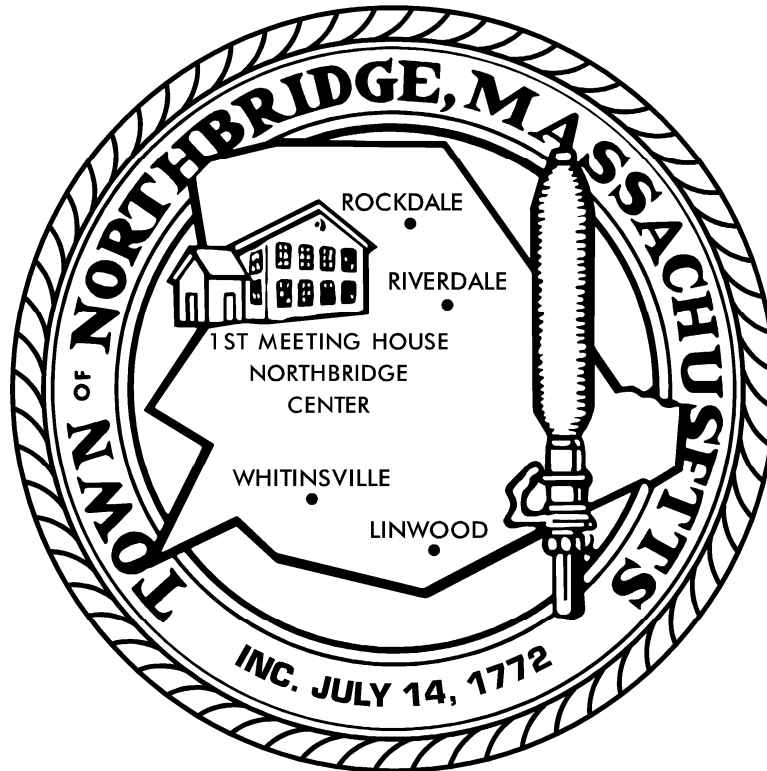


Town of Northbridge Board of Selectmen



Road Opening Permit Rules & Regulations

Adopted by vote of the Northbridge Board of Selectmen on April 12, 2004.

Amended January 12, 2009 to incorporate requirements of Massachusetts General Laws Chapter 82A and 520 CMR 14.00: EXCAVATION AND TRENCH SAFETY

All provisions of these amended rules and regulations are in effect as of March 1, 2009.

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I. PERMITTING AUTHORITY AND IMPLEMENTATION

- A. Authority
- B. Implementation
- C. Permitting Authority

II. REQUIREMENT FOR CONTRACTOR'S LICENSE

- A. Categories of Work
- B. License Requirements
- C. Term of License and Fees
- D. Suspension of License

III. ROAD OPENING PERMIT APPLICATION AND FEES

- A. General Construction
- B. Service Connections
- C. Utility Main Construction
- D. Fees
- E. Dig Safe Clearance
- F. Posting of Permit

IV. GENERAL CONDITIONS

- A. Plan/Profile Requirements
- B. General Requirements and Restrictions
- C. Maintenance of Traffic
- D. Detours
- E. Cleanup and Property Restoration
- F. Miscellaneous

V. SPECIFICATIONS

- A. Construction Methods and Materials
- B. Excavation and Backfilling
- C. Bituminous Concrete Paving
- D. Infrared Treatment
- E. Materials

VI. EXCAVATION AND TRENCH SAFETY

- A. General
- B. Trenches on Public Ways

VII. UNSAFE CONDITIONS – IMMEDIATE SHUTDOWN

VII. FAILURE TO IMPLEMENT OR EFFECTIVELY USE ADEQUATE PROTECTIONS FOR THE GENERAL PUBLIC

IMPORTANT PHONE NUMBERS

APPLICATION FOR UTILITY CONTRACTOR'S LICENSE

ROAD OPENING AND TRENCH PERMIT APPLICATION

520 CMR 14.00: EXCAVATION AND TRENCH SAFETY

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I. PERMITTING AUTHORITY AND IMPLEMENTATION

In order to protect the integrity of all public rights-of-way, assure protection of all structures and utilities within and adjacent to these rights-of-way, and provide optimum safety and convenience for the public; permission in accordance with the rules and regulations herein described must be obtained from the Northbridge Department of Public Works hereinafter referred to as the “Department”, before excavating or in any way disturbing public rights-of-way, or extending/connecting to a Town owned utility. These rules and regulations apply when work is to be performed within the layout of a public way.

These rules and regulations require compliance with all provisions of 520 CMR 14.00 EXCAVATION AND TRENCH SAFETY to protect the general public from the hazards associated with trench excavation. A full copy of this regulation is included herein and excavators are required to comply with all provisions.

A. Authority

The authority for this requirement is found in the Code of the Town of Northbridge as follows:

§ 6-101. Permit required to obstruct streets.

No person shall place or cause to be placed or permit in any of the streets any tree, post, fence, curbstone, dirt, rubbish, wood, timber, snow, ice or material of any kind tending to obstruct or create a hazardous condition on a street or sidewalk without first obtaining a written permit from the Director of Public Works.

§ 6-102. Permit required to excavate streets.

No person shall break or dig up the ground in any street or sidewalk or set up any post, fence, tree or curbstone or other obstruction in any street or sidewalk without first obtaining a written permit from the Director of Public Works.

§ 6-110. Authority to require indemnification.

The board or officer issuing permits for the use of streets or sidewalks may, in its discretion, demand a suitable cash deposit, surety bond or insurance indemnity policy, to save the town harmless from all liability of any nature whatsoever caused directly, or indirectly by such use of the streets or sidewalks.

§ 5-107. Fees and charges by municipal agencies.

A. Any municipal agency which is otherwise authorized to issue a license, certificate or permit, or to render a service or to perform work for a person or class of persons, may from time to time fix a reasonable fee for the license, certificate, permit or for rendering the service or for performing the work in the manner provided in MGL C. 40, § 22F.

Additional authority for these rules and regulations is found in:

Massachusetts General Law Chapter 82A §§1-5 Excavation and Trench Safety

520 CMR 14.00 Excavation and Trench Safety (a copy of which is attached herewith) Compliance with the requirements of this state regulation is implicit in the issuance of a permit under this regulations.

B. Implementation

All provisions of these amended rules and regulations shall be in effect beginning March 1, 2009.

C. Permitting Authority

The Department of Public Works is hereby designated the Permitting Authority for the Town of Northbridge under this regulation. The Permitting Authority is located at 11 Fletcher Street with normal office hours of Monday thru Friday, 7:00 AM to 3:00 PM.

II. REQUIREMENT FOR CONTRACTOR'S LICENSE

Permits to perform work within public rights-of-way can be obtained only by licensed contractors. Licenses will be issued to those contractors who, in the opinion of the Department, are deemed qualified through experience and have demonstrated by past performance the ability to undertake the scope of work covered by the license.

A. Categories of Work

Three (3) categories of work are covered by the Contractor's Licenses, as follows:

1. *General Construction* – driveway, sidewalk, curbing construction, landscaping, etc.
2. *Service Connections* – connection of a property or structure to a public or private utility (water, sanitary sewer, storm drainage) main or lateral.
3. *Utility Main Construction* – extension of a public or private utility system within the right-of-way (ROW).

B. License Requirements

Prior to obtaining a contractor's license, the following information must be provided:

1. A listing of available equipment, previous projects of similar size and scope to the work being contemplated, completed within the last three (3) years with references that may be contacted about these projects.
2. A street opening bond in the amount of ten thousand dollars (\$10,000) shall be obtained from a surety company licensed to do business in the Commonwealth of Massachusetts and approved by the Town. The bond shall be valid and in full effect for the term of the license and shall bind the contractor to the faithful performance and completion of the work in accordance with all applicable specifications of the Department.

3. A certificate of insurance showing that the contractor has the following minimum insurance coverages. The Town of Northbridge shall be named as “Additional Insured”:

Commercial General Liability

Per occurrence/aggregate - \$1,000,000/\$2,000/000

Automobile Liability - Bodily Injury and Property Damage

Minimum of \$1,000,000 on a combined single limit for bodily injury and property damage

Employer’s Liability Insurance - Worker’s Compensation

Limits as required under the laws of the Commonwealth of Massachusetts

Umbrella or Excess Liability Insurance

Not less than \$2,000,000 over and above primary limits

C. Term of License and Fees

Licenses shall be issued for a term of one calendar year or portion of a calendar, if issued in mid-year, and shall be renewable during the month of December of each year for the following calendar year. Licenses issued during the calendar during which these rules and regulations are adopted shall expire at the end of December of the following calendar year. License renewals must be accompanied by bond and insurance certificates described above which shall remain in force for the duration of the renewal period. At its discretion, the Department may waive the requirement to submit references for license renewals.

The annual license fee shall be one hundred and twenty-five dollars (\$125.00) paid by check made payable to the Town of Northbridge.

D. Suspension of License

The Department reserves the right to suspend or revoke a contractor’s license. One (1) documented incident of poor quality work or unwillingness to comply with these regulations shall result in a written warning and six months of probation during which time the contractor’s performance shall be monitored. Once on probation, one (1) documented incident of poor performance shall result in suspension of license for one (1) year followed by one (1) additional year on probation to be served after reinstatement of the license.

Additionally, the Department may suspend, revoke or refuse to issue a license if, in the opinion of the Department, the contractor is not adequately skilled or competent to undertake the work contemplated under the license.

Contractors may appeal any suspension, revocation or refusal to issue a license, in writing, to the Board of Selectmen within thirty (30) calendar days of written notification by the Department. The Board will make a determination based upon information

submitted by the contractor and the Department and may request that the contractor appear before the Board to provide additional information regarding the appeal.

Probationary periods may not be appealed.

III. ROAD OPENING PERMIT APPLICATION AND FEES

Permits and their associated fees are herein established for General Construction, Service Connections and Utility Main Construction. These requirements apply to any work being performed within the right-of-way (ROW) of a public street or roadway. In almost all instances the ROW for a public street is significantly wider than the width of the pavement. The ROW on many older streets is at least thirty-three (33) feet. Forty (40) to fifty (50) feet is most common in newer subdivision with sixty-six (66) foot rights-of-way on some streets. It is the contractor's responsibility to ascertain the width of the ROW in the proposed work location. Information of ROW widths in most locations can be obtained from the Northbridge Department of Public Works.

A. General Construction

These projects are defined as follows:

1. Any excavation, of any depth, within the ROW of the road whether located in the pavement area or not. Installations of post mounted mailboxes within the ROW where the depth of excavation is less than two (2) feet are exempt from these permit requirements. Those installing mailboxes within the ROW must obtain a Dig Safe clearance before digging. Additionally, mailboxes installed within the ROW are subject to damage from snowplows and other roadway maintenance activities. The Town does not assume liability for damages to mailboxes that are installed within the ROW.
2. Placement of any equipment, fence, structure, container or other item, whether temporary or permanent, within the ROW of a public street, including obstruction of a public sidewalk, not requiring excavation. Examples include placement of equipment, materials and containers at construction sites.
3. Curb cuts, driveway paving and widening and walkway construction when all or a portion of the work is within the ROW.

B. Service Connections

These projects include excavation and installation, repair or replacement of any utility service line from any structure or property to any utility located within the ROW, whether or not the utility is located within the pavement. When connecting to a town utility, the contractor must present an approved connection permit indicating that all applicable connection fees have been paid.

C. Utility Main Construction

These projects include the construction, repair, replacement or extension of any new utility main including water, sanitary sewer or storm drainage system located within the

ROW, whether or not the utility is located within the pavement. Extension of the sanitary sewer system requires that the project proponent shall obtain a “Sewer Extension Permit” from the Massachusetts Department of Environmental Protection. No road opening permit will be issued for extension of a sanitary sewer system until a Sewer Extension Permit has been approved.

All extensions of or connections to the storm drainage system shall comply with the Massachusetts Department of Environmental Protection’s stormwater management policies. Storm drains, culverts and related installation, including catch basins, manholes, and curbing shall be installed as necessary to provide adequate collection of surface water from all streets and impervious surfaces within the project area. Any project that increases the impervious area shall have a stormwater management system designed to mitigate any increase in the rate and volume of stormwater runoff. The system shall be designed so as to not increase the peak rate of runoff or volume of stormwater runoff in the 2, 10, 25 and 100-year storm events.

D. Fees

The fee for obtaining a road opening permit shall be based upon the location of the work and the total area to be disturbed by the work as follows:

1. Work performed in the right-of-way with no excavation in paved areas, including roads, streets and sidewalks: Twenty-five (\$25.00) dollars.
2. Work performed in the right-of-way with removal of paved area, including roads, streets and sidewalks, of fifty square feet or less: Fifty (\$50.00) dollars.
3. Work performed in the right-of-way with removal of paved area, including roads, streets and sidewalks, greater than fifty square feet: One (\$1) dollar per square foot of disturbed pavement not to exceed Two-hundred (\$200.00) dollars.

Fee shall be paid at the time of application by check made payable to “The Town of Northbridge”. When work is to be performed by any department of the Town of Northbridge or their agent or contractor, the permit fee shall be waived. Additionally, the permit fee shall be waived for any public utility company governed by the rules of the Massachusetts Department of Telecommunications and Energy when the work is intended to extend, repair, replace or maintain the system of the public utility company. However, all other provisions of these rules and regulations shall apply.

E. Dig Safe Clearance

Contractors applying for a road opening permit must first obtain a Dig Safe clearance for the proposed work area and must include the Dig Safe number on the permit application along with the date and time that the Dig Safe clearance will become effective. The number for contacting Dig Safe is 1-888-344-7233.

F. Posting of Permit

All Permits issued pursuant to this regulation shall be posted in plain view on the worksite. All permits shall be made available to the permitting authority, any investigator

from the Division of Occupational Safety, any inspector of the Department of Public Safety, or any other lawfully authorized authority.

IV. GENERAL CONDITIONS

A. Plan/Profile Requirements

Before any permit is issued, the Department may require that a complete plan and profile be submitted with the application. Plan and profile shall show the following:

1. Location of the proposed construction.
2. Exact location of all existing utilities within the proposed construction area that would be crossed or exposed during the construction.
3. Elevations of existing underground facilities crossed, exposed or connected to by proposed installations.
4. Elevations of proposed construction at all crossing points.
5. Inverts of all proposed manholes or cleanouts as well as inverts of existing facilities connected to by the proposed construction.
6. Plan shall be at a horizontal scale or 1 inch = 40 feet (1" = 40') or greater.
7. Profile shall be at a vertical scale of 1 inch = 4 feet (1" = 4') or greater.

B. General Requirements and Restrictions

1. Permits will be issued only to contractors licensed by the Town of Northbridge.
2. The contractor shall notify the Department a minimum of twenty-four (24) prior to the start of any road opening work to allow for inspection of the work site.
3. No street opening permits shall be issued between November 15 and April 1, except in cases of emergency as determined by the Department.
4. No permits shall be issued on newly constructed, paved or accepted roads for a period of five (5) years following the paving or acceptance. If a roadway is opened due to an emergency, at a minimum, the following will be required:
 - a. The pavement shall be saw cut a minimum of one (1) foot beyond the width of the trench required for the repairs.
 - b. The trench shall be backfilled using controlled Density Fill (CDF). The CDF must be batched at a concrete plant and delivered in transit mixers, must be flowable, require no vibrating, and the finished product must be excavatable without the use of power tools.
 - c. After the trench has been properly backfilled as required above, the contractor shall restore the paved area to as good repair as when opened as determined by the Department. Pavement restoration methods required by the Department may include grind and inlay, infrared treatment or a complete curb-to-curb pavement overlay of the disturbed area(s).

5. If the proposed street opening for underground work affects more than fifty- (50) feet of roadway measured longitudinally, the Department has the option of requiring grind and inlay, infrared treatment or a complete curb-to-curb pavement overlay of the disturbed area(s).
6. Except in emergencies, work shall be limited to the hours of 7:00 AM to 4:00 PM. On primary streets, work shall be limited to the hours of 9:00AM to 3:00 PM unless approved by the Department. Primary streets include: Church St, Main St, Hill St, Sutton St, Linwood Av, Quaker St, School St and Providence Rd.
7. Except in emergencies, no work shall be permitted on Saturdays, Sundays and legal holidays. In addition, no new work shall commence on Fridays except as approved by the Department.
8. No public shade trees, located within the ROW, shall be removed without the prior written permission of the Tree Warden. Cutting or removal of public shade trees is governed under the provisions of Massachusetts General Law Chapter 87.
9. No opening or excavation in any street shall extend beyond the centerline of the street before being backfilled and the surface of the street temporarily restored.
10. No more than one hundred (100) feet measured longitudinally shall be opened in any street at any time, except as specifically approved by the Department.
11. If a roadway patch begins to fail, the contractor must respond and repair the pavement on primary streets within four (4) hours of notification. On all other streets, the contractor must respond within twenty-four (24) hours of notification, unless a safety hazard exists. If a safety hazard exists, the contractor must respond within four (4) hours of notification. If the contractor fails to respond within the required time, the Department may respond to make temporary repairs. The total cost for labor, material and equipment incurred by the Department shall be billed to the contractor. Failure to make full payment within thirty (30) days of receipt of the bill will constitute grounds for suspension of the contractor's license.
12. Should it be determined that an emergency requires immediate repairs to preclude a public safety hazard, the Department will make repairs and the contractor shall be billed for the total cost for labor, material and equipment incurred by the Department.
13. Unless granted permission by the Department, all work must be completed within fourteen (14) calendar days of commencing the work. Once the work is completed, the pavement shall be temporarily patched and the permanent patch shall be installed the following construction season, allowing approximately one year for settlement. The contractor shall be responsible for maintenance of the temporary during the settlement period.
14. All existing drainage facilities including brooks, streams, canals, rivers, culverts, catch basins and piping shall be adequately protected so as not to impede drainage or to cause siltation of downstream areas. Contractor shall comply with all requirements of Orders of Conditions issued by the Northbridge Conservation Commission and shall install all siltation controls prior to commencing work.
15. No work, other than of an emergency nature, shall be performed during snow and ice storms and during snow and ice control operations, or when weather conditions are determined by the Department to be inappropriate for the proper prosecution of the work.

16. Access to private driveways and fire hydrants must be maintained at all times during construction operations.

17. The contractor shall be responsible for obtaining all additional permits required for his equipment, work force, or particular operations (such as blasting) in the performance of the work.

18. In granting any permit, the Department may attach such other conditions thereto as may be reasonably necessary to prevent damage to public or private property or to prevent operations from being conducted in a manner hazardous to life or property or in a manner likely to create a nuisance. Such conditions may include but shall not be limited to:

- a. limitations on the time of year in which the work may be performed;
- b. restrictions on the size and type of equipment to be used within the Right-of-way;
- c. routes upon which materials and equipment may be transported;
- d. requirements for dust control, street cleaning, noise control and prevention, or other activities that may be considered a nuisance; and
- e. regulations as to the use of streets during the progress of the work.

C. Maintenance of Traffic

1. Two-way traffic must be maintained at all times. If work is not completed at the end of the work day, the travel lane must be reopened to traffic for overnight use either by placement of a temporary patch or by means of road plates of sufficient size to completely cover the street opening. Road plates shall be of sufficient strength to carry traffic.

2. All open excavations shall be adequately safeguarded by providing temporary barricades, caution signs, lights and other means to prevent accidents to persons, and damage to property. The contractor shall provide suitable and safest means for covering all open excavations and for accommodating travel when work is not in progress.

3. All excavated material shall be placed so that vehicular and pedestrian traffic may be maintained at all times. If the excavation becomes a hazard or if it excessively restricts traffic at any point, then special procedures shall be taken, such as limiting the excavation and prohibiting stockpiling of material in the street.

4. Uniformed Police Officers for traffic control shall be used when warranted by location and traffic conditions or at the discretion of the Chief of Police. Details shall be arranged by contacting the Northbridge Police Department at 508-234-6211.

5. Safety and traffic control methods, types of signs, warning lights, and barriers provided by the contractor shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices. They shall be in-place before work begins.

D. Detours

1. All detours must be approved by the Chief of Police and the Department. The contractor shall supply a Traffic Management Plan clearly showing the location of the work, the detour route, and the location, size and wording of all signage.
2. Safety and traffic control methods, types of signs, warning lights, and barriers provided by the contractor shall be in accordance with the latest edition of the Manual on Uniform Traffic Control Devices.

E. Cleanup and Property Restoration

1. The contractor shall frequently cleanup all refuse, debris, and other material generated by his operations. The site of the work and the adjacent areas shall at all times present a neat, orderly and workmanlike appearance. At the completion of work, the contractor shall perform a final cleanup to bring the work site back to its original condition or better.
2. The contractor shall repair and restore all vegetated or turfed areas disturbed during the work. Restoration shall include the application of loam and seed or sod in disturbed or damaged turfed areas. Any public shade tree that is removed shall be replaced with a suitable street tree as approved by the Tree Warden. Replacement trees shall have a minimum 2-1/2 inch caliper measured four (4) feet above the top of root ball. Contractor shall warrant the viability of all trees for two growing seasons.
3. The contractor shall at all times employ adequate safety measures to prevent injuries to persons or damage to property. The contractor shall furnish materials, labor and equipment to correct any and all areas deemed as unsafe by the Department.
4. The contractor shall restore or replace any property damaged by his work, equipment or employees to a condition at least equal to the condition that existed immediately prior to the beginning of operations. This includes pavements, sidewalks, curbing, driveways or other structures. Materials, equipment and methods for restoration shall be as approved by the Department.

F. Miscellaneous

The Department will not issue a Road Opening Permit for any street within an active subdivision when that street has not yet been accepted by the Town. These locations are considered Private Property and require permitting under the Town's Excavation and Trench Safety Regulation. The contractor shall obtain permission from the subdivision owner for any such road opening.

V. SPECIFICATIONS

A. Construction Methods and Materials

All work and material shall comply in all respects to the Massachusetts Highway Department (MHD) "Standard Specifications for Highways and Bridges" 1995 edition or later.

B. Excavation and Backfilling

Existing pavements shall be cut with a saw, wheel or pneumatic chisel along straight lines before excavating. Trenches shall be excavated only to the depth and width required for the work. If unsuitable material is found in the excavation, trenches may be over-excavated and suitable bedding material, such as pea stone or screened gravel may be used. Once piping has been installed bedding material shall be placed up to 1-foot over the pipe. The remainder of the excavation shall be backfilled with common fill material in 1-foot layers, thoroughly compacted, up to 18-inches below the bottom of the pavement repair. Fill material shall be free from any debris, trash or deleterious materials or any stone large than four-inches. Under no circumstances shall frozen material be used. The sub base layer for paving shall consist of bank run gravel installed in six-inch layers and thoroughly compacted. Compaction requirements for sub base layer shall be 95 percent of maximum density and 92 percent of maximum density for the remainder of the excavation when tested according to ASTM D1557, Method D. The Department may direct that field density compaction tests, performed by an independent testing laboratory be conducted as the work progresses. Test shall be paid for by the contractor.

C. Bituminous Concrete Paving

In all instances, permanent pavement repairs shall match the existing adjacent pavement cross section thickness or a minimum compacted thickness of 2-1/2 inches of binder and 2 inches of surface course, whichever is greater. Bituminous concrete shall be Class I. Type I-1 conforming to Mass Highway standard M 3.11. All manhole frames and utility boxes are to be set to grade of the initial pavement until such time as the permanent pavement is placed. The contractor shall then reset the frames and boxes to the grade of the permanent pavement. At no time shall manhole frames and boxes be allowed to protrude above the surface of the initial pavement. Permanent pavement repair shall be compacted by means of a steel-wheel roller of sufficient weight to establish a uniform density comparable to that of the adjacent surface within the work area. The finished patch shall be level with no depression retaining water on any of its surface and shall be perfectly flush with the existing, surrounding pavement. The edges around the perimeter of the repaired areas shall be sealed with a suitable asphalt emulsion (RS-1 or equal).

D. Infrared Treatment

When required, infrared treatment of final pavement shall be performed in conjunction with installation of final pavement unless otherwise approved by the Department. The area to be treated shall include the entire final pavement patch plus an additional 1-foot of existing pavement beyond each side of the initial pavement. The infrared heater shall be positioned over the areas to be treated for the time required to soften the existing pavement to a depth of 2-inches or more. The area shall be thoroughly scarified to a depth

of at least 2-inches. A recycling agent admixture shall be added to the softened area after scarification, in the amount recommended by the admixture manufacturer and shall be raked to a uniform workable condition. Additional bituminous concrete material needed to achieve proper finished grade shall be added to the patch. This material shall have a temperature no less than 200 degrees F. Permanent pavement repair shall be compacted by means of a steel-wheel roller of sufficient weight to establish a uniform density comparable to that of the adjacent surface within the work area. The finished patch shall be level with no depression retaining water on any of its surface and shall be perfectly flush with the existing, surrounding pavement. The edges around the perimeter of the repaired areas shall be sealed with a suitable asphalt emulsion (RS-1 or equal).

E. Materials

Sanitary Sewer:

1. Gravity sewer pipe and fittings shall be PVC SDR 35 conforming to ASTM D3034 for sizes 4 through 18-inches. Pipe and fittings shall have bell and spigot push-on joints and shall be from a single manufacturer.
2. Precast concrete manhole barrel and transition top sections shall conform to Specifications for Precast Reinforced Concrete Manhole Sections, ASTM C478. Manhole sections shall not have rungs. Sections shall be sealed with a round rubber O-ring or a preformed flexible joint sealant. Exterior of all manhole sections shall be coated with an approved damp proofing material. Precast concrete barrel sections with precast top slabs and precast concrete transitions sections shall be designed for a minimum of H-20 loading plus the weight of soil above at 120 pcf.
3. Bricks for channels and shelves shall comply with ASTM C32, Sewer Brick, Grade SS. Bricks for building up and leveling manhole frames shall conform to ASTM C62.
4. Manhole covers shall have a diamond pattern; pick holes and the word "SEWER" cast in 3-inch letters. Manhole frame and cover shall be LeBaron Foundry model LA266 in paved areas and LAB266 with gasket in cross-country areas.

Storm Drain:

1. Drainage pipe shall be reinforced concrete pipe. Where suitable for the application, ADS plastic drainage pipe may be used.
2. Manhole covers shall have a diamond pattern; pick holes and the word "STORM" cast in 3-inch letters. Manhole frame and cover shall be LeBaron Foundry model LA266.
3. Catch basin frame and grate shall be LeBaron Foundry model LF246.

Water Distribution System and Water Service Connections:

The Town of Northbridge is served by a privately owned water company, the Whitinsville Water Company, and the municipally owned Northbridge Water System. The municipal system is operated and maintained for the Town by the Whitinsville Water Company, which serves as the agent for the Town system. Any and all work, on either system, involving connection to or extension of the water distribution system or connection of water services shall be coordinated with the Whitinsville Water Company and shall be accomplished in accordance with the standard specifications prepared by the Water Company.

Contact the Whitinsville Water Company well in advance of scheduling any work at 508-234-7358 for additional information or to obtain the required specifications as well as to coordinate installations and inspections. The water company is located at 44 Lake Street, Whitinsville, MA 01588.

VI. EXCAVATION AND TRENCH SAFETY

In order to protect the General Public from the hazards inherent in open, unattended trenches the Commonwealth of Massachusetts has enacted legislation in the form of Chapter 82A of the General Laws requiring a permitting process be established for opening trenches on public and private property. In turn the Department of Public Safety

This section of these rules and regulations is the local implementing directive for the permitting process for excavation of trenches on WITHIN THE LAYOUT OF PUBLIC WAYS. Regulations governing trench excavation on private property are found in the Town of Northbridge Trench Excavation & Safety Regulation.

A. General:

Wherever an unattended trench exists, the operation shall be secured in a safe manner and suitable protection for the general public shall be provided. The permit holder shall secure the unattended trench to prevent unauthorized entry when work is not in progress.

B. Trenches on public ways.

Access to unattended trenches opened during construction on a public way shall be restricted by covers or barriers.

1. Where covers are used they shall be comprised of steel metal plates no less than $\frac{3}{4}$ inches thick, or equivalent. Covers shall be placed over the trench. Such covers shall be level and physically secure to prevent the creation of a hazard by inadvertent movement.
2. Where barriers are used they shall comply with the following provisions:
 - a. A continuous barrier not less than six feet in height shall surround the unattended trench.
 - b. All barriers shall be of adequate strength and shall be supported in a manner that will allow them to be seen by the motorist and provide a stable support not easily blown over by the wind or traffic.

- c. Trench barriers adjacent to high speed traffic may include traffic control barrels ballasted by sandbags or temporary pre-cast concrete barriers as components.
- d. Trench barriers comprised of multiple sections shall allow not more than four inches between each section. Adjacent sections must be securely fastened to each other.
- e. Any openings between the ground and barrier shall not exceed 4 inches.
- f. Barriers shall be at a sufficient distance from the trench to be unaffected by changing conditions of the trench site.

The provisions of this section may be substituted by monitoring of the unattended trench by the permit holder or by person(s) under the control and direction of the permit holder.

The provisions of this section may be substituted by backfilling the work site while unattended.

The permitting authority may require any additional, site-specific provisions it deems necessary to protect the general public as a condition to any permit issued.

VII. UNSAFE CONDITION - IMMEDIATE SHUTDOWN

1. Whenever the permitting authority, or an inspector from either the Department of Public Safety or the Division of Occupational Safety deems a condition at a trench site to be a threat to public safety he may order that the area around the trench be made safe for the general public and may further order the immediate shutdown of the site until such time as the condition has been corrected to the satisfaction of the authority responsible for the immediate shutdown.
2. Conditions which warrant immediate shutdown of a trench site by the local permitting authority, an inspector from the Department of Public Safety or the Division of Occupational Safety may include:
 - a. A fatality or serious injury to a member of the general public;
 - b. Failure to use protections for the General Public in accordance with this regulation or an ineffective use of any protection for the General Public allowed by 520 CMR 14.04;
 - c. Failure to obtain a permit from the permitting authority;
 - d. Any other condition that constitutes a serious threat to life, limb or property of the general public as determined by the permitting authority, an inspector from the Department of Public Safety, or the Division of Occupational Safety.

VIII. FAILURE TO IMPLEMENT OR EFFECTIVELY USE ADEQUATE PROTECTIONS FOR THE GENERAL PUBLIC

In the event that the permit applicant/permittee fails to implement or effectively use adequate protection for the general public or leaves a trench unattended, the permitting authority or other competent authority may take any of the following corrective actions or combinations thereof:

1. Post an attendant to provide continuous monitoring of the unattended trench. Attendant may be a police officer, firefighter, flagman or other individual designated by the authority.
2. Plate the trench as required under these regulations
3. Backfill the trench

The permit applicant/permittee shall be responsible for all costs associated with the above corrective actions.

IMPORTANT PHONE NUMBERS

Emergency Numbers

Police/Fire or Medical Emergency:	911
NSTAR Gas (To report a leak or emergency)	1-800-572-9337
National Grid (To report an emergency)	1-800-322-3223
Massachusetts Dept. of Environmental Protection (Spill Hotline)	1-888-304-1133
Whitinsville Water Co. (To report a leak)	508-234-7358
Dig Safe	1-888-344-7233

Non-Emergency Numbers

Permitting Authority (Northbridge Department of Public Works).....	508-234-3581
Northbridge Police Department.....	508-234-6211
Northbridge Fire Department	508-234-8448
Department of Public Works Highway Division.....	508-234-3581
Department of Public Works Sewer Division	508-234-2154
Building Department	508-234-6577
Plumbing Inspector/ Electrical Inspector.....	508-234-6577
Board of Health	508-234-3272
Planning Department.....	508-234-2447
Conservation Commission.....	508-234-0817
Whitinsville Water Company	508-234-7358
Town Manager	508-234-2095
Town Clerk.....	508-234-2001

**TOWN OF NORTHBRIDGE
APPLICATION FOR
UTILITY CONTRACTOR'S LICENSE**

Name of Contractor: _____

Owner or Principle Officer: _____

Mailing Address: _____

Business Address (If different): _____

Telephone Number: _____ Fax Number: _____

Emergency Contact Information:

Name: _____

Telephone (24-hour): _____ Pager Number: _____

Category of Work:

General Construction ☐ Service Connections ☐ Utility Main Construction ☐

Certification:

I have received a copy of the Town of Northbridge Road Opening Permit Rules and Regulations and agree to abide by all requirements stated therein in conjunction with any work performed within the Right-of-Way of all public ways.

Signed: _____ Date: _____

OFFICE USE ONLY

Certificate of Insurance ☐ Street Opening Bond ☐ List of References ☐

License Fee Paid: _____ License Number Issued: _____

Approved by: _____ Date: _____

Expiration Date: December 31, 20__



Town of Northbridge

Department of Public Works
11 Fletcher Street, P. O. Box 88
Whitinsville, Massachusetts 01588-0088
Phone: (508)-234-3581
Fax: (508)-234-0807

Permit Number: _____
Date Issued: _____
Expiration Date: _____

ROAD OPENING AND TRENCH PERMIT APPLICATION

Pursuant to G.L. c. 82A §1 and 520 CMR 7.00 et seq.(as amended)

THIS APPLICATION CONTAINS 5 PAGES. THEY MUST BE FULLY COMPLETED PRIOR TO SUBMISSION.

Name of Applicant/Permittee:			Phone:	Cell:
Street Address			24-Hour Contact Number:	
City/Town	ST	ZIP	Valid License ☐	
Name of Excavator (if different from applicant)			Phone:	Cell:
Street Address			24-Hour Contact Number:	
City/Town	ST	ZIP	Valid License ☐	
Name of Owner(s) of Property			Phone:	Cell:
Street Address				
City/Town	ST	ZIP		
Other Contact			Permit Fee Received No () Yes ()	
Description, location and purpose of proposed work: Describe the exact location of proposed trench(es) and its purpose (include a description of what is (or is intended) to be laid in proposed trench (e.g.; pipes/cable lines etc.) Please use reverse side if additional space is needed. Attach plans.				
Insurance Certificate #:				
Name and Contact Information of Insurer:				
Policy Expiration Date:				
Dig Safe #:			Start Date/Time:	
Name of Competent Person (as defined by 520 CMR 7.02):				

Massachusetts Hoisting License #:	
License Grade:	Expiration Date:

BY SIGNING THIS FORM, THE APPLICANT, OWNER, AND EXCAVATOR ALL ACKNOWLEDGE AND CERTIFY THAT THEY ARE FAMILIAR WITH, OR, BEFORE COMMENCEMENT OF THE WORK, WILL BECOME FAMILIAR WITH, ALL LAWS AND REGULATIONS APPLICABLE TO WORK PROPOSED, INCLUDING OSHA REGULATIONS, G.L. c. 82A, 520 CMR 7.00 et seq., AND ANY APPLICABLE MUNICIPAL ORDINANCES, BY-LAWS AND REGULATIONS AND THEY COVENANT AND AGREE THAT ALL WORK DONE UNDER THE PERMIT ISSUED FOR SUCH WORK WILL COMPLY THEREWITH IN ALL RESPECTS AND WITH THE CONDITIONS SET FORTH BELOW.

THE UNDERSIGNED OWNER AUTHORIZES THE APPLICANT TO APPLY FOR THE PERMIT AND THE EXCAVATOR TO UNDERTAKE SUCH WORK ON THE PROPERTY OF THE OWNER, AND ALSO, FOR THE DURATION OF CONSTRUCTION, AUTHORIZES PERSONS DULY APPOINTED BY THE MUNICIPALITY TO ENTER UPON THE PROPERTY TO MONITOR AND INSPECT THE WORK FOR CONFORMITY WITH THE CONDITIONS ATTACHED HERETO AND THE LAWS AND REGULATIONS GOVERNING SUCH WORK.

THE UNDERSIGNED APPLICANT, OWNER AND EXCAVATOR AGREE JOINTLY AND SEVERALLY TO REIMBURSE THE MUNICIPALITY FOR ANY AND ALL COSTS AND EXPENSES INCURRED BY THE MUNICIPALITY IN CONNECTION WITH THIS PERMIT AND THE WORK CONDUCTED THEREUNDER, INCLUDING BUT NOT LIMITED TO ENFORCING THE REQUIREMENTS OF STATE LAW AND CONDITIONS OF THIS PERMIT, INSPECTIONS MADE TO ASSURE COMPLIANCE THEREWITH, AND MEASURES TAKEN BY THE MUNICIPALITY TO PROTECT THE PUBLIC WHERE THE APPLICANT OWNER OR EXCAVATOR HAS FAILED TO COMPLY THEREWITH INCLUDING POLICE DETAILS AND OTHER REMEDIAL MEASURES DEEMED NECESSARY BY THE MUNICIPALITY.

THE UNDERSIGNED APPLICANT, OWNER AND EXCAVATOR AGREE JOINTLY AND SEVERALLY TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE MUNICIPALITY AND ALL OF ITS AGENTS AND EMPLOYEES FROM ANY AND ALL LIABILITY, CAUSES OR ACTION, COSTS, AND EXPENSES RESULTING FROM OR ARISING OUT OF ANY INJURY, DEATH, LOSS, OR DAMAGE TO ANY PERSON OR PROPERTY DURING THE WORK CONDUCTED UNDER THIS PERMIT.

APPLICANT SIGNATURE

_____ DATE _____

EXCAVATOR SIGNATURE (IF DIFFERENT)

_____ DATE _____

OWNER'S SIGNATURE (IF DIFFERENT)

_____ DATE: _____

For Town use -- Do not write in this section	
PERMIT APPROVED BY	\$_____ Application Fee
PERMITTING AUTHORITY Date	
CONDITIONS OF APPROVAL	

CONDITIONS AND REQUIREMENTS PURSUANT TO G.L.C.82A AND 520 CMR 7.00 et seq. (as amended)

By signing the application, the applicant understands and agrees to comply with the following:

- i. No trench may be excavated unless the requirements of sections 40 through 40D of chapter 82, and any accompanying regulations, have been met and this permit is invalid unless and until said requirements have been complied with by the excavator applying for the permit including, but not limited to, the establishment of a valid excavation number with the underground plant damage prevention system as said system is defined in section 76D of chapter 164 (DIG SAFE);
- ii. Trenches may pose a significant health and safety hazard. Pursuant to Section 1 of Chapter 82 of the General Laws, an excavator shall not leave any open trench unattended without first making every reasonable effort to eliminate any recognized safety hazard that may exist as a result of leaving said open trench unattended. Excavators should consult regulations promulgated by the Department of Public Safety in order to familiarize themselves with the recognized safety hazards associated with excavations and open trenches and the procedures required or recommended by said department in order to make every reasonable effort to eliminate said safety hazards which may include covering, barricading or otherwise protecting open trenches from accidental entry.
- iii. Persons engaging in any trenching operation shall familiarize themselves with the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CFR 1926.650 et.seq., entitled Subpart P “Excavations”.
- iv. Excavators engaging in any trenching operation who utilize hoisting or other mechanical equipment subject to chapter 146 shall only employ individuals licensed to operate said equipment by the Department of Public Safety pursuant to said chapter and this permit must be presented to said licensed operator before any excavation is commenced;
- v. By applying for, accepting and signing this permit, the applicant hereby attests to the following: (1) that they have read and understands the regulations promulgated by the Department of Public Safety with regard to construction related excavations and trench safety; (2) that he has read and understands the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CMR 1926.650 et.seq., entitled Subpart P “Excavations” as well as any other excavation requirements established by this municipality; and (3) that he is aware of and has, with regard to the proposed trench excavation on private property or proposed excavation of a city or town public way that forms the basis of the permit application, complied with the requirements of sections 40-40D of chapter 82A.
- vi. This permit shall be posted in plain view on the site of the trench.**

For additional information please visit the Department of Public Safety’s website at www.mass.gov/dps

Summary of Excavation and Trench Safety Regulation (520 CMR 14.00 et seq.)

This summary was prepared by the Massachusetts Department of Public Safety pursuant to G.L.c.82A and does not include all requirements of the 520 CMR 14.00. To view the full regulation and G.L.c.82A, go to www.mass.gov/dps

Pursuant to M.G.L. c. 82, § 1, the Department of Public Safety, jointly with the Division of Occupational Safety, drafted regulations relative to trench safety. The regulation is codified in section 14.00 of title 520 of the Code of Massachusetts Regulations. The regulation requires all excavators to obtain a permit prior to the excavation of a trench made for a construction-related purpose on public or private land or rights-of-way. All municipalities must establish a local permitting authority for the purpose of issuing permits for trenches within their municipality. Trenches on land owned or controlled by a public (state) agency requires a permit to be issued by that public agency unless otherwise designated.

In addition to the permitting requirements mandated by statute, the trench safety regulations require that all excavators, whether public or private, take specific precautions to protect the general public and prevent unauthorized access to unattended trenches. Accordingly, unattended trenches must be covered, barricaded or backfilled. Covers must be road plates at least ¾” thick or equivalent; barricades must be fences at least 6’ high with no openings greater than 4” between vertical supports; backfilling must be sufficient to eliminate the trench. Alternatively, excavators may choose to attend trenches at all times, for instance by hiring a police detail, security guard or other attendant who will be present during times when the trench will be unattended by the excavator.

The regulations further provide that local permitting authorities, the Department of Public Safety, or the Division of Occupational Safety may order an immediate shutdown of a trench in the event of a death or serious injury; the failure to obtain a permit; or the failure to implement or effectively use adequate protections for the general public. The trench shall remain shutdown until re-inspected and authorized to re-open provided, however, that excavators shall have the right to appeal an immediate shutdown. Permitting authorities are further authorized to suspend or revoke a permit following a hearing. Excavators may also be subject to administrative fines issued by the Department of Public Safety for identified violations.

Summary of 1926 CFR Subpart P -OSHA Excavation Standard

This is a worker protection standard, and is designed to protect employees who are working inside a trench. This summary was prepared by the Massachusetts Division of Occupational Safety and not OSHA for informational purposes only and does not constitute an official interpretation by OSHA of their regulations, and may not include all aspects of the standard. For further information or a full copy of the standard go to www.osha.gov.

- **Trench Definition per the OSHA standard:**
 - An excavation made below the surface of the ground, narrow in relation to its length.
 - In general, the depth is greater than the width, but the width of the trench is not greater than fifteen feet.
- **Protective Systems** to prevent soil wall collapse are always required in trenches deeper than 5', and are also required in trenches less than 5' deep when the competent person determines that a hazard exists. Protection options include:
 - Shoring. Shoring must be used in accordance with the OSHA Excavation standard appendices, the equipment manufacturer's tabulated data, or designed by a registered professional engineer.
 - Shielding (Trench Boxes). Trench boxes must be used in accordance with the equipment manufacturer's tabulated data, or a registered professional engineer.
 - Sloping or Benching. In Type C soils (what is most typically encountered) the excavation must extend horizontally 1 ½ feet for every foot of trench depth on both sides, 1 foot for Type B soils, and ¾ foot for Type A soils.
 - A registered professional engineer must design protective systems for all excavations greater than 20' in depth.
- **Ladders** must be used in trenches deeper than 4'.
 - Ladders must be inside the trench with workers at all times, and located within 25' of unobstructed lateral travel for every worker in the trench.
 - Ladders must extend 3' above the top of the trench so workers can safely get onto and off of the ladder.
- **Inspections** of every trench worksite are required:
 - Prior to the start of each shift, and again when there is a change in conditions such as a rainstorm.
 - Inspections must be conducted by the competent person (see below).
- **Competent Person(s) is:**
 - Capable (i.e., trained and knowledgeable) in identifying existing and predictable hazards in the trench, and other working conditions which may pose a hazard to workers, and
 - Authorized by management to take necessary corrective action to eliminate the hazards. Employees must be removed from hazardous areas until the hazard has been corrected.
- **Underground Utilities** must be:
 - Identified prior to opening the excavation (e.g., contact Digsafe).
 - Located by safe and acceptable means while excavating.
 - Protected, supported, or removed once exposed.
- **Spoils** must be kept back a minimum of 2' from the edge of the trench.
- **Surface Encumbrances** creating a hazard must be removed or supported to safeguard employees. Keep heavy equipment and heavy material as far back from the edge of the trench as possible.
- **Stability of Adjacent Structures:**
 - Where the stability of adjacent structures is endangered by creation of the trench, they must be underpinned, braced, or otherwise supported.
 - Sidewalks, pavements, etc. shall not be undermined unless a support system or other method of protection is provided.
- **Protection from water accumulation hazards:**
 - It is not allowable for employees to work in trenches with accumulated water. If water control such as pumping is used to prevent water accumulation, this must be monitored by the competent person.
 - If the trench interrupts natural drainage of surface water, ditches, dikes or other means must be used to prevent this water from entering the excavation.
- **Additional Requirements:**
 - For mobile equipment operated near the edge of the trench, a warning system such as barricades or stop logs must be used.
 - Employees are not permitted to work underneath loads. Operators may not remain in vehicles being loaded unless vehicles are equipped with adequate protection as per 1926.601(b)(6).
 - Employees must wear high-visibility clothing in traffic work zones.
 - Air monitoring must be conducted in trenches deeper than 4' if the potential for a hazardous atmosphere exists. If a hazardous atmosphere is found to exist (e.g., O₂ <19.5% or >23.5%, 20% LEL, specific chemical hazard), adequate protections shall be taken such as ventilation of the space.
 - Walkways are required where employees must cross over the trench. Walkways with guardrails must be provided for crossing over trenches > 6' deep.
 - Employees must be protected from loose rock or soil through protections such as scaling or protective barricades.

520 CMR 14.00: EXCAVATION AND TRENCH SAFETY

Table of Contents:

Section 14.01 Authority, Purpose, and Scope

Section 14.02 Definitions

Section 14.03 Permitting Requirements

Section 14.04 Protections for the General Public

Section 14.05 Suspension and Revocation of Permits; Assessment of Fines; Immediate Shut-Down; Appeals

Section 14.01 Authority, Purpose, and Scope

(1) Purpose and Scope.

(a) 520 CMR 14.00 is promulgated by the Department of Public Safety in conjunction with the Division of Occupational Safety pursuant to authority granted by M.G.L. c. 82A § 1.

(b) The purpose of 520 CMR 14.00 is to establish reasonable standards to protect the safety of the citizens of the Commonwealth from the hazards inherent in trenches and to provide for penalties for individuals who violate any provision of this regulation.

(2) Applicability Provision.

(a) 520 CMR 14.00 shall apply to any excavator.

(b) This regulation shall not be construed or enforced in a manner that directly, substantially or specifically regulates the occupation, safety or health of any employee engaged in employment covered by the Federal Occupational Safety and Health Act.

(c) This regulation shall be read in conjunction with and shall not supersede, be construed or be enforced in a manner that contradicts 780 CMR, the Massachusetts State Building Code.

(3) Effective Date. The enforcement of 520 CMR 14.00 shall begin on January 1, 2009 in order to provide adequate time for excavators and permitting authorities to train their employees and implement the provisions contained within these regulations.

Section 14.02 Definitions

Competent Person- A person or persons who is capable of identifying existing and predictable hazards in the surroundings, or working conditions which are unsanitary, hazardous, or dangerous to people, and who has authorization to take prompt corrective measures to eliminate them. A competent person must be able to demonstrate that he or she has been trained in and is knowledgeable about: soil analysis, the use of protections for the General Public and the requirements of this regulation.

Emergency- An unforeseen condition in which the safety of the public is in imminent danger because of a threat to life or health or where immediate correction is required to maintain or restore essential public utility service.

Excavator – Any entity including, but not limited to, a person, partnership, joint venture, trust, corporation, association, public utility, company or state or local government body or public agency which performs excavation operations including the excavation of trenches.

General Public –All natural persons not engaged in the creation of a trench.

Permit Holder –The excavator who is responsible for acquiring a permit from the Permitting Authority.

Permitting Authority – A city, town, or public agency required to administer the provisions of 520 C.M.R. 14.03.

Public Agency - A department, agency, board, commission, authority, or other instrumentality of the Commonwealth or political subdivision of the Commonwealth or two or more subdivisions thereof.

Serious Injury - A personal injury that results in death, dismemberment, significant disfigurement, permanent loss of the use of a body organ, member, function, or system, a compound fracture, or other significant injury that requires immediate admission and overnight hospitalization and observation by a licensed physician.

Trench – An excavation which is narrow in relation to its length, made below the surface ground in excess of 3 feet below grade and the depth of which is, in general, greater than the width, but the width of the trench, as measured at the bottom, is no greater than 15 feet.

Unattended Trench – A trench where neither the permit holder, excavator, nor any of the people who work in or at the trench are present.

Section 14.03 Permitting Requirements

(1) No person shall, except in an emergency, make a trench excavation, in any public way, public property, or privately owned land until a permit is obtained from the appropriately designated permitting authority.

(2) Issuance of Permit.

(a) The permit holder shall be responsible for obtaining the appropriate permit for the excavation of trenches for each project from the appropriate permitting authority.

(b) Each city, town or regionalized entity shall designate one board or officer to issue permits for the excavation of trenches on privately owned land or land owned by a city or town. Cities or towns that regionalize or share permitting and inspection

functions with other cities or towns may utilize these regionalized entities for the permitting of trenches.

(c) Any individual or entity creating a trench on property that is owned or controlled by a public agency or that a public agency otherwise has a property interest in, including but not limited to an easement, shall obtain a permit from the public agency with care and control of the property unless the permitting authority is otherwise designated through a written agreement. The public agency issuing the permit shall electronically notify the Department of Public Safety of the permit's issuance and shall provide the following information:

- i. The location of the excavation indicated on the permit;
- ii. The anticipated date to begin the trench operation;
- iii. The anticipated date to conclude the trench operation;
- iv. The name of the permit holder; and
- v. The name of the competent person(s).

(d) When issuing a permit under this section, the permitting authority shall attach a summary of OSHA Regulation 1926 Subpart P-Excavations and a summary of any regulation promulgated by the Department of Public Safety in conjunction with the Division of Occupational Safety in accordance with M.G.L. c. 82A.

(3) Permit Requirements. In order to obtain a permit, the following information must be submitted to the permitting authority:

- (a) Completed application;
- (b) Certificate of insurance;
- (c) Required fee in accordance with 520 CMR 14.03 (6) where applicable.

(4) Contents of Permit Applications. All permit applications must contain the following information:

- (a) Digsafe number (see sample permit);
- (b) Name and contact information of permit holder;
- (c) Name and contact information of the excavator;
- (d) Name of the competent person(s)
- (e) Name of person(s) performing the excavation of the trench;
- (f) Massachusetts Hoisting License number, license grade and expiration date of the person(s) performing the excavation of the trench;
- (g) Permit expiration date (if applicable);
- (h) Specific location of the trench;
- (i) Name and contact information of insurer;
- (j) All permit applications shall also include the following statements pursuant to M.G.L. c.82A, §3 (3) and (5) (i), (ii):
 1. "Persons engaging in any trenching operation shall familiarize themselves with the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CFR 1926.650 *et. seq.*, entitled Subpart P Excavations."

2. “By applying for, accepting and signing this permit, the applicant attests to the following: (i) that he has read and understood the regulations promulgated by the Department of Public Safety with regard to trench safety; (ii) that he has read and understood the federal safety standards promulgated by the Occupational Safety and Health Administration on excavations: 29 CFR 1926.650 *et seq.*, entitled Subpart P “Excavations”.

(5) Posting. All Permits issued pursuant to this regulation shall be posted in plain view on the site of the trench. All permits shall be made available to the permitting authority, any investigator from the Division of Occupational Safety, any inspector of the Department of Public Safety, or any other lawfully authorized authority.

(6) Permit Fees. In accordance with Chapter 82A, § 2, the local permitting authority may charge a reasonable fee to cover the administrative costs incurred by the authority in connection with the review and processing of permits.

Section 14.04 Protections for the General Public

(1) Generally. Wherever an unattended trench exists, the operation shall be secured in a safe manner and suitable protection for the general public shall be provided. The permit holder shall secure the unattended trench to prevent unauthorized entry when work is not in progress.

(2) Trenches on public ways. Access to unattended trenches opened during construction on a public way shall be restricted by covers or barriers.

(a) Where covers are used they shall be comprised of steel metal plates no less than $\frac{3}{4}$ inches thick, or equivalent. Covers shall be placed over the trench. Such covers shall be level and physically secure to prevent the creation of a hazard by inadvertent movement.

(b) Where barriers are used they shall comply with the following provisions:

1. A continuous barrier not less than six feet in height shall surround the unattended trench.
2. All barriers shall be of adequate strength and shall be supported in a manner that will allow them to be seen by the motorist and provide a stable support not easily blown over by the wind or traffic.
3. Trench barriers adjacent to high speed traffic may include traffic control barrels ballasted by sandbags or temporary pre-cast concrete barriers as components.
4. Trench barriers comprised of multiple sections shall allow not more than four inches between each section. Adjacent sections must be securely fastened to each other.
5. Any openings between the ground and barrier shall not exceed 4 inches.
6. Barriers shall be at a sufficient distance from the trench to be unaffected by changing conditions of the trench site.

(3) Trenches at fixed work sites other than on a public way. Access to unattended trenches opened during construction at a fixed work site on public or private property shall be restricted by covers or portable barriers.

(a) Where covers are used they shall be comprised of steel metal plates no less than $\frac{3}{4}$ inches thick or equivalent. Covers shall be placed over trenches. Such covers shall be level and physically secure to prevent the creation of a hazard by inadvertent movement.

(b) Where portable protective barriers are used, barriers of a height not less than 6 feet shall be constructed surrounding the entire perimeter of the trench.

1. Barriers comprised of multiple sections may allow not more than four inches between each section. Adjacent sections must be securely fastened to each other.
2. Openings between the ground and fence shall not exceed 4 inches.
3. Fence-type barriers shall be secured by vertical support members not more than ten feet apart. Fencing spaces shall not exceed 4 inches when measured as mesh size or between slats.
4. Solid barriers shall not contain holes or indentations larger than 4 inches.
5. All horizontal support members shall be located on the trench side of the barrier.
6. The wall of a dwelling or other permanent structure of a height of not less than six feet may serve as part of the barrier, provided it complies with all of the provisions of this section.
7. Gates and other means of egress must:
 - (i) Comply with the size and strength provisions of this section;
 - (ii) Be securely fastened to adjacent barrier components;
 - (iii) Allow not more than four inches between gates and barrier components; and
 - (iv) Be securely locked with a padlock, combination lock, or other suitable locking device.
8. Barriers must be clearly marked on all sides with signs indicating “Danger – Do Not Enter”, “Authorized Personnel Only” or equivalent warning.
9. Barriers shall be placed at a sufficient distance from the trench to be unaffected by changing conditions of the trench site.

(4) The provisions of this section may be substituted by continuous personal monitoring of the unattended trench by the permit holder or by person(s) under the control and direction of the permit holder.

(5) The provisions of this section may be substituted by backfilling the work site while unattended.

(6) The permitting authority may require any additional, site-specific provisions it deems necessary to protect the general public as a condition to any permit issued.

Section 14.05 Suspension and Revocation of Permits; Assessment of Fines; Immediate Shut-Down; Appeals

(1) Scope 520 CMR 14.05 establishes the suspension and revocation procedures for all permits, establishes the penalty structure for the assessment of administrative penalties and sets forth the procedure for immediate shut down of the site.

(2) Revocation and Suspension of Permit by Permitting Authority. The permitting authority may, after a hearing, suspend or revoke a permit issued pursuant 520 CMR 14.03. All hearings under this section shall be held in accordance with G.L. c. 30A and 801 CMR 1.02. Each permitting authority shall have the discretion to establish the grounds consistent with this regulation for a suspension or revocation however such suspension or revocation shall not be imposed in a manner which directly, substantially or specifically regulates the occupational safety or health of any employee engaged in employment covered by the Federal Occupational Safety and Health Act.

(3) Assessment of Fines by the Department of Public Safety

(a) Notwithstanding any action taken by a permitting authority pursuant to 520 CMR 14.05 (2), the Department of Public Safety may assess administrative fines against the excavator in accordance with M.G.L. c. 82A § 1.

(b) Penalty Structure. Whenever the Department of Public Safety finds upon inspection, investigation or other information in its possession, that a violation of any provision of 520 CMR 14.00 has occurred, the Department may assess an administrative penalty not to exceed \$5,000.00 for each violation. Each day during which a violation exists shall constitute a separate offense.

(c) Factors in determining amount of penalty. In determining the amount of the administrative penalty, the Department of Public Safety may consider one or more of the following:

1. The willfulness of the violation;
2. Previous violations resulting in the imposition of administrative penalties as set forth in the rules of the Department of Public Safety;
3. Whether the violation resulted in an accident involving bodily injury or death to a member of the general public;
4. The actual or potential danger to the public;
5. Whether the excavator did everything reasonable to attempt to comply with the regulation;
6. Actions, if any, taken by the permitting authority;
7. Whether imposition of the administrative penalty is likely to deter future noncompliance; and
8. The interests of public safety.

(d) Notice. The Department of Public Safety shall send written notice of alleged violation(s) and intent to impose administrative penalties to the violator. The Notice shall specify:

1. The specific condition(s) which constitute the violation;
2. The provision(s) of the regulation with which there has been non-compliance;
3. The amount that is to be assessed as a penalty for each alleged violation;
4. The procedure for requesting a hearing as set forth in 520 CMR 14.05 (7).

(e) Hearings. Written requests for a hearing must be filed with the Department of Public Safety within ten calendar days of receipt of the notice of violation issued pursuant to 520 CMR 14.05 (7).

(4) The failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing and imposition of the penalty set forth in the Notice. A hearing shall be commenced by the Department of Public Safety within a reasonable period after the request for a hearing has been received by the Department of Public Safety. Any person aggrieved by a determination of the Department of Public Safety may appeal to the Superior Court in accordance with M.G.L. c. 30A, §14.

(5) Immediate Shutdown by State or Local Authorities

(a) Whenever the permitting authority, or an inspector from either the Department of Public Safety or the Division of Occupational Safety deems a condition at a trench site to be a threat to public safety he may order that the area around the trench be made safe for the general public and may further order the immediate shutdown of the site until such time as the condition has been corrected to the satisfaction of the authority responsible for the immediate shutdown.

(b) Conditions which warrant immediate shutdown of a trench site by the local permitting authority, an inspector from the Department of Public Safety or the Division of Occupational Safety may include:

1. A fatality or serious injury to a member of the general public;
2. Failure to use protections for the General Public in accordance with this regulation or an ineffective use of any protection for the General Public allowed by 520 CMR 14.04;
3. Failure to obtain a permit from the permitting authority;
4. Any other condition that constitutes a serious threat to life, limb or property of the general public as determined by the permitting authority, an inspector from the Department of Public Safety, or the Division of Occupational Safety.

(6) Re-Inspection following Immediate Shutdown The trench site shall remain closed until all necessary repairs and corrections have been made to the satisfaction of the authority responsible for the immediate shutdown, provided however, that the Department of Public Safety and Division of Occupational Safety shall have concurrent jurisdiction to authorize the reopening of a trench shut down by either agency. Reopening of the site may not occur until the site has been inspected by the authority ordering the immediate shutdown and found to be safe for reopening and operation.

(7) Appeal from Immediate Shutdown. Any person aggrieved by the decision by the Department of Public Safety, the Division of Occupational Safety, or the permitting authority to shut down a trench site pursuant to 520 CMR 14.05 (5) may make an appeal for a hearing to the entity responsible for the immediate shutdown. The site shall remain shut down during the appeal period. Such appeal shall be made in writing within 10 calendar days. Upon receipt of the appeal, a hearing shall be scheduled promptly. All hearings under this provision shall be held in accordance with G.L. c. 30A and 801 CMR

1.02. Any person aggrieved by a decision after hearing may appeal to the Superior Court in accordance with G.L. c. 30A § 14.

(8) Serious Injury/Fatality; Notification; investigation.

(a) Notification. An excavator shall report all serious injuries or fatalities which occur at the location of a trench to the State Police within one hour from the time the serious injury occurred.

(b) Investigation. In the event that a serious injury or fatality occurs, the trench site shall be immediately secured. The site surrounding the trench shall not be disturbed, cleaned, or altered in any way except by a public authority or as necessary for the preservation of life and property or the removal of the injured person(s) until receiving express authorization from an inspector of the Department of Public Safety.

REGULATORY AUTHORITY

M.G.L. c. 82A, §§1-5.