattus Sanitary District-Water Division before any work commences.

### **SECTION 3. PERMIT REQUIRED**

No person or utility shall make any opening, excavation, modify, or fill any excavation, excluding a previously permitted location, in any public place which shall include all public water, sewer, and stormwater drainage systems without first obtaining a permit to do so from the Town; except as otherwise provided in this chapter or the rules and regulations. Any opening-excavation within the Town's streets, sidewalks, esplanades or other public rights-of-way including public water, sewer, and stormwater drainage systems shall only be permitted in accordance with this ordinance, and other applicable rules and regulations. The granting of such a permit shall cover all required activities and mandate conformance with this ordinance and other applicable rules and regulations.

### **SECTION 4. TIME OF ISSUE RESTRICTED**

Except in an emergency as determined by the Road Foreman, no street or sidewalk opening permit shall be issued between November 15 and March 15 of the following year unless the Road Foreman determines that the temperatures, road condition, and timeframe for project completion are all favorable to allow work to be fully completed without risk of damage to any Town infrastructure, or substandard final work product.

### **SECTION 5. FEE SCHEDULE**

- A. The Sabattus Selectmen shall establish a fee which shall be paid for the issuance of an excavation permit for each instance of a Street Openings-Excavations.
- B. There shall be no permit fee assessed to the Sabattus Sanitary District & Water Division (“the District”). However the District shall be required to submit a permit application and obtain approval from the Road Foreman prior to any work commencing. Furthermore, the District shall be subject to all other provisions of this ordinance. In cases of an emergency such as a water main break, the District personnel shall notify the Road Foreman as soon as is practically possible, but the

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District will not be subject to any fines or penalties as a result of a Street Opening to remedy an emergency situation without a permit.

- C. Utilities and contractors have the option to pay an annual fee established by the Sabattus Selectmen for unlimited street openings-excavations throughout the year. Interested parties must apply for annual fee approval and must be pre-qualified by meeting evaluation criteria established by the Road Foreman and Town Manager as outlined in the application forms. A prequalified utility or contractor must still notify the Sabattus Road Foreman at least three days in advance of a street opening and must comply with all other provisions in this ordinance.

## **SECTION 6. INSPECTIONS**

- A. The Town shall make such inspections as are reasonably necessary in the enforcement of this ordinance.
- B. The Road Foreman may order such actions as he/she deems necessary to ensure that the rules and regulations implementing this ordinance 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, 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.

## **SECTION 7. VIOLATIONS**

- A. Any person, contractor, or utility found to be conducting any opening-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 fee established by the Sabattus Selectmen shall be required in addition to all applicable permit fees. This section does not apply to excavations necessitated by an emergency situation, as determined by the Sabattus Road Foreman.
- B. Any person, contractor, or utility failing to comply with or violating any provision of this ordinance or the rules shall be served with written notice by the Road Foreman stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person, contractor, or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.

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- C. In order to ensure public safety, the Road Foreman shall have the right to verbally notify and require immediate corrective actions of any person, contractor, or utility whose failure to comply with this ordinance or the rules could cause a safety hazard.
- D. Any person, contractor, 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.
- E. Any person, contractor, 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.
- F. Any permittee or other party that 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 rules established to implement it.
- G. The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

### **SECTION 8. COSTS AND PENALTIES**

- A. Any violation of this chapter 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.
- B. 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 daily fine, established by the selectmen, for each day that a violation continues.

Accepted:

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Original Adoption:

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Revision Dates:

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