

PUBLIC WORKS CONSTRUCTION LICENSE BY-LAW

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Items to be submitted for Public Works Construction License

- Application
- References (3)
- Equipment List
- Application fee of \$50.00 (cash or check)
- Certificate of Liability Insurance (according to sample)

PUBLIC WORKS CONSTRUCTION LICENSE BY-LAW

I. INTRODUCTION

From time to time, it is necessary to excavate a Public Way in order to install, repair, or remove utilities or install or realign a driveway with the possibility of removing curbing and/or fencing. It is desirable that persons working in or under a Public Way have the necessary skills to perform this work in a competent manner so that Public Ways are maintained to protect the health and safety of all persons traveling on them. This By-Law is adopted under authority granted by M.G.L. Chapter 40 section 21.

II. DEFINITIONS

Awarding Authority: The Board of Selectmen of the Town of _____ has authority to exercise the powers granted by this By-Law.

Awarding Authority Representative: That municipal officer or employee to whom the Awarding Authority in writing has delegated some of its powers hereunder so that the process of license granting and administration will proceed expeditiously.

Highway Department: The municipal agency generally responsible for the repair and maintenance of Public ways within the municipality.

License Applicant: Any person or entity in the general contracting business, qualified to do business in the Commonwealth of Massachusetts who wishes to perform Street Opening Work in a Public Way either as a Permit Holder or as agent for one or more Permit Holders.

License Application Fee: An annual \$50.00 non-refundable fee payable in cash or by check made payable to the Awarding Authority each time a License Application or renewal is filed.

Licensed Contractor: A contractor who holds a current and valid Public Works Construction License issued by the Awarding Authority.

Permit Holder: an "Applicant" as defined in the Street Opening By-Laws to whom a Street Opening Permit has been granted.

Public Way: Any road, including such appurtenances as berms, curbs, drains, sewers, water mains, sidewalks and paved and unpaved shoulders within the paper layout to which the public has access and the Town is responsible for maintaining. Also referred to as a Street.

Public Works Construction License: That license required of certain persons or entities who wish to perform Street Opening Work in Public Ways.

Street Opening Permit: A permit granted pursuant to the Street Opening By-Law conferring permission to do Street Opening Work in a Public Way.

Street Opening Work: Any cutting, excavating, compacting, construction, repair or other disturbance in or under a Public Way together with restoration of the Public Way in accordance with the Street Opening By-Law following such disturbance, but excluding the location or relocation of utility poles for which a grant of location has been obtained pursuant to M.G.L. Chapter 166 section 27.

Violation: The failure of the Licensed Contractor, its employees, agents and subcontractors to (i) comply fully with any or all provisions of this By-Law, the Street Opening By-Law, and any Street Opening Permits or supplemental instructions, the Town's General By-Laws or other applicable law, or (ii) to keep its Certificate of Insurance in full force and effect.

III. GENERAL

No person or entity may become a Licensed Contractor unless it shall:

1. be in the general contracting business, and
2. be qualified to do business in the Commonwealth, and
3. be qualified, in the reasonable judgment of the Awarding Authority, by experience, training of personnel, financial resources, and previously demonstrated, satisfactory performance of the entity, and/or those individuals who control it, to perform Street Opening Work in Public Ways in the municipality, and
4. have completed the licensing process described below.

A License Applicant may demonstrate its compliance with (3) above by presenting to the Awarding Authority evidence that it holds a current "Pre-Qualification Rating" issued by the Massachusetts Highway Department pursuant to 720 CMR 5.00 which, in the reasonable judgment of the Awarding Authority, is sufficient in terms of Class of Work, Maximum Capacity Rating and Single Capacity Rating (all as defined in 720 CMR 5.00) to demonstrate sufficient capacity to perform anticipated Street Opening Work. A License Applicant whose Public Works Construction License has been suspended or revoked in the three year period preceding the date of the current application may not demonstrate compliance with (3) above using this method.

Public Works Construction Licenses are valid from the date issued until December 31 of the year in which issued unless sooner suspended or revoked. A Public Works Construction License must be renewed each year.

IV. APPLICATION PROCEDURE

The License Applicant shall file on forms designated by the Awarding Authority a completed and signed application at the offices of the Awarding Authority (with a copy delivered to the Highway Department). Any and all certificates shall accompany the License Application, certificates of insurance demonstrating compliance with (V) hereafter, and other items specified in the Application or reasonably requested by the Awarding Authority. It shall also be accompanied either by evidence that License Applicant is currently and appropriately "pre-qualified" pursuant to 720 CMR 5.00 or by such evidence of License Applicant's compliance with the provisions of III (3) above as Awarding Authority reasonably may require. The License Application Fee shall also accompany the License Application.

The Highway Department shall promptly review the Application and make written recommendations thereon.

The Awarding Authority shall make a prompt determination on the License Application in accordance with the standards set out in III above.

If the License Application is favorably considered, a Public Works Construction License shall promptly issue. If the License Application is not favorably considered, Awarding Authority shall communicate in writing to License Applicant the reasons its application was not favorably considered. The Awarding Authority may establish streamlined procedures for renewal applications.

V. INSURANCE

Each Licensed Contractor shall acquire and continually maintain while licensed hereunder liability insurance coverage on all personnel and equipment to be used in the Street Opening Work which insurance is to be with insurance companies licensed to do business in the Commonwealth of Massachusetts and shall contain the following coverage and be in the following minimum amounts:

Commercial General Liability Insurance including operators, independent contractors, complete operations, XCU hazards, broad form property damage and personal injury.

General aggregate:	\$1,500,000.00
Products and complete operations:	
Aggregate	\$1,000,000.00
Each occurrence	\$1,000,000.00
Combined single limit	\$2,000,000.00.

Automobile Liability Insurance covers owned, non-owned and hired vehicles.

Bodily Injury Liability	\$ 500,000.00 each person
	\$1,000,000.00 each accident
Property Damage Liability	\$ 300,000.00 each accident
Combined Single Limit	\$2,000,000.00

The Licensee agrees to maintain at the Licensee's expense all insurance required by law for its employees, including disability, workers compensation and unemployment compensation.

Certificates of Insurance shall provide for at least thirty (30) days notice to the Awarding Authority of cancellation or material change. The name of the Awarding Authority shall be listed as an additional insured on the Certificate of insurance to be provided by the Applicant. The Awarding Authority is not responsible for any loss or damage whatsoever to the property of the Licensee.

VI. SUSPENSION AND REVOCATION

The Awarding Authority or Representative, if it believes a Violation has occurred, can suspend immediately for up to 21 days a Public Works Construction License by communicating such suspension to Licensed Contractor or any of its representatives at the job site.

The Awarding Authority may revoke a Public Works Construction License granted hereunder after notice and hearing if it shall reasonably determine that a violation of this By-Law has occurred. Licensed Contractor shall be given not less than five days prior written notice of the time and place of the hearing and shall have the opportunity at the hearing to present evidence. No License Applicant may re-apply for a Public Works Construction License during the twelve-month period following a revocation. Any person aggrieved by the decision of the Awarding Authority may appeal such decision to the appropriate court of competent jurisdiction.