

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Maine
REVISED STATUTES
1964

*Prepared Under the Supervision
of the
Committee on Revision of Statutes*

Being the Tenth Revision of the
Revised Statutes of the State
of Maine, 1964

Volume 6
Titles 33 to 39



Boston, Mass.
Boston Law Book Co.

Orford, N. H.
Equity Publishing Corporation

St. Paul, Minn.
West Publishing Co.

Text of Revised Statutes
Copyright © 1964
by
State of Maine

This is a historical version of the Maine Revised Statutes that may not reflect the current state of the law. For the most current version, go to:

<http://legislature.maine.gov/legis/statutes/>

CHAPTER 179

REGULATION OF POLES AND WIRES

Sec.

- 2481. Duties and liabilities imposed.
- 2482. Permits to construct lines; legal structures; proceedings and appeals.
- 2483. Request for permit; notice to State Highway Commission.
- 2484. Damages; recovery of award and costs.
- 2485. Appeals; costs.
- 2486. Fees of municipal officers.
- 2487. Permits for moving buildings, cutting wires, removing poles; expenses; damages.
- 2488. Use of facilities alone creates no legal right for continuance.
- 2489. Change of location; hearings; joint use of poles; long distance lines excepted.
- 2490. Appeals; hearings; acceptance of report.
- 2491. Power and authority conferred are additional.
- 2492. Affixing wires and structures; consent of building owner required.
- 2493. Lines along railroad; application to Public Utilities Commission where disagreement.

§ 2481. Duties and liabilities imposed

Every company incorporated for the transmission of intelligence, heat, light or power by electricity and all persons and associations engaged in such business shall be subject to the duties, restrictions and liabilities prescribed in this chapter.

R.S.1954, c. 50, § 36.

§ 2482. Permits to construct lines; legal structures; proceedings and appeals

Except as otherwise provided, no such company, person or association shall construct lines upon and along highways and public roads, without first making an application for and obtaining a written permit, signed by the municipal officers in case of cities, the selectmen in case of towns and the county commissioners in case of plantations and unorganized townships, specifying the kind of poles, where and how they shall be located and set and the height of the wire above the ground; and if the line

specified in the permit is a telephone line and is not constructed and public telephone service established in connection therewith within 18 months from the time the decision is filed, the permit shall be void. Before granting such permit, 14 days' public notice thereof shall be given by posting a true copy of said application in some public and conspicuous place in the town concerned, and by publishing a true copy of said application at least once in some newspaper, if any, printed in the city concerned, or, if no newspaper is printed in such city, then by posting a true copy of said application in some public and conspicuous place in the city concerned. During said period residents and owners of property upon the highways to be affected thereby may file written objections to the granting of such permit with the municipal officers or the board of selectmen of the city or town concerned. Upon receipt of such objections the municipal officers or the board of selectmen shall fix a time and place for a hearing so that such residents and owners of property shall have full opportunity to show cause why such permit should not be granted. Fourteen days' public notice of such hearing shall be given, in the case of towns, by posting a true copy of the order of notice of hearing in some public and conspicuous place in the town concerned and, in the case of cities, by publishing a true copy of said order of notice of hearing at least once in some newspaper, if any, printed in the city concerned, or, if no newspaper is printed in such city, then by posting a true copy of said order of notice of hearing in some public and conspicuous place in the city concerned. Such public notice shall be given by publication at least once in a county newspaper when the county commissioners are to act, said publication to be at least 14 days before said hearing. At the hearing such company, persons or associations, before proceeding, shall first prove that such order of notice of the hearing has been complied with and public notice thereof given as required, and the adjudication of the municipal officers, selectmen or county commissioners that such public notice has been given shall be final and conclusive. If from any cause the notice given appears to have been defective, said municipal officers, selectmen or county commissioners may order new notice, not exceeding 7 days, and adjourn said hearing to a time named in said new order of notice. If no written objection is filed as provided for, the municipal officers in case of cities and the selectmen in case of towns shall issue their decision granting the permit, and if such municipal officers or selectmen fail to issue said decision within a period of 7 days after the expiration of said 14-day period for public notice, the town or city clerk is author-

ized and shall forthwith issue such decision in behalf of such municipal officers or selectmen, which shall be deemed to be their decision. The adjudication of the municipal officers or the city clerk in case of cities or the selectmen or the town clerk in case of towns that such public notice has been given and no written objection filed shall be final and conclusive. After the erection of the lines, such municipal officers, selectmen or county commissioners may, after giving all persons interested an opportunity to be heard, direct or approve any alteration from the original permit. The provisions with respect to notice, filing objections and hearing applicable to original permits shall apply. No permit or alteration of an original permit shall be required for the relocation of lines or single poles along highways and public roads within the right-of-way when such relocation is necessitated by the construction or relocation of highways or public roads. Such permits, specifications and decisions shall be recorded in the records of the city, town or county commissioners. Poles and wires heretofore erected, maintained and now in use by such company, person or association and poles and wires hereafter erected 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 in the erection or maintenance of the same. In case of plantations and unorganized townships, any person or corporation interested 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, and in case of cities and towns, the decision of the municipal officers or the selectmen 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 or corporation interested 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' public notice in a county newspaper 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 clerk of the city or town, who shall forthwith record it.

R.S.1954, c. 50, § 37.

§ 2483. Request for permit; notice to State Highway Commission

In all cases in which a permit or the alteration of a permit is sought under section 2482 with reference to post or wire lines upon and along state and state aid highways, such company, person or association shall, before such permit or alteration of permit is granted, give to the State Highway Commission written notice of at least 14 days in the case of the original grant of a permit and at least 7 days in the case of an alteration of a permit by sending a copy of the application for permit and notice of the date set for the hearing to said commission in order that said commission may have full opportunity to appear and show cause, if any they have, why such permit should not be granted or altered; or if granted or altered, to suggest such restrictions and conditions as seem to be necessary for the public safety.

Said State Highway Commission may in their discretion waive such notice in any particular case.

R.S.1954, c. 50, § 38.

§ 2484. Damages; recovery of award and costs

An owner of land near to or adjoining a highway or road along which lines shall hereafter be constructed, erected or altered in location or construction by any company, person or association, if said owner's property is in any way injuriously affected or lessened in value, whether by occupation of the ground, on air or otherwise by such construction, alteration or location of any such line, whether such owner is the owner of the fee in such way or not, may within 6 months after such construction, alteration or location apply to the mayor and aldermen or selectmen to assess and appraise the damage. Before entering upon the service, they shall severally be sworn to faithfully and impartially perform the duties required of them by this section. They shall on view make a just appraisal in writing of the loss or damage, if any, to the applicant, sign duplicates thereof, and on demand deliver one copy to the applicant and the other to the company or its agent. If damages are assessed, the company shall pay the same, with the costs of the appraisers. If the appraisers award that the applicant has suffered no damage, he shall pay the costs of the appraisers. The award and costs may be recovered in a civil action, if not paid in 30 days after written demand therefor served upon the company or any of its agents. The Superior Court for the county shall have jurisdiction thereof and full costs shall be allowed. Before entering upon the discharge of their du-

ties under this section, such municipal officers may require the applicant to advance to them their fees for one day and from day to day thereafter.

R.S.1954, c. 50, § 39; 1961, c. 317, § 125.

§ 2485. Appeals; costs

Either party aggrieved by the assessment of damages may, within 20 days after the award, appeal therefrom to the Superior Court. The appellant shall when the appeal is taken include in the complaint a statement setting forth substantially the facts of the case and shall give written notice of such appeal with a copy of the complaint to the opposite party. 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. If the company is the appellant and the award is not decreased, the costs shall be paid by the company. If the applicant appeals and the award is not increased, the costs shall be paid by the applicant.

R.S.1954, c. 50, § 40; 1959, c. 317, § 23.

§ 2486. Fees of municipal officers

The mayor, aldermen and selectmen shall each receive, for services performed under chapters 171 to 179, \$2 a day.

R.S.1954, c. 50, § 41.

§ 2487. Permits for moving buildings, cutting wires, removing poles; expenses; damages

No person without first making written application to the municipal officers of the towns in which changes or alterations of wires or poles are desired, or in which a building is to be moved, and receiving from such officers a written permit therefor, shall cut, disconnect or remove the wires or poles of a telegraph, telephone, electric light or street railroad company in order to move a building, alter, repair or improve a street, bridge or way, or for any other purpose.

Upon receipt of such application, the municipal officers shall fix a time and place for hearing thereon and give reasonable notice thereof, including actual notice to any utility whose service may be interrupted or property interfered with.

Upon hearing, the municipal officers may grant a permit on such terms and conditions and make such apportionment of the expenses as they deem best.

Unless the utility and the person or corporation desiring to cut, disconnect or remove any wires or poles owned or used under contract by such utility for transmitting train orders or operating block signals, first agree upon the terms thereof, no such wire or wires, pole or poles, shall be cut, disconnected or removed, until after a permit therefor has been granted by the Public Utilities Commission, upon application therefor to said commission and actual notice to the utility owning or using such wire or poles, and hearing thereon. At such hearing, said commission may grant such permit on such terms and conditions and make such apportionment of the expense arising thereunder as it deems best. Whoever disconnects or removes such wires or poles or moves any building on or over a public way without first obtaining such permit, or violates any of the conditions of said permit, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 3 years.

In case any way or bridge is damaged by reason of the moving of a building, the municipal officers shall determine what proportion of such damage shall be paid by the owner of said building, and the same may be recovered by the town in a civil action against the owner of said building.

R.S.1954, c. 50, § 42; 1961, c. 317, § 126.

§ 2488. Use of facilities alone creates no legal right for continuance

No enjoyment by any company, person or association, for any length of time, of the privilege of having or maintaining posts, wires or apparatus in, upon, over or attached to any building or land of other persons shall give a legal right to the continued use of such enjoyment or raise any presumption of a grant thereof.

R.S.1954, c. 50, § 43.

§ 2489. Change of location; hearings; joint use of poles; long distance lines excepted

Whenever the municipal officers of any city or town having a population of more than 40,000 inhabitants, in which any person, firm or corporation maintains wires attached to poles located in any public street or way for conveying electric current or for the transmission of telephone or telegraph messages, determine, after notice and hearing, that public safety and the public welfare require the revocation of any location for poles already erected in any public street or way, they may revoke any such location and order such poles removed, which shall be done within

a reasonable time by the person, firm or corporation owning said poles. Other suitable locations or the right to use other poles jointly shall be granted by the municipal officers to such person, firm or corporation. The municipal officers of such cities and towns may, after notice and hearing, order the wires of any person, firm or corporation used for conveying electric current or the transmission of telephone or telegraph messages and attached to poles located in any public street or way of such city or town to be removed and attached to such other poles, however owned and controlled, legally located in the public streets or ways, as said municipal officers may designate, provided in their judgment such change is practicable and can be made without unreasonably interfering with the business of any person, firm or corporation. Before revoking any such location or ordering the removal of any poles or wires, public notice of the hearing shall be given to all persons interested by publication in some newspaper printed in said city or town, if any, the last publication to be 14 days before the hearing. If no newspaper is printed in said city or town, said publication shall be in some newspaper printed in the county. Personal notice shall be given to the owners of said poles and wires 14 days before the hearing. The municipal officers may establish such regulations as they deem necessary for the joint use of such poles, and in case the several parties so using such poles cannot agree as to the proportionate share each shall bear of the original cost and of the expense of maintaining such poles, or a proper annual rental for the use of the same, the municipal officers may, after hearing the parties, determine the proportionate part of such expense each party shall justly bear or a proper rental therefor. Personal notice shall be given to each party 14 days before the hearing. The owner of such poles may recover, in a civil action of each party so using such poles, his share of such cost and expense or the rental as determined by the municipal officers. All orders and decisions of the municipal officers under this section shall be in writing and a record thereof shall be made by the city or town clerk, and the service of a copy thereof, attested by the clerk, upon the parties affected thereby shall be sufficient notice to the party so affected to render compliance obligatory. This section shall not apply to long distance telephone wires or lines of poles used for the support thereof; and for the purpose hereof, no wire shall be deemed to be a long distance telephone wire which does not extend 20 miles at least in a direct line from a central office.

R.S.1954, c. 50, § 44; 1961, c. 317, § 127.

§ 2490. Appeals; hearings; acceptance of report

Any party aggrieved by any order or decision of the municipal officers relating to the joint use or occupation of poles or by any of the regulations established by the municipal officers of said city or town relating to the joint use of poles, or by their decision as to his proportionate share of the original cost, or the cost of maintaining any joint poles, or the annual rental for the use of the same, may appeal from such orders, decisions or regulations of the municipal officers at any time, within 10 days after service of notice of the same, to the Superior Court in the county. The appellant shall, when such appeal is taken, 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 he appeals and in what respect he is aggrieved thereby; and shall give written notice of such appeal with a copy of the complaint to the opposite party. The presiding justice at the first term of said court shall appoint 3 disinterested persons, not residents of the city or town named in the complaint, who shall, within 30 days after their appointment, after due notice and hearing, affirm the orders and decisions of the municipal officers, or amend or modify the same, or make new and further orders, decisions and regulations governing such joint use of such 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 such joint poles, or the just and fair rental therefor. Their report, which shall be filed with the clerk of said court, upon being accepted by any Justice of the Superior Court, shall be final and binding on all parties to the proceedings, except that questions of law arising under such proceedings may be reserved for decision by the law court. Any person affected by any order or decision of the municipal officers, who is not joined in the original complaint, may, on motion to the Superior Court, be joined therein at any time before hearing by the committee appointed under this section.

R.S.1954, c. 50, § 45; 1959, c. 317, § 24; 1961, c. 317, § 128.

§ 2491. Power and authority conferred are additional

The power and authority conferred on municipal officers under section 2489 are in addition to those vested in municipal officers under sections 2481 to 2488. Nothing contained in sections 2489 and 2490 shall be construed as giving to any party the right of appeal from any of the decisions, specifications, orders or per-

mits, or alterations thereof, of the municipal officers under chapters 171 to 179, except as provided in section 2490.

R.S.1954, c. 50, § 46.

§ 2492. Affixing wires and structures; consent of building owner required

Every company, association or person maintaining or operating a telephone or other electrical line, or anyone who in any manner affixes or causes to be affixed to the buildings or building of another any structure, fixture, wire or other apparatus, or enters upon the property of another for the purpose of affixing the same, in either case without the consent of the owner or lawful agent of the owner of such property shall, on complaint of such owner or his tenant, be punished by a fine of not more than \$100.

R.S.1954, c. 50, § 47.

§ 2493. Lines along railroad; application to Public Utilities Commission where disagreement

Any company, person or association mentioned in section 2492 may construct a line upon or along any railroad by the written permit of the person or corporation operating such railroad, but in case such company cannot agree with the parties operating such railroad, as to constructing lines along the same or as to the manner in which lines may be constructed upon, along or across the same, either party may apply to the Public Utilities Commission, who, after notice to those interested, shall hear and determine the matter and make their award in relation thereto, which shall be binding upon the parties. The expenses of the hearing shall be paid by the company, person or association seeking to construct lines on the railroad, except that if the Public Utilities Commission shall find that parties operating the railroad have unreasonably refused their consent, said parties shall pay the expenses.

R.S.1954, c. 50, § 48.