

Road Opening Ordinance

Section 1.

No person, firm, or corporation shall make any excavation or opening in any public street, boulevard, highway, public alley, or sidewalk except a State Highway, in the Town of Brandon, for any purpose whatsoever, excepting under the control and direction of the Town Manager, or his authorized agent, and after obtaining a permit therefore as hereinafter provided.

Section 2.

Before any person, firm or corporation shall make any such excavation or opening, he shall first obtain a permit for such work from the Town Manager or his authorized agent. The fee for such permit shall be \$50.00 payable when the permit is issued. Such permit shall be issued for a period not to exceed 21 days from the date of its issuance and all work to be done thereunder shall be fully completed within such period, to the satisfaction and approval of the Town Manager or his authorized agent.

Section 3.

The application for such permit shall be upon a form to be provided by the Town Manager, and shall describe the place where such excavation or opening is to be made, the approximate size of the opening, the purpose and the time when thereon will begin and the period within which it will be completed. Such application shall contain a signed agreement that the applicant will indemnify and save harmless the Town of Brandon from any claims for damages to person or property arising from or in conjunction with said work to be performed under such permit and shall also be accompanied with a surety bond in the sum of \$300,000 issued by a regular indemnity or surety company authorized to do business in the State of Vermont, conditioned substantially that the applicant shall indemnify and save harmless the Town of Brandon or any of its officers from all suits and actions of every name and description brought against the said Town, or any officer of said Town for or on account of any injury or damage, received or sustained by any person in consequence of or resulting from any work performed or negligence in guarding such work as provided in Section 5 hereof: or of his failure to properly refill such excavations or openings in the manner specified in Section 5 hereof. In lieu of the provisions of this ordinance requiring a surety bond to be filed with each such application, when the applicant is a public utility company furnishing water, light, gas, transportation, telephone, or telegraphic services, an annual bond in the amount of \$300,000 may be filed with the Town Manager to cover all permits issued to them during the calendar year in which such bond shall be in force. Any other person, firm or corporation, who so chooses may also file an annual bond in the amount of \$300,000 with the Town Manager to cover all permits issued during the calendar year in lieu of separate bonds covering each permit.

Section 4.

Whenever such street opening shall be for the purpose of making a connection to or with any sanitary sewer in the Town of Brandon, a permit for such connection shall be obtained as required under the provisions of any ordinance now or hereafter in effect relating to the Sewage Disposal System in the Town of Brandon and providing for connections therewith, which permit shall be in lieu of the street opening permit required hereunder.

Section 5.

Any person, firm, or corporation making any such excavation or opening shall provide protection for pedestrian and vehicular traffic by providing fencing, traffic control, and/or signage during all periods the excavation or opening is deeper than three inches. No opening which crosses any Class 1 or Class 2 road will be permitted to be left open past 1 hour after sunset. Written approval for an overnight opening must be obtained from the Town Manager or his authorized agent prior to leaving the work site of an opening which crosses a Class 3 road. In cases where permission is granted for an overnight opening, it is the responsibility of the landowner or his designated agent to provide proper lighting, signage, barricades, notification of emergency services, and warning signs for traffic control.

Section 6.

The person, firm, or corporation making such excavation shall remove the pavement in any street with the least possible damage or loss of shape and shall place all excavated material from trenches, openings, and excavations made by him where it will cause the least possible inconvenience to the public. All such excavations or openings shall be filled as soon as practicable after the work has been completed and all necessary inspections required by any ordinance or regulation of the Town of Brandon have been made. All fill shall be thoroughly tamped and puddled to that the earth placed therein shall not settle and shall be to the grade level of the existing street, highway, boulevard or public way immediately surrounding such excavation. The final resurfacing or replacement of the pavement to its former condition shall be done by the Highway Department of the Town of Brandon, (except as hereinafter provided) and the cost thereof shall be paid by the applicant in accordance with the rates as set forth in Section 7 of this ordinance. It shall be the responsibility of any person, firm or corporation making such opening to maintain the restoration thereof until the highway, street, boulevard or public alley shall have been resurfaced by the Highway Department of the Town of Brandon.

No tunneling shall be done in any roadway of any street, highway, boulevard or public way except by consent of and under the direction of the Town Manager or his authorized agent. As far as possible all gutters or drains shall be kept clear and free of materials so as not to prevent or retard the flow of water therein and all work shall be performed in a thorough and professional manner. The back filling of any openings shall be permitted only under the direction and control of the Town Manager or his authorized agent who shall see that all the provisions of this Ordinance or any orders, directions or instructions issued by him or his authorized agent have been complied with.

Section 7.

Upon completion of the application for excavation, the Town Manager or his authorized agent shall, using size estimates provided by the applicant and the Department of Public Works or the Brandon Fire District, estimate the approximate cost of resurfacing. The applicant shall make a payment to the Town equal to that estimated cost. The applicant shall also put forth a deposit for maintenance of the excavation area and proper backfilling. This deposit is to be set by the Board of Selectmen.

The Public Works Superintendent shall be notified upon completion of the excavation and shall inspect the excavation for proper backfilling. No less than ninety (90) days after the completion of the excavation, the Public Works Superintendent shall review the excavation for any settling or other damaging effects from improper construction. If there are none, the refund from the deposit shall be processed for

payment. If there are deficiencies, the Public Works Superintendent shall work with the landowner to correct the problems and negotiate the return of the deposit. Any landowner wishing to appeal the process may do so with the Town Manager. Further appeal may be sought to the Board of Selectmen.

Upon completion of the resurfacing or replacement of pavement by the Highway Department the Highway Foreman, or his authorized agent shall report to the Town Manager or his authorized agent, the actual size of all such openings. The Town Manager shall deduct the cost from the payment made during the application and return the remaining payment or in the case of an underpayment, bill the person to whom the permit was issued for the resurfacing according to rates set by the Board of Selectmen:

This charge shall be paid by the permittee to the Town of Brandon within 60 days from the date of billing.

A public utility company furnishing water, light, gas, transportation, telephone or telegraphic services, may, if they so elect, restore such surfaces themselves, subject, however, to the supervision and approval of the Town Manager or his authorized agent. These utility companies, shall, however, be billed for the actual cost of restoring any surface subsequent to any such restoration which may be done in its behalf by the Highway Department.

Section 8.

The Brandon Fire District Number 1 Incorporated shall be exempt from the provisions of Section 2 of this ordinance requiring a fee to be paid for a street opening permit when work is being done on any main or appurtenance of the water supply system serving the Town of Brandon. This exemption shall not apply when the said Fire District is installing or working upon a private water service, but in such cases the permit fee shall be paid by the property owner for whom the work is being done. The said District shall, however, be required to obtain a permit before any opening or excavation is made in the road, except as provided under Section 9 of this ordinance.

The provision of Section 3 requiring a surety bond to be filed with the Town Manager before the commencement of any such work shall not apply to the Brandon Fire District Number 1, Incorporated or to any person who may be employed by the said Fire District while working for the District.

Section 9.

Any public utility company furnishing water, light, gas, transportation, telephone or telegraphic services, or the Brandon Fire District Number 1, Incorporated, may in case of extreme emergency proceed with such road opening or excavation without the required permit, if in the opinion of a responsible officer of such firm, a delay caused by the obtaining of such permit would be detrimental to the best interests of the Town of Brandon.

In such cases a permit shall be obtained at the earliest possible opportunity after the opening is made and all other provisions of this ordinance shall apply as if the permit were obtained in advance of the road opening.

Section 10.

Any person, firm, or corporation, or the member of any firm or the officer of any corporation violating any provision of this ordinance shall be subject to a fine of not more than \$100 per day or imprisonment for not more than thirty (30) days for each offense.

Section 11.

No excavation permits shall be issued from November 1 to April 15, except under emergency conditions.

Section 12.

This ordinance shall take effect and be in full force and effect from date of passage.