

§180. Site inspection warrants

A District Court Judge may issue warrants to conduct surveys and tests on land that is under consideration for purchase or taking through eminent domain by the State or any of its political subdivisions. The Supreme Judicial Court shall provide by rule the manner and circumstances for the issuance of such warrants subject to the following conditions: [PL 1975, c. 753 (NEW).]

1. Compelling need. There is a compelling need for the issuance of the warrant, such as required compliance with state statutes or regulations or protection of the public health, safety or welfare; [PL 1975, c. 753 (NEW).]

2. Notice to owner. The owner of the land shall be served notice at least 14 days prior to the day when any survey or test is initiated; [PL 1975, c. 753 (NEW).]

3. Completion within 30 days. All tests and surveys shall be completed within 30 days of entry; [PL 1975, c. 753 (NEW).]

4. Distance from occupied dwelling. No soils test may be conducted within 200 yards of an occupied dwelling; [PL 1975, c. 753 (NEW).]

5. Site restoration. Upon completion of any soils test or analysis, all holes, pits or trenches created thereby shall be filled in and the site restored as best practicable to its original condition; and [PL 1975, c. 753 (NEW).]

6. Compensation for damages. The owner of land subject to a survey or test has the right to be compensated for any actual damage caused as a result of the surveys and tests. Upon request of the landowner within 30 days after entry on the landowner's premises, the governmental unit shall hold a public hearing to determine whether the landowner is entitled to compensation for actual damages caused by the testing. The governmental unit shall publish a notice of the time and place of hearing in a newspaper having general circulation in its area at least 7 days before the hearing. The governmental unit shall pay the landowner forthwith the amount of compensation to which it determines the landowner is entitled. If the landowner is aggrieved by the decision of the governmental unit, the landowner may appeal to the Superior Court as provided in Rule 80B of the Maine Rules of Civil Procedure. [RR 2021, c. 1, Pt. B, §7 (COR).]

SECTION HISTORY

PL 1975, c. 753 (NEW). RR 2021, c. 1, Pt. B, §7 (COR).

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