

TOWN OF NATICK MASSACHUSETTS

JEREMY T. MARSETTE, P.E.
DIRECTOR

WILLIAM E. MCDOWELL, P.E.
TOWN ENGINEER

Amy Mistrot, Chairperson
Natick Board of Selectmen
13 East Central Street
Natick, MA 01760

Re: Street Opening Permits/Licensed Contractor requirements

Madame Chairperson and Member of the Board:

Since the most recent revisions to the Street Opening Permitting process as approved by the Board of Selectmen on Aug 21, 2017, the Engineering Division has licensed 42 contractors to perform work in Town accepted streets and on Town owned infrastructure, approved 208 individual street opening permits, 68 water connection or repair permits and 41 individual sewer connection permits.

Six of the contractors have applied for driveway (paving) work only. It has been noted, by the paving contractors in particular, that the requirement for a \$ 5,000.00 cash bond is prohibitive to their work and out of proportion to the risk which they pose to Town infrastructure. The paving contractors have also noted that the fee for a street opening is in relation to the size of pavement area disturbed. This makes it more challenging to propose a price to the customer which may be subject to change based on the Division's estimate.

The paving contractors tend to avoid performing work on the apron or against the street paving in order to not disturb the existing sidewalk. Often, there are grade differences between the existing sidewalk and street grades that could be corrected while installing the driveway. The Engineering Division suggests that incentivizing this work by reducing the permit fee might make the driveway contractors more willing to perform these correction while installing the driveway. This would only apply to bituminous concrete (asphalt paving) sidewalks.

The Engineering Division agrees with these ideas and proposes these changes to the initial policy document:

- Create a separate license category for driveway (paving only) contractors
- Reduce bonding amount for paving only contractors to \$ 1,500.00
- Establish flat fee of \$ 75.00 for all permits related to residential driveways and \$ 200.00 for permits related to commercial driveways

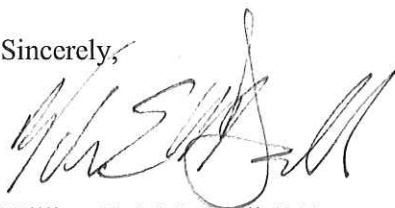
There have been several cases of driveway contractors performing work in Natick without a permit. Where these have occurred, the Engineering Division has either been able to issue a valid license for the Contractor or has not been able to ascertain by whom the work was performed. The Division is more committed to

BOS Street Licensure
August 6, 2018

complying with the Board's requirement that contractors be licensed than attempting to fine or disqualify contractors. We are also mindful that contractors who comply are unfairly burdened by those who do not. We would prefer to foster compliant behavior. We anticipate that these regulation changes will make it easier and more feasible for the contractors to comply with the Board's Policy.

If you or members of the Board have any questions regarding these proposed amendments, I will be at the August 6th meeting, or contact me at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. McDowell', written over a horizontal line.

William E. McDowell, P.E.
Town Engineer

cc: Director of Public Works
Assistant Town Engineer
Project Engineer

Potential Changes to "Policy Regulating Street Opening Permits" as amended 8/21/2017

Remove and replace Sections 2.0, 3.0, and 5.0

Highlighted words are modified from policy as amended 8/21/17

2.0 STREET OPENING LICENSE AND PERMIT

Effective January 1, 2018 no person shall make any excavation within a street, excavate a trench on public property, install pavement within a street, or resurface/alter a driveway apron within a street prior to becoming licensed by the Town of Natick. Licenses may be issued by the Department in three (3) year cycles. A license fee of \$75 will be required for initial licenses and renewals. Persons seeking a license shall provide a copy of their Massachusetts Hoisting License, proof of insurance as provided in Section 6.0, a completed license application form (including project experience and references), and shall have no outstanding permit violations. Examples of violations include but are not limited to, working without a valid street opening permit or trench permit, working in violation of the restrictions placed on permits, or performing work that does not meet Town specifications. Such person upon receipt of a license commits to having a competent person on the job site in accordance with 520 CMR 14.00. The Department shall require a signature committing the applicant to compliance with the requirements; valid contact information including email and 24-hour phone number. A list of licensed contractors will be made available to the public via the Town of Natick website and upon request to the Department. The list shall be updated annually.

No person shall make any excavation in a street as defined in Section 1.0d above without first obtaining a Street Opening Permit and if necessary a Trench Permit from the Engineering Division, for each specific excavation, except as otherwise may be provided in these regulations. In addition to obtaining this Permit from the Engineering Division, the applicant is responsible for obtaining any and all permission from the private entities involved that own the rights in the way. Evidence of this permission will be required before a Permit will be issued. This evidence will be attached to and become part of the Permit, if it is approved.

Permits may be obtained from the Engineering Division, on a routine basis, between April 15th and November 1st, with all excavation work to be completed by November 15th. For work to be performed outside this time frame, permission must be obtained from the Director for each specific excavation before the Engineering Division can issue the Permit. Permits must be obtained a minimum 72 hours prior to the time when the street opening is to occur. As noted in Section 7.0 of these regulations, once a permit is received, the Engineering Division shall also be notified at least 24 hours prior to when the street opening is to take place.

Private Ways that are not maintained and publically accepted by the Town of Natick are not covered by these Rules and Regulations. All permission to excavate and occupy the private way must be obtained from the private parties involved.

The permit will be for each specific excavation only. No generic permits will be issued. Work must be performed within the time frame specified and agreed to by the applicant at the time of application. All time requirements specified and required elsewhere in this Policy must be met.

All work undertaken by the permit holder shall be done under the direction of the Engineer, at the sole expense of the permit holder in accordance with the latest edition of the Town of Natick Department of Public Works Construction Standards.

Permits must be kept at the job site during the work and must be shown, upon request, to any authorized Town personnel.

The permit applicant shall comply with the Federal Occupational Safety and Health Act., and any and all regulations promulgated by the Massachusetts Department of Public Safety pursuant to MGL c.82A and 520 CMR 7.00 (as amended).

3.0 APPLICATION FEE

At the time of application, all fees associated with the permit must be paid by the applicant. The fee schedule shall be as follows:

Up to 120 square feet of roadway affected	\$250.00
Each additional 200 square feet of roadway affected	\$60.00
Driveway/Aprons (New, Reconstruction, Resurfacing, or Enlargement of Driveways)	\$75.00 Residential \$200.00 Commercial

This charge is in addition to any charges assessed by other town departments, boards or agencies as well as in addition to any charges that may be incurred from a Water and Sewer Permit or a Trench Permit that is also assessed by the Engineering Division.

There shall be no fees for work conducted by Town staff or by contractors performing or accommodating a Town construction project.

5.0 PERFORMANCE GUARANTEE

Before a Street Opening Permit is issued, the applicant shall file a certified bank check with the Department in the amount of five thousand dollars (\$5,000) for excavation work and one thousand- five hundred dollars (\$1,500) for driveway work. The certified bank check shall be payable to the Town of Natick. All certified bank checks will be deposited in the Street Opening Permit Account for the duration of the guarantee period. This performance guarantee is conditioned that the applicant shall guarantee the faithful and satisfactory performance of the work in all respects, and shall replace or restore that portion of any street, highway, way or road in which said applicant, their employees or agents shall make such excavation.

The Director shall be authorized to draw upon the certified bank check account as may be necessary to cover the costs of the Town, including administrative costs, to perform work which a permittee has not satisfactorily performed or maintained. The Director shall be authorized to draw upon the certified bank check account after due notice, but only after the permittee has failed to perform said work and failed to pay outstanding expenses incurred by the Town.

No new Street Occupancy Permit shall be issued to a permittee until the full amount of the certified bank check is restored.

Exceptions to providing a certified bank check are made only to other governmental agencies of state and federal level and public utility companies.

The Department at its sole discretion may require a performance guarantee in an amount greater than that stated above, if in their consideration the scope of the work requires a larger amount. Additionally, the Director, may accept one \$25,000.00 performance guarantee for multiple excavations if the total value of work does not exceed \$25,000.00.

The amount of a performance guarantee in excess of the initial \$5,000/\$1,500 certified bank check may be in the form of a satisfactory bond from a surety company authorized to do business in the Commonwealth of Massachusetts.

No Street Opening Permit shall be issued until a proper financial guarantee has been submitted and accepted.

The Department will not accept cancellation notices on bonds submitted by an applicant for a permit for which the Guarantee Period has not expired. Coverage must remain in full force for the entire Guarantee Period. It is the responsibility of the applicant to ensure coverage is maintained. The Town requires a Street Opening be covered by the performance guarantee for one full year from date the work is completed.

During the Guarantee Period the permit holder shall be responsible for the restoration, repair, and maintenance of its work. If the restored excavation fails, the permit holder may be required to completely re-excavate, refill, and repave any permanent restoration. If, at any time, during the Guarantee Period, it is discovered that the permanent restoration was not

made in accordance with Town specifications, the permit holder shall be responsible for making proper restoration within a timeframe the Town requires. If the permit holder fails its obligations to repair and/or replace the failed permanent restoration, the Town shall be authorized to draw upon the Performance Guarantee.

In the event that the permittee does not successfully perform a permanent restoration to a street cut or excavation after due notice and upon the approval of the Director, the Town, shall perform the permanent restoration. The permittee shall pay to the Town the total cost of the work based upon the actual cost of the restoration as performed by the Town with an additional amount of 50% to cover indirect costs. No new permits for any excavation shall be issued to said permittee until full payment is made. The total payment due may be above and beyond the required minimum \$5,000/\$1,500 certified bank check provided as a performance guarantee.