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&
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DESCRIPTION: LOCAL PERMITTING AUTHORITY--TRENCHES

Section 2 of Chapter 82A of the General Laws requires cities and towns to designate 1 board or officer to issue permits for the excavation of trenches on privately-owned land and for the excavation of public ways in the city or town. This board or individual will be known as the "Permitting Authority." While the Permitting Authority has no duty to inspect a trench prior to issuing a permit, the responsibilities of the Permitting Authority include :

1. The collection, review, and cataloging of required documents prior to the issuance of a trench permit. These documents will include:
    a. DIG-SAFE information;
    b. The name and contact information of the excavator in whose name the permit is issued;
    c. The name and contact information of the excavator performing the excavation of the trench;
    d. The name of the competent person at the worksite as that term is defined by the regulations at 520 CMR 14.02;
    e. The Massachusetts Hoisting Equipment license number(s), grade(s) and expiration date(s) of the person(s) operating Hoisting Equipment;
    f. The permit expiration date, where applicable;
    g. The specific location of the trench;
    h. The name and contact number of the insurer; and
    i. The required certificate of insurance.
2. The collection of any municipal fee determined by the city or town;
3. The issuance of trench permits;
4. Enforcement of the requirements for protections for the General Public as included in 520 CMR 14.04, including:
    a. Responding to reports of open, unattended trenches;
    b. Notifying permit holders of the unsafe, unattended condition of a trench;
    c. Taking action to make open, unattended trenches safe until the permit holder is provided with reasonable time to respond to notification of an unsafe trench (such as by posting an attendant or police detail);
    d. Ordering the immediate shutdown of a trench;
    e. Performing inspections of trenches when required by the regulations before reopening after immediate shutdown;
    f. Convening or assisting the municipality in convening disciplinary hearings relative to the suspension or revocation of a permit as necessary in response to alleged violations of the statute or regulations;
    g. Taking follow-up actions in response to violations of the statute or regulations; and
    h. Reporting violations of 520 CMR 14.00 as needed to the Department of Public Safety.

There are no prerequisites to be designated as the Permitting Authority; however the Department of Public Safety and Division of Occupational Safety recommend the delegation to an individual or board/department presumed to have knowledge of construction, engineering, or excavation safety already. Relevant areas of

knowledge that may be helpful in determining the most appropriate board or individual to act at the Permitting Authority include:

1. The excavation of trenches;
2. The operation of hoisting equipment, including licensure as a Hoisting Equipment Operator;
3. Engineering practices;
4. Public works administration.

To assist municipalities, the Department of Public Safety and Division of Occupational Safety have identified several boards or individuals that may already be part of the municipal administration and may also be designated as the Permitting Authority for purposes of the statute and regulations. Appropriate boards and individuals may include:

1. City or Town Engineer;
2. Director/Assistant Director/ Supervisor of Public Works or a DPW board;
3. Local Building Official or Building Department
4. Local Fire Chief or Fire Department.
5. Individual or Department responsible for street opening permits

Finally, it should be noted that the regulations included at 520 CMR 14.00 are narrow in scope and apply only to the protection of the General Public from hazards inherent in open, unattended trenches. **The regulations included at 520 CMR 14.00 do not regulate worker safety. Necessary worker safety practices for trenches are provided in the existing OSHA Excavation Standard, 29 CFR Subpart P, Excavations, 1926.650-652.**

John Couture
Building Commissioner
Larry Hope
Building Inspector
Lawrence Morris
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Michael McQuiston
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Dana Gravison
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TOWN OF SUTTON
BUILDING DEPARTMENT

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

THIS PERMIT MUST BE FULLY COMPLETED PRIOR TO CONSIDERATION

Name of Applicant **Street Address**			**Phone** **Cell**
City/Town	**MA**	**ZIP**	
Name of Excavator (if different from applicant) **Street Address**			**Phone** **Cell**
City/Town	**MA**	**ZIP**	
Name of Owner(s) of Property **Street Address**			**Phone** **Cell**
City/Town	**MA**	**ZIP**	
Other Contact			**Permit Fee Received No ( ) Yes ( )**

Description, location and purpose of proposed trench:
Please describe the exact location of the proposed trench and its purpose (include a description of what is (or is intended) to be laid in proposed trench (eg; pipes/cable lines etc..) Please use reverse side if additional space is needed.

Insurance Certificate #:

Name and Contact Information of Insurer:

Policy Expiration Date:

Dig Safe #:

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 GOVERING 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 City/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 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