

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

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Legislative Document

No. 1175

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S. P. 432

In Senate, February 7, 1963

Referred to Committee on Public Utilities. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Campbell of Kennebec.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-THREE

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AN ACT to Clarify Granting of Water Pipe Location Permits.

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Be it enacted by the People of the State of Maine, as follows:

**R. S., c. 50, § 13, amended.** Section 13 of chapter 50 of the Revised Statutes is amended to read as follows:

**Sec. 13. Water companies may lay pipes.** 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 services, subject, ~~however~~ to the conditions and under the restrictions provided in this chapter. **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 also obtain 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 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 hereinbefore 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 hereinbefore 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 permit shall specify the type and approximate location of hydrants, pipes and appurtenances and the minimum depth of pipes, and the 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 permit shall constitute compliance by such utility with the requirements of the first clause of section 25 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 chapter 96, section 89, 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 permit, in which case 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 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 permit as additional evidence of the legality of the facilities so relocated.

No new permit is required for additions to a water utility plant made within the terms of an existing 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 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 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 chapter 89, sections 59 to 62, 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 and to the clerk of the city or town, who shall forthwith record it.'