L.N. 313 of 2002

CODE OF POLICE LAWS
(CAP. 10)

LOCAL COUNCILS ACT
(CAP. 363)

TRADING LICENCES ACT, 2001
(ACT No. XXVII of 2001)

Trenching Works Requiring Permit by Local Councils Regulations, 2002

IN EXERCISE of the powers conferred by article 29 of the Code of Police Laws and by article 33(1)(m) of the Local Councils Act, and by article 27(1) of the Trading Licences Act, 2001, the Minister for Transport and Communications, in concurrence with the Minister for Justice and Local Councils and the Minister for Economic Services and with the concurrence of the Minister of Finance, has made the following regulations:

Citation and commencement.

1. (1) The title of these regulations is Trenching Works Requiring Permit by Local Councils Regulations, 2002.

(2) These regulations shall come into force on the 1st August, 2002.

Definitions.

2. In these regulations, unless the context otherwise requires:-

"Act" means the Local Councils Act;

"applicant" means a person who applies for a permit and includes any person registered with the Authority, who acts on behalf of a contractor who is also registered with the Authority;

"application" means any application made by an applicant for authorisation in accordance with these regulations;

"Authority" means the Malta Transport Authority;

"contractor" includes any person, association or body of persons registered with the Malta Transport Authority to construct trenching works;

"licence" shall have the same meaning as assigned to it by article 25 of the Code of Police Laws;

"Local Council" shall have the same meaning as assigned to it by the Local Councils Act;

"locality" shall have the same meaning as assigned to it by the Act and includes any arterial or distributor road or any other area within the boundaries of such locality, which under the provisions of the said Act are excluded from the responsibility of a Local Council;

"permit" shall have the same meaning as assigned to it by article 29 of the Code of Police Laws; Cap. 10.

"relative fee" means the fee that shall be paid for such authorisation, permit or licence according to Schedule C to these regulations;

"street" means any street, road or railway and includes any "arterial road" or "distributor road" as defined in the Structure Plan approved in accordance with the provisions of the Development Planning Act, and includes, in relation to any such road - Cap. 356.

(a) any street or arterial or distributor road which has already been built or which is in the planning or the construction stage;

(b) the carriageway thereof as well as any border or other public open space adjacent and ancillary thereto, including side margins, central strips, roundabouts, traffic islands, footways and pavements;

(c) the foundations, sub-surfaces and surface dressing thereof;

(d) sub-ways, overpasses, junctions and intersections, whether multi-level or otherwise;

(e) road drainage works and access thereto;

(f) trenches and trenching works for utilities;

(g) ducting, conducting and the like for the distribution of utilities or the provision of services, including works

connected therewith or ancillary thereto and manholes or other means of access to such utilities or works;

Works during trenching.

3. (1) During trenching construction no person shall without a licence from the Local Council, construct any work or make any thing in any street, which may cause obstruction or create danger or inconvenience to the public or, in spite of an intimation by the Police or by a local warden, leave any building or work which is ruinous or dangerous to persons or to the property of others.

(2) No person shall for any reason break up or open the footway or surface of any street without the required permit or in a manner different from that stated on such permit.

Application for licence.

4. (1) Application for licence under subregulation (1) and application for permit under subregulation (2) of regulation 3 shall be submitted to the Malta Transport Authority.

(2) Every application must be completed on the prescribed form in Schedule D to these regulations and shall be submitted to the Local Council where the works are to be carried out or to the Malta Transport Authority:

Provided that, after the normal office hours of the Local Councils administrative offices, a person shall be deemed to hold a permit from the Local Council if in case of emergency the person has already obtained a permit from the Malta Transport Authority and notified the Warden Agency before commencement of works, until such time as the Local Council administrative offices remain closed.

Documents required.

5. Applicant shall together with his application also submit:

(a) a site plan of the location where works are to be carried out;

(b) a certificate from a civil engineer indicating the proposed work and the machinery intended to be used.

Processing the application.

6. When a Local Council receives an application, the Local Council shall, within 48 hours from the receipt of the application, forward such application to the Authority which shall process the application and notify back its decision to the Local Council and, in any case, any condition deemed fit to be imposed by the said Authority.

General conditions.

7. Unless otherwise specifically provided in these regulations, the general conditions shown in Schedule B to these regulations shall apply for any licence, permit or authorisation issued under these regulations.

Specific conditions for each case.

8. (1) The Local Council may together with the conditions imposed by the Authority, make other conditions as it deems fit.

Provided that the Local Council shall issue the licence subject to the conditions in subregulation (2)

(2) The contractor shall ensure that:

(a) sufficient light is placed on site by sunset;

(b) all necessary signs and markings are put in place so as to avoid any danger ;

(c) all material caused during construction works is removed in a place intended for such purpose;

(d) no machinery is left idle in place where construction is being carried out in such a manner as to cause obstruction to the traffic;

(e) in the case of damage caused to burried structures or any other property, the contractor who is carrying out works shall immediately and at his own expense make all the necessary repairs;

(f) on completion of the work the contractor is obliged to re-instate the road surface as requested by the Authority;

(g) failing to do so and in the case that such re-instatement is delayed by more than three days, the Local Council shall have the right to carry out the re-instatement at the expense of the contractor;

(h) the expenses incurred as discribed in paragraph (g) may be re-imbursed from the bank guarantee the contractor has in favour of the Authority;

(i) when requested by the Local Council and together with the fees payable as established in Schedule C to these regulations, applicant shall pay for the services of a local warden to control the traffic. The fees payable shall be those established in Schedule A to these regulations.

9. (1) Upon receipt of the Authority's decision, the Local Council, in the case of affirmation, shall by not later than 24 hours inform applicant to collect the licence on the prescribed form in Schedule D to these regulations. Authority's decision.

(2) In the case that the authorisation is refused by the Local Council, the Local Council shall give the reasons for its refusal in writing.

10. The Local Council shall issue its authorisation after the issue of the permit by the Authority and in all cases the authorisation shall not be granted later than two working days. Authorisation by Council.

11. (1) The Local Council, after consultation with the Authority, shall have the right to renew the permit that has already been issued for a longer period after another application for such purpose has been submitted. Renewal of permits.

(2) In such a case, if the renewal is requested for the same works the conditions attached to the original permit shall apply:

Provided that, if an extension of the application is being requested for work in progress, in such case, the Local Council shall have the right to make new conditions.

12. In any case where applicant feels aggrieved by a decision made by the Local Council, an applicant may appeal according to the procedures established in article 26 of the Act and, in such case, the appeals procedure as established in the Trading Licences Regulations, 2002, shall apply for all appeals that are made under this regulation. Right of appeal.

13. (1) Any person who without the permit of the Local Council constructs any work or make any thing in any street which may cause obstruction or create danger or inconvenience to the public, or, in spite of an intimation by the Police, or by a local warden, leave any building or work which is ruinous or dangerous to persons or to the property of others, shall, on conviction, be liable, to a fine (*ammenda*) of Lm50 and also to another fine (*ammenda*) of Lm2 for each day the offence continues. Penalties.

(2) Any person who causes whatsoever the breaking up or opening of a footway or surface of any street without the required permits or is in breach of any of the conditions of the permit shall, on conviction, be liable to a fine (*ammenda*) of Lm50.

(3) Any person who fails to:

(i) put sufficient light where works are being carried out, after sunset;

(ii) place traffic signs as necessary so as to avoid any danger;

(iii) remove any material caused during construction and dispose of it in a place intended for such purpose;

(iv) remove machinery which is not in use on the site in such a manner that such machinery causes obstruction to the traffic, shall, on conviction, be liable to a fine (*ammenda*) of Lm10 for each contravention.

SCHEDULE A

(Regulation 7)

Fees leviable for the services of a Local Warden in the locality

Field Officer ..... Lm3.80 per hour

Local Warden ..... Lm3.40 per hour

These rates shall apply for every hour or part thereof, and the minimum rate payable shall be that for two hours

SCHEDULE B

(Regulation 3)

General conditions that shall apply for every licence, permit or authorisation to be issued from the Local Council

1. For a licence, permit or authorisation to be issued from the Local Council to any person, an application shall be submitted to the Local Council where the activity is to be held, on the prescribed form and this form shall reach the Local Council at least forty-eight hours prior to the activity, during office hours and office days.

2. The applicant shall pay the fees due as stipulated in Schedule C to these regulations.

3. If the authorisation is not granted, the fees paid shall be refunded to applicant:

Provided that the fee shall not be refunded if applicant cancels the application or if the application is revoked by the Local Council or any other authority due to a breach of any of the conditions.

4. Every licence, permit or authorisation issued by the Local Council is not transferable.

5. An applicant who is granted a licence, permit or authorisation from the Local Council shall be present at all times during the activity for which a licence, permit or authorisation have been issued, and shall be personally responsible for any breach of conditions of the aforementioned licence, permit or authorisation even if such breach is committed by his dependent or any such other person acting as substitute.

6. In case the activity shall have effect on the traffic flow, applicant shall provide the Local Council with all the details regarding the traffic signs related to any obstacle that drivers may encounter and also the direction and information to follow. If in the opinion of the Local Council, a local warden must be present during the activity, applicant shall also pay, together with the fees established in Schedule C, a fee as established in Schedule A to these regulations.

SCHEDULE C

(Regulation 2)

Fees leviable for permits in accordance with these regulations

For the opening or breaking up of footway or surface of any street Lm1

For the renewal of the same permit Lm1

SCHEDULE D

(Regulation 4(2))

LOCAL COUNCILS (Coat-of-Arms)

APPLICATION FOR TRENCHING WORKS

Details of applicant: Date: _____

Name and Surname: _____

Address: _____

I.D. Card No: _____ VAT Reg No (if applicable) _____

Site plan of the site where trenching works are to be carried out

Certificate from a civil engineer showing details of the works proposed and the machinery to be used

Details of site where trenching works are proposed

Address: _____

Period: from _____ to: _____

_____
Signature of Applicant

FOR OFFICIAL USE

Date and time when application is received: _____ Registration No: _____

Fee paid: _____ Receipt No: _____

Documents: site plan of the location where trenching works are to be carried out YES / NO

Certificate from Civil Engineer YES / NO

Traffic scheme - list of traffic signs/markings to be used YES / NO

Special conditions by Council: _____

Permit No: _____ Valid from: _____ to _____

Office Rubber Stamp:

_____
Executive Secretary signature

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