

## **CASTINE TOWN WAY**

### **ENTRANCES & EXCAVATION ORDINANCE**

#### **1. Entrances to Town-ways Regulated**

It shall be unlawful to construct or maintain any driveway, entrance or approach within the right-of-way of any Town road without a written permit from the Town. No permit shall be required for any existing driveway, entrance or approach unless the grade or location of the same is changed, but if any driveway, entrance or approach is changed in location, or grade or improved, a permit shall be required. If any existing driveway, entrance or approach is changed in degree or kind of use a permit shall be required.

#### **2. Conditions for Approval of Applications**

Approval of applications submitted for permits for entrances to Town ways will be subject to the following provisions:

That the Applicant is the owner of the property and that any driveway for approach constructed by him or his agent is for the actual purpose of securing access to his property and not for the purpose of parking or servicing vehicles on the Town right-of-way.

That no entrance, approach or other improvement constructed on the Town right-of-way as an exercise of an entrance permit shall be relocated or its dimensions altered without the written permission of Town Manager or Designated Representative.

That the location, design, and construction of the driveways, entrances, or approaches shall be in accordance with the following rules and regulations:

All entrances shall be so located that vehicles approaching or using the entrance will be able to obtain adequate sight distance in both directions along the road or way to maneuver safely and without interference with traffic.

The grade of entrances shall in general slope away from the traveled surface at a rate of not less than one-quarter ( $1/4$ ) inch per foot, nor more than one (1) inch per foot for a distance of not less than the prevailing width of existing shoulder plus three (3) feet, but in no case not less than five (5) feet from the edge of the traveled surface.

All entrances shall be a minimum of fifteen (15) feet in width.  
Residential entrances shall not exceed forty (40) feet in width.

Not more than two entrances (or exits) shall be allowed on any parcel of property the frontage of which is less than two hundred (200) feet. Additional entrances (or exits) for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing of actual convenience and necessity. When frontage is fifty (50) feet or less, only one combined entrance and exit is permitted.

When sidewalk, curbing or curb and gutter is to be removed, the Applicant or Permittee shall replace at their expense the necessary sidewalk, curbing or curb and gutter at the break points of the entrance, according to the Design and Construction Ordinance.

Drainage in roadway side ditches shall not be altered or impeded and the Applicant and Permittee must provide, at their expense, suitable and approved drainage structures at all entrances. The drainage opening underneath the entrances or filled areas adjacent to the road or way shall be adequate to carry the water in the road or way side ditches. Size and adequacy of proposed drainage structures shall be approved by the Town Manager or Designated Representative prior to installation.

Surface drainage shall be provided so that surface water on the areas adjacent to the roadway shall be carried away from the roadway.

The entrances and exits to and from outdoor (drive—in) theaters, ball parks, shopping centers, or any public gathering place shall be considered special cases and special studies and issuance of permits will be made by the Town Manager or Designated Representative after detailed plans and specifications have been submitted for approval.

The Applicant shall furnish with page 2 of The Permit Application plans or sketches showing the proposed entrance locations, width and arrangements; distance between entrances; set back of buildings, gasoline pumps, etc. , in relation to the centerline of the traveled way and/or right-of-way line; length, size and location of existing pipes, culverts, catch basins or manholes, curbing, curb and gutter and/or sidewalks , and the proposed location and size of new pipes, culverts catch basins or manholes, curbing.

### 3. Application for Permit

Any person, firm or organization required by the provisions of this article to obtain an entrance permit from the Town shall make a written application



upon a form provided by the Town Office and shall state facts as may be required.

Applications for entrance permits shall be accompanied by fees specified in section # 7.

The application shall be accompanied by a plan showing the location, dimensions, and elevation of the proposed entrance, and such other information as may be reasonably required by the Town Manager or Designated Representative.

#### **Street Excavation**

##### **4. Excavation Permit Required**

It shall be unlawful for any person to dig up, excavate, tunnel, undermine, or in any manner, break up any street, or cause to be made any excavation in or under the surface of any street or right-of-way for any purpose, or to place, deposit or leave upon any street or right-of-way any earth or other material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained a Permit from the Town Manager or Designated Representative.

Excavation work must be started no later than thirty (30) days from the date of issue of the excavation permit. After the expiration of this thirty (30) day period, such excavation permit shall become null and void and shall have to be renewed.

##### **5. Definitions:**

**Applicant:** Any person making a written application for an excavation permit and for whom the permit is issued.

**Permittee:** Any person who has been granted an excavation permit issued hereunder.

**Person:** Any person, firm company, partnership, association, corporation, or organization of any kind.

**Designated Representative:** Appointed by the Town Manager with the approval of the Selectboard.

**Street:** Any street, sidewalk, alley, avenue, or other public passageway or public grounds in the Town of Castine

**Town:** Shall be the Town of Castine.

##### **6 . Application for Permit**

Any person, firm, or organization required by the provisions of this article to obtain an excavation permit from the Town Manager or Designated Representative and shall state facts as may be required.

The application shall be accompanied by a plan showing the extent of the proposed excavation work, including its location, the dimensions and elevation of the proposed excavated surfaces, and such other information as may be reasonably required by the Town Manager or Designated Representative.

Applications must have the written approval of the Town Manager or Designated Representative.

No person shall be granted a permit to excavate or open any street or sidewalk from the period between December 1 of each year to March 31 of the following year unless an emergency or special condition exists.

Any person wishing to obtain an excavation permit between these aforementioned dates shall first explain fully, in writing, the emergency or special condition to the Town Manager or Designated Representative and shall obtain his approval in writing.

#### 7. Entrances and Excavation Permit Fees

Applications for entrances and excavation permits shall be accompanied by fees described below which will be returned if the permit is not issued.

Deposit for Permit Fees/Charges: All such excavation permit fees shall be paid to the Town of Castine and shall constitute a special fund for repair and repaving of such excavations.

The following entrances and excavation permit fees are hereby established as being not in excess of the reasonable cost of replacement of the street and sidewalk openings. Permit fees can be changed with the approval of the Selectboard and after being posted for a period of thirty days.

##### A. Administrative / Inspection Fee

An administrative fee of \$100.00 must be paid for the issuance of a Street Opening Permit and inspection of the work once complete. An additional fee of 15% of the estimated total impact value will be assessed to offset future paving and repair costs. The total impact value is derived from multiplying the unit cost times the estimated area. If in the Town Manager/Code Enforcement Officer's estimation, the Permit Applicant's contractor fails to adequately restore the public way, Castine may charge the permit applicant up to the entirety of the total impact value, which is established as



being not in excess of the reasonable cost of replacement and future shim of the openings in the public way.

**B. Example**

An Entrance and Excavation Permit is requested which requires a \$100.00 administrative fee. This project will require the digging and restoration of 10 Square Yards of paved asphalt roadway. The total impact value would be \$500.00 and the total impact fee of \$75.00, or 15%, of the total impact value. Assuming the roadway is returned to a state at, or better, than before the project started, the total charge for this application would be \$175.00.

**C. Total Impact Value and Fee Information**

**Unit Costs**

-Concrete Surface:	\$ 75.00 Per SY
-Paved Surface	\$ 50.00 Per SY
-Bituminous curbing (by itself)	\$ 15.00 per Ln/Ft
Plain Gravel Surface - No Charge – Responsibility of Applicant	
Portland Cement Concrete Sidewalk – No Charge – Responsibility of Applicant	

Applicant

Grass Esplanade – No Charge – Responsibility of Applicant

**Minimum Permit Fees and Special Conditions**

There shall be a minimum permit fee for any street or sidewalk excavation equivalent to three (3) square yards at the above applicable rate per square yard.

Where three (3) or more street openings are made in sequence (15 feet or less, center to center, between each adjacent opening), the Applicant shall be charged for one opening measured from the first opening to the last opening.

Where street openings exceed one hundred (100) square yards, the Applicant may request the Town's permission to contract privately for the street or sidewalk repairs. If the Town agrees, the Applicant or private contractor shall post a bond for the estimated amount of street opening times the above applicable unit rate. All street repair work must be done in accordance with Town specifications and is subject to inspection by the Town Manager or Designated Representative. However, the Town shall charge the Applicant or contractor for its engineering and inspection charges incurred during the street excavation and repair work.

**8. Routing of Traffic**

The Permittee shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions are as near normal as practicable. These measures shall be maintained at all times, so as to cause as

little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the Town Manager and/or Fire Chief with the approval of the Selectboard may permit the closing of streets to all traffic for a period of the time prescribed, if in their opinion it is necessary. The Permittee shall route and control traffic, including its own vehicles, as directed by the Town Manager or Designated Representative. The following steps shall be taken before any highway may be closed or restricted to traffic:

The Permittee must receive the approval of the Town Manager or Designated Representative;

The Permittee must notify the Chief of the Fire Department of any street so closed;

Upon completion of construction work, the Permittee shall notify the Town Manager or Designated Representative and Fire Department before traffic is moved back to its normal flow, so that any necessary adjustments may be made;

Where flagmen are deemed necessary by the Town Manager or Designated Representative, they shall be furnished at Permittees own expense. All such flagmen shall be subject to the approval of the Town Manager or Designated Representative. Through traffic shall be maintained without the aid of detours, if possible. Instances in which this would not be feasible, the Town Manager or Designated Representative and/or the Fire Chief will designate detours. The Town shall maintain roadway surfaces of existing Streets and Ways designated as detours without expense to the Permittee; but in case there are no existing roads or way, the Permittee shall construct all detours at its expense, and in conformity with the specifications of the Town Manager or Designated Representative. The Permittee will be responsible for any unnecessary damage caused to any street and way by the operation of its equipment.

#### Clearance for Fire Equipment

The excavation work shall be performed and conducted so as not to interfere with access to the Fire Station and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire hydrants. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of materials and other obstructions.

#### Protection of Traffic

The Permittee shall erect and maintain such fence, railing or barriers about the site of the excavation work as shall prevent danger to pedestrian and vehicular traffic using the street or sidewalk. Excavation sites shall be



sufficiently illuminated at twilight, and such lighting shall be kept burning throughout the night. All of the above shall be approved by the Fire Chief and the Town Manager or Designated Representative with Selectboard approval.

#### 9. Removal and Protection of Utilities

The Permittee shall not interfere with any existing utility other than their own facilities without the written consent of the Town Manager or Designated Representative and the utility company or person owning the utility.

If it becomes necessary to remove an existing utility, this shall be done by its owner. No utility owned by the Town shall be moved to accommodate the Permittee unless the cost of such work be borne by the Permittee. The cost of moving privately owned utilities shall be similarly born by the Permittee unless it makes other arrangements with the person owning the utility. The Permittee shall support and protect by timbers, or otherwise, all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the Permittee, and its bond shall be liable therefore. The Permittee shall be responsible for any damage done to any public or private property by reason of breaking of any water pipes, sewer, gas pipe, electric conduit or other utility, and its bond shall be liable therefore.

#### 10. Protection of Adjoining Property

The Permittee shall, at all times, and at its own expense, preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property, it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the Permittee shall obtain written permission from the owner of such private property for such purpose. The Permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or roads or ways resulting from its failure properly to protect and carry out said work.

#### 11 .Clean-Up

As the excavation work progresses, all streets and private property shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the Permittee and shall



be completed to the satisfaction of the Town Manager or Designated Representative. From time to time, as may be ordered by the Town Manager or Designated Representative, and in any event immediately after completion of said work, the Permittee shall, at his or its own expense, clean-up and remove all refuse and unused materials of any kind resulting from said work; and upon failure to do so within twenty-four (24) hours after having been notified to do so by the Town Manager or Designated Representative, said work may be done by the Town Manager or Designated Representative and the cost thereof charged to the Permittee plus a Two Hundred Dollar (\$200) fee.

#### 12 .Breaking Through Movement

Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four (4) feet or over in depth, the pavement in the base shall be removed to at least six (6) inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement; and a six (6) inch shoulder of undisturbed material shall be provided in each side of the excavated trench.

All excavation on paved street surfaces shall be pre-cut in a neat, straight line with pavement breakers or saws. Heavy-duty pavements breaks may be prohibited by the Town when their use endangers existing substructures or property, and no pile driver may be used in breaking up the pavement.

Cutouts of the trench lines must be normal or parallel to the trench line, and pavement edges shall be trimmed to a vertical face .

Unstable pavement shall be removed over cave-outs and over-breaks, and the subgrade shall be treated as the main trench.

The Permittee shall not be required to pay for repair of damage existing prior to the excavation unless his cut results in small floating sections that may be unstable, in which case, the Permittee shall remove the unstable portion; and the area shall be treated as part of the excavation.

#### 13 .Backfilling

Backfilling any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a degree equivalent to that of the undisturbed ground in which the trench was dug. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, or by water settling, as provided by the soil in question and sound engineering practices generally recognized in the construction industry.

#### 14. Notice to Town and Restoration of Surface



Upon completion of the backfilling and clean-up, the Permittee shall so notify the Town Manager or Designated Representative and request an inspection of the project . After final inspection the Permittee shall then restore the surface of the street as near as maybe to its original condition.

If, in the judgement of the Town Manager or Designated Representative, it is not advisable to immediately replace the street pavement, because of weather conditions or otherwise, he may direct that temporary repairs be made until such time as the permanent repairs may be permanent made.

It shall be the duty of the Permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for TWO (2) years after restoring it to its original condition.

#### 15 .Excavation Barred in New Street Improvement

Whenever the Town enacts any ordinance or resolution providing for the paving or repaving of any street, the Town Manager shall promptly mail a written notice thereof to each person owning any sewer, main, conduit or other utility in or under said street or any real property, whether improved or unimproved, abutting said street . Such notice shall notify such persons that no excavation permit shall be issued for openings, cut or excavations in said street for a period of five (5) years after the date of the notice. Such notice shall also notify such persons that applications for excavation permits, for work to be done prior to such paving or repaving, shall be submitted promptly in order that the work covered by the excavation permit may be completed no later than sixty (60) days from the date of such notice. The Town Manager shall also promptly mail copies of such notice to the occupants of all houses, buildings and other structures abutting said street for their information and to State agencies and town departments or other persons that may desire to perform excavation work in said Town Street.

Within said sixty (60) days , every public utility company receiving notice as prescribed herein shall perform such excavation work, subject to the provisions of this article, as may be necessary to install or repair sewers, mains, conduits or other utility Installations. In the event any owner of real property abutting said street shall fail within said sixty (60) days to perform such excavation work as may be required to install or repair utility service lines or service connections to the property lines, any and all rights of such owner or his successors in interest to make openings, cuts or excavations in said street shall be forfeited for a period of five (5) years from the date of enactment of said ordinance or resolution. During said five (5) year period, no excavation permit shall be issued to open, cut or excavate in said street unless, in the judgement of the Town Manager or Designated Representative, an emergency as described in this article exists, which makes it absolutely essential that the excavation permit be used.



Every department or official of the Town of Castine charged with the responsibility for any work that may necessitate any opening, cut or excavation in said street, is directed to take appropriate measures to perform such excavation work within said sixty (60) days period so as to avoid the necessity for making any openings, cuts or excavation in the new pavement in said Town of Castine during said five (5) year period.

#### 16 . Inspections

The Town Manager or Designated Representative shall make such inspections as are reasonably necessary in the enforcement of this article. The Town Manager or Designated Representative shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this article.

#### 17 . Applicability to Town and State Work

The provisions of this article shall not be applicable to any excavation work under the direction of officials and employees of the Town or by any contractor of the Town or State performing work for and in behalf of the Town or State necessitating openings or excavations in streets. Castine Water District and the Castine Sewer District must conform to all provision of this ordinance but does have special exception with the approval of the Selectboard.

#### 18. Insurance

A Permittee, other than a public utility company prior to the commencement of excavation work hereunder, shall furnish the Town satisfactory evidence in writing that the Permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than one hundred thousand dollars (\$100,000) for any one person and three hundred thousand dollars (\$300,000) for any one accident and property damage insurance for not less than fifty thousand dollars (\$50,000) duly issued by an insurance company authorized to do business in this State.

#### 19. Liability of Town

This article shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the assurance of any permit or the approval of any excavation work.



## 20. Work Improperly Completed

If the work or any part thereof provided for in this article shall be unskillfully or improperly done, the Town Manager or Designated Representative may forthwith cause the same to be skillfully and properly done and shall keep an account of the expense thereof. In such case, the Permittee in default shall pay to the Town all its expenses incurred in correcting such improper work with an additional fifty percent (50%) added thereto for its default; and thereafter no further permits shall be issued to the Permittee until such sum is paid in full to the Town.

## 21. Violations.

Whoever unlawfully violates this Ordinance commits a civil violation for which a forfeiture of not less than \$100 nor more than \$500 may be adjudged and paid to the town, and in addition to the authority for the court to order repairs made or reimbursement for repairs made by the town. Each violation shall constitute a separate violation. If the town prevails it shall also recover from the violator its attorney fees, witness fees and cost.

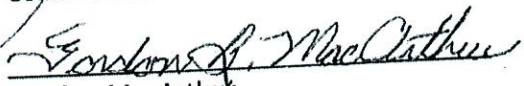
## 22. Effective Date

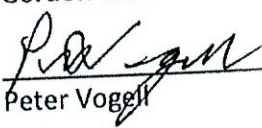
This regulation shall be effective as of March 6, 1989, when it was first presented for public hearing by the Selectboard.

The provisions for this Ordinance were adopted on May 11, 2019.

Castine Selectboard

  
Colin Powell - Selectboard Chair

  
Gordon MacArthur

  
Peter Vogel



# TOWN of CASTINE

67 Court Street • Castine, Maine 04421 • Phone: (207) 326-4502 • Fax: (207) 326-9465

## STREET OPENING - EXCAVATION PERMIT APPLICATION

### APPLICATION INFORMATION

Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Town: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

### PRIMARY CONTACT INFORMATION (Write "SAME" if primary contact for on-site work is the Applicant)

Name: \_\_\_\_\_ Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Town: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

### Proposed Work Information

Street/Road Name: \_\_\_\_\_

Type of Work Proposed: \_\_\_\_\_

Who will perform work? \_\_\_\_\_

Anticipated Start Date: \_\_\_\_\_

Anticipated Completion Date: \_\_\_\_\_

Have you notified Dig Safe (1-888-344-7233) to have existing underground utilities in your area of the work located? ☐ YES ☐ NO

**NOTICE TO APPLICANT:** This permit **does not** authorize work on any State or State-Aid roadway. The applicant is hereby notified that, upon approval of this application, all work shall comply with the Castine Town Way Entrance & Excavation Ordinance available online at [www.castine.me.us](http://www.castine.me.us) or on file with the Town Clerk. The Applicant shall be responsible for all final restoration of the affected area to the satisfaction of the Town.

Any violation which is also a violation of **35-A M.R.S.A. § 2509 or 2511** or a violation of **23 M.R.S.A. § 3353 or 3355** shall subject the permittee or party to a fine as provided in said statutes, as said statutes may be amended from time to time. Any violation of the Castine Town Way Entrance & Excavation Ordinance other than the violations of state law shall subject the permittee or party to a fine up to \$100 per day for each day that a violation continues.

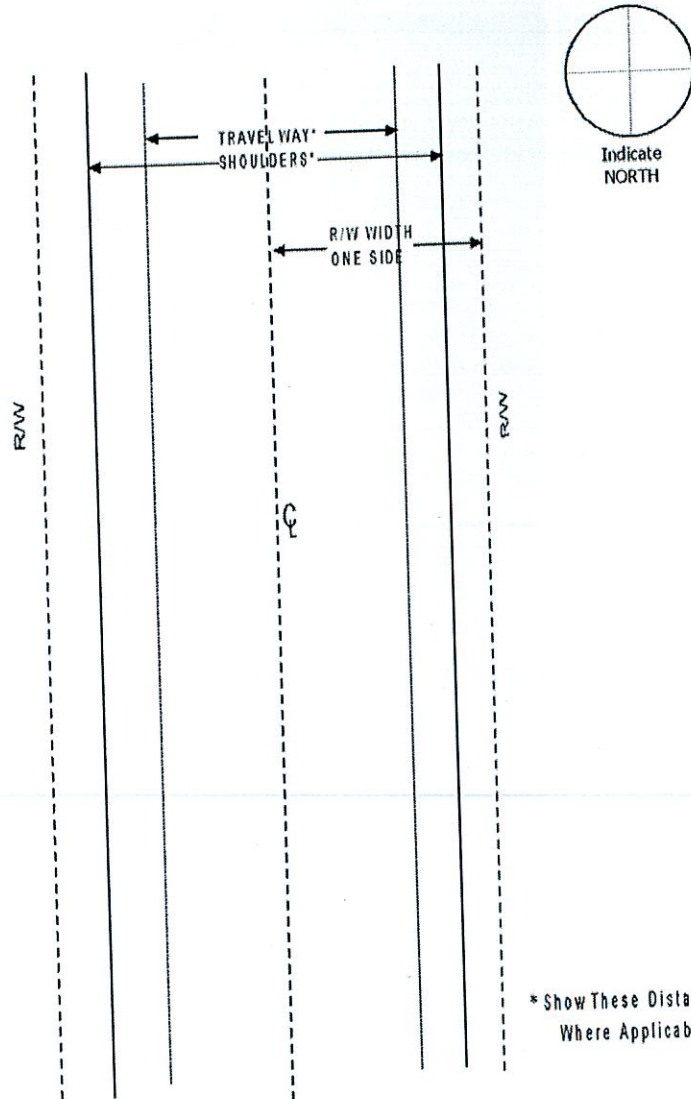
Applicant Signature: \_\_\_\_\_ Company (if applicable): \_\_\_\_\_

Applicant Name (Printed): \_\_\_\_\_ Title (if applicable): \_\_\_\_\_



## Street Openings-Excavations Application Sketch Plan

The purpose of this "Sketch Plan" is to show the location of the proposed opening in relation to the road and/or sidewalk. This plan is not necessarily drawn to scale. However all reference points, offset distances, and lengths must be accurately indicated.



\* Show These Distances  
Where Applicable

### TOWN USE ONLY

Permit Approved? YES: \_\_\_\_\_ NO: \_\_\_\_\_      Permit Fee Paid? YES: \_\_\_\_\_ NO: \_\_\_\_\_

Amount Paid \$ \_\_\_\_\_

If not approved: Reasons for Permit denial: \_\_\_\_\_

Castine Road Commissioner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **Excerpt from Castine Town Way Entrance & Excavation Ordinance**

### **A. ADMINISTRATIVE / INSPECTION FEE**

An administrative fee of \$100.00 must be paid for the issuance of a Street Opening Permit and inspection of the work once complete. An additional fee of 15% of the estimated total impact value will be assessed to offset future paving and repair costs. The total impact value is derived by calculating 15% of the multiplication of the unit cost times the estimated area. If in the Town Manager/Code Enforcement Officer's estimation, the Permit Applicant's contractor fails to adequately restore the public way, Castine may charge the permit applicant up to the entirety of the total impact value, which is established as being not in excess of the reasonable cost of replacement and future shim of the openings in the public way.

### **B. STREET OPENING CHARGES – PER SQUARE YARD OR LN/FT**

Concrete Surface (sidewalks, curbs & Streets) - \$ 75.00 Per SY

Paved Surface - \$50 Per SY

Bituminous curbing (by itself) \$15.00 per Ln/Ft

Plain Gravel Surface - No Charge – Responsibility of applicant

Portland cement Concrete Sidewalk – No Charge – Responsibility of applicant

Grass Esplanade or Median Strip – No Charge – Responsibility of applicant

### **C. MINIMUM CHARGE**

There is a minimum charge equivalent to 3 square yards for any pavement opening to be accessed at the appropriate unit rate above. For curbing, the charge is assessed for what is actually disturbed.

### **D. INSPECTIONS**

All work associated with the Towns sewer and drainage system, including culverts and catch basins, require inspections by the Town prior to backfilling. All other work within the right of way that disturbs any of the items above requires an inspection when the project is completed. A 24 hour notice is required for inspections. Contact 326-4502 to schedule an inspection.