



## LAND USE PERMIT

### Frequently Asked Questions

**1. Who needs a land use permit?**

Anyone who plans to work or perform an activity on or crossing any right-of-way under the jurisdiction of VDOT must first obtain a land use permit. A land use permit is also required when modifications are planned for an existing entrance due to change in land use, traffic volume, or type of traffic.

**2. Who can be issued a land use permit?**

Land use permits can be issued to the following applicants:

- a. The owner of a facility within the highway right-of-way.
- b. The property owner for entrance permits and road frontage improvements.
- c. A person, organization, or government, authorized to assume the responsibility and liability for an approved activity within the highway right-of-way.

Land use permits may be issued jointly to the owner of a facility, or adjacent property owner, and his contractor as agent.

**3. Why is a land use permit required?**

A land use permit is a requirement of the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20). It ensures that all work performed in the right-of-way of any highway in the state highway system meets VDOT standards and policies, complies with highway laws and regulations, preserves the integrity and functionality of the highway, and provides for the safety of the traveling public.

**4. What happens if I do not get a land use permit?**

If you do not obtain a land use permit prior to working or performing an activity in the right-of-way, an agent of VDOT will suspend work within the right-of-way, and you will be expected to take the necessary remedial measures to comply with the General Rules and Regulations of the Commonwealth Transportation Board (24 VAC 30-20). Violation of these rules and regulations is a misdemeanor, and if convicted, shall result in punishment as provided in section 33.1-19 in the Code of Virginia. Violators are also civilly liable to the Commonwealth of Virginia for expenses and damages incurred by VDOT.

**5. How much does a land use permit cost?**

A nonrefundable application fee is charged to offset the cost of reviewing and processing the permit application and inspecting the work. The base application fee for a single use permit is \$100. Additive fees are then applied to the base application fee based on the scope of work.

The biennial fee for a district-wide permit for utilities and logging operations is \$750 per district.

The biennial fee for a district-wide permit for surveying is \$200 per district.

**6. Why is a surety required?**

A surety is required by VDOT to guarantee the satisfactory performance of the work. The amount of the surety shall be based on the estimated cost of the work to be performed in the right-of-way or an amount sufficient to restore the right-of-way in the event the permittee fails to satisfactorily complete the work permitted. The surety will be refunded upon completion of the work and inspection by VDOT.

**7. Where do you apply for a permit?**

All applications for single use land use permits shall be submitted through the local VDOT district permit office responsible for the county in which the work is to be performed. All applications for district-wide land use permits shall be submitted through the central office permit manager.

Applications are available at district permit offices and on-line at:

<http://www.virginiadot.org/business/bu-landUsePermits.asp>

**8. How are permit requests within limited access right-of-way processed?**

Permit requests within limited access right-of-way shall be reviewed and approved by the appropriate district staff as outlined in Appendix 2 prior to submittal to the central office permit manager. The central office permit manager will then forward the request to the Chief Engineer for approval. Permit issuance by the district administrator's designee may only occur after the Chief Engineer's approval of the request. Any permit application fees and sureties received at a district office with the permit application should be returned to the applicant prior to forwarding the request to the central office permit manager. The district administrator's designee will determine the appropriate fee and surety for permit requests within limited access right-of-way and shall accept payment just prior to permit issuance.

**9. What are accommodation fees and how are they collected?**

Accommodation fees are annual compensation paid by utility companies for the use of limited and non-limited access rights-of-way, with the following exceptions: a.) cable television operators subject to the Public Right-of-Way Use Fee, b.) certified providers of telecommunications service, c.) municipal or authority owned sewer and water facilities, and d.) renewable energy generation transmission facilities. All others shall pay an annual accommodation fee of \$50 per crossing of limited access right-of-way and \$250 per mile for the longitudinal occupation of limited access right-of-way. All permits for the crossing and/or longitudinal occupation of limited access right-of-way by a utility are to be issued by the district administrator's designee. The district administrator's designee and the permit applicant shall execute the LUP-PA permit agreement for the occupation of limited access right-of-way prior to permit issuance. The initial accommodation fee shall be collected with the permit application fee and coded separately in LUPS.

The district administrator's designee will provide the central office permit manager with the land use permit number assigned for the crossing and/or longitudinal occupation of limited access right-of-way in order to invoice the utility for the annual accommodation fee for subsequent years based on the day and month of permit issuance.

Annual accommodation fees are also to be collected in the amount of \$24,000 for communication tower sites and \$14,000 for co-location on existing tower sites located within limited access and non-limited access rights-of way. These fees are collected by the Right-of-Way Division Manager.

**10. Can a builder apply for 5 private driveway entrances all adjacent to each other on the same permit application? If so, would the permit fee still be \$100?**

Yes, if the request is from the same applicant. There is no additive permit fee for private entrances, so the total fee for a multiple private entrance permit request would be \$100.

**11. Do we require separate permit be issued for a utility service line that exceeds 500 feet?**

Yes, a single-use permit would be required in such cases and the work would not be covered by a district-wide permit.

**12. How do we know when and where a utility service line is installed under a district-wide permit?**

We do not generally require district-wide permit holders to notify VDOT if the service connection can be made without stopping or impeding highway travel, or unless there is a need to implement traffic control that varies from the standard. If they are cutting the highway pavement, disturbing the shoulder or ditch line, or installing more than 500' of line, a separate single use permit is required. If there are problems with a particular permit holder in your area, we can require that they notify either Central Office or the local office prior to beginning work per 24VAC30-151-40(S). The district administrator's designee shall contact the central office permit manager if such notification is deemed necessary.

In addition, district-wide permits may be revoked for a minimum of 30 calendar days upon written finding that the permittee violated the terms of the permit regulations.

**13. Would the contractor be required to sign the LUP-SPG, LUP-WZTCC & LUP-ESCCC forms if they are posting the performance surety?**

The owner of the facility or the agent/contractor must sign the forms. In the case where the contractor is signing the LUP-A, they may only sign as a joint signatory or if acting as the owner's agent.

The applicant must sign the LUP-SPG. An individual who has successfully completed the VDOT Erosion & Sediment Control Contractor Certification training must sign the LUP-ESCCC. The applicant or their agent must sign the LUP-WZTCC signifying that they will have at least one (1) person that is certified in Basic Work Zone Traffic Control who will be responsible for the placement, maintenance and removal of work zone traffic control devices within the project limits, and that a person certified in Intermediate Work Zone Traffic Control will be on-site to provide supervision during work zone adjustments or changes to traffic control due to field conditions. It should be noted that for special events, if local or state police are providing traffic control this meets the work zone certification requirement.

**14. Do the 2010 regulations require utility lines to be placed 3' below the lowest point of the roadway?**

The 2010 regulations only provides the minimum depth requirements for utilities (which vary depending upon the facility type), not how the depth is to be measured.

**15. Can an applicant for a roadside memorial pre-pay for the installation of the sign?**

The applicant is responsible for the fabrication of the roadside memorial sign and all costs associated with installation and maintenance of the sign. If sign installation is accomplished in the district by a contractor that charges a fixed amount per specific sign type, that fee can be charged the permittee and an accounts receivable need not be set up. In all other cases, the actual cost must be recouped and the district must utilize the best collection method (generally an accounts receivable).

**16. If requested, would the central office allow the applicant to install a roadside memorial sign themselves once they obtain a permit?**

In cases where the memorial is going to be located along a highway that is not limited access, has sufficient parking nearby, safe foot access, is located sufficiently far from the road so as to allow a safe environment, and the applicant has the appropriate capability, then central office will not object to the district allowing installation by the applicant. When making a decision with regards to this, careful consideration must be made of applicant, potential observer, and traveler safety.

**17. When a permit is extended, is a revision to the permit necessary or is the extension letter sufficient?**

Permit extensions are considered a revision in LUPS. The district permit office should provide an extension letter to inform the permittee that there will be no further permit extensions and that the authorized activity must be completed by the permit expiration date.

**18. Is there a sample of a maintenance agreement for landscaping within limited access right-of-way?**

The permittee and/or their agent shall be responsible for the perpetual maintenance of all landscaping installed within state maintained rights-of-way under the auspices of a land use permit. The LUP-LS form outlines these maintenance responsibilities and an executed copy of this document must be provided in conjunction with making application for a land use permit authorizing installation of landscaping within state maintained right-of-way.

**19. Is local government approval required for permit requests for ornamental walls, posts signage, etc., or should the locality sign the permit as applicant or agent?**

The local government should provide written or electronic communication documenting their concurrence with the request.

**20. How can VDOT verify that the owner listed on the permit application is the owner of the property?**

The 2010 regulations do not require property owner and/or utility company owner verification by VDOT; however, permit applicants for private entrances may be verified with the locality and/or at the county clerk's office, and, utility owner verification can be obtained from the State Corporation Commission (SCC).

**21. Should the owner/applicant be required to always sign the LUP-SPG?**

The owner/applicant should always provide a signed LUP-SPG when making application for a land use permit. By regulation, the applicant to whom the permit was issued is responsible for all damages caused by implementation of the activities authorized under permit and any costs in excess of those on the surety would be the responsibility of the permittee.

**22. Who determines what justifications are needed for requests to open-cut pavement associated with the installation of utilities? Are standards provided in another VDOT reference manual or is a sample available?**

It is the responsibility of the applicant to provide justification to VDOT for allowing the open-cut of pavement associated with the installation of utilities. The district administrator's designee determines if the justification provided is sufficient to allow the open-cut of pavement. The LUP-OC form outlines the requirements associated the restoration of pavement impacted by open cut pavement trenching operations on state maintained highways.

**23. What are the regulations regarding building moves and what is DMV's role?**

VDOT is authorized to issue permits to move buildings (and not modular homes) over 16 feet wide and "tramping permits" (oversized construction and mining equipment over a limited distance) to travel over primary and secondary highways in accordance with Section 24VAC30-151-460 & 610 of the Land Use Permit Regulations. This is in accordance with an agreement between VDOT and DMV. DMV issues permits for all other oversized loads to travel over primary and secondary highways.

**24. What is the VDOT emergency operations center and how can they be contacted?**

The VDOT emergency operations centers were initially located at the regional traffic operations centers and can be contacted at: 1-800-367-ROAD.

**25. Is the utilization of disturbed property adjacent to VDOT right-of-way in calculating disturbance for Virginia Storm Water Management Program purposes a new requirement?**

No, the disturbance requirement comes from current VDOT standards & specifications. The Responsible Land Disturber (RLD) certification requirement became State law on July 1, 2001. It applies to any land disturbing activity that would require an Erosion Control Plan. The Department will require evidence of RLD certification with any permit application that involves utility and/or commercial right of way improvement.

**26. How should requests for utility placement within the median area of highways be addressed?**

The District Administrator has the authority to authorize the placement of utilities within the median area of a non-limited access highway. Requests should only be considered if the applicant demonstrates that there is no other practicable alternative and that said installation will not interfere with or impair the present use or future expansion of the highway. The applicant must provide justification with regards to the practicability of installation that may include items such as conflicting utilities, extensive tree removal, or the presence of rock.

**27. What is the difference between a district and a VDOT construction district?**

Due to inequities found in the current district-wide permit fee structure, the term "district" is defined as no more than nine (9) contiguous counties or a single VDOT construction district.

**28. How is vendor information set-up for the refund of a cash surety?**

All permit applicants providing a cash surety must provide a Social Security number (SSN) or Employee Identification number (EIN) and an executed copy of the U.S. Department of Treasury, Internal Revenue Service (IRS) Form W-9. Individuals may not want to provide their SSN. VDOT staff should attempt to obtain this information at the time the cash surety is accepted.

If VDOT staff has been unable to obtain a SSN, EIN or W-9 and the vendor has been contacted to obtain this information, a note should be placed in the comments section of the maintenance form indicating that due diligence has been performed in attempting to obtain a SSN, EIN and W-9 without success.

If VDOT staff has been unable to obtain a W-9 please provide the SSN/EIN number on the maintenance form and include a note in the comments section indicating that due diligence has been performed in attempting to obtain a W-9 without success.

VDOT staff should contact the vendor if the SSN/EIN number provided does not match IRS records. This issue may be an indication of a transposition of numbers or simple error. If this issue cannot be resolved, VDOT staff should remove the SSN/EIN number from the maintenance form and note in the comments section that due diligence has been performed in attempting to obtain a SSN, EIN and W-9 and the information provided does not match IRS records. (District Fiscal will contact you if the is a match error).

VDOT staff should not accept other numbers such as a Drivers License number as this is not a valid form of identification required to process the refund of a cash surety.

VDOT staff should utilize the process above when updating an existing vendor.

**29. Can a land use permit be issued for the installation of private utilities within state maintained rights-of-way?**

§ 2.2-1151.1 of the Code of Virginia addresses right-of way accommodations for certain non-public service companies and stipulates that no land use permit shall be issued by VDOT to any company other than a public service company as defined in § 56-76, a company owning or operating an interstate natural gas pipeline, or a franchised cable television systems operator owning or operating a utility line as defined in § 56-265.15, unless such entity has registered as an operator with the appropriate notification center as defined by § 56-265.15, and such entity has notified the commercial and residential developer, owner of commercial or multifamily real estate, or local government with a property interest in any parcel of land located adjacent to the property over which the land use is being requested, that application for the permit has been made. The LUP-A land use permit application includes an affidavit indicating compliance with the registration and notification requirements provided by this code subsection.

VDOT may issue land use permits to individuals providing utility service solely for their own agricultural or residential use provided the utilities are located on property owned by the individual and the utilities are marked in accordance with requirements established by VDOT. The LUP-PU document outlines the maintenance responsibilities for the installation of private utility facilities across state maintained highway right-of-way.