

MAINE STATE LEGISLATURE

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CHAPTER 173

POWERS AND RESTRICTIONS

Sec.

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§ 2341. Lines along highways and across waters

Every corporation organized under chapters 171 to 179 for the purpose of operating telegraphs or telephones or for the purpose of transmitting television signals by wire may, except as limited, construct, maintain and operate its lines upon and along the route or routes and between the points stated in its certificate of incorporation; and may, subject to the conditions and under the restrictions provided in chapters 171 to 179, construct its lines along, over, under and across any of the roads and streets and across or under any of the waters upon and along such route or routes, with all necessary erections and fixtures therefor.

R.S.1954, c. 50, § 11.

§ 2342. Corporations may lay pipelines

Every corporation organized under the general laws of the State and owning, controlling, operating or managing any pipe-

line 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 may lay its pipelines and construct and maintain the same in, along and under the roads and streets in any city or town, subject to the conditions and under the restrictions provided in chapters 171 to 179.

R.S.1954, c. 50, § 12.

§ 2343. Water companies may lay pipelines

Every water company organized under the general or special law of this State and authorized to do a public utility business in this State may lay its pipes in and under the roads and streets in any city or town in which it is authorized to supply water or through which it is necessary or convenient to lay the same to conduct water from its source of supply to enable it to render such service, subject to the conditions and under the restrictions provided in chapters 171 to 179. Such water utility shall procure a written location permit from the municipal officers, or the county commissioners in the case of plantations and unorganized townships. Notwithstanding any of the provisions contained herein, the applicant shall obtain street opening permits to open public ways when required by a municipality or the State Highway Commission.

The water utility shall file with the clerk of the municipality or county commissioners, as the case may be, a written application for a location permit stating the type and approximate location of hydrants, pipes and appurtenances, and the minimum depth of pipes. In addition, a public notice shall be given by the applicant by publishing the text of the application once in a newspaper having local circulation. Persons claiming to be adversely affected may object by filing a written objection within 14 days after the date of publication showing cause, if any, they may have why such location permit should not be granted. Such written objection shall be made by personal delivery in hand or by registered or certified mail to the municipal officers of the municipality in which the public way is located, or to the county commissioners in the case of plantations and unorganized townships. Upon receipt of such objections, the municipal officers or the county commissioners shall fix a time and place for hearing. Seven days' notice of such hearing shall be given by registered or certified mail to the person or persons objecting and to the applicant. At the hearing, the applicant before proceeding shall first prove that

notice as provided for has been given, and the adjudication of the municipal officers or county commissioners that such notice has been given shall be final and conclusive. If for any cause the municipal officers or county commissioners find that the original notice or notice of hearing is defective, they may order new notice, not exceeding 14 days, and adjourn said hearing to a time named in said new order of notice. If no written objection is filed, the municipal officers or county commissioners, after finding that notice has been given as required, shall issue their decision, and the adjudication that such notice has been given and no written objection filed shall be final and conclusive.

The location permit shall specify the type and approximate location of hydrants, pipes and appurtenances and the minimum depth of pipes, and the location permit may prescribe such other reasonable requirements relative to location or construction as may be necessary to protect the public use of the way. The installation and maintenance of a water utility plant by a utility in accordance with such location permit shall constitute compliance by such utility with the requirements of the first sentence of section 2355 and said water utility may maintain the same in the place so located without liability to others by reason of its location, and no person shall have any right of recovery against a municipality under Title 23, section 3655, by reason of such location, installation or maintenance. After the construction of the water utility facilities, such municipal officers or county commissioners may direct or approve any alteration from the original location permit, in which case the provisions with respect to notice, filing objections and hearing applicable to original location permits shall apply.

No location permit or alteration of an original location permit shall be required for the relocation of hydrants, pipes and appurtenances within the right-of-way of public roads, when such relocation is necessitated by the construction or relocation of highways or public roads, except that at the request of an applicant, the municipal officers or county commissioners shall issue a location permit as additional evidence of the legality of the facilities so relocated.

No new location permit is required for additions to a water utility plant made within the terms of an existing location permit, or for replacements of existing legal structures with similar structures.

No location permit shall be required to install a service line to serve property adjoining a public way when such property is

fronted by an existing water pipe under location permit, and such service line facilities will be deemed legal structures.

No location permit shall be required for a water utility plant which existed within the limits of a private way prior to the legal acceptance of said private way as a public way, and such facilities will be deemed legal structures.

No location permit will be required for a water utility plant 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 plantations or unorganized townships, and such facilities when installed in accordance with the order will be deemed legal structures.

Records of such location permits shall be recorded in the records of the municipality or county commissioners. Water utility plants heretofore installed, maintained and now in use by such water utility together with any water utility plant hereafter installed and maintained in accordance with this section shall be deemed legal structures and the party maintaining the same shall be liable on account thereof only for carelessness or negligence.

The municipal officers or county commissioners shall give to the applicant and to any person filing objections, notice of their decision as soon as may be practicable. In case of plantations and unorganized townships, any person aggrieved may appeal from the decision of the county commissioners to the Superior Court in the manner provided in Title 23, sections 2063 to 2066, relating to highways. In case of cities and towns, the decision of the municipal officers shall be filed with the clerk of the city or town within one week from the date thereof. Within 2 weeks from such filing, any person aggrieved may appeal from their decision by filing notice of appeal with a copy of the original petition and adjudication with the clerk of the city or town and with the clerk of the board of county commissioners. The commissioners shall immediately entertain such appeal and give 2 weeks' notice of the time and place of hearing, which time shall be within 30 days from the time such appeal is filed. Such 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 the same to the water utility, any other parties to the appeal, and to the clerk of the city or town, who shall forthwith record it.

Said water utility shall comply with sections 2483 to 2486.

R.S.1954, c. 50, § 13; 1963, c. 284, § 1.

§ 2344. Gas and electric companies may pass along highways

Every corporation organized under chapters 171 to 179 for the purpose of making, generating, selling, distributing and supplying gas or electricity for the purposes named in said chapters may lay its pipes and wires and construct and maintain its lines in, upon, along, over, across and under the roads and streets in any city or town in which it is authorized to supply gas or electricity or both, subject to the conditions and under the restrictions provided in chapters 171 to 179.

R.S.1954, c. 50, § 14.

§ 2345. No taking property of another corporation without legislative consent

No corporation organized under chapters 171 to 179 shall have authority, except by special Act of the Legislature, to take, appropriate or use the location, pipes, lines, land or other property of any other corporation, person or firm doing or authorized to do a similar business, without consent of such other corporation, person or firm.

R.S.1954, c. 50, § 15.

§ 2346. Permit required for laying pipes and wires

No such corporation shall lay its pipes or place its wires under the surface of any road or street, or dig up or open the ground in any road or street, until it shall have obtained, as prescribed in section 2347, a permit in writing from the municipal officers of the city or town in which such road or street is located, which permit shall be signed by such municipal officers and shall specify the roads and streets and the location therein in which such pipes or wires shall be laid. Such permit shall not affect the right of any party or parties to recover damages for any injury to persons or property by the doings of any such corporation.

R.S.1954, c. 50, § 16.

§ 2347. Wires, pipes and cables under streets subject to municipal permit

Telegraph, telephone, gas, pipeline, electric light, heat or power companies chartered by special Act of the Legislature or organized under the general laws of the State, and all such com-

panies, wherever chartered or organized, engaged in the business of transmitting intelligence, heat, light or power by electricity, or of transporting oil, gas, gasoline, petroleum or any other liquids or gases as a common carrier for hire, or of furnishing gas for light, heat or power, may, in any city or town, place their pipes and appurtenances, wires and cables and all conduits and other structures for conducting and maintaining such pipes, wires and cables under the surface of those streets and highways in which such companies are empowered to obtain locations for their pipes and appurtenances, poles and wires, subject to the written permit therefor of the municipal officers of such city or town, and subject to such rules and regulations as to location and construction as such municipal officers may designate in their permit. Proceedings for obtaining such permit shall be had in accordance with sections 2481 to 2488. Permits to open streets and highways for the purpose of relaying or repairing such pipes and appurtenances, wires, cables, conduits and other structures may be granted without notice.

R.S.1954, c. 50, § 17; 1963, c. 284 § 2.

§ 2348. Validity clause

The location of all pipes, hydrants, wires and cables and all conduits and other structures for the conducting and maintaining of such pipes, hydrants, wires and cables over, under the surface of and in those streets and highways in which such companies are empowered to obtain locations for their pipes, wires, hydrants and cables which have been located over, under the surface of and in the streets and highways prior to January 1, 1962, and which shall be hereafter so located in accordance with chapters 171 to 179, are valid and declared legal and the same shall henceforth be legal structures in said streets and highways until the location thereof shall have been changed in any manner required or authorized by law.

R.S.1954, c. 50, § 18; 1963, c. 252.

§ 2349. Permits to specify time and place of opening

Every permit for digging up and opening streets, roads and highways granted under sections 2341 to 2348 shall specify the time during which said streets, roads or highways may remain open, the place where such opening may be made and the number of square yards of surface which may be disturbed.

R.S.1954, c. 50, § 19.

§ 2350. Penalties

Any such corporation which shall dig or make an excavation in the driveway of any street, road or highway without first obtaining such permit as provided in section 2349, or which having obtained such permit shall disturb a greater area of surface than specified in such permit, may be punished by a fine of \$25 for each offense.

R.S.1954, c. 50, § 20.

§ 2351. Fees for excavation permits

The municipal officers of any city or town or similar officers of any village corporation having the duty to maintain streets may establish a schedule of fees for granting permits for making an excavation within the driveway of any street or highway, said schedule of fees not to exceed the reasonable cost of replacement of the excavated pavement. The applicant shall pay to the treasurer of the city or town or village corporation granting such permit the fees as established by the municipal or similar officers and all such fees shall be regularly accounted for and shall constitute a special fund for the repaving of said cuts.

R.S.1954, c. 50, § 21.

§ 2352. Filling and protection of openings

Any such corporation opening a street, road or highway pursuant to such permit shall fully and completely fill up such opening in the surface of the street, road or highway. Such filling shall be puddled or rammed as the nature of the soil may require, and shall be done and completed within the time designated in the permit allowing said opening. Any such corporation failing to comply with the requirements of this section may be punished by a fine of \$50 for each offense. Such corporations shall protect the paving on either side of the opening by the use of sheet piling or such other means as will prevent the escape of sand from underneath it. In determining the number of square yards of paving disturbed, there shall be included such area of paving adjoining the trench actually opened as will, in the opinion of the commissioner of public works or such officer as the municipal officers may appoint, be required to be taken up and relaid by reason of such failure to properly protect the same.

R.S.1954, c. 50, § 22.

§ 2353. Improper work redone at corporation expense

If the work of repairing or filling openings mentioned in sections 2349 to 2352 shall be unskillfully or improperly done, the commissioner of public works, or such officer as the municipal officers may appoint, may forthwith cause the same to be skillfully and properly done and shall keep an account of the expenses thereof, and in such case such corporation in default shall forfeit and pay a penalty equal to the whole of said expense incurred by said city or town with an addition of 50%. Thereafter, upon the completion of the work and the determination of the costs thereof, said city or town shall issue no further or new permit to any corporation so in default until it shall receive, in addition to the fees provided in section 2351, the amount of the penalty as by this section provided and determined.

R.S.1954, c. 50, § 23.

§ 2354. Relaying of pavements

When any excavation shall be made in any paved street, road or highway and the opening shall have been filled as required by sections 2352 and 2353, the city, town or village corporation in which the opening occurred shall relay the pavement and the cost thereof including materials, labor and inspection shall be paid out of any funds standing to the credit of the special fund for this purpose.

R.S.1954, c. 50, § 24.

§ 2355. Travel and trees not to be interfered with

Every such corporation shall so construct and maintain 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 any of the waters upon and along its route or routes, as not to incommode the use of such roads and streets for public travel or interrupt the navigation of such waters. No such corporation shall injure, cut down or destroy any fruit tree or any tree or shrub standing and growing for the purposes of shade or ornament. Chapters 171 to 179 shall not be so construed as to authorize the construction of any bridge across any of the waters of the State.

R.S.1954, c. 50, § 25.

§ 2356. Liability for damages

Every corporation organized under chapters 171 to 179 shall be liable in all cases to repay any city or town all sums of money that said city or town may be obliged to pay on any judgment recovered against it for damages occasioned by any obstruction, digging up or displacement of any way or street by said corporation, together with counsel fees and expenses necessarily incurred in defending said town in actions therefor. Said corporation shall have notice of the commencement of any and all civil actions for such damage and such corporation shall have the right to defend any such action at its own expense.

R.S.1954, c. 50, § 26; 1963, c. 414, § 27.

§ 2357. Connection with other telephone and telegraph lines; land for public use

Every corporation operating a telegraph or telephone line in the State may connect its line or lines with those of any other like corporation, and may sell or lease its lines and property, in whole or in part, to any other like corporation, and may purchase or lease the line or lines and property, in whole or in part, of any like corporation upon such terms as may be agreed upon by the contracting parties, subject to the control of the Public Utilities Commission and may purchase, or take and hold as for public uses, land necessary for the construction and operation of its lines. Land may be so taken and damages therefor may be estimated, secured, determined and paid as provided by sections 3242 to 3252.

R.S.1954, c. 50, § 27.

§ 2358. Gas for heat and power; appliances

All corporations in the State which are authorized to furnish gas for lighting may furnish gas for heating and for power and proper appliances therefor, under the same conditions and with the same rights as they now furnish gas for lighting purposes.

R.S.1954, c. 50, § 28.