Ogunquit Public Works Department
30 Salt Shed Drive
Ogunquit, Maine 03907
Phone: 207-646-5139
Fax: 207-646-5920
www.townofogunquit.org

EXCAVATOR'S LICENSE APPLICATION

ANNUAL LICENSE
RENEWALABLE JANUARY 1ST
LICENSE FEE: **$100.00**

#: _____

DATE: _____

1. **COMPANY**

Name: _____

Address: _____

_____

Contact Name: _____

E-Mail Address:

Phone: _____

Fax: _____

Please read & Initial _____

Effective: January 1, 2013
CONTRACTORS WORKING IN SHORELAND ZONES MUST HAVE AN M.D.E.P. CERTIFIED EROSION CONTROL PERSON ON SITE ***PER MAINE STATUTES, TITLE 38, §439-B***

2. **INSURANCE (REQUIRED):** Please attach a certificate of Insurance ($400,000.00 minimum) naming the Town of Ogunquit as additional insured.

3. **EQUIPMENT:** Do you have access to the proper excavating and compaction equipment to comply with Town of Ogunquit's Street Opening Ordinance?
If yes, please sign here: X_____

4. **STREET OPENING ORDINANCE:** I have read and understand the Town of Ogunquit's Street Opening Ordinance and agree to comply with all of its contents and regulations.
If yes, please sign here: X_____

5. **CONTACTS (AVAILABLE 24 HOURS) IN CASE OF EMERGENCY:**

Name:	Address:	Phone:
1.		
2.		
3.		

APPROVED BY:_____ **DATE:**_____

REJECTED BY: _____
REASON: _____

Instructions

Print all pages of this application form – fill them out – bring them to the Code Enforcement Office or Fax/Email to maintenance@townofogunquit.org along with Certificate of Liability Insurance naming "Town of Ogunquit" as additional insured.

Over and above the $50.00 Administrative Fee, the hourly Inspection Fee, and the Annual $100.00 Excavator's License Fee, you are also responsible for repairing all street opening cuts in accordance with the Town of Ogunquit's "Street Opening Ordinance."

Signed: X _____ Date: _____

_____
(Representative of the business and title)

TOWN OF OGUNQUIT
MUNICIPAL CODE
TITLE XVI
STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

No person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any public place without first obtaining a permit to do so from the Town except as otherwise provided for in this article or the rules and regulations. Any excavation within the town's streets, sidewalks, esplanades or other public rights-of-way shall only be permitted in accordance with this Code or the rules and regulations. The granting of such a permit shall cover all required activities to conform to this article and the rules and regulations.

Chapter 1 – Application

101 No street opening permit shall be issued unless a written application on a form provided by the Town for the issuance of a street opening permit is submitted to and approved by the Town. The written application shall contain such information as reasonably required by the Public Works Department and identified in the rules and regulations. Applications shall be submitted at least two (2) business days prior to the anticipated excavation. The permit shall expire thirty (30) days from the date of issuance.

102 In order to protect underground facilities and public safety all permit applications must provide the Town with documentation of the applicant's proper notification to the underground facilities damage prevention system. This will typically be provided by indicating the applicant's "Dig Safe" number on the application.

103 In order to obtain a permit, the applicant must be current on all of its financial obligations to the Town.

104 All applicants shall be required to post an eighteen (18) month bond, surety or appropriate security deposit in order to apply for any permits.

Chapter 2 - General Conditions

201 Permits shall be issued only after security acceptable to the Public Works Department has been given to the Town to insure the proper restoration and subsequent maintenance of the street, sidewalk, curb, esplanade, or other public right-of-way.

202 Permits shall be issued only to persons or utilities in possession of a current excavator license granted by the Public Works Department.

203 Permits shall be granted only if the applicant has properly notified all utilities, typically done by contacting "Dig-Safe," and obtaining an authorization number to proceed. Any conflicts with utilities shall be the sole responsibility of the applicant and shall be resolved to the utilities' satisfaction and per the town's technical and design standards and guidelines.

204 Issuance of a street opening permit shall not imply a waiver of other town permit requirements such as sealed drains, sewer or storm drain connections, sign installation, or building permits.

205 The Public Works Director has the right to deny permit applications if the street has been newly constructed, reconstructed, or rehabilitated; if excavation is proposed between the dates of November 15 and April 15; if a significant public safety hazard could result; or for just cause.

206 Protective Measures and Routing Traffic

A. The Permittee shall, in general, maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public street, alley, or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least half of the sidewalk width shall be maintained along such sidewalk line.

B. It shall be the duty of every permittee cutting or making any excavation in or upon any public place, to place and maintain barriers and warning devices necessary for the safety of the general public. Traffic control in the vicinity of all excavations affecting vehicular, pedestrian, and bicycle traffic shall be subject to Police Department review and approval.

C. Barriers, warning signs, lights, etc., shall conform to the latest edition of the Manual on Uniform Traffic Control Devices (UTCD). Warning lights shall be electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflector or reflecting material may be used to supplement, but not replace, light sources without prior written consent of the Public Works Director.

D. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times to minimize inconvenience to the occupants of adjoining property and to the general public.

E. When traffic conditions permit, the Public Works Director or representative, with the approval of the Police Department, may, by written approval (or verbal approval in cases of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed by him/her, if in his/her opinion it is necessary. The written approval of the Public Works Director of the Town may require the Permittee to give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such

notice is given. In case of emergency on weeknights, weekends, or holidays, the utility company having such emergency shall contact the Police Departments by phone before closing a street to traffic, except in a case of immediate hazard of loss of life or serious property damage, in which event prompt notice of closing shall be given.

F. Warning signs shall be placed far enough in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to channel traffic in accordance with the instructions of the Public Works Director, after his/her review of the proposed traffic control measures of the project.

G. The permittee shall hereby be informed that the Public Works Director of the Town will require special Police protection at locations where the permittee, by his/her work, interferes with the general public's safety or locations where the Public Works Director or Police Department deem it necessary.

H. The permittee is also informed that construction activities (unless an emergency condition exists) shall not interfere with the normal flow of traffic on arterial streets of the Town except to the extent and under conditions approved by the Public Works Director or Police Department and the full roadway lane width shall be maintained.

I. The permittee may shift traffic to the opposite side of the roadway to maintain the above required lane width. The permittee may only make such shift with the approval of the Public Works Director, following proper review of detour plans to ensure adequate, safe two-way traffic flow and proper number and placement of police officers if required.

Chapter 3 - Annual Work Program to be Submitted by Utilities

301 Each year on or before March thirty-first (31), each utility shall submit to the Public Works Department its planned work program for the ensuing year, which shall not include emergencies and normal house service lines. Thereafter, the Town shall have the right to deny permit applications for excavations not specifically contained within each utility's respective planned work program, except for emergencies and house service lines.

Chapter 4 - Issuance of Blanket Permits

401 The Town may issue an annual blanket permit to the Public Works Department for the purpose of placing, replacing or repairing any facility within a public place as long as the utilities are properly notified through "Dig-Safe" and a record of the completed work is submitted to the Town in a timely fashion.

Chapter 5 - Duration

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

Chapter 6 - Fees and Charges

601 **Driveway Permit:** $15.00
Circular $30.00
Failure to get Permit: $100.00

602 **Street Opening Permit:** $50.00

Surety Level and Limits: Purpose is to ensure proper closing of the street opening for an eighteen (18) month period in case of cracking, settling, and poor workmanship. The surety may be in the form of a bond or irrevocable letter of credit from a bank. The level of surety is as follows:

603 **Surety:**

One thousand dollars ($1,000) for cross cut;
Five thousand dollars ($5,000) for parallel openings in the asphalt or concrete not to exceed five hundred feet (500 ft.) and ten dollars ($10) per foot in excess of five hundred feet (500 ft.).

* Parallel cuts in shoulders or gravel roads; seventy-five dollars ($75) minimum and one dollar ($1) per square yard over twenty-five square yards.

604 **Utility Companies:**

Street Opening Permit: $15.00 each

Fee will be waived for Utilities in good standing with the Town.

Surety: Once a year a Utility may file a blanket surety letter with the Town to guarantee to fix or pay for the repair to an opening (within an eighteen (18) month period) as judged by the Public Works Director to be in need of repair. The Utility will either renew the blanket surety letter if there are outstanding permits or may post individual sureties for any outstanding permits. The Public Works Director may repair the opening only after notifying the Utility Company holding the permit and allowing them the chance to repair it within 30 calendar days from notification.

The following are considered Utility Companies under this Ordinance:

Central Maine Power Company
Fairpoint Communications
Kennebunk, Kennebunkport & Wells Water District
Ogunquit Sewer District
Time Warner Cable Company

605 Excavator License:

Excavator License: $100.00 Annually

A Town Excavator License shall be required in addition to any other fees to attain a permit that necessitates excavation of any Town owned property. A Town Excavator License will be valid from January 1st of each year and expire on December 31st of the same year. The permittee shall need to renew the Excavator License after January 1st and before a Street Opening Permit will be issued.

606 All fees, fines and charges shall be enacted annually by order of the Town Select Board. The Public Works Department shall notify currently licensed excavators in advance of annual fee revisions necessary to reflect costs of program administration, permanent pavement restoration, annual excavator's license fee, and other applicable charges.

607 Proof of Insurance

For opening permits, applicants shall supply to the Town of Ogunquit, Maine, a certificate of insurance listing the Town of Ogunquit, Maine as an additionally named insured. Coverage shall be for no less than the following amounts:

- General liability including comprehensive form, premises/operations, underground explosion and collapse hazard, products/completed operation, contractual independent contractors, broad form property damage and personal:
  - $1,000,000 Bodily Injury and Property Damage Each Occurrence.
  - $2,000,000 Bodily Injury and Property Damage Aggregate.
  - $1,000,000 Personal Injury Aggregate.
- Automobile liability including any auto, hired autos and non-owned autos:
  - $1,000,000 Bodily Injury and Property Damage combined.
- Workers Compensation and Employers Liability:
  - $1,000,000 Each Incident.
  - $1,000,000 Disease-Policy Limit.
  - $1,000,000 Disease-Each Employee.

608 Upon permit application, the administrative charge and estimated permanent pavement restoration charge shall be paid in the Land Use Office and held by the Town Treasurer unless waived by the Public Works Department as provided below. Utility applicants in

good standing may have permit fees waived. Permanent Pavement Restoration charges and all other fees and fines shall be paid before a permit is issued.

609 All fees and charges collected by the Public Works Department in the issuance of permits pursuant to this article shall be placed in a fund dedicated and utilized solely for the administration of this article and the rules and regulations, and the rehabilitation of town streets primarily due to excavations.

610 Waiver of fees:

To prevent untimely delays to construction activities within the limits of Town and/or Maine Department of Transportation (MDOT) planned reconstruction areas, the Town shall waive all street opening permit fees for utilities and individuals having work to do in such areas until the time reconstruction takes place. This waiver can only be applied if the applicant clearly indicates the nature and limits of work on their permit application.

610.1 The director may waive all permit fees in streets or sidewalk/driveway areas to contractors under contract to the Town or MDOT.

609.2 To promote the use of trenchless technologies and minimize pavement disturbance, the permanent restoration fee will not be assessed to any excavation area achieved by trenchless technologies which do not result in pavement damage.

609.3 No permanent pavement restoration fee will be assessed for excavations into streets classified with a Pavement Condition Index (POI) requiring total reconstruction per the city's pavement management and maintenance program.

609.4 The Town Manager may authorize special waivers of permit fees if special conditions exist, including public health issues and significant financial hardship to a homeowner, which can be supported by the director in writing.

Chapter 7 - Reserved

Chapter 8 – Bonds & Sureties

Bonds or sureties shall be required of all applicants in good standing under the rules and regulations in order to guarantee their performance. Bonds and sureties shall be posted for a minimum of eighteen (18) months. In lieu of a bond or surety, an applicant may substitute a deposit equal to the anticipated cost of excavation repair, as determined by the Town, for each application it seeks. Deposits shall be certified bank checks only. Such checks will be made payable to the Town of Ogunquit which will deposit the check into an account in the name of and under the control of the Town. The deposit will be refunded upon approved completion of all conditions of the permit, this article and the rules and regulations.

Chapter 9 – Violations

901 Any person or utility failing to comply with or violating any provision of this article or the rules shall be served by the Public Works Department with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.

902 In order to ensure public safety, the Public Works Department shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this article or the rules could cause a safety hazard.

903 Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this article or the rules shall be guilty of a violation of this article.

904 Any person or utility violating any of the provisions of this article or the rules shall be liable to the Town for any expense, loss, or damage occasioned by the Town by reason of such violation. The Town may seek injunctive relief for the purposes of enforcing this article or the rules.

904.1 Any violation of this article 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.

904.2 Any violation of this article other than the violations of state law prescribed in the preceding paragraph shall subject the permittee or party to a one hundred dollar fine per day for each day that a violation continues.

905 Any permittee or party who continues to violate any section of this article or the rules and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs as appropriate until such time as the Town is satisfied that the permittee or party shall have corrected all violations in compliance with the terms of this article and the rules and regulations.

906 The Town reserves the right to notify a permittee's insurance and/or bond carrier of repeated violations.

Chapter 10 - Failure to Obtain Permit

Any person or utility found to be conducting any excavation activity within the public right-of-way without having first obtained the required permit(s) shall immediately cease all activity (exclusive of actions required to stabilize the area) and be required to obtain a permit before work may be restarted. A surcharge of one hundred dollars ($100.00) shall be required in

addition to all applicable permit fees.

Chapter 11 - Appeals Process

1001 Whenever a person shall deem themselves aggrieved by an order made by the Public Works Department, the person may file an appeal to the Town Manager within ten (10) days of the date of the order, and the person shall be afforded a hearing on the matter before the Town Manager or a Designee, and unless by their authority the aggrieved order is revoked, such order shall remain in force and be forthwith complied with by the person.

1002 In cases of applicability or interpretation of the rules, the Town Manager may revoke such order made by the Public Works Department.

1003 In cases where compliance with such order made by the Public Works Department would cause undue hardship, the Town Manager may extend the time limit of such order, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of the rules, subject always to the rule that the Town Manager shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.

Approved: November 4, 2014 Special Town Meeting
Date