Commonwealth of Virginia
Department of Transportation
12/2010

LUP-SP
LAND USE PERMIT
Special Provisions

NOTICE OF PERMITTEE LIABILITY
Permittee Agreement for Land Use Permit Issuance

I the undersigned hereby acknowledge that I am fully cognizant of all of the following requirements associated with the issuance of a VDOT Land Use Permit:

Applicant Name: _____

Applicant Signature: _____

Project Name: _____

Route Number: _____ **County:** _____

Any of the following provisions that may apply, shall apply:

1. Permittee acceptance and use of a ***Virginia Department of Transportation*** (VDOT) Land Use Permit is prima facie evidence that the permittee has read and is fully cognizant of all required permit provisions, applicable traffic control plans and associated construction standards to be employed. **ALL** applicants to whom permits are issued shall at all times indemnify and save harmless the ***Commonwealth Transportation Board***, members of the ***Board***, the ***Commonwealth***, and all ***Commonwealth*** employees, agents, and officers, from responsibility, damage, or liability arising from the exercise of the privileges granted in such permit to the extent allowed by law.

2. The permittee agrees to secure and carry insurance against liability for personal injury and property damage that may arise from the work performed under permit and/or from the operation of permitted activity-up to one million dollars ($ 1,000,000) each occurrence to protect the ***Board*** members and the Department's agents or employees; seventy-five thousand dollars ($75,000) each occurrence to protect the ***Board***, the ***Department***, or the ***Commonwealth*** in event of suit.

3. The permittee assumes full responsibility for any and all (downstream flooding, erosion, siltation, etc.) damages that may occur as a result of the work performed under this permit. Furthermore, the ***Department*** will in no way be responsible for any damage to the facility being placed as a result of future maintenance or construction activities performed by the ***Department***.

4. The permittee agrees to move, remove, alter, or change any installation that interferes with the ultimate construction of the highway in alignment or grade at **NO** cost to the ***Department*** unless otherwise stipulated and agreed to by the ***Department***.

5. The permittee shall immediately correct any situation that may arise as a result of these activities that the district administrator's designee deems hazardous to the traveling public.

6. Any and all highway signs, right-of-way markers, etc., disturbed as a result of work performed under this permit shall be accurately reset by the permittee immediately following the work in the vicinity of the disturbed facility. The services of a certified land surveyor with experience in route surveying may be required.

7. It shall be the permittee's responsibility to obtain **ANY** and **ALL** necessary permits that may be required by any other government agencies, i.e., ***U.S. Army Corp. of Engineers, Department of Environmental Quality, Department of Conservation and Recreation,*** etc.

8. A copy of the VDOT Land Use Permit shall be maintained at the work site at all times.

9. The permittee shall notify the **local** VDOT district permit office at least **48 hours** prior to commencement of **ANY** work requiring inspection and/or testing as stipulated in VDOT's Road and Bridge Standards (current edition) and VDOT's Road and Bridge Specifications (current edition). Failure to carry out this requirement may result in permit revocation.

10. The permittee is required to notify the **local** VDOT district permit office, and the Regional Traffic Engineering Section when planned excavation is within 1,000 feet of a signalized intersection. Failure to carry out this requirement may result in permit revocation.

11. The permittee shall to notify ***"Miss Utility"*** (or each operator of an underground utility where no notification center exists) of **ANY** planned excavation within state maintained right-of-way. This notification must be provided at least **48 hours** (excluding weekends and holidays) in advance of commencing with **ANY** planned excavation within state maintained right-of-way. Failure to carry out this requirement may result in permit revocation.

12. It is the duty of the district administrator's designee to keep all roads maintained in a safe and travelable condition at **ALL** times. Therefore, any permit may be **denied**, **revoked** or **suspended** when in the opinion of the district administrator's designee, the safety, use or maintenance of the highway so requires.

13. The permittee shall at **ALL** times give strict attention to the safety and rights of the traveling public, their employees and themselves. VDOT **reserves the right to stop work at anytime** due to safety problems and/or non-compliance with the terms of the permit. The ***Department*** may, at its discretion, complete any of the work covered in the permit or restore the right-of-way to the Department's standards and bill the permittee for the actual cost of such work. The permittee may be required to move, alter, change or remove from state maintained right-of-way, in a satisfactory manner, any installation made under this permit.

14. **ALL** work authorized under the auspices of a VDOT land use permit shall be subject to VDOT's direction and be in accordance with VDOT's ***Road and Bridge Standards*** (current edition) and VDOT's ***Road and Bridge Specifications*** (current edition).

15. Design changes, specified material changes and/or field changes from the approved plans shall be submitted to the appropriate district administrator's designee for review and approval prior to proceeding with the proposed changes. This submittal shall include written justification, supplemental documentation and/or engineering calculations that support the requested changes.

16. The permittee shall meet or exceed the existing pavement design and typical section when constructing pavement widening adjacent to an existing state maintained roadway. The proposed pavement design and typical section shall be approved by the district administrator's designee prior to commencing with any work within state maintained right-of-way. **ALL** pavement widening shall be in accordance with ***VDOT Road and Bridge Standard 303.02***.

Traffic Control and Safety

17. In accordance with the Virginia Department of Transportation (VDOT) Road and Bridge Specification, Special Provision 105.14, beginning July 1, 2009, all activities performed under the auspices of a VDOT Land Use Permit involving the installation, maintenance and removal of work zone traffic control devices must have at least one (1) person on-site who, at a minimum, is verified by VDOT in Basic Work Zone Traffic Control. A person verified by VDOT in Intermediate Work Zone Traffic Control must be on-site to provide supervision during work zone adjustments or changes to traffic control due to field conditions. These persons must have their verification card with them while on the work site. The permittee shall be exempt from this requirement if the permitted activity does not involve the installation, maintenance and removal of work zone traffic control devices.

18. Traffic shall **NOT** be blocked or re-routed (detoured) without **written** permission from the district administrator's designee.

19. During construction, the permittee shall furnish **ALL** necessary signs, flag persons and other devices (lights, barricades, etc.) providing protection for traffic and workers in accordance with the ***Virginia Work Area Protection Manual*** or as directed by the district administrator's designee.

20. **ALL** signs shall be in accordance with the current edition of the ***Manual of Uniform Traffic Control Devices*** (MUTCD).

21. Trained, certified flag persons shall be provided in sufficient number and locations as necessary for control and protection of vehicular and pedestrian traffic in accordance with the MUTCD. The flag person shall carry their certification card while performing flagging duties within state maintained right-of-way. Any flag person found not in possession of his/her certification card shall be removed from the flagging site and the district administrator's designee will suspend all permitted activities requiring flag persons. Furthermore, flag persons performing duties improperly shall have their certification **revoked**.

Authorized Hours and Days of Work

22. Normal hours for work under the authority of a permit single use or district-wide are from 9:00 a.m. to 3:30 p.m. for all highways classified as arterial or collector. All highways classified as local roads will have unrestricted work hours and days.

    The classifications for all state maintained highways can be found at the following link: **http://www.virginiadot.org/projects/fxn_class/maps.asp**

23. Permitted non-emergency work will not be allowed on arterial and collector highway classifications from noon on the preceding weekday through the following state observed holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. If the observed holiday falls on a Monday, the permit will not be valid from noon on the preceding Friday through noon on Tuesday.

24. The district administrator's designee may establish alternate time restrictions in normal working hours for single use permits.

25. The central office permit manager may establish alternate time restrictions in normal working hours for district-wide permits.

Emergency Repair

26. In the event of an emergency situation that requires immediate action to protect persons or property, work may proceed within the right-of-way without authorization from the district administrator's designee; however, the permittee must contact the VDOT Emergency Operations Center as soon as reasonably possible but no later than 48 hours after the end of the emergency situation.

27. The permittee must apply for an after-the fact emergency repair permit single use permit at the local VDOT permit office when the following actions are proposed:

    - Stopping or impeding highway travel in excess of 15 minutes, or,
    - Accessing facilities within limited access right-of-way, or,
    - Cutting the highway pavement or shoulders.

    The district administrator's designee shall determine the applicable permit fee and surety for emergency repair permits.

Excavation

28. All excavation within state maintained rights-of-way shall comply with OSHA Technical Manual, Chapter 2, Title Excavation: Hazard Recognition in Trenching and Shoring. A professional engineer shall certify all shoring and/or trench boxes.

29. No excavated material is to be placed or tracked on the pavement without **written** permission from the District Administrator's designee. When so authorized, the pavement shall be satisfactorily cleaned by a VDOT approved method. No cleated (track-mounted) equipment is to be used on the pavement without properly protecting the pavement from damage.

Inspection and Restoration

30. Inspection and testing of all backfill and pavement sections shall be performed in accordance with all applicable sections of VDOT's ***Road and Bridge Specifications*** (current edition).

31. If during or before construction it is deemed necessary for the **local** VDOT district permit office to assign an inspector to the project, the permittee shall pay the ***Department*** an additional inspection fee in an amount that will cover the salary, expense allowance, and mileage allowance for the inspection(s) assigned by the ***Department*** for handling work covered by this permit. Said inspection fee shall be paid promptly each month on invoices rendered by the ***Department***.

32. It shall be the decision of the district administrator's designee whether to assign an inspector to monitor the placement of all backfill and pavement restoration activities.

33. The absence of a VDOT inspector does **NOT** in any way relieve the permittee of their responsibility to perform the work in accordance with the approved plans, provisions of the attached permit, VDOT's ***Road and Bridge Standards*** (current edition) and VDOT's ***Road and Bridge Specifications*** (current edition).

34. The permittee shall be responsible for any settlement of all backfill or pavement restoration necessitated by authorized excavation activities for a period of two (2) years after the completion date of permit, and for the continuing maintenance of the facilities placed within the highway right-of-way. A one (1) year restoration warranty period may be considered, provided the permittee adheres to the following criteria:
    - The permittee retains the services of a professional engineer (or certified technician under the direction of the professional engineer) to observe the placement of all backfill and pavement restoration.
    - The professional engineer (or certified technician under the direction of the professional engineer) performs any required inspection and testing in accordance with all applicable sections of VDOT's Road and Bridge Specifications (see 24VAC30-151-760).
    - The professional engineer submits all testing reports for review and approval, and provides written certification that all restoration procedures have been completed in accordance with all applicable sections of VDOT's Road and Bridge Specifications prior to completion of the work authorized by the permit.

34. The excavated area to be backfilled shall be made as dry as practicable at the time of backfill placement by implementation of a VDOT approved dewatering method.

35. The edges of all authorized pavement cuts shall be trimmed to neat straight lines and a tack coat shall be applied in accordance with current VDOT's Road and Bridge Specifications.

36. Daily trench excavation within pavement sections shall not exceed 500 feet in length and the trench shall be temporarily backfilled flush with the adjacent pavement surface with Type I, Size 21A or 21B aggregate until permanent pavement restoration. If the application of the bituminous courses is delayed due to adverse weather conditions, the contractor shall backfill the trench with a bituminous asphalt base course (BM 25.0) that is acceptable to VDOT until such time as installation of the underground facility is completed and the appropriate pavement restoration can occur.

37. Whenever existing pavement is permitted to be cut, not over one-half of the roadway width shall be disturbed at one time and the first open cut trench section shall be satisfactorily restored to allow for the passage of traffic prior to the second half of the roadway surface can be disturbed.

38. The surface pavement restoration shall extend a minimum of 25' on each side of the trench centerline for open cuts perpendicular to the roadway alignment (See LUP-OCPR for details). The extent of pavement restoration for all other pavement cuts shall be determined by the district administrator's designee.

39. The contractor shall complete all pavement restoration within 10 calendar days of completion of installation of the underground facility.

40. **ALL** crossing of existing pavement shall be bored, pushed or jacked an appropriate distance from the edge-of-pavement so as not to impede the normal flow of traffic or damage the existing pavement section. Existing pavement shall **NOT** be cut unless approved by the district administrator's designee and then only if justifiable circumstances prevail or proof is shown that a thorough attempt has been made to push, bore or jack.

41. Where the pavement is disturbed or deemed weakened in its entirety or such portions as deemed desirable by the Department, the pavement shall be restored or replaced in a manner that is satisfactory to the district administrator's designee.

Environmental

42. In accordance with the Virginia Department of Transportation (VDOT) Road and Bridge Specification § 107.14 (a), Special Provision 107D, all contractors performing regulated land disturbing activities within VDOT right-of-way must have at least one (1) employee that has successfully completed the VDOT Erosion & Sediment Control Contractor Certification training. This person shall be on site during all land disturbance activities and will be responsible for insuring compliance with all applicable local, state and federal erosion and sediment control regulations during land disturbance activities. This person must have their certification card with them while on the project site. The land use permit will be suspended if proof of certification cannot be provided. Regulated land disturbing activities are defined as those activities that disturb 2,500 square feet or greater in Tidewater, Virginia (as defined in § 10.1-2101 of the Code of Virginia) or 10,000 square feet or greater in all other areas of the State. The Department will require evidence of this certification with any Land Use Permit application that involves utility and/or commercial right of way improvement. Improper installation, maintenance and removal of erosion and sediment control devices may result in revocation of VDOT Erosion & Sediment Control Contractor Certification.

43. The permittee is responsible for pursuing and obtaining any and all environmental permits which may be required to pursue the proposed activity prior to any work beginning within state maintained right-of-way.

44. In the event hazardous materials or underground storage tanks are encountered within state maintained right-of-way during authorized activities, the permittee shall suspend all work immediately then notify the **local** VDOT district permit office and other responsible parties, i.e., the local fire department, emergency services, ***Department of Environmental Quality***, etc. The permittee is responsible for coordination and completion of all required remediation necessary to complete the permitted activities within the state maintained right-of-way. The permittee shall provide evidence of such compliance to the **local** VDOT Residency Office or Permit Office prior to recommencement of permitted activities.

45. In the event cultural resources, archaeological, paleontological, and/or rare minerals are encountered within the right of way during authorized activities, the permittee shall suspend all work immediately then notify the **local** VDOT district permit office and the proper state authority charged with the responsibility for investigation and evaluation of such finds. The permittee will meet all necessary requirements for resolving any conflicts prior to continuing with the proposed activities within the state maintained right-of-way, and shall provide evidence of such compliance to the **local** VDOT district permit office.

46. Roadway drainage shall **NOT** be blocked or diverted. The shoulders, ditches, roadside, drainage facilities and pavement shall be kept in an operable condition satisfactory to the Department. Necessary precautions shall be taken by the permittee to insure against siltation of adjacent properties, streams, etc., in accordance with VDOT's current standards or as prescribed by the Department's Environmental Manual and the district administrator's designee.

Entrances

47. VDOT's authority to regulate highway entrances is provided in §§ 33.1-197, 33.1-198, and 33.198.1 of the Code of Virginia and its authority to make regulations concerning the use of highways generally is provided in § 33.1-12 (3) of the Code of Virginia. Regulations regarding entrances are set forth in VDOT's regulations promulgated pursuant to § 33.1-198.1 of the Code of Virginia (see 24VAC30-151-760).

48. The permittee shall be responsible for the design and installation of a private entrance under the auspices of a VDOT land use permit however the permittee may request that VDOT forces install the private entrance at the permittee's expense.

49. Street connections, private entrances, and construction entrances shall be kept in satisfactory condition during **ALL** activities authorized under the auspices of a VDOT land use permit. Entrances shall **NOT** be blocked. Ample provisions must be made to provide safe ingress and egress to adjacent properties at **ALL** times. Entrances that are disturbed shall be restored to the satisfaction of the property owner and the district administrator's designee.

Utilities

50. Prior to any excavation, the permittee shall comply with the terms of Title 56, Chapter 10.3 of the ***Underground Utility Damage Prevention Act*** and Section 56-265.14 through 56-265.20 of the ***Code of Virginia***. This permit does **NOT** grant permission to grade on or near property of others, or, adjust or disturb in anyway existing utility poles or underground facilities within the permitted area. Permission to do so must be obtained from the impacted utility company and any expense involved shall be borne by the permittee. **Any conflicts with existing utility facilities must be resolved between the permittee and the utility owner(s) involved**.

51. **ALL** underground utility installations within limited access right-of-way shall have a minimum of 36 inches of cover. **ALL** underground utilities within non-limited access right-of-way will require a minimum of 36 inches of cover, except underground cables that provide telecommunications service shall be at a minimum of 30 inches of cover.

52. Where feasible, all aboveground installations (such as fire hydrants, telephone pedestals, markers, etc.) shall be located adjacent to the outside edge of the right-of-way line and in accordance with minimum clear zone requirements. All manhole covers, valve box, etc., shall be installed two inches below existing ground line and shall conform to existing contours.

53. **NO** poles, guys, anchors, etc., are to be placed on state maintained right-of-way unless authorized under the auspices of a VDOT land use permit. At no time will any such facilities be allowed between the ditch line and the traveled roadway.

54. **ALL** overhead installations crossing non-limited access highways shall provide a minimum of 18 feet of vertical clearance or at a minimum height as established by the National Electric Safety Code, whichever is greater. **ALL** overhead utility installations within limited access right-of-way shall maintain a minimum of 21 feet of vertical clearance. The vertical clearance for **ALL** new overhead parallel installations within non-limited access rights-of-way shall be in compliance with standards as specified in the National Electric Safety Code.

Final Inspection and Completion of Permit

55. Upon completion of the work covered by this permit all disturbed areas outside of the roadway prism shall be restored to their original condition as found prior to starting such work.

56. Completion of this permit is contingent upon the permittee's completion of the authorized work in accordance with the approved plan and compliance with **ALL** governing bodies involved in the total completion of work on state maintained right-of-way.

57. Upon completion of the work under permit, the permittee shall provide notification, documented in writing or electronic communication, to the district administrator's designee requesting final inspection. This request shall include the permit number, county name, route number and name of the party or parties to whom the permit was issued. The district administrator's designee shall promptly schedule an inspection of the work covered under the permit and advise the permittee of any necessary corrections.