CHAPTER 25

REGULATION OF FACILITIES IN THE PUBLIC WAY

§2501. Applicability

1. Applicability of chapter 25. All persons engaged in the business of the transmission of communications or electricity are subject to the duties, restrictions and liabilities prescribed in this chapter.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Applicability of section 2503. Except as otherwise provided, a person may not construct facilities upon and along highways and public roads without applying for and obtaining a written location permit from the applicable licensing authority under section 2503. Included within this requirement is every person operating telephones or transmitting television signals by wire; every person that owns, controls, operates or manages any pipeline within or through this State for the transportation as a common carrier for hire of oil, gas, gasoline, petroleum or any other liquids or gases; every water utility and every person making, generating, selling, distributing and supplying gas or electricity; every water utility or sewer company, district or system privately or municipally owned; every municipally owned or operated fire alarm, police alarm or street lighting circuit or system; every cooperative organized under chapter 35; the University of Maine System, for purposes described in section 2301-A; every dark fiber provider; every unlit fiber provider as defined in section 711, subsection 7, paragraph E; every telecommunications service provider as defined in section 711, subsection 7, paragraph C; every information service provider as defined in section 711, subsection 7, paragraph A; and any other person engaged in telecommunications or the transmission of heat or electricity.
[PL 2017, c. 199, §3 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1995, c. 225, §9 (AMD). PL 2007, c. 268, §2 (AMD). PL 2009, c. 612, §8 (AMD). PL 2017, c. 199, §3 (AMD).

§2502. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Applicable licensing authority or licensing authority. "Applicable licensing authority" or "licensing authority" means:

A. The Department of Transportation, when the public way is a state or state-aid highway, except for state or state-aid highways in the compact areas of urban compact municipalities as defined in Title 23, section 754; [PL 1999, c. 753, §9 (AMD).]

B. The municipal officers or their designees, when the public way is a city street or town way or a state or state-aid highway in the compact areas of urban compact municipalities and as defined in Title 23, section 754; and [PL 1999, c. 473, Pt. D, §8 (AMD).]

C. The county commissioners, for all other public ways. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1999, c. 753, §9 (AMD).]

2. Compact area.

[PL 1999, c. 473, Pt. D, §9 (RP).]

3. Facilities. "Facilities" means:

A. If under the surface of the public way, pipes, cables and conduits; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. If on or over the surface of the public way, poles, guys, hydrants, cables, wires and any plant or equipment located on or over the surface of the public way. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Federal-aid highway system.
[PL 1999, c. 753, §10 (RP).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1993, c. 163, §§1,2 (AMD). PL 1999, c. 473, §§D8,9 (AMD). PL 1999, c. 753, §§9,10 (AMD).

§2503. Procedure for application for permit

1. Application. The application must be in writing and describe the facilities, the requested location, evidence of notice provided to owners of facilities in the applicable public way, the minimum depth if an underground facility, the minimum height of any attached wires or cables, if aboveground facilities, all in the manner and form that the licensing authority requires.
[PL 2015, c. 216, §1 (AMD).]

2. Notice. The applicant may give public notice of the application by publishing its description of the proposed facility once in a newspaper circulated in the municipality or municipalities encompassing the limits of the proposed location. The applicant shall send a copy of any application filed with the Department of Transportation to the municipal clerk of each municipality in which the facilities are located, or to the clerk of the county commissioners in the case of facilities within an unorganized township, except that the applicant may, without publication of its application, place its facility described in its application on receipt of a permit from the licensing authority as may be otherwise provided. If a proposed facility is located underground and is in excess of 500 feet in length, the applicant shall, within 5 business days of submitting an application to the applicable licensing authority, provide the ConnectMaine Authority established in Title 5, section 12004-G, subsection 33-F a notice that includes a description and the location of the proposed facility.
[PL 2019, c. 625, §4 (AMD).]

3. Objection. Objection to the application may be filed according to this subsection.

A. Any person owning property that abuts the applicable public way or any owner of facilities in the applicable public way may file a written objection with the appropriate licensing authority within 14 days after publication by the applicant. The written objection must state the reason for the objection. The written objection must be served by delivery in hand or by registered or certified mail. [PL 2015, c. 216, §2 (AMD).]

B. If the applicant proceeds without publication of the application, any person owning property that abuts the applicable public way or any owner of facilities in the applicable public way may file a written objection with the appropriate licensing authority within 90 days after installation of the facility described in the application. The written objection must state the cause for the objection. The written objection must be served by delivery in hand or by registered or certified mail. [PL 2015, c. 216, §2 (AMD).]
[PL 2015, c. 216, §2 (AMD).]

4. Hearing. The licensing authority, on receipt of a written objection, shall fix a time and place for hearing and shall give 7-days' notice of hearing by registered or certified mail to the applicant and any person filing law objections. The licensing authority's adjudication on the validity of the applicant's notice or procedures is final and conclusive. If the licensing authority finds its notice of hearing, the applicant's notice of application or the applicant's procedures defective, it may fix a new time and place

for hearing, shall order appropriate notice to be published or defect corrected and shall adjourn the hearing to meet at the time and place fixed in its order.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Permits. The location permit shall specify the approximate location of the facility and the minimum depth of any pipes or conduits below, or the minimum height of any wires or cables above, the earth's surface. The licensing authority may specify in the permit other requirements determined necessary in the best interests of the public safety and use of the right-of-way so as not to obstruct use for public travel.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Liability. Installation and maintenance of the facility and its appurtenances in accordance with the terms of the permit and the provisions of chapter 23 and this chapter relieve the applicant of liability to others by reason of location of its facility and appurtenances and no person has any right of recovery under Title 23, section 3655, because of the location, installation and maintenance and the applicant will be liable only for acts of negligence in the installation or maintenance of the facility and its appurtenances.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

7. Alteration. After the facility is installed, the licensing authority may alter or amend the permit if the installation is determined to impair the highway improvement or interfere with the free and safe flow of traffic. The procedure for an applicant, or for the licensing authority under this subsection, to alter or amend the terms of a location permit after construction or installation of the facility is the same as for any original application for a permit.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

8. Relocation. No location permit or alteration of any original location permit is required for relocation of the facility when the relocation is because of the construction, reconstruction or relocation of the way, except when required by federal law applicable to highways that have been designated for federal aid. The licensing authority, except in such cases of federal aid construction, shall issue a new location permit to evidence the legality of the relocation.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

9. Replacement and additions. A new location permit is not required for the replacement of an existing facility or appurtenance or for additions to the facility and appurtenances made within the terms of the existing permit.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

10. Service lines and improvements. An additional location permit is not required for any person to attach or install wires, cables or associated equipment, service lines or extensions to its facilities for which a permit has been issued or which are declared to be legal structures under this section, provided that these attachments or installations conform to the conditions of the permit. These attachments or installations are deemed legal structures.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

11. Ordered and existing locations. No location permit is required for any facilities constructed in accordance with an order of the municipality issued in writing and signed by the municipal officers, or by county commissioners in the case of unorganized townships, and agreed to by the owner of the facilities. When installed in accordance with the order, the facilities are deemed legal structures.

No location permit is required for any facilities which existed within the limits of a private way before the legal acceptance of the private way as a public way and the facilities are deemed legal structures.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

12. Records. The licensing authority shall maintain a record of all location permits issued and presently valid.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

13. Appeals. Appeals from decisions shall be conducted in the following manner.

A. The licensing authority shall give notice of their decision to the applicant and to any person filing objections as soon as practicable. [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Any person aggrieved by a decision of the Department of Transportation or the county commissioners may appeal to the Superior Court in the manner provided in Title 23, sections 2063 to 2066, relating to highways. [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. In the case of municipalities, the decision of the municipal officers or their designees shall be filed with the clerk of the municipality within one week from the date of the decision. Within 2 weeks from the filing, any person aggrieved may appeal from their decision to the county commissioners by filing notice of appeal with a copy of the original petition and adjudication with the clerk of the municipality and with the clerk of the board of county commissioners.

(1) Once a person aggrieved files a notice of appeal of a revision made by a municipality, the municipal officers may review a decision previously made by them to reconsider the issues involved or they may act as a review board to evaluate a decision made by their designees. The municipal officers may alter decisions during the 2-week appeal period, but the person aggrieved retains the initiative to pursue the appeal if not satisfied with the altered decision.

(2) The county commissioners shall immediately entertain the appeal and give 2 weeks' notice of the time and place of hearing, which must be held within 30 days from the time the appeal is filed. The hearing may be adjourned from time to time, not exceeding 30 days in all, and the commissioners shall file their decision within 30 days from the time the hearing is closed and transmit a copy of it to the applicant, any other parties to the appeal and to the clerk of the municipality, who shall immediately record it. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[PL 1987, c. 141, Pt. A, §6 (NEW).]

14. Opening permits. Notwithstanding section 2303, 2502 or 2503, the applicant must procure opening permits before making any underground installation as provided in chapter 23 and Title 23, sections 54 and 3351 to 3359.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

15. Agreement. The granting of a permit by the Department of Transportation, municipal officers or their designees or county commissioners, under this section, constitutes an agreement between the utility and the State or political subdivision of the State.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

16. Rules. The Department of Transportation may adopt reasonable rules to administer this section. These rules may include procedures for application and issue of permits and the conduct of hearings.

The department may adopt rules authorizing public utilities to install facilities on or over the surface of public ways for which the department is the licensing authority. The rules must set forth the following:

A. General terms and conditions regarding the location of the facilities; and [PL 1993, c. 540, §1 (NEW).]

B. Reasonable requirements determined necessary to protect public safety and to permit unobstructed public travel along the affected public way. [PL 1993, c. 540, §1 (NEW).]

Utilities installing facilities in accordance with these rules are not required to receive a separate written location permit as required by section 2501, subsection 2. Facilities installed in accordance with the rules are legal structures and are deemed installed pursuant to a written location permit.

[PL 1993, c. 540, §1 (AMD).]

17. Relocation in certain municipalities. The Department of Transportation has the exclusive rights, powers and duties of municipal officers under section 2517 when state or state-aid highways are affected, except for state and state-aid highways in the compact areas of urban compact municipalities as defined in Title 23, section 754.
[PL 1999, c. 753, §11 (AMD).]

18. Rights of applicable licensing authority. Nothing in Title 30-A, section 3008, subsection 5 impairs the rights of the applicable licensing authority.
[PL 2023, c. 405, Pt. A, §125 (AMD).]

19. Legal effect. Existing facilities and appurtenances maintained and now in use within a public way, together with any facilities and appurtenances installed and maintained in accordance with this section are deemed legal structures and the party maintaining them is liable for maintaining them only for acts of negligence in the erection or maintenance of them. The failure of the licensing authority to grant or deny a permit for which application is made within 60 days of filing constitutes the issuance of a location permit.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

20. Exclusive method. Compliance with this section by any person is the exclusive method of obtaining the rights and privileges conferred in this section and no person or cooperative may be required, with respect to the location of its facilities, to comply with or be subject to any other law, including, but not limited to, Title 30-A, chapter 165, except that a person subject to Title 30-A, section 3008 must comply with the requirements of that section with respect to the location of its facilities.
[PL 2023, c. 502, §29 (AMD).]

21. Default standards. This subsection governs standards applied by local licensing authorities.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Local licensing authority" means municipal officers or their designees or county commissioners.

(2) "Underground location standards" means standards governing the location and depth of and distance between utility facilities, including the underground portion of aboveground facilities such as utility pole bases. [PL 2015, c. 216, §3 (NEW).]

B. For all state and state-aid highways within compact areas of urban compact municipalities as defined in Title 23, section 754, rules adopted by the Department of Transportation under subsection 16 serve as the minimum standard. [PL 2015, c. 216, §3 (NEW).]

C. Except within areas identified in paragraph B, a local licensing authority may adopt underground location standards for utility facilities within its jurisdiction as designated in section 2502, subsection 1, paragraph A or B. If a local licensing authority has not adopted underground location standards for utility facilities, the underground location standards adopted by the Department of Transportation under subsection 16 govern. [PL 2015, c. 216, §3 (NEW).]

D. A local licensing authority that has not adopted underground location standards for utility facilities in accordance with paragraph C may grant exceptions to the underground location standards adopted by the Department of Transportation under subsection 16 if the licensing authority finds one of the following:

(1) Application of the underground location standards would present an exceptional hardship or unreasonable cost under the circumstances and alternative standards will adequately ensure public safety;

(2) All affected parties, as determined by the local licensing authority, have agreed to alternative underground location standards that will adequately ensure public safety;

(3) A unique situation exists that requires an adjustment of the standards in a manner that ensures public safety; or

(4) The underground location standards exceed the limits of the available space within the right-of-way. [PL 2015, c. 216, §3 (NEW).]

E. The owners of a new, planned underground utility facility shall coordinate directly with owners of existing underground utility facilities in the public way during the design phase of the new, planned facility. Both the new and existing facility owners shall make reasonable accommodation for each other's facilities in accordance with applicable underground location standards to allow ease of access to and maintenance of those facilities and adequately ensure public safety. [PL 2015, c. 216, §3 (NEW).]

[PL 2015, c. 216, §3 (RPR).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1993, c. 163, §3 (AMD). PL 1993, c. 540, §1 (AMD). PL 1995, c. 254, §5 (AMD). PL 1999, c. 753, §§11,12 (AMD). PL 2015, c. 216, §§1-3 (AMD). PL 2017, c. 344, §1 (AMD). PL 2019, c. 625, §4 (AMD). PL 2023, c. 405, Pt. A, §125 (AMD). PL 2023, c. 502, §29 (AMD).

§2504. Use of facilities alone creates no legal right for continuance

No enjoyment by any person for any length of time of the privilege of having or maintaining its facilities in the public way, may give a legal right to the continued use of the enjoyment or raise any presumption of a grant of a legal right. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2505. Damages; recovery of award and costs

An owner of land near or adjoining a highway or road along which lines are constructed, erected or altered in location or construction by any person may recover damages as follows. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Assessment of damages. If the owner's property is in any way injuriously affected or lessened in value, whether by occupation of the ground or air or otherwise by the construction, alteration or location of a line, whether the owner is the owner of the fee in the way or not, the owner may within 6 months after the construction, alteration or location apply to the municipal officers to assess and appraise the damage.

[RR 2021, c. 1, Pt. B, §401 (COR).]

2. Duties of municipal officers. Before entering upon the service, the municipal officers shall each be sworn to perform faithfully and impartially the following duties.

A. They shall on view make a just appraisement in writing of the loss or damage, including the elements of damage as provided for land taken for highway purposes under Title 23, section 154, subsections 2, 3 and 4, if any, to the applicant. [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. They shall sign duplicates of the written appraisement. [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. They shall on demand deliver one copy to the applicant and the other to the person constructing the line or that person's agent. [RR 2021, c. 1, Pt. B, §402 (COR).]

[RR 2021, c. 1, Pt. B, §402 (COR).]

3. Award and costs. If damages are assessed and awarded to the land owner the person constructing the line shall pay them, with the costs of the appraisers. If the appraisers find that the applicant has suffered no damage, the landowner shall pay the costs of the appraisers.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Failure to pay award and costs. If the award and costs are not paid within 30 days after a written demand for them is served upon the person or any of the person's agents, the owner of land may bring a civil action to recover the award and costs in the Superior Court for the county in which the land is located. Full costs must be allowed.
[RR 2021, c. 1, Pt. B, §403 (COR).]

5. Municipal officers fees. Before entering upon the discharge of their duties under this section, the municipal officers may require the applicant to advance them their fees for one day and from day to day after they have entered upon the discharge of their duties.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2021, c. 1, Pt. B, §§401-403 (COR).

§2506. Appeals; costs

Either party aggrieved by the assessment of damages may, within 20 days after the award, appeal to the Superior Court as follows. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Complaint and notice. When the appeal is taken the appellant shall:

A. Include in the complaint a statement setting forth substantially the facts of the case; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Give written notice of the appeal with a copy of the complaint to the opposite party. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Decision. After entry, the matter shall be determined by a jury, or by the court by agreement of parties, in the same manner as other civil actions.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Costs. If the person constructing the line appeals and the award is not decreased, the person constructing the line shall pay the costs. If the applicant appeals and the award is not increased, the applicant shall pay the costs.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2507. Permit required for person laying pipes and wires

No person may lay its pipes or place its wires under the surface of any road or street, or dig up or open the ground in a road or street, until it has obtained a written permit in accordance with section 2503 from the applicable licensing authority. The permit must be signed by the municipal officers or the Department of Transportation and shall specify the roads and streets and the location in the roads or streets where the pipes or wires will be laid. The permit may not affect the right of any party to recover damages for any injury to persons or property by the doings of any person. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2508. Permits to specify time and place of opening

Every permit for digging up and opening streets, roads and highways granted under this chapter must specify: [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Time. The time during which the streets, roads or highways may remain open;
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Place. The place where the opening may be made; and
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Surface. The number of square yards of surface which may be disturbed.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2509. Penalties

Any person who digs or makes an excavation in the paved portion of a street, road or highway without first obtaining a permit as required by section 2507, or who has obtained a permit and disturbs a greater area of surface than the permit specifies, commits a civil violation for which a forfeiture not to exceed $25 may be adjudged for each offense. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2510. Fees for excavation permits

The following provisions apply to fees for excavation permits. [PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Fees set by municipal officers. The municipal officers having the duty to maintain streets may establish a schedule of fees for granting permits for making an excavation within the paved portion of a street or highway. The schedule of fees may not exceed the reasonable cost of replacing the excavated pavement.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Payment of fee. The applicant shall pay to the treasurer of the municipality granting the permit the fees established by the municipal officers. The fees shall be regularly accounted for and shall constitute a special fund for the replacement of excavated pavement.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2511. Filling and protecting openings

1. Filling openings. A person opening a street, road or highway pursuant to a permit granted under sections 2501 to 2509 shall completely fill up the opening. The filling shall be puddled or rammed as the nature of the soil requires and shall be completed within the time designated in the permit.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Fines. A person failing to comply with this section commits a civil violation for which a forfeiture not to exceed $50 may be adjudged for each offense.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Protecting pavement. A person shall protect the paving on either side of the opening with sheet piling or other means to prevent the escape of sand from underneath it.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Failure to protect pavement. In determining the number of square yards of paving disturbed, the municipal officers or their appointees shall include the area of paving adjoining the trench actually

opened which in their opinion is required to be taken up and relaid because the pavement was not properly protected.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2512. Improper work redone; penalty

If a person improperly repairs or fills an opening, the municipal officers or their appointees may have the work redone properly and shall keep an account of the cost of redoing this work. [PL 1987, c. 141, Pt. A, §6 (NEW).]

A person in default shall pay a penalty equal to the cost of redoing the work plus 50%. After the work is completed and the cost of the work is determined, the municipality may not issue a new permit to a person in default until it has received, in addition to the fees provided in section 2510, the amount of the penalty provided in this section. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2513. Relaying of pavement

When an excavation is made in a paved street, road or highway and the opening is filled as required by sections 2511 and 2512, the municipality or village corporation in which the opening was located shall relay the pavement unless the municipality or village corporation has entered into an agreement pursuant to Title 23, section 3357 requiring the permittee to relay the pavement. If the municipality or village corporation relays the pavement, the cost of relaying the pavement, including materials, labor and inspection, must be paid out of any funds in the special fund for this purpose. [PL 1999, c. 337, §12 (AMD).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 337, §12 (AMD).

§2514. Travel and trees not to be interfered with

1. Public travel. Every person in constructing and maintaining its poles, lines, fixtures and appliances in, along, over, under and across the roads and streets in which it may obtain locations and across or under the waters upon and along its route or routes may not obstruct the use of the roads and streets for public travel or interrupt the navigation of the waters.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Trees. No person, in connection with any of the activities specified in subsection 1 may injure, cut down or destroy any fruit tree or any tree or shrub standing and growing for the purposes of shade or ornament.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Bridges. This chapter may not be construed to authorize the construction of a bridge across any of the waters of the State.
[RR 1991, c. 2, §129 (COR).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 1991, c. 2, §129 (COR).

§2515. Liability; damages

Every corporation organized under section 2101 and former section 2109 and every entity authorized under section 2301 to construct lines is liable in all cases to repay a municipality all sums

of money that the municipality is obliged to pay on a judgment recovered against it for damages caused by an obstruction, digging up or displacement of a way or street by the corporation or entity, together with attorney's fees and expenses necessarily incurred in defending the municipality in the actions. The corporation or entity must: [PL 2011, c. 623, Pt. B, §11 (AMD).]

1. Notice. Be notified of the commencement of any civil actions for damage; and
[PL 1987, c. 141, Pt. A, §6 (NEW).]

2. Right to defend. Have the right to defend the action at its own expense.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 398, §A37 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2011, c. 623, Pt. B, §11 (AMD).

§2516. Permits for moving buildings, cutting wires, removing poles; expenses; damages

The following provisions apply to permits for moving buildings, cutting wires and removing poles.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

1. Permit required to cut wires and remove poles. A person may not cut, disconnect or remove the wires or poles of a telephone or transmission and distribution utility in order to move a building, alter, repair or improve a street, bridge or way, or for any other purpose unless that person:

A. Applies in writing to the municipal officers of the municipalities in which changes or alterations of wires or poles are desired, or in which a building is to be moved; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Receives a written permit from the officers. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1999, c. 398, Pt. A, §38 (AMD); PL 1999, c. 398, Pt. A, §§104, 105 (AFF).]

2. Hearings and notice. Upon receipt of the application, the municipal officers shall:

A. Fix a time and place for a hearing; and [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Give reasonable notice of the hearing, including actual notice to any utility whose service may be interrupted or property interfered with. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1987, c. 141, Pt. A, §6 (NEW).]

3. Granting of permit and apportionment of expenses. Upon hearing, the municipal officers may grant a permit on such terms and conditions and make such apportionment of expenses as they determine best.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Permit for removal of wires or poles used by a utility for transmitting train orders or operating block signals. No wires or poles owned or used under contract by a utility for transmitting train orders or operating block signals may be cut, disconnected or removed unless:

A. The utility and the person desiring to cut, disconnect or remove the wires or poles first agree to the terms of the cutting, disconnection or removal; or [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Upon application for a permit to the commission, actual notice to the utility and a hearing, the commission grants a permit authorizing the cutting, disconnection or removal. At the hearing, the commission may grant a permit on the terms and conditions and apportion the expense arising under the permit as it determines best. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Offense. Whoever disconnects or removes wires or poles or moves any building on or over a public way without first obtaining the permit or violates any of the conditions of the permit is guilty of unauthorized removal of poles.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

6. Penalty. Unauthorized removal of poles is a Class D crime.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

7. Damages. If a way or bridge is damaged by the moving of a building, the municipal officers shall determine what proportion of the damage the owner of the building shall pay, and this amount may be recovered by the municipality in a civil action against the owner of the building.
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1995, c. 225, §10 (AMD). PL 1999, c. 398, §A38 (AMD). PL 1999, c. 398, §§A104,105 (AFF).

§2517. Revocation of location; hearings

1. Revocation of pole location by municipal officers. When the municipal officers of a municipality having a population of more than 30,000 inhabitants determine, after notice and hearing, that public safety and the public welfare require the revocation of a location for poles for conveying electricity or for the transmission of telephone messages already erected in a public street or way other than a state or a state-aid highway outside the compact area of an urban compact municipality as defined in Title 23, section 754, they may revoke the location and order the poles removed. The person that owns the poles shall remove them within a reasonable time. Other suitable locations or the right to use other poles jointly must be granted by the municipal officers to the person.
[PL 2025, c. 38, §1 (AMD).]

2. Notice and hearings. Before revoking a location or ordering the removal of any poles or wires, the municipal officers shall give public notice of the hearing as follows.

A. All persons interested shall be notified by publication in a newspaper circulated in the area, the last publication to be 14 days before the hearing. [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Personal notice shall be given to the owners of the poles and wires at least 14 days before the hearing. [PL 1987, c. 141, Pt. A, §6 (NEW).]
[PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1995, c. 225, §11 (AMD). PL 1999, c. 753, §13 (AMD). PL 2025, c. 38, §1 (AMD).

§2518. Joint use of poles

1. Municipality may order joint use of poles. Subject to the provisions of sections 711 and 8302, the municipal officers may, after notice and hearing, order any wires used for conveying electric current or the transmission of telephone messages and attached to poles located in a public street or way of the municipality to be removed and attached to other poles, however owned and controlled, legally located in the public streets or ways, as the municipal officers may designate, only if in their judgment the change is practicable and can be made without unreasonably interfering with the business of any person. The municipal officers may establish such regulations as they determine necessary for the joint use of the poles.
[PL 1995, c. 225, §12 (AMD).]

2. Cost of maintaining joint poles. If the parties using the joint poles cannot agree as to the proportionate share each will bear of the original cost and of the expense of maintaining the poles, or a proper annual rental for the use of the poles, the following provisions apply.

A. The municipal officers may, after hearing the parties, determine the proportionate part of the expense each party will justly bear or a proper rental. [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. The municipal officers shall give personal notice to each party 14 days before the hearing. [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. The owner of the poles may recover, in a civil action, from each party using the poles, the owner's share of the cost and expense or the rental as determined by the municipal officers. [RR 2021, c. 1, Pt. B, §404 (COR).]

[RR 2021, c. 1, Pt. B, §404 (COR).]

3. Orders and decisions of municipal officers. All orders and decisions of the municipal officers under this section shall be in writing and a record of them shall be made by the municipal clerk. The service of a copy of the order or decision, attested by the clerk, upon the parties affected by it is sufficient notice to the party affected to require compliance.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

4. Exception: Long distance lines. This section does not apply to long distance telephone wires or lines of poles used to support them. For the purpose of this section a long distance telephone wire is a telephone wire that extends at least 20 miles in a direct line from a central office.

[PL 1987, c. 141, Pt. A, §6 (NEW).]

5. Appeals. A party aggrieved by an order or decision of the municipal officers relating to the joint use of poles, by any regulation established by the municipal officers relating to the joint use of poles or by their decision as to the party's proportionate share of the original cost, the cost of maintaining the joint poles or the annual rental for the use of the joint poles may appeal from the order, decision or regulation at any time, within 10 days after service of notice of them, to the Superior Court in the county in which the municipality is located.

A. When an appeal is taken, the appellant shall:

(1) Include in the complaint a statement setting forth substantially the facts of the case, and the orders, decisions or regulations of the municipal officers from which the appellant appeals and in what respect the appellant is aggrieved by them; and

(2) Give written notice of the appeal with a copy of the complaint to the opposite party. [RR 2021, c. 1, Pt. B, §405 (COR).]

B. The presiding justice at the first term of the Superior Court shall appoint a committee of 3 disinterested persons, not residents of the municipality named in the complaint, who shall, within 30 days after the appointment, after due notice and hearing:

(1) Affirm the orders or decisions of the municipal officers;

(2) Amend or modify the orders or decisions; or

(3) Make new and further orders, decisions or regulations governing the joint use of poles by any of the parties to the proceedings, or in relation to the proportionate share of the expense to be borne by each party using the joint poles, or the just and fair rental for the use of the poles. [RR 2021, c. 1, Pt. B, §405 (COR).]

C. The committee's report must be filed with the clerk of the Superior Court. Upon being accepted by a Justice of the Superior Court the report is final and binding on all parties to the proceedings, except that questions of law arising under the proceedings may be reserved for decision by the Law Court. [RR 2021, c. 1, Pt. B, §405 (COR).]

D. A person affected by an order or decision of the municipal officers, who is not joined in the original complaint, may, on motion to the Superior Court, be joined in the complaint at any time before hearing by the committee appointed under this section. [PL 1987, c. 141, Pt. A, §6 (NEW).]

[RR 2021, c. 1, Pt. B, §405 (COR).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1995, c. 225, §12 (AMD). RR 2021, c. 1, Pt. B, §§404, 405 (COR).

§2519. Power and authority conferred are additional

The power and authority conferred on municipal officers under sections 2517 and 2518 are in addition to those vested in municipal officers under sections 2501 to 2507 and 2512. Nothing in sections 2517 and 2518 may be construed as giving to any party the right of appeal from the decisions, specifications, orders or permits, or alterations of the decisions, specifications, orders or permits of the municipal officers under this chapter and chapter 23 except as provided in section 2506. [PL 1987, c. 141, Pt. A, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW).

§2520. Affixing wires and structures; consent of building owner required

Every person maintaining or operating a telephone or electrical line or anyone who in any manner affixes, causes to be affixed or enters upon the property of another for the purpose of affixing a structure, fixture, wire or other apparatus to the building of another without the consent of the owner of the property or the owner's lawful agent commits a civil violation for which a fine not to exceed $100 may be adjudged for each offense. [RR 2021, c. 1, Pt. B, §406 (COR).]

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). RR 2021, c. 1, Pt. B, §406 (COR).

§2521. Fees of municipal officers

(REPEALED)

SECTION HISTORY

PL 1987, c. 141, §A6 (NEW). PL 1987, c. 490, §C8 (RP).

§2522. Maintenance of utility facilities

Notwithstanding any other provision of law, a transmission and distribution utility or entity authorized under section 2301 to construct lines may trim, cut or remove by cutting trees located within the public right-of-way of a public way and may trim or cut portions of trees encroaching upon the public right-of-way when necessary to ensure safe and reliable service if: [PL 2011, c. 623, Pt. B, §12 (AMD).]

1. Notice to applicable licensing authority. Notice is provided by the utility or entity to the applicable licensing authority, as defined in section 2502, at least 30 days before the trimming, cutting or removal of trees;
[PL 2011, c. 623, Pt. B, §12 (AMD).]

2. Consultation with applicable licensing authority. Upon request of the applicable licensing authority, the utility or entity consults with the applicable licensing authority before the trimming, cutting or removal of trees. Notice must be sent to each municipality in which trimming, cutting or removal of trees is to be conducted and the utility or entity shall consult with the applicable municipal licensing authority or, if none, the municipal officers before commencing operations. The municipal licensing authority or, if none, the municipal officers may elect to hold a public hearing on the utility's or entity's proposal and, if so, the utility or entity may not commence operations until after the public hearing has been held;
[PL 2011, c. 623, Pt. B, §12 (AMD).]

3. Public notice. Public notice is placed in at least 2 newspapers with circulation in the area where trimming, cutting or removal of trees is scheduled to occur at least 30 days before the trimming, cutting or removal of those trees. The notice must state that customers may request to be placed on the list, required under subsection 4, of persons who have requested to be personally consulted before the trimming, cutting or removal of trees;
[PL 1993, c. 399, §1 (NEW).]

4. Customer notice list. Before the trimming, cutting or removal of trees, the utility or entity confers with any person who requests personal consultation concerning the trimming, cutting or removal of trees on property in which the person has a legal interest. The utility or entity shall keep a list of persons who have requested personal consultation under this subsection. The utility or entity shall notify annually, in the form of a bill insert, all of the utility's or entity's customers of the opportunity to be on the list required under this subsection; and
[PL 2011, c. 623, Pt. B, §12 (AMD).]

5. Shade and ornamental trees. Before removing a shade or ornamental tree, the utility or entity consults with the owner of the land upon which the tree is located. For purposes of this subsection, "owner" includes a person who owns the underlying fee interest in land encumbered with a public easement.
[PL 2011, c. 623, Pt. B, §12 (AMD).]

This section does not apply to trimming, cutting or removal of trees undertaken in emergency situations. [RR 1993, c. 1, §103 (NEW).]

SECTION HISTORY

RR 1993, c. 1, §103 (COR). PL 1993, c. 399, §1 (NEW). PL 1999, c. 398, §A39 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2011, c. 623, Pt. B, §12 (AMD).

§2523. Street lights; use of poles

This section governs street lights that are attached to utility poles in the public way. [PL 2013, c. 369, Pt. E, §1 (NEW).]

1. Ownership and maintenance options. On or after October 1, 2014, a transmission and distribution utility shall provide the following options to municipalities for street and area lighting provided by light fixtures attached to poles owned by the transmission and distribution utility or on shared-use poles in the electrical space under the contractual management of the transmission and distribution utility located in the public way:

A. The transmission and distribution utility provides all of the components of the street lighting system, including installation on the utility poles and maintenance, and provides electricity delivery to the street lighting system from a power vendor selected by the municipality. The transmission and distribution utility shall apply a monthly charge for these services as approved by the commission that reflects the total cost to provide street lighting equipment for each light and a separate charge for power delivery consistent with subsection 3; [PL 2013, c. 369, Pt. E, §1 (NEW).]

B. The transmission and distribution utility installs all of the components of the street lighting hardware as selected, purchased and owned by the municipality on utility poles owned by the transmission and distribution utility or in the electrical space under contractual management of the transmission and distribution utility on shared-use poles and connects the light to the power source on the pole. The transmission and distribution utility may apply a one-time charge per light fixture for installation as established by the commission.

Any repairs made by the transmission and distribution utility to the mounting hardware or the power supply wire connection following installation must be billed at a rate established by the

commission. Maintenance of all components of the light fixture is the responsibility of the municipality or its contractor. Any person performing maintenance work on behalf of the municipality pursuant to this provision must be qualified pursuant to applicable federal or state standards or any standards established by the commission for such work and must have liability insurance in an amount and with terms determined by the commission. Light locations, the street lighting hardware installed and delivery charges are governed by subsections 2 and 3; and [PL 2013, c. 369, Pt. E, §1 (NEW).]

C. The transmission and distribution utility connects to the power lines a light fixture either owned by or owned and installed by the municipality or its contractor on a pole owned by the transmission and distribution utility or on a shared-use pole in the electrical space under the contractual management of the transmission and distribution utility. Light locations, the street lighting hardware installed and delivery charges are governed by subsections 2 and 3. Maintenance of the light fixture and mounting hardware is the responsibility of the municipality or its contractor. Any person installing or working on municipally owned street lighting equipment pursuant to this paragraph on behalf of the municipality must be qualified pursuant to applicable federal and state standards or any standards established by the commission for such work and must have liability insurance in an amount and with terms determined by the commission. The transmission and distribution utility may apply a one-time power connection charge per light fixture as established by the commission. [PL 2013, c. 369, Pt. E, §1 (NEW).]

[PL 2013, c. 369, Pt. E, §1 (NEW).]

2. Lighting location and installation. For municipally owned street lighting hardware located on poles owned by the transmission and distribution utility or in the electrical space under the contractual management of the transmission and distribution utility on shared-use poles in the public way, the location on the pole and the street lighting hardware installed, as well as any associated charges, are governed by the following provisions.

A. The commission shall establish criteria, based on standard utility industry practice, for determining possible locations on the utility pole for the street lighting hardware, determining any changes that may be needed, including, but not limited to, relocating equipment already on the pole, installing a taller pole or bracing an existing pole, as well as determining any one-time fees the transmission and distribution utility may charge the municipality for making the determinations and undertaking the work necessitated by the determinations. The criteria must also specify the conditions under which a request from a municipality to locate a light fixture on a pole may reasonably be denied by the transmission and distribution utility. [PL 2013, c. 369, Pt. E, §1 (NEW).]

B. The commission shall establish basic criteria, consistent with standard utility industry practice, for municipally owned street lighting hardware installed on utility poles that address any reasonable safety and compatibility issues with other equipment on or uses of the pole. The criteria must provide a basis for determining when no additional assessment work, and related fees pursuant to paragraph A, would be warranted for a replacement light fixture because the new light fixture places comparable or lower demands on the utility pole and related utility equipment than the light fixture being replaced. [PL 2013, c. 369, Pt. E, §1 (NEW).]

[PL 2013, c. 369, Pt. E, §1 (NEW).]

3. Delivery rates and associated charges. The commission shall establish through appropriate proceedings the charges for the transmission and distribution utility to deliver electricity to the municipal street lighting systems as provided in subsection 1. For municipal street lighting system options described in subsection 1, paragraphs B and C, the commission shall determine what, if any, ongoing fees beyond the power-only delivery charge may be assessed, including a pole attachment fee. In making this determination, the commission shall weigh, among other factors, the municipal interest to serve the general public and the location of the poles in municipal rights-of-way.

[PL 2013, c. 369, Pt. E, §1 (NEW).]

4. Transfer of ownership. A transmission and distribution utility shall allow a municipality to transfer utility-owned street and area lighting for which the municipality is billed to either form of municipal ownership in subsection 1, paragraphs B and C in a time frame and under terms established by the commission. The commission shall also determine a fair and equitable cost for all aspects of the transfer and establish guidelines to best enable the contiguous ownership of lighting fixtures.
[PL 2013, c. 369, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 369, Pt. E, §1 (NEW).

§2524. Municipal access to poles

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Make-ready work" means the rearrangement or transfer of existing facilities, replacement of a pole, complete removal of any pole replaced or any other changes required to make space available for an additional attachment to a shared-use pole. [PL 2019, c. 127, §1 (NEW).]

B. "Municipality" means a town, city, plantation, county, regional council of governments, quasi-municipal corporation or district as defined in Title 30-A, section 2351, regional municipal utility district established according to Title 30-A, section 2203, subsection 9 or a corporation wholly or partially owned by an entity specified in this paragraph. [PL 2019, c. 127, §1 (NEW).]

C. "Unserved or underserved area" has the same meaning as in section 9202, subsection 5. [PL 2019, c. 127, §1 (NEW).]
[PL 2019, c. 127, §1 (NEW).]

2. Access to poles; make-ready requirements. Notwithstanding any provision of law to the contrary, for the purpose of safeguarding access to infrastructure essential to public health, safety and welfare, an owner of a shared-use pole and each entity attaching to that pole is responsible for that owner's or entity's own expenses for make-ready work to accommodate a municipality's attaching its facilities to that shared-use pole:

A. For a governmental purpose consistent with the police power of the municipality; or [PL 2019, c. 127, §1 (NEW).]

B. For the purpose of providing broadband service to an unserved or underserved area. [PL 2019, c. 127, §1 (NEW).]
[PL 2019, c. 127, §1 (NEW).]

3. (TEXT EFFECTIVE UNTIL 10/1/28) (TEXT REPEALED 10/1/28) Insurance requirements. The owner of a shared-use pole may require a municipality, as a condition of the municipality's attachment to the owner's shared-use pole, to purchase and maintain a general liability insurance policy meeting the pole owner's insurance requirements. The pole owner may not require that the general liability insurance have a coverage limit in excess of $5,000,000 per occurrence. In accordance with Title 14, section 8116, if the limits provided in the insurance policy are in excess of the limit imposed by Title 14, section 8105, the limits in the policy will replace the limit imposed by Title 14, section 8105 and if the insurance policy provides coverage in areas where the municipality is immune, the municipality is liable in those substantive areas but only to the limits of the insurance coverage.

This subsection is repealed October 1, 2028.
[PL 2023, c. 313, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 127, §1 (NEW). PL 2023, c. 313, §1 (AMD).

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