

**TOWN OF NEWPORT  
STREET OPENING & CURB CUT ORDINANCE**

**Sec. 1-1. PERMIT REQUIRED.**

Any excavation within the Town's streets, sidewalks, esplanades or other public right-of-way shall only be permitted in accordance with this ordinance.

Except as otherwise provided in this ordinance, no person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town.

**Sec. 1-2. APPLICATION**

- a. No street opening permit shall be issued unless a written application for a street opening permit is submitted to the Town on a form provided by the Town. The written application shall contain such information as reasonably required by the public works authority.
- b. In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town or have entered into a workout agreement to bring any outstanding obligation current.
- c. The applicant shall submit with the permit application a cost estimate covering all work covered by the permit. The Director of Public Works may reject an estimate if, in his or her sole discretion, the estimate is not reasonable given the work proposed.
- d. In the event that a street opening is necessary on an emergency basis, the party conducting the work shall file for a permit after-the-fact as soon as practicable under the circumstances.

**Sec. 1-3. GENERAL CONDITIONS**

- a. Permits shall be granted only if the applicant has properly notified all utilities, contacted "Dig-Safe", and obtained an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities' satisfaction.
- b. The applicant, person or business doing the actual work, and the owner for whom the work is being done are joint and severally responsible for obtaining the permit and complying with all permit obligations and conditions.

#### **Sec. 1-4. ANNUAL WORK PROGRAM TO BE SUBMITTED BY UTILITIES**

Each year on or before March 31<sup>st</sup>, each utility shall submit to the public works authority its planned work program for the ensuing year, which shall not include emergencies defined in Section 1-1 and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not contained within each utility's respective planned work program, without cause except for emergencies and house service lines.

#### **Sec. 1-5. DURATION**

Excavation work must be started no later than thirty (30) days from the date of issue of the street-opening permit. After the expiration of this thirty (30) day period, such permit shall become null and void unless renewed prior to expiration of the permit. Permits can be extended up to a maximum of one year at the discretion of the town.

#### **Sec. 1-6. FEES AND CHARGES**

Fees and charges shall be adopted by the Board of Selectmen as a part of the Fee Schedule for the Town of Newport

#### **Sec. 1-7. BONDS**

- a. If the estimated cost of the work to be covered by the permit exceeds \$10,000.00, an applicant shall be required to post a performance guarantee equal to the total anticipated cost(s) of the work to be covered by the permit prior to being issued any permit. The performance guarantee may be in the form of bonds, irrevocable letters of credit, or cash deposits.
- b. If the estimated cost of the work to be covered by the permit is less than \$10,000, an applicant shall be required to provide a cash deposit with the Town in the amount of 10% of the total anticipated costs(s) of the work to be covered by the permit as guarantee, provided that in no cases shall this deposit be less than \$500.00.
- c. The Town shall retain the guarantee for one year from the date of completion of the work to assure that the construction standards have been adhered to. Deposits will only be refunded upon approved inspection by a town official, making certain all work is completed in accordance to this ordinance and municipal standards.
- d. In the event the Director of Public Works determines, in his or her sole discretion, that the work for which the guarantee was posted is inadequate, fails to meet the applicable standards, or latent defects surface in the one-year period following completion of the work the Director may, after notice to the applicant, use the guarantee to repair the work to his or her satisfaction.

## **Sec. 1-8 PERMIT EXCEPTION**

State and State Aid roads are exempt from the Town of Newport(s) permit process but do require a MDOT permit Application(s) and information can be obtained through the MDOT office in Bangor.

## **Sec. 1-9 CONSTRUCTION STANDARDS**

This ordinance authorizes the Town of Newport Board of Selectmen to draft and enact construction standards. Oversight of standards will be under the direction of the Newport Public Works Foreman.

1. The Contractor is responsible for all construction and restoration of disturbed areas for the entrance within the limits of the right-of-way.
2. The entire portion of any entrance within the limits of the right-of-way shall be constructed with a minimum 15-inch well-graded gravel base course. (MDOT Type C)
3. 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.
4. When sidewalk or curb exists at the proposed entrance the contractor shall remove and replace such materials at the contractor's expense. Any granite curb must be reinstalled. If removed by the contractor, it will remain the property of the Town.
5. Where curb exists, curb tip-downs shall be provided at each side of a new entrance.
6. Where sidewalk is removed to accommodate a new entrance, a new walk surface or equal type construction is to be provided. The sidewalk area at all entrances is to meet handicap accessibility requirements and conform to the Americans with Disabilities Act guidelines. In general sidewalks shall meet the following criterion:
  - a. The maximum sidewalk longitudinal transition slope is not to exceed 1 vertical to 12 horizontal
  - b. The maximum sidewalk cross-slope is not to exceed 2%.
  - c. No abrupt changes in grade are permitted and the maximum curb reveal crossing a walkway is ½ inch or less.
7. Pavement will be cut with a pavement breaker or saw prior to excavation.
8. Undermining during excavation will require a pavement cut one foot beyond top outer ledge of construction area.

9. Backfill will be placed in 12 inch or less lifts and thoroughly compacted at each lift, with the removed material, or like material.
10. All backfill shall be suitable material consistent with good engineering practices.
11. The final base shall consist of 15 inches of gravel with allowance made for a final patch of 2 ½ inches of bituminous asphalt with a minimum overlay of 1½ inches of binder.
12. Upon completion of backfilling, the excavated area shall be maintained daily by adding gravel as needed.
13. A temporary patch of 2 inches of bituminous asphalt must be placed within five (5) days of backfilling and maintained until the permanent patch is placed within 90 days, weather permitting.
14. At the time of the final patch, the temporary patch will be cut out and removed to allow for 2½ inches of bituminous asphalt. The Public Works Director must be notified before the permanent patch is placed.
15. The person (contractor) opening the road is responsible for maintenance of the area for a period of one (1) year from final backfilling. The contractor shall adhere to all OSHA standards and shoring or sheeting must be provided in a roadway where depths exceed standard un-shored depths. Cutting back on a slope will not be allowed.
16. All sidewalks, curbing, tree belts, etc. shall be returned to their original state if applicable.

**Sec. 2.1 NOTICE TO ALL PERSONS SECURING ROAD OPENING PERMITS:**

Persons securing road-opening permits are responsible for insuring safety of the public in the excavated area.

Adequate safety and warning devices must be place at appropriate locations to adequately warn and protect the motoring and pedestrian public.

Such devices might include, but not necessarily be limited to reflective signs, barricades, and barrels along with lights.

Any liability arising from improper safeguards shall be borne by the person(s) securing the permit.

The Town of Newport is not responsible for providing devices mentioned above to persons performing the excavation.

**THE DEADLINE FOR HIGHWAY OPENING IN THIS AREA OF THE STATE IS NOVEMBER 1<sup>ST</sup>. THE FOLLOWING WINTER CONDITIONS, WHICH SHALL BE IN ADDITION TO OTHER RULES AND CONDITIONS APPLICABLE, WILL APPLY TO ALL PORTIONS OF THE WORK BEGUN AFTER NOVEMBER 1<sup>ST</sup>:**

1. The permit holder must maintain all trenches and other disturbed areas until the frost is out of the ground in the spring.
2. At the option of the permit holder, permanent pavement may be placed until and including November 14<sup>th</sup>, however, no permanent pavement shall be placed over frozen material. After and including November 15<sup>th</sup>, the permit holder must apply temporary pavement at least three inches thick to all trenches and disturbed areas subjected to vehicular or pedestrian traffic. This temporary pavement must be maintained, as indicated in (1) above, until the frost is out of the ground in the spring, after which it shall be removed and replaced with the appropriated depth of permanent pavement.
3. Prior to November 30<sup>th</sup> when snowfall of sufficient measure to require plowing is predicted, all excavations shall be back filled at the end of the day.
4. No frozen material shall be included in any back fill, nor shall any back fill be placed on frozen material.
5. In the event that conditions become such that the operation becomes a hazard to the traveling public, installation work shall be terminated.

**Sec. 2.2 PURPOSE**

This division 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.

**Sec. 2.3 PERMIT REQUIRED**

- a. No driveway, entrance or approach or other improvement within the limits of the right-of-way for any public road may be constructed, altered or relocated except in accordance with an Entrance Permit issued by the Town upon application.
- b. The Board of Selectmen will establish all fees pursuant to this permit.
- c. The entrance permit shall be valid for a period of twelve months from the date of original issue.
- d. No entrance, approach or other improvement constructed on the right-of-way shall be relocated or its dimensions altered without an Entrance Permit from the town.

e. The owner is responsible for future maintenance of the entrance within the limits of the right-of-way and shall maintain the entrance in accordance with the approved permit.

f. Applicants who desire an entrance permit on a State Highway need to contact MDOT Bangor Division and are responsible to adhere to any State criteria for the issuance of said permit. The Town of Newport will not require an application for, nor will it issue permits for Public ways defined as State Aid and State Highways.

#### **Sec. 2.4 TOWN HELD HARMLESS**

a. The applicant shall hold harmless the Town and its duly authorized agents and employees against any action for personal injury or property damage sustained by reason of the exercise of an Entrance Permit.

#### **Sec. 2.5 APPROVAL CRITERIA**

a. General: Entrance should be designed and constructed to provide safe access to the public way.

b. Applicant: The applicant for a permit shall be the contractor of the property being served. Any driveway or approach constructed by the owner shall be for the bonafide purpose of securing access to the owner's property and not for the purpose of parking or servicing vehicles on the right-of-way.

c. Geometry:

1. The entrance shall be designed such that the angle into the right-of-way does not exceed 10%.

2. For uncurbed public ways, the entrance shall in general, slope away from the road surface at a rate of not less than a quarter inch per foot, no more than one inch per foot for a distance not less than the prevailing width of the existing shoulder but in no case less the four (4) feet from the edge of the pavement.

3. 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.

4. No part of the entrance shall extend beyond the property lot frontage for the lot being served.

5. The entrance shall not be located close to an intersection. Entrance shall be placed a minimum of 50 feet from said intersection if possible.

d. Drainage:

1. Existing roadside drainage in gutter or ditch lines shall not be altered or impeded by the applicant. The applicant must provide at his/her expense suitable and approved drainage structures at all entrances.
2. Surface drainage shall be provided so that all surface water on the areas adjacent to the road shall be carried away from the roadway.
3. Where a drainage culvert is required to maintain roadside drainage, the Town must approve the pipe diameter and length and the type of pipe material prior to installation. In any case, the pipe size shall be no smaller than 12 inches in diameter.
4. For all new construction, home or business owners are responsible for the purchase and installation of their culverts after coordinating with the Public Works Department. Any damaged or destroyed culverts will be replaced by the Town.

“Attest, a true copy of an ordinance entitled Town of Newport Street Opening and Curb Cut Ordinance, as certified to me by the municipal officers of the Town of Newport, Maine and adopted by the Town meeting on the 6<sup>th</sup> day of March, 2004.”

Date: 08/31/2012

Signature: 