

Town of Freetown

Board of Selectmen



RULES AND REGULATIONS FOR STREET AND SIDEWALK OPENINGS

Adopted: August 2, 2004

**Board of Selectmen
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Freetown, MA 02702**

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Town of Freetown
General Conditions Under Which This Permit Is Granted

1. The permittee shall carefully and truly observe the rules and regulations and specifications adopted by the Town of Freetown to govern the work covered by this permit. Failure may result in revocation of this permit.
2. All work shall be in accordance with the Board of Selectmen rules and specifications regulating street excavation, curb cuts, sidewalk and street construction, and sanitary and storm sewer installations.
3. Notice shall be given by the permittee to the Highway Department, Police and Fire Departments 24 hours in advance of excavation.
4. A copy of this permit shall be kept at the work site and shall be available to Highway Department officials upon request.
5. No work shall result in the concentration and discharge of surface or subsurface water including any mechanical dewatering activity into public or private property, resulting in damage to that property.
6. This permit is null and void unless a valid "Call Before You Dig Number" (DIG SAFE ticket number) appears on the permit form.
7. It is the permittee's responsibility to provide bond and certification of insurance, indemnification of the Town of Freetown, traffic control plan, and waiver of claims as required prior to the issuance of a permit. Work resulting in violation of the Town of Freetown by-laws will be reconstructed to conformance.
8. It is the Permittee's responsibility to obtain all other applicable federal, state, and local permits prior to commencement of any work on Town owned land.
9. No police details will be approved for assignment to the job site until all necessary permits are in place.

Specific Conditions

1. No construction activity, unless approved by the Highway Department or his/her authorized Highway Department representative, shall begin before 7:00 a.m., nor shall it extend beyond 3:30 P.M., Monday through Friday; no construction activity on Saturday, Sunday and holidays.
2. No street shall be closed, nor detour established, without the approval of the Town of Freetown Highway, Police and Fire Departments. Notice of intent for road closure and detour plans shall be submitted 10 days in advance of scheduled work except emergency repairs where at least one public safety official shall review and approve the detour plan prior to commencement of an emergency repair activity.
3. No materials shall be stored in the area of street and sidewalk outside of working hours. Any materials or equipment stored within other areas of the Town's right of way shall be protected with lights and barricades.

4. When, for reasons of safety, it is necessary for work to be done outside of working hours, the contractor will be notified to take immediate corrective action. If the contractor cannot be contacted or if he/she fails to do the work, the Highway Department will take corrective action and bill the contractor.
5. Contractors shall protect elements of the Town of Freetown's infrastructure and compact backfill to 95% of optimum density. The contractor shall notify the Highway Department immediately before initiation of the backfill process.
6. Notice must be given to the designated Highway Department coordinator by 11:00 A.M. on the day that the excavation is to be completed.
7. All pavement replacement and repair will be performed by the permittee.
8. All charges for pavement work and necessary police details are the responsibility of the permittee, per the attached regulation.
9. The sketch shall indicate any existing damage in or adjacent to the proposed area to be excavated. If not shown on the sketch or noted in the special conditions, the contractor will be financially responsible for the repair or replacement.
- 10. Permits for new installations shall be issued only between April 1st and November 15th of each calendar year; except in cases of extreme emergencies, where a repair to an existing underground service line is needed to restore service. Otherwise, there will be no exception to this rule.**

Town of Freetown

Regulation for Street and Sidewalk Openings

1. Purpose

1. The purpose of these regulations is to maintain the quality of community life by establishing a fair and reasonable method to protect the roadway and sidewalk infrastructure of the Town of Freetown. It is the intent of these regulations to allow qualified contractors to work in the streets of the town without compromising the aesthetics, safety, integrity or longevity of the Town's ways.
2. Compliance with these regulations is mandatory for all excavation within the Town of Freetown right of ways. Requests for waivers from any part of these regulations shall be made in writing to the Board of Selectmen. Waivers will be considered on a per job basis only. A waiver may be granted if the contractor demonstrates to the Board, that the issuance of a waiver will not deviate from the intent of these regulations.
3. Additionally, the Town hereby includes the Massachusetts Highway Department, Standard Specifications For Highways and Bridges Divisions II and III in entirety. Appropriate sections and definitions of Division I are also herein included.

2. Authority

1. These regulations have been adopted pursuant to MGL chapters 40, 83, 166, and Article XII, Section 1.05 of the Town of Freetown General Bylaws.
2. In developing these regulations, the Town of Freetown recognizes that utilities regulated by chapter 164 of the Massachusetts General Laws are not subject to inspection and maintenance fees. The Town directs these utilities to the provisions for remedy under this and other chapters, and hereby serves notice that the Town will exercise all rights and privileges pertinent to the maintenance and protection of all ways within the Town of Freetown. (164 sections 70, 74, 75, 78 and 105a; 220cmr69.12 and 49cfr192) Any utility or corporation able to demonstrate and prove to the Town and/or Town Counsel, that they are subject to the duties and charges of a similar provision of the Massachusetts General Laws relative to the operation and construction of said utility shall be given a waiver to the relevant fees.

3. Definitions

1. **Contractor** - A person, company, corporation, partnership, firm, association, society, organization, District, Federal, State or local agency or department, commission, public or private utility or other legal entity.
2. **Curb cut** - Access to a public way from private property for the purpose of vehicular or wheelchair access.
3. **Excavate** - Removal of any portion of an existing road, including, but not limited to, any pavement, curbing, sidewalks or grass areas within the street right-of-way, or any of the material beneath it.

4. **Permit** - Written permission from the administering agency, the Streets and Parks Department.
5. **Right of Way** - Property between the street lines as defined by the street layout or the area within the traveled way.
6. **Road** - Any way, highway, street, public or private, which is or has historically been maintained by the Town of West Boylston Streets and Parks Department.
7. **Safety Equipment** – Cones, barrels, warning signs, barricades or other device to provide adequate notification to motorists and pedestrians. The use and specification of such devices is defined in the Federal Highway Administration's "Manual for Uniform Traffic Control Devices."
8. **Surveyor** – Highway Surveyor for the Town of Freetown, or his/her authorized representative.
9. **Temporary Cover** – Cold Patch (24 hour maximum) Concrete Patch acceptable prior to April 30th.
10. **Trench** - Excavation usually made for installing, repairing or replacing a utility device, conduit, pipe structure or appurtenance.
11. **Warranty** – All work within a Freetown right of way will be guaranteed by the contractor for a period of up to 3 years against surface deficiencies, settlements or any structural failure.
12. **Work** – Any surface treatment, surfacing, resurfacing, excavation or modification of a paved or graveled surface within the right of way.

4. Fees

- A. A non-refundable application fee of \$100.00 is required for all proposed openings.
- B. A non-refundable inspection fee of \$50.00 is required for all proposed openings.
- C. Trenches not inspected due to the failure of the permittee to properly notify the Highway Department shall be subject to repeat of restoration procedures.
- D. A Performance and Payment Bond in the amount of \$5,000.00 is required for each street opening permit granted. The Town of Freetown may allow a blanket bond commensurate with anticipated permit activity for routine excavators. Under no circumstances will this blanket bond be less than \$50,000. This bond will be released upon expiration of the guarantee period, as outlined in Section 3, Item J.
- E. The contractor must furnish the Town of Freetown with a Certificate of Insurance for General Liability in the amount of \$2,000,000.00.
- F. There shall be no permit fee for that work being done by a contractor performing or accommodating a Town construction contract.

- G. Work performed by those public utilities subject to regulation under M.G.L. Chapter 164 shall be subject to "Application" fee only (i.e. NStar, Verizon, AT&T, Comcast, e.t.c.).

5. Notification

- A. The designated Highway Department coordinator of the Town of Freetown shall be notified 24 hours before the commencement of any work.
- B. Dig Safe must be notified not less than 72 hours prior to the commencement of any work.

6. Construction Procedures

- A. The pavement shall be pre-cut and may only be disturbed within the area requiring excavation for repair, replacement, or new installation. When the opening occurs within two (2) feet of the curb and/or edge of the hardened surface, the paved area between the excavation and the curb and/or edge must also be removed.
- B. In the backfill process, the backfill shall be composed of suitable material (subject to approval of the designated Highway Department coordinator). Concrete should be used around all electric and telephone conduits in trenches. Controlled Density Fill (CDF) or Flowable Fill (FF) may be required. Compaction (when CDF or FF is not in use) will be executed in six-inch layers. Each layer shall be 95% compacted by mechanical means. When the total surface area of an individual opening in bituminous concrete is less than nine (9) square feet, all backfill material(s) will be placed to within a minimum of six (6) inches of the pavement surface, or the thickness of the original pavement structure, whichever is greater. For individual openings with surface areas of nine (9) square feet and larger, the backfill material(s) will be installed to within four (4) inches of the pavement surface or the thickness of the existing structure, whichever is greater. "Pavement structure" will incorporate all previous paving materials used above the gravel subbase, including but not limited to bituminous concrete, cement concrete, cobblestone, or macadam.
- C. The hardened pavement shall then be cut back and removed six (6) to twelve (12) inches from all sides of the initial excavation to the depth of the original pavement structure, exposing the undisturbed gravel subbase. Edges will be cut perpendicular to the surrounding surface and will have a clean vertical face, particularly in the corners. All utility structures shall be leveled to the adjacent surfaces. The cutback shall be in straight lines with 90-degree angles at the point(s) of intersection.
- D. All surplus and/or unacceptable excavated materials shall be removed from the job site immediately. The excavation site shall be maintained in a clean and safe condition at all times. Sidewalks and streets shall be cleaned and opened to traffic at the end of each working day, unless otherwise authorized by the Town of Freetown. Access to properties are to be maintained. The removal and disposal of materials, including pavement, is the responsibility of the permittee. This shall be achieved in such a manner to minimize interference with pedestrian and vehicular traffic.

- E. The permittee shall be liable for the condition of the street and sidewalk openings, and protection thereof prior to the temporary repair, and will be held responsible for all damage due to any failure of barricades, barriers, warning signs, lights, or steel plates to properly protect the work from traffic, pedestrians, or other possible causes of damage. No barriers or barricades shall be placed in a manner that may prevent access for emergency response vehicles. At times other than while work is actually being performed, all open ditches shall be protected by uniform traffic control devices in conformance with the FHA Uniform Traffic Control Devices Manual and with the Massachusetts Highway Department Work Zone Standards Guideline Manual. All excavations must be properly secured to ensure the safety of the traveling public, and immediately reported to the designated Highway Department coordinator.
- F. Temporary patching shall be performed by the permittee in accordance with the technical specifications of the Town of Freetown, and shall be the financial responsibility of the permittee. All barricades and/or safety devices shall be immediately removed from the vicinity upon completion of the temporary bituminous patching application.
- G. Any improperly prepared excavations, including those left with unacceptable back-fill material or insufficient pavement depth, shall be temporarily paved by the Town and charged to the refundable deposit of the permittee. The deposit shall immediately be replenished to the original amount. At a later date, the trench shall be re-excavated and prepared correctly by the permittee. Under these conditions, the permittee may also be subject to permit cancellation, inspection fees, fines, and loss of deposit and bond.
- H. All excavations will be required to settle and/or consolidate for a period of time before the permittee is directed to perform a permanent repair. This term will be defined as a minimum of thirty (30) days when Controlled Density Fill or Flowable Fill is used as a backfill material. Compacted gravel subbase must experience at least one (1) seasonal freeze/thaw cycle. The Highway Department reserves the right to address any subbase deficiency within, or adjacent to, the original excavated area with whatever measure deemed effective during this period. These corrective procedures will be the financial responsibility of the permittee.
- I. Immediately after the specified settling and/or consolidation period, all excavations shall be permanently restored by the permittee in accordance with the technical specifications of the Highway Department. The following procedures shall be strictly adhered to:
 - a. The infrared process shall be used as the primary method of permanent restoration in bituminous concrete surfaces of less than 10 years old.
 - b. Temporary asphalt patches installed in cement concrete surfaces shall be reexcavated to the extremities of the square(s) in which the excavation is contained. The finished concrete shall be replaced to the depth, strength, and contour of the original structure. Any concrete surface damaged during construction shall also be replaced in a like manner.
 - c. All other surfaces, including but not limited to asphalt, brick, grass, and wood, shall be replaced in a manner consistent with the original and in strict accordance with Massachusetts Highway Department specifications.

The permittee shall also be responsible for any and all necessary appurtenant measures, including but not limited to complete surface reconstruction, curbing, resetting utility structures, "bar holes," compatible crack-filling, tack-coating, and infrared thermal integration of the pavement. All processes required shall be determined by a site inspection with an authorized representative of the Highway Department. All restoration procedures shall be the financial obligation of the permittee.

- J. The permittee shall be responsible for any settlement, subbase failure, and/or pavement cracks that develop in or adjacent to the original excavated area for a period of three (3) years from the date of the final accepted permanent repair, or, if Controlled Density Fill is used, for a period of one (1) year from the date of the final accepted permanent repair. Any surface disorder caused by settlement and/or subbase movement within the general area containing a street or sidewalk opening shall be addressed by permittee, at the direction of the Highway Department. All related corrective measures are the responsibility of the permittee, and the term of obligation will begin again.
- K. Persons who cause excavations to be opened without the permit required herein shall be subject to a \$ 3,000.00 fine and penalties as provided by this regulation and/or other applicable laws, including the revocation of existing permits and/or refusal of future permits.
- L. If police protection is required during excavation, trench work or surface restorations, the permittee shall secure and pay for these services directly.
- M. All surface restorations, bituminous concrete replacement, and permanent repairs will be done by the permittee in accordance with technical specifications of the Town of Freetown.

7. Billing and Collections

- A. For work completed by the Town, all bonds will be attached and the Town of Freetown will initiate fines in the amount of \$100.00 per day and continue to accrue interest at maximum rate permitted by law on uncollected monies together with all costs of collection, including reasonable attorney's fees.

On invoices ninety (90) days past due, the Town of Freetown will revoke existing and future permits until payment of such invoices, including all interest, fines, and penalties, is made.

If the account is found to be uncollectible, the Town of Freetown shall institute a lien upon such real estate owned by the permittee and/or the excavator, in the manner provided in M.G.L. Chapter 40, Section 42A to 42F.

- B. The Town of Freetown reserves the right to assume the billing function, including assessment and conveyance of reasonable handling charges, as provided by Massachusetts General Laws.

8. Administration/Interpretation

- A. The permittee and excavator are both, individually and severally, responsible for all actions taken under the above regulation and associated permit system. If the permit

application is signed by only one of these parties, that party accepts full responsibility and liability for both parties, but in no way limits the right of the Town of Freetown to enter into litigation enjoining both parties.

- B. The Highway Department reserves the right to:
 - a. establish technical specifications.
 - b. determine and select the most advantageous proposal for the surface restoration services rendered by this regulation.
 - c. enter into a contract of a duration which best serves the Town of Freetown.
- C. The Town of Freetown Highway Department, acting through the Board of Selectmen may from time to time make changes or exceptions to this regulation, and retains sole jurisdiction in its interpretation and administration.
- D. The permittee is subject to the public safety laws and rules and regulations under the jurisdiction of the Police and Fire Chiefs of the Town of Freetown.

PROCESS for STREET and SIDEWALK OPENING PERMIT

Applicant must read and comply with the attached regulations. This cover page is only a brief outline and not intended to supplement the regulations.

The Street and Sidewalk Opening Permit is used for a utility cut into a roadway, sidewalk or Town Right-of-Way.

Before submitting the permit for approval, an appointment with the Highway Department, Water Division. (new water service) should already be set up, thereby filling in the Starting and Completion dates on the permit form.

When submitting the permit, include a check for a) \$ 100.00 - application fee and \$50.00 inspection fee, payable to the Town of Freetown, a License and Permit Bond (\$5,000.00) and a Certificate of General Liability Insurance (\$ 1,000,000.00 per accident, \$2,000,000.00 general aggregate) per permit.

Also, digsafe number, starting and completion dates. Make sure that a sketch is shown and a signature on the back of the permit.

After submitting the permit with all information and attachments required, the permit is then given to the Highway Department designee who will approve or deny the permit. The permit will then be given to the Police Department designee who will approve or deny the permit.

After the Highway and Police Department designees have reviewed the permit, The permit will be submitted and reviewed by the Board of Selectmen. The applicant will be notified by telephone, if the permit is approved or denied.

You must notify the Highway Department twenty-four (24) hours in advance of the excavation starting date.

The \$ 100.00 application fee and \$50.00 inspection fees are not refundable.

The permittee is always responsible for the patch work of the opening. If the excavated material is used as the back-fill, then one freeze and thaw season must pass and the patch must be successful.

- ❖ If cable is being installed, then Comcast will apply for the permit.
- ❖ If natural gas is being installed, then NStar will apply for the permit.
- ❖ If underground electric lines are being installed, then NStar will apply for the permit.
- ❖ If a road has been resurfaced within the last five (5) years, a permit will not be approved for routine installations.
- ❖ Permits for routine installations are issued only between April 1st and November 15th.