**NORTH LANARKSHIRE COUNCIL – ENVIRONMENTAL ASSETS**

**ROADS (SCOTLAND) ACT 1984, SECTION 56**

**APPLICATION TO EXCAVATE WORKS IN A PUBLIC ROAD (ROAD OPENING)**

|  |  |
| --- | --- |
| NAME |  |
| ADDRESS |  |
| TOWN |  |
| POST CODE |  |
| TELEPHONE NO. |  |

|  |
| --- |
| I/ We apply for consent to open(Add Name of road) |
| LOCATION OF WORK |
| NATURE OF THE WORK TO BE UNDERTAKEN |
| PLANNED DATE OF WORKS  FROM  TO |
| TRAFFIC MANAGEMENT REQUIREMENTS:  Portable Traffic Lights   Give and Take Traffic Control   Road Closure   No Obstruction on Carriageway or Footway  |

Once approved dates cannot be changed and a new permit application/fee will be required.

I / We undertake to i) Comply with the conditions and specification made by North Lanarkshire Council

ii) Maintain the reinstatement in good condition during the maintenance period of 12 months from the date of completion of the works is notified to the office issuing this permit.

iii) Relieve North Lanarkshire Council of all liability for any loss, injury or damage to my / our operations, either during the opening or during the period of maintenance.

Signature Date

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Please check the following prior to submission | |  |  | |
| Appropriate Current Public Liability | Yes |  | No |  |
| Location Plan Enclosed | Yes |  | No |  |
| All fields complete | Yes |  | No |  |

**Completed Form and supporting documents should be returned to:-**

North Lanarkshire Council, Environmental Assets, Roads and Land Maintenance, Civic Centre, Windmillhill Street, Motherwell, ML1 1AB or Roads-Support@northlan.gov.uk

**Guidance Notes on Road Opening Permit Application for Applicants**

These guidance notes are to be used in conjunction with the application for a Road Opening Permit.

* Under Section 56 of the Roads (Scotland) Act 1984, any person, other than a Roads Authority or body covered by the New Roads & Street Works Act 1991, must, before commencing works on a Public Road, obtain the consent of the road’s authority. It should be noted that the term “Road” encompasses the carriageway, footway or verges of any road and includes public footpaths and cycle tracks.
* It should be noted that it is an offence to carry out any works within a public road without permission, and that North Lanarkshire Council is empowered, where no permission exists, to remove or fill in any works executed or excavations made, and recover such expenses as are reasonably incurred in so doing from the person responsible.
* The applicant should contact all Statutory Undertakers for details of their apparatus before any excavations are carried out. Guidance should also be sought from North Lanarkshire Council on the location of street lighting or traffic signal ducts.
* This permission if granted does not carry with it any right to interfere with any apparatus in or above the street or pavement, and consequently before the commencement of work, the position of any such apparatus should be determined by contacting 'Dial Before You Dig' on 08000 231 251.
* No openings shall be permitted on bridges nor shall any tunnelling be allowed unless special detailed application is made and approved.
* It should be noted that a Minor Roadworks Consent from this Service only signifies the Roads Authority’s approval and does not exempt the applicant from obtaining any other permissions which may be required; e.g. under the Town and Country Planning (Scotland) Acts.
* The applicant shall indemnify the Roads Authority from and against all actions, claims, demands, costs, charges, damages, losses and expenses of whatever kind or nature which may be brought or made against them or incurred by them in respect of the negligence, omission or default of the holder of the consent or those for whom the holder is responsible arising in respect of any operation authorised by his/her consent unless due to the negligence or other breach of legal duty on the part of the Roads Authority or of any person for whom the Roads Authority is responsible.
* All works must comply with the requirement of the Specification for the Reinstatement of Openings in Roads in accordance with the New Roads and Street Works Act 1991 and related Regulations. Further information and related documents can be found at the website of the Office of the Scottish Road Works Commissioner (<https://roadworks.scot/home>).
* The works shall, where appropriate, be signed in accordance with the Code of Practice - Safety at Street Works and Road Works & Chapter 8 of the Traffic Signs Manual.
* Traffic Management should be one of the following

Portable Traffic Lights

Give and Take Traffic Control

Road Closure

No Obstruction on Carriageway or Footway

* All permanent reinstatements will be subject to a 12-month maintenance period, any defects which occur within the maintenance period shall be rectified at the applicant’s expense.
* The completed application form and the payment must be submitted with a copy of a large scale plan which is not less than 1:1250 to North Lanarkshire Council, Environmental Assets, Civic Centre, Windmillhill Street, Motherwell ML1 1AB. If you are submitting the form by e-mail, please send your application to [roads-support@northlan.gov.uk](mailto:roads-support@northlan.gov.uk) and ensure that you attach an electronic copy of the location plan to your e-mail. The completed application form together with the payment must be submitted at least 20 working days in advance of the required start date (one month notice is required in traffic sensitive situations as per the Transport (Scotland) Act 2005) in order to ensure that you have obtained the necessary permissions prior to the Road being occupied. If the traffic management is a road closure then a minimum 12 weeks notice is required. Please note that approval will not be given for the requested date if there is a potential conflict with another proposed works within the same location.
* A minimum 28 days notice is required for other traffic management works.
* Incomplete forms or missing documentation will result in delays processing your application.
* Charges are based on a 7 day period with subsequent charges for each 7 day period thereafter. Once approved, dates cannot be changed and a new permit application with the required fee must be submitted. Please note that where an extension is required when works extend beyond the agreed period as stated on the Permit, a new application must be submitted with the payment of a new charge.
* The fees charged for a Road Opening Permit are published on the Council website at:

[https://www.northlanarkshire.gov.uk/permit and service charges](https://www.northlanarkshire.gov.uk/roads-streetlighting-and-parking/permit-and-service-charges)

**CONDITIONS FOR ROAD OPENING (SECTION 56 OF ROADS SCOTLAND ACT)**

**STANDARD CONDITIONS**

1. The applicant must have signed and accepted the terms of the declaration contained within the application form and accepts the terms of the declaration and notes for guidance.
2. The applicant shall indemnify the Roads Authority from and against all actions, claims, demands, costs, charges, damages, losses and expenses of whatever kind or nature which may be brought or made against them or incurred by them in respect of the negligence, omission or default of the holder of the consent or those for whom the holder is responsible arising in respect of any operation authorised by his/her consent unless due to the negligence or other breach of legal duty on the part of the Roads Authority or of any person for whom the Roads Authority is responsible.
3. Consent can be withdrawn by the Roads Authority.
4. Work shall not commence until the commencement date agreed with the Roads Authority, and not before the applicant has advised the Roads Authority of his/her intention to commence. The Roads Authority must be advised of any alterations to the commencement date at least 10 days, (excluding public holidays) before the revised start date.
5. Permission under the Act does not extend to other ancillary activities such as depositing a skip or erecting a scaffold etc. Further advice and permissions must be sought from the Roads Authority.
6. Permission under the Act does not exempt the applicant from obtaining any other permissions which may be required e.g. planning permission, permission to connect to sewerage, drainage/water supplies etc.
7. It is essential that as part of any application, you discuss with the Roads Authority any requirement for a temporary Notice/Order to close or restrict traffic in a road (at least 12 weeks for a Road Closure Order before commencement of the works). A separate formal application will be required.
8. It is essential that as part of the application, you identify any temporary restrictions to traffic by means of portable traffic signals. Separate formal application is required from the Roads Authority, and a fee may be payable.
9. Works shall be carried out in accordance with the New Roads and Street Works Act 1991, related regulations, and the following (where applicable) including amendments.

* Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and related matters.
* Measures necessary where apparatus is affected by major works (Diversionary Works) - a Code of Practice.
* Specification for the Reinstatement of Openings in Highways - a Code of Practice.
* Code of Practice for Inspections.
* Safety at Street Works and Road Works - a Code of Practice. Chapter 8 of the Traffic Signs Manual.
* Any other Act, Regulation or Code of Practice, which is introduced by reference in any of the above (where applicable).

Under the terms of Section 7.4.6 of the "Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters", the Roads Authority should ensure the applicant is made aware of his/her obligations under the Roads (Scotland) Act 1984. For this reason, the applicant’s attention is especially drawn to the following requirements which form part of these conditions and which are embodied in the Act, Regulations or Codes of Practice. (Note - this is not an exhaustive list of the applicant’s obligations under the Act but only those, which the above Code of Practice suggests, should be drawn to the attention of the applicant).

9 (a) **Safety, Signing, Lighting and Guarding**

Under the terms of Roads (Scotland) Act 1984, the applicant must ensure that all excavations or obstructions in the road are adequately guarded and lit and that such traffic signs are placed, maintained, and where necessary operated, as are reasonably required for the guidance or direction of road users in accordance with the Roads (Scotland) Act 1984 (duty to have regard to the needs of people with a disability). Failure to comply is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

If the applicant fails to comply with these requirements, the Roads Authority may take any steps as necessary and recover reasonable costs from the applicant as necessary.

Legal requirements in relation to Safety, Signing, Lighting and Guarding are contained in "Safety at Street Works and Road Works - a Code of Practice".

9 (b) **Qualifications of Operatives and Supervisors**

Under the terms of Roads (Scotland) Act 1984, the applicant must ensure, except as otherwise prescribed, that works involving excavation in, or boring under, a road are supervised by a person having a prescribed qualification as a supervisor, and that there is on site at all times, when the works are in progress, at least one person having a prescribed qualification as a trained operative.

9 (c) **Delays and Obstructions**

Under the terms of Roads (Scotland) Act 1984, the applicant must ensure that all works involving excavation in, or boring under, a road are completed with all such dispatch as is reasonably practicable. Failure to do so is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Where the applicant creates an obstruction in a road to a greater extent or for a longer period than is reasonably necessary, the Roads Authority may by notice require them to mitigate or remove the obstruction. If the applicant fails to comply with such a notice within 24 hours of receiving it, or such longer period as the Roads Authority may specify, the Roads Authority may take reasonable steps to mitigate or remove the obstruction and recover the costs from the applicant.

9 (d) **Undertaker's Apparatus which might be affected**

Under the terms of Roads (Scotland) Act 1984, the applicant must take all reasonably practicable steps to give any undertaker, who may have apparatus in the road likely to be affected by the road works, reasonable facility for monitoring the execution of the works and the applicant must comply with any requirement made by the undertaker which is necessary for protecting or securing the apparatus. Failure to comply is an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Applicants must, therefore, take all reasonable steps to establish if apparatus will be affected by the road works and where such apparatus is likely to be positioned in the road. Further advice regarding this is contained in the letter of acknowledgement of receipt of application.

9 (e) **Reinstatement**

Under the terms of Roads (Scotland) Act 1984, the applicant must begin the reinstatement with all dispatch. Before the end of the next working day after the day on which the reinstatement is completed (whether interim or permanent) the applicant must inform the Roads Authority on the form provided within one day of making the reinstatement. Any interim reinstatement must be made permanent as soon as reasonably practicable and in any event within 6 months from the date on which it was completed. Failure to comply is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Under the terms of Roads (Scotland) Act 1984, the applicant must comply with the specification of materials to be used and the standards of workmanship to be observed. The applicant will be responsible for maintaining the reinstatement, whether interim or permanent. The guarantee period for the permanent reinstatement will normally be 2 years for openings less than 1.5m deep and normally 3 years for openings greater than 1.5m deep. Failure to comply is an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Under the terms of Roads (Scotland) Act 1984, the Roads Authority may carry out such Investigatory works as appear to be necessary to ascertain whether an applicant has complied with their duties. If such a failure is disclosed, the applicant shall bear the cost of the Investigatory works, if no failure is disclosed the Roads Authority shall bear the cost of the investigatory works. Where the applicant has failed to comply with their duties in relation to reinstatement, they shall bear the cost of

a) a joint inspection to determine the nature of the failure and what remedial work is required

b) an inspection by the Roads Authority of the remedial work in progress

c) an inspection by the Roads Authority when remedial works have been completed

Where the applicant has failed to comply with their duties under the Act, the Roads Authority may serve Notice requiring remedial works to be undertaken within such a reasonable period as may be specified in the Notice. If the applicant fails to comply with the Notice, the Roads Authority may carry out the necessary work and recover costs from the applicant. If it appears to the Roads Authority that the reinstatement is causing a danger to road users and the applicant, agent, or contractor cannot be contacted or fails to offset the danger immediately, then the Authority may carry out works without notice to the applicant and may recover costs from the applicant.

9(f) **Certificate of Reinstatement**

The completed certificate of reinstatement must be returned to [roads-support@northlan.gov.uk](mailto:roads-support@northlan.gov.uk) within 5 working days of completion.

9 (g) **The Needs of People with Disabilities**

The applicant must bear in mind the special needs of people with disabilities when undertaking the works in relation to safe passage/access. Special precautions are required to cater for people with impaired vision or mobility. Legal requirements can be found in "Safety at Street Works and Road Works - a Code of Practice" and in Chapter 8 of the Traffic Signs Manual.

10. Work shall be in accordance with all documents submitted with the application and as subsequently agreed with the Roads Authority.

11. No existing apparatus e.g. culverts, pipes, drains, ducts, cables, roadside ditches, road gullies, manholes, catch pits or other chambers or other property shall be altered without the consent of the proprietor or authority concerned.

12. In no case shall surface boxes, chambers or other fittings be placed within the road pavement layers, footway construction layers or roadside verge without the consent of the Roads Authority.