

**2006**  
**Model County**  
**Highway Ordinances**

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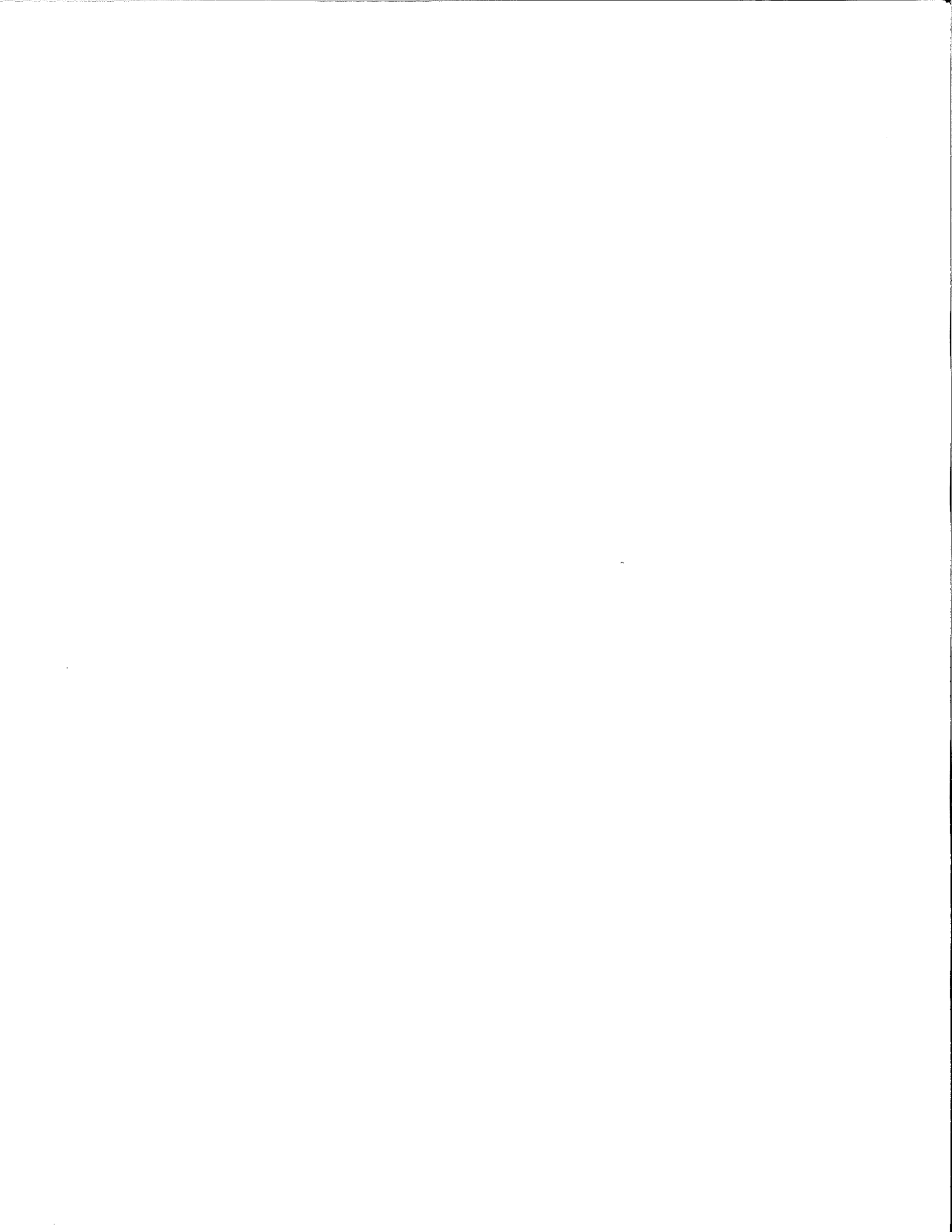
**The Indiana LTAP Center**

compiled using data provided by the  
**County and State Ordinances**

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## INTRODUCTION

This report is intended to provide model ordinances for common situations for county highway departments and local street departments in Indiana where no current sample or model ordinance is readily available. Information to prepare model ordinances was collected from other Indiana counties and municipalities. Some of the model ordinances were created at the request of local highway and street departments.

The purpose of this report was not to duplicate regulations already in place such as where state governments cover issues such road signage, or traffic control, but to provide references for situations that have no other regulation or where specific needs might not be covered by other regulation. Such an example is the Manual on Uniform Traffic Control Devices. This manual does not cover political signs, or realty signs.

The model ordinances included in this report might be common in some counties but not so in others. The intent was to provide a reference so each county could determine what its own needs are and a starting point to meet those needs.

Consultation with local legal counsel is suggested prior to implementing any ordinance contained in this report. While these ordinances can be a starting point the local counsel has the training to insure legal conflicts and specific provisions are enforceable, should the ordinances be challenged in court.



## **SIGNS**

**Appendix E**  
Model Sign Ordinance



**CODE OF THE TOWN/VILLAGE OF \_\_\_\_\_**

**ARTICLE I, Signs**

**§ 1. Legislative intent.**

The purpose of this Article is to promote and protect the public health, welfare and safety by regulating signs of all types. It is intended to:

- stabilize and reinforce property values to protect private and public investment
- preserve and reinforce the natural, historic, and architectural qualities of neighborhoods
- establish and enhance aesthetic and architectural compatibility within neighborhoods and commercial areas
- create a regular and impartial process for businesses and/or persons seeking to erect signs
- reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way

It is the intent of the Town/Village Board that the primary function of a sign shall be the identification of the location or occupant of a parcel of land.

**§ 2. Title.**

This Article shall hereinafter be known and cited as the "Town/Village of \_\_\_\_\_ Sign Law."

**§ 3. Definitions.**

*(additions and/or deletions may be necessary depending on how a particular town or village government is structured)*

As used in this Article, the following terms shall have the meanings indicated:

**ABANDONED SIGN** -- A sign which for a period of 90 consecutive days has not correctly directed or exhorted any person, advertised a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

**ADVERTISING SIGN** -- That copy on a sign describing products or services being offered to the public.

**A-FRAME SIGN** -- A specific type of portable sign that is typically constructed or shaped in the form of the letter "A."

**ANIMATED SIGN** -- Any sign which includes action or motion, or whose copy is changeable by other than direct manual intervention.

**AREA OF COPY** -- The entire area within a single continuous perimeter composed of squares, rectangles, circles, ovals or any other geometrical shape which enclose the extreme limits of the message, announcement or decoration on a fascia, wall or freestanding sign.

**AREA OF SIGN** -- The area of the largest single face of the sign within a perimeter which forms the outside shape, including any frame, or forms an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. If the sign consists of more than one section or module, all areas will be totaled.

**AWNING** -- A roof-like covering consisting of any pliable material attached to a rigid frame.

**BANNER** -- A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

**BUILDING DEPARTMENT** -- The Town/Village of \_\_\_\_\_ Building Department.

CANOPY and/or MARQUEE -- A structure of canvas on a framework sheltering an area or forming a sheltered walk to the entrance of a building.

CHANGEABLE COPY (AUTOMATIC) -- A sign such as an electronically or electrically controlled public service time, temperature, and date signs, message centers or reader boards, where different copy changes are shown.

CHANGEABLE COPY (MANUAL) -- A sign on which copy is changed manually in the field, i.e., reader boards with changeable letters or changeable pictorial panels.

COMMERCIAL USE -- Any business whose primary purpose is retail or wholesale trade, any nonprofessional customer service (such as shoe repair, tailoring, laundry, photography or hairstyling) or customer service office uses (such as bank loan offices, insurance agents, travel agents or tax return preparers), including restaurants, bars, hotels, motels, and theaters.

COMPLEX, COMMERCIAL -- One or more parcels occupied by more than two commercial use tenants.

COMPLEX IDENTIFICATION SIGN -- A sign identifying a complex but which does not include identification of any individual business within the complex.

COMPLEX, OFFICE -- A building larger than 10,000 square feet that is occupied by more than two business tenants.

CONSTRUCTION SIGN -- A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar persons or firms having a role or interest with respect to the structure or project.

DIRECTIONAL SIGN -- Any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, rest rooms, pickup and delivery areas and the like.

DIRECTORY SIGN -- Any sign containing a list of the names of business establishments located within a building complex. The style, lettering and color for all tenants identified on such signs shall be substantially similar. No logos shall be permitted on such signs.

DOUBLE-FACED SIGN -- Any two-faced sign utilizing both faces or surfaces for display purposes.

ENGINEERING DEPARTMENT -- The Town/Village of \_\_\_\_\_ Engineering Department.

ERECT -- To build, construct, alter, repair, display, relocate, attach, hand, place, suspend, affix or maintain any sign, and shall also include the painting of exterior wall signs.

FARM STAND -- A facility from which agricultural or nursery products produced on the premises where the facility is located are offered for retail sale.

FREESTANDING -- Any sign not affixed to a building.

FRONTAGE -- The total length of the property line of a parcel bounded by or abutting a public highway right-of-way.

FRONT YARD -- Any open, unoccupied space on the same lot with the building or structure, extending the full width of the lot and situated between the street line and the front lines of the building.

GOVERNMENTAL SIGN -- A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law or ordinance or governmental regulation.

GRAND OPENING SIGN -- A temporary sign permitted for 30 days only to announce the opening of a completely new enterprise or the opening of an enterprise under new management.

GROUND LEVEL -- The average ground elevation within 10 feet measured horizontally of the sign base.

HEIGHT -- The vertical distance between the ground level under a sign and the highest point of the sign structure.

HOUSE OF WORSHIP -- Any structure in which any recognized religion that has a tax-exempt status meets to practice its religion.

IDENTIFICATION SIGN -- A sign which is limited to the name, address and number of a building, institution, complex or person.

ILLEGAL SIGN -- Any sign for which a valid Town/Village of \_\_\_\_\_ sign permit has not been obtained and which is not exempt from the provisions of this Article.

ILLUMINATED SIGN -- Any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign surface or which reflects lights from a source intentionally directed upon it.

INTERIOR PROPERTY LINE -- Property lines other than those fronting on a street, road or highway.

LOGO -- A symbol, graphic, trademark or emblem commonly associated with or representing a specific entity, product or concept.

LOT -- Any parcel of real property recorded in deed form filed in the Seneca County Clerk's office.

MAJOR TENANT -- A tenant in an office complex that occupies more than 50% of said complex.

MESSAGE -- Wording or copy on a sign.

NONCONFORMING -- Any sign which was lawfully erected and maintained prior to the effective date of this Article or any amendments thereto.

OFF-PREMISES SIGN -- Any sign advertising or calling attention to any business or activity not located on the same continuous parcel of real estate as the sign, or any sign, advertising or calling attention to any commodity or service not sold or offered upon the same continuous parcel of real estate as the sign.

OWNER -- A person recorded as such on official records, and including but not limited to a duly authorized agent, purchaser, devisee or any person having a vested or contingent interest in the property in question.

PARCEL -- A piece of real property which is defined on an approved subdivision map recorded with the Assessment Department of the Town/Village or is legally defined on a survey map certified by a licensed land surveyor or engineer.

PERMANENT SIGN -- A sign for which a permit has been issued pursuant to the provisions of this Article for the period stated in the permit.

PERMIT STICKER -- A sticker affixed either to the face or the channel of a sign visible from the ground denoting that the sign to which it is affixed has been authorized by town/village officials pursuant to the provisions of this Article.

PLANNING BOARD -- The Town/Village of \_\_\_\_\_ Planning Board.

POLITICAL SIGN -- A temporary sign announcing or supporting political candidates or issues connected with any national, state or local election.

PORTABLE SIGN -- A sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes.

PRIMARY COMPLEX IDENTIFICATION SIGN -- Complex identification sign located on a parcel's primary frontage.

PRIMARY ENTRANCE -- The entrance primarily used by customers/guests to enter the building.

PRIMARY FRONTAGE or SECONDARY FRONTAGE -- Where a parcel has more than one public highway

PRIVATE SALE SIGN -- A temporary sign advertising the sale of personal property at house sales, garage sales, rummage sales and the like.

PROJECTING SIGN -- A sign that is wholly or partly dependent upon a building for support and which projects more than 18 inches from such building. These types of signs should be encouraged in high pedestrian use areas (traditional main streets) or areas where pedestrian activity is to be encouraged. Projecting signs should be limited in all other areas.

PUBLIC SERVICE INFORMATION SIGN -- Any sign intended primarily to promote items of general interest to the community such as time, temperature and date, atmospheric conditions, news or traffic control, etc.

REAL ESTATE SIGN -- A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located, excluding, however, "sold-by" signs.

ROOF -- Any building surface whose slope is less than two vertical units to one horizontal unit.

ROOFLINE -- The top edge of the roof or top of the parapet, whichever forms the top line of the building silhouette.

ROOF SIGN -- Any sign erected upon, against or directly above a roof or on a top of or above the parapet of a building.

ROTATING SIGN -- Any sign or portion of a sign that moves in a revolving or similar manner, but not including multi-prism indexing signs.

SECONDARY COMPLEX IDENTIFICATION SIGN -- Complex identification sign located on a parcel's secondary frontage(s).

SIGN -- Any identification, description, illustration or device illuminated or non-illuminated which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, placard or temporary sign designated to advertise, identify or convey information, with the exception of window displays and national flags. "Signs" shall also include all sign structures.

SIGN STRUCTURE -- Any structure which supports, has supported or is capable of supporting a sign, including the decorative cover.

SINGLE-TENANT SITE -- Any building or buildings, structure or structures located on a single parcel and used by one enterprise.

SOFFIT SIGN -- A sign affixed to the underside of a roof overhang adjacent to a store or other commercial premises.

STORE FRONT -- In a single tenant building, the linear distance of a building facing a street or right-of-way and which contains the main entrance to the building. In a complex, the linear distance of that wall which has the primary access to the out-of-doors.

STREET -- A public highway, road or thoroughfare which affords the principal means of access to adjacent lots, measured from property line to property line.

STREET NUMBER PLATE -- A non-electric sign identifying the number and/or name of the street where a specific building is located.

TEMPORARY SIGN -- Any sign permitted pursuant to the provisions of this Article other than a permanent sign.

TOWN/VILLAGE BOARD -- The Town/Village of \_\_\_\_\_ Board.

TRADITIONAL MAIN STREET -- A commercial and/or mixed use street(s) where the structures are not set back from the front property line, i.e. where structures are immediately adjacent to the sidewalk. Typically these areas are older, historic business districts that are the center of the community, although newer districts constructed in a traditional manner and new infill construction falls into this category of traditional main street. These areas are often based on pedestrian traffic and therefore require different regulations for signs compared to those for commercial districts based on automobile or higher speed traffic.

WALKWAY SIGN -- A sign affixed to the underside of a permanent, covered walkway fronting and connecting three or more commercial premises having direct customer access to the out-of-doors and erected perpendicular to the fronts of such premises at the entrance, so as to aid passerby pedestrians in identifying the location of such premises. All such signs within a commercial complex shall be of the same coloring and shall use the same lettering style and shall not contain logos or any other information than the name of the commercial establishment.

WALL -- Any building surface whose slope is two vertical to one horizontal or steeper.

WALL SIGN -- A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and which does not project more than 18 inches from such building or structure.

WINDOW SIGN -- A sign that is applied or attached to the interior of a window or located within three feet of the interior of the window and which can be seen from the exterior of the structure, and which is non-electric in nature.

#### **§ 4. Applicability.**

This Article is intended to regulate all on-premises signs currently existing or yet to come into existence, which are to be located within the Town/Village of \_\_\_\_\_ .

#### **§ 5. Permitted signs.**

Set forth in Charts A, B and C and the Table of Permitted Signs are the types of signs and their specific requirements for which permits may be issued pursuant to the provisions of this Article.

**§ 6. Prohibited signs.**

A. Any sign not permitted in § 5 or 7 or 9 of this Article and any sign specifically designated in this section is prohibited.

B. Signs specifically prohibited are as follows:

(1) Roof signs.

(2) Flashing, rotating or revolving signs or lights, with the exception of barber poles and holiday decorations

(3) Projecting signs, with the exception of properties that are in a traditional main street area. In such a case, see Table of Permitted Signs for regulations. A traditional main street area shall be determined by the zoning ordinances and/or the town/village board and/or the sign review board.

(4) Animated signs, except public service information.

(5) A-frames.

(6) Banners, except as a part of a grand opening when affixed exclusively to the face of a building (30 days maximum).

(7) Pennants, same as above.

(8) Portable signs.

(9) Any sign or part thereof which includes lighting devices and reflectors that are placed so as to frame the outline or provide the background for a sign.

(10) Any sign or part thereof on a vehicle parked on a public right-of-way or public property or on private property so as to be intended to be viewed from a motorized vehicular public right-of-way, which has for its basic purpose the providing of advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises. This subsection is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle or signs that are part of a vehicle such as a construction trailer, whose primary purpose is not advertising to the public right-of-way.

(11) Any sign other than an exempt sign placed on any curb, sidewalk, hydrant, utility pole, building or tree.

(12) Any sign erected or maintained which might be confused with any traffic control device or which might interfere with the vision or discernment of any traffic sign or which might cause danger to public travel.

**§ 7. Exempt signs.**

The following signs are exempt from the provisions or requirements of this Article:

A. Any New York State inspection station identification sign which is at a height which does not exceed 10 feet and is located on an exterior or interior wall of the motor vehicle service station.

B. Any New York State authorized repair shop identification sign for passenger vehicles which is at a height which does not exceed 10 feet and is located on an exterior or interior wall of the motor vehicle service station.

- C. Any New York State authorized repair shop identification sign for trucks, which is at a height that does not exceed 10 feet and is located on an exterior or interior wall of the motor vehicle service station.
- D. One self-service identification sign which does not exceed two square feet per self-service fuel pump island.
- E. One full-service identification sign which does not exceed two square feet per full-service fuel pump island.
- F. Fuel price signs required by federal, state or local legislation.
- G. Street number identification plates.
- H. Historical site markers.
- I. No-trespassing signs.
- J. Posted (no hunting, fishing and trapping) signs.
- K. Governmental signs.
- L. Utility line identification and location signs.
- M. Phone identification signs.
- N. Rest room identification signs.
- O. Handicapped parking and access signs.
- P. Vacancy/no vacancy signs which do not exceed three square feet.
- Q. Accessory signs identifying such use as parking, no parking or office, which do not exceed two square feet each.
- R. Holiday decorations erected for and during the particular holiday they relate to or symbolize.
- S. Open/closed business signs that do not exceed two square feet.
- T. Street identification, traffic and governmental signs and control devices required by law, ordinance or regulation.
- U. Official public information signs, memorial signs, building names, erection dates or similar information cut into masonry or other permanent surface or constructed of bronze or other noncombustible material, not to exceed 16 square feet.
- V. Signs and markers in cemeteries designating graves and memorials.

**§ 8. Illegal signs.**

A. The following signs are deemed illegal signs and in violation under this article:

(1) Abandoned signs.

(2) Any sign erected for which no building or sign permit was issued by the Town/Village or which does not have a sign permit number displayed on its face or which has had its permit revoked.

(3) Any sign not properly maintained, such as but not limited to signs that are structurally unsound or are hazardous or unsafe.

B. The Building Department shall cause a notice of such violation to be served on the owner of the building, structure or lot where said sign is located or the lessee or tenant of the part of or the entire building, structure or lot where said sign is located, requiring the owner or lessee or tenant to remove the illegal sign within 10 business days. The notice may be served personally or by certified mail, return receipt requested. Upon failure of said owner or lessee or tenant to remove the sign within 10 business days after notice is provided, the Building Department shall be authorized to enter upon said property and remove therefrom any said illegal sign at costs to the owner, lessee or tenant. No liability shall attach to the Town/Village or any officers, employees or agents of the town/village, except for acts of affirmative negligence in connection with the removal of any such illegal sign.

C. In cases of emergency, the Building Department may cause the immediate removal of a dangerous or defective sign without notice.

D. Any sign for which a sign permit has been issued may be inspected for adequate maintenance, freedom from any hazardous condition and structural soundness. If a sign is found to be unsafe, the permittee shall have 30 days to correct any defect. If said defect cannot be corrected within 30 days, the Building Department may grant the permittee up to 30 additional days to correct. If the defect has not been corrected by the expiration of 30 days or any additional period granted to correct it, the sign permit shall become null and void and the sign shall be illegal.

#### **§ 9. Nonconforming signs.**

A. Subject to the provisions of this article, any sign legally in existence one day prior to the enactment of this article [insert date], shall be considered a nonconforming sign and may be continued and maintained.

B. Any sign existing at the time this article is enacted which is altered in any way, form or fashion shall be considered a new sign and shall be required to conform to the requirements contained herein, except that the original registrant may be allowed to alter the message of the sign, provided that the person, place, establishment, business and service identified by the sign remains the same, but may not alter its structure.

C. A sign legally existing at the time this article was enacted which, through no responsibility or control of said sign's owner or user or that of the landowner on which this sign is located, becomes damaged or destroyed shall be permitted to be repaired or replaced, provided that said repair or replacement is to the identical specifications, location and appearance as existed immediately prior to its destruction or damage.

#### **§ 10. Construction.**

A. All sign fabrication, erection and attachment shall conform to the requirements of the latest edition of the New York State Uniform Fire Prevention and Building Code and other applicable codes and regulations.

B. Lighting fixtures and wiring shall conform to the requirements of the latest edition of the National Electrical Code and other applicable codes and regulations, and all electrified signs shall bear the Underwriters' Laboratories label or approved equal. Further, all electrical connections with a sign shall be inspected and approved by the New York Board of Fire Underwriters.

C. Transformers, wires and similar items shall be concealed.

D. All wiring to freestanding signs shall be underground.

E. All signs, sign finishes, supports and electrical work shall be kept in good repair and safe condition, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign.



**§ 11. Illumination.**

All signs permitted within this article shall comply with the following requirements:

A. Illumination of signs shall be accomplished by means of shielded light sources or in such other manner that no glare shall extend beyond the property lines of the property upon which such signs are located, and no glare shall disturb the vision of passing motorists or constitute a hazard to traffic.

B. No flashing, non-constant, or moving light sources shall be permitted or constitute a part of any sign, with the exception of public service information signs. Each public service message shall be allowed to remain for not less than two seconds.

**§ 13. Sign permit.**

A. Except as otherwise provided herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the town/village, or cause the same to be done, without first obtaining a sign permit for each such sign. These directives shall not be construed to require any permit for a change of copy of any sign, provided that the person, place, establishment, business or service identified remains the same, nor for the repainting, cleaning and the normal maintenance or repair of a sign or sign structure for which a permit has previously been issued under this Article, so long as the sign or sign structure is not modified in any way.

B. Contents of application.

(1) Application for a sign permit shall be made, in writing, by the owner, lessee, occupant or agent for whom the sign is intended and shall be accompanied by two sets of plans of the sign, drawn to scale on sheets of a minimum of 8 1/2 inches by 11 inches. Sign plans shall include dimensions, proposed design, colors, materials, details of any illumination source, wiring and other electrical details and structural details, including fastening and joining methods and materials. Sign plans shall also include which Sign Chart, A, B or C, the applicant utilized to determine permissible sign size and provide written calculations showing how the sign size determination was made. Two plot plans of the parcel on which the sign is to be placed shall also be submitted, delineating property lines, street lines, building locations and dimensions, parking areas, location and dimensions of all other signs on the parcel, exact location of the proposed sign, including dimensions of setbacks from property lines, and any obstructions in relation to the designated location of the proposed sign. Where a parcel has more than one frontage, the primary frontage shall be designated on the plan.

(2) Sign plans shall include a statement that the proposed sign as shown on the plan is structurally sound and will withstand wind loads as prescribed by the New York State Uniform Fire Prevention and Building Code. Plans shall bear the signature of the owner, applicant or the person responsible for design of the sign.

(3) The application shall be made to the Building Department on forms prescribed and provided by the Building Department. At the time of filing the application, the applicant shall pay the required fee in accordance with the fee schedule then in effect.

C. The proposed sign application, when complete, shall be submitted by the Building Department to the Planning Board or its designee for its review within five business days of receipt thereof.

D. Within 10 business days after receipt by the Building Department, a sign permit shall be issued, provided that the proposed sign meets all requirements of this Article.

E. If a sign authorized by a permit is not completed and in place within six months from the date the permit was issued, said permit shall become null and void, except that the Building Department may grant one extension for a period not to exceed six months.

F. Design, size, construction and placement of a sign shall not deviate from the plans approved for issuance of the permit.

G. After the issuance of any permit for a sign under this article and within 10 days after the installation of such sign, the applicant shall submit a photograph of the sign as completely installed, which shall be filed with the original application, along with written certification from the owner, applicant or designer whose name appears on the approved plans, that the sign has been constructed according to the approved plans. Further, for all electrified signs, the applicant shall also submit, within 10 days after the installation of such sign, a New York Board of Fire Underwriter's certificate of approval of all electrical work undertaken to make electrical connections to the Underwriters' Laboratories approved components of the sign.

H. All signs authorized under this article shall bear the assigned permit sticker, which is to be provided by the Building Department, prominently and permanently affixed by the applicant in an area readily visible to a sign inspector. Failure to so affix the permit sticker shall constitute cause for revocation of the permit by the Building Department, in addition to any other penalties or remedies prescribed herein.

**§ 14. Administration and enforcement.**

A. The provisions of this article shall be administered and enforced by the Building Department, which shall have the power to make necessary inspections.

B. No sign permit shall be approved by the Building Department except in compliance with the provisions of this article or as directed by the Sign Review Board.

**§ 15. Special exception or interpretation.**

A. Intent. The intent of this section is to allow certain provisions of this Article to be modified where such modification will encourage excellence in the planning and design of signs. This is particularly true in traditional main street areas where certain types of otherwise prohibited signs such as historically-inspired wall mural signs, portable signs, or A-frame signs may be desirable. The Sign Review Board shall make these determinations.

B. Application for a special exception or interpretation. Any person who is aggrieved by a decision of the Building Department may make an appeal for a special exception to, or interpretation of, the sign law on forms provided and prescribed by the Sign Review Board.

C. Guidelines. The following guidelines shall be considered by the Sign Review Board in determining whether a special exception shall be issued. The proposed sign should:

- (1) Not be detrimental to other property.
- (2) Not create a hazard or a nuisance.
- (3) Not interfere with the use of public lands or highways.
- (4) Be in harmony with the purposes of this article contained in § 1.

**§ 16. Establishment of Sign Review Board.**

A. A Sign Review Board shall be, and it hereby is, established.

B. The purpose of this Board is to provide a process by which special exceptions may be issued consistent with the intent of § 15 and to hear any appeals on questions of alleged error in any order or determination of the Building Department involving the interpretation of the provisions of this article.

C. Membership.

(1) Membership shall consist of five residents of the Town/Village appointed by the Mayor/Supervisor with the approval of the Town/Village Board. Vacancies shall be filled for an unexpired term in the manner as the original appointment.

2) Alternate members. There shall be one alternate member of the Sign Review Board. The Town/Village Board hereby grants to the Chairman of the Sign Review Board the power to temporarily replace a member with an alternate member, with full voting privileges, where the member's abstention from a particular vote, due to absence or conflict of interest, precludes the Board member from taking action on a particular issue.

D. The Mayor/Supervisor shall designate the Chairman of said Board the first day of each year.

E. The initial appointees of the Board shall have different terms ranging from one to five years. Thereafter, appointments shall be for five years to maintain five-year terms and yearly appointments.

F. Decisions of the Sign Review Board shall be based on the guidelines listed in § 15C hereof.

G. All decisions shall be transmitted in writing, and copies shall be sent to the applicant and the Building Department.

H. The Sign Review Board shall hold a public hearing on any request for a special exception or an interpretation of any order or determination of the Building Department involving the interpretation of the provisions of this article, upon notice of not less than five days, published in the official newspaper of the Town/Village.

I. The Sign Review Board may develop additional criteria and design for issuance of special exceptions for adoption by the Town/Village Board by resolution or local law.

J. Decisions of the Sign Review Board shall require a vote of a majority of the full membership of the Board to grant, deny or modify any applications for appeals before it, and a minimum of three members of the Sign Review Board must be present to transact any business at any time. If the majority vote required above is not cast either to approve, deny, or to modify the application or appeal, the application for appeal shall be denied.

K. Any person aggrieved by a decision of the Sign Review Board may have the decision reviewed by the Supreme Court of the State of New York in the manner provided by law.

#### **§ 17. Penalties for offenses.**

A. Any person or persons, associations or corporations committing an offense against this article or any section or provision thereof is guilty of a violation and shall, upon conviction thereof, be subject to a fine not exceeding \$250 or imprisonment not exceeding 15 days, or both.

B. In the event of a continuing offense of any section or provision of this article, each day that such offense shall continue shall be a separate violation and subject to a separate fine, imprisonment, or combination thereof.

C. Notwithstanding a conviction for an offense against any provisions or sections, an association or corporation convicted shall be subject to revocation of any permit therein granted without reimbursement of fees paid thereof.

D. In lieu of, or in addition to, any fine or imprisonment, or both, imposed for a conviction of an offense of this article, each such offense may be subject to a civil penalty not to exceed \$250 to be recovered in an action or proceeding in a court of competent jurisdiction. Each day an offense continues shall be subject to a separate civil penalty.

E. The Town/Village Attorney may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with this article, notwithstanding the provisions of Subsections A, B and C of this section, for a penalty or other punishment.

## **ARTICLE II, Billboards**

### **§ 18. Purpose.**

The purpose of this article is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising through use of billboards, while assuring the orderly and effective display of outdoor advertising. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty of designated areas and provide a more enjoyable and pleasing community.

### **§ 19. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ARTERIAL HIGHWAY** -- Any street or highway for which operation or maintenance falls under county, state or federal jurisdiction.

**BILLBOARD (OFF-PREMISES ADVERTISING)** -- Any outdoor advertising board, junior board advertising medium, structure or device which advertises, directs or calls attention to any business, article, substance, service or anything which is painted, printed, pasted or affixed to any building, structure, wall, fence, pole, railing, natural object or structure of any kind on real property or upon the ground itself and which advertises services, products or commodities not available on the premises on which the "billboard" is located.

**DOUBLE-FACED, BACK-TO-BACK or V-TYPE BILLBOARDS** -- Those configurations of multiple billboards structures as those terms are commonly understood and as further defined in state law, except that in no instance shall these terms include two or more billboards which are not physically contiguous. "Physically contiguous" shall mean of the same structure and, in the case of "V-type billboards," shall be in contact with one and another at the apex of the "V." Each face shall be considered a separate billboard.

**ERECT** -- To construct, build, raise, assemble, place, affix, attach, create, paint, or in any other way bring into being or establish.

**FRONT OR FACE OF A BILLBOARD** -- The outer surface of a billboard which is visible from any private or public street or highway.

**ILLUMINATED BILLBOARD** -- Any billboard illuminated by electricity, gas or other artificial light.

**LIGHTING DEVICE** -- Any light, string of lights or group of lights located or arranged so as to illuminate a billboard.

**PERSON** -- Any person, firm, partnership, association, corporation, company, institution or organization of any kind.

**SUPERINTENDENT OF BUILDINGS** -- The Building Inspection Supervisor or any other inspector under his jurisdiction.

### **§ 20. Exceptions.**

For the purposes of this article, the term "billboard" does not include billboards erected and maintained pursuant to and in discharge of any governmental function, or required by any law, ordinance or governmental regulation.

**§ 21. General regulations.**

A. A billboard may be illuminated, provided that all light sources shall be designed, shielded, arranged and installed to confine or direct all illumination to the surface of the billboard and away from adjoining properties. Light sources shall not be visible from any street or any adjoining properties. Billboards may contain or include such public service information as time, date, temperature, weather or similar information.

B. No billboard shall be erected on or attached to any building.

C. No billboard or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices.

D. No billboard shall exceed 160 square feet.

E. No billboard shall be in excess of 20 feet in height above the average existing grade level at the billboard.

F. Every billboard shall bear the permit number and name of the permit holder and/or owner of the land upon which the billboard is erected prominently and permanently affixed on the face thereof. A proper space shall be reserved in the lower left-hand corner of the permit plaque where the annual permit inspection tag shall be affixed. This annual permit tag shall be issued by the Superintendent of the Building Department or his designee. This annual permit tag shall be affixed to the billboard by the owner and/or applicant.

G. A billboard and its structure shall be maintained, including the change of the advertising message, the repairing and replacing of components parts and the performance of other acts as incident to the upkeep of the billboard.

H. No billboards shall display advertising matter of an indecent or obscene nature.

I. No billboard shall confuse, mislead or resemble any government billboard.

**§ 22. Location.**

A. Billboards shall be permitted in Business, Commercial, and Industrial Zones only. Side line setbacks shall not be less than 25 feet, front line setbacks shall not be less than 25 feet, and rear line setbacks shall not be less than 25 feet. Setbacks shall be from property lines.

B. Billboards shall be separated from each other by a distance of at least 300 feet, except that two such billboards may be arranged on an angle or back-to-back.

C. Billboards shall not be permitted within 200 feet of any public park, playground, cemetery or residential zone.

D. No billboard shall be erected within 25 feet of any building.

E. No billboard shall be constructed, erected or altered within 660 feet of the edge of the right-of-way of any interstate or arterial highway. Normal maintenance of the structure and modification of copy shall be exempted from the aforementioned prohibitions.

**§ 23. Construction specifications.**

A. Billboards shall be constructed to withstand a wind load of 30 pounds per square foot.

B. Each application for the erection of a billboard shall be accompanied with a detailed set of structural plans bearing the seal of a licensed engineer or architect registered to practice in the State of New York.

C. All electrical work shall be in accordance with Underwriters' Laboratories, Inc. (UL), standards.

**§ 24. Building permit required; restoration.**

A. After the effective date of this article and except as otherwise herein provided, no person shall erect any billboards as defined herein without first obtaining a building permit from the Superintendent of the Building Department.

B. Nothing in this article shall prevent the replacement or restoration of an existing billboard or its supporting structure that has been destroyed or which has been deemed by the applicant to be in need of replacement. Such replacement or restoration shall be permitted, provided that the billboard face following the replacement or restoration is to the identical specifications, size, location and appearance as existed prior to said replacement or restoration.

**§ 25. Application for building permit.**

A. Application for the building permit must be made in writing, in duplicate, upon forms prescribed and provided by the Superintendent of the Building Department and shall contain the following information:

(1) Name, address and telephone number of the applicant.

(2) Name, address and telephone number of the property owner.

(3) Planning Board approval.

(4) A detailed drawing showing a description of the construction details of the billboard position of lighting or other extraneous devices; a location plan showing the position of the billboard on the site and its position in relation to nearby buildings or structures and to any private or public street or highway and its height.

(5) Written consent of the owner of the land on which the billboard is to be erected in the event that the applicant is not the owner thereof.

B. A copy of the electrical permit from the New York Board of Fire Underwriters issued for said billboard shall be filed with the application therefor.

C. Prior to the issuing of a building permit to erect a new billboard, the applicant shall pay the current fee established for the same by resolution of the Town/Village Board. This fee and approval constitutes the first-year annual fee and renewal permit.

D. Application for a building permit must be made for all existing billboards and shall constitute the first year annual fee and renewal permit.

**§ 26. Issuance of building permit.**

It shall be the duty of the Superintendent of the Building Department upon the filing of an application for a permit to erect a billboard to examine such plans, specifications and other data submitted for the proposed billboard. It shall be the duty of the Superintendent of the Building Department to issue a permit for the erection of a proposed billboard, provided that:

A. The proposed billboard has received Planning Board approval.

B. The proposed billboard is in compliance with all the requirements of this Article, as well as all other laws and ordinances of the Town/Village of \_\_\_\_\_.

**§ 27. Issuance of annual renewal permit.**

Each billboard permit shall be renewed with the Superintendent of the Building Department in accordance with the following regulations:

- A. Application for an annual permit shall be made within 14 calendar days after the first day of January.
- B. The applicant shall submit any changes in ownership of billboard or property and an affidavit stating that the same has been changed on the billboard itself.
- C. Fees. The fee for an annual permit shall be \$50 for all size billboards.

**§ 28. Revocation of permits.**

The Superintendent of the Building Department shall revoke such billboard permit 14 days after written notice has been given to the owner on record of said billboard for any one of the following conditions, provided that said condition has not been corrected within the fourteen-day period:

- A. Failure to obtain the annual permit within the first 14 calendar days of the new year.
- B. Failure to submit proper information in regard to changes in ownership of billboards.
- C. Failure to complete construction within 180 days of date of issuance of the building permit.
- D. Failure to affix the permit number and necessary names.
- E. Failure to obtain permission from the Superintendent of the Building Department to structurally alter the billboard.
- F. Failure to maintain any billboard in accordance with the judgment of the Superintendent of the Building Department of the Town/Village of \_\_\_\_\_. This would include but not be limited to the following:
  - (1) That the structure be free from all hazards, such as faulty wiring, loose fastening or supports, etc.
  - (2) That the structure remain safe, secure and in no way a menace to the public.
  - (3) That the structure be maintained in a clean, neat condition.
- B. The Superintendent of the Building Department may cause any billboard that is a source of immediate peril to persons or property to be removed summarily and without notice.

**§ 30. Nonconforming billboards.**

- A. Any billboard in existence at the effective date of this article that does not comply with this article shall be deemed nonconforming and shall be allowed to remain as such, provided that a building and annual renewal permit is filed for in accordance with §§ 25 and 27 of this article.
- B. No nonconforming billboard shall be reconstructed or structurally altered except as provided for in § 24 and § 30C of this article.
- C. Once a nonconforming billboard has been removed, an applicant has a period of up to six months to apply for a § 24 restoration building permit and reestablish the billboard, provided that the billboard is to the identical specifications, size, location and appearance as existed prior. If such a permit is not applied for six months after the billboard was removed then abandonment or relinquishment of such nonconforming billboard shall be presumed, and such nonconforming billboard shall be deemed abandoned and shall not thereafter be reestablished. A party seeking to rebut the presumption of abandonment herein and assert non-

abandonment of such nonconforming billboard has the burden of proving that such abandonment or relinquishment of such nonconforming billboard was not intentional and that such nonuse was involuntary, as well as the burden of going forward.

**§ 31. Review and appeal.**

Any person aggravated by any decision of the Superintendent of the Building Department relative to the provisions of this Article or the Town/Village of \_\_\_\_\_ may appeal such decision to the Zoning Board of Appeals as provided in the zoning regulations of the Town/Village of \_\_\_\_\_ and shall comply with all procedural requirements prescribed by such Zoning Board of Appeals.

**§ 32. Penalties for offenses.**

Failure to comply with any of the provisions of this article shall be deemed a violation, and the violator shall be liable to a fine of not more than \$50, and each day that such violation continues shall constitute a separate violation.



Table of Permitted Signs

Function of Sign	Nature of Sign	Area per Sign (sq ft)	Number of Signs	Total Sign Area (sq ft)	Front Line Setback (ft)	Side and Rear Setback (ft)	Height (ft) (Freestanding sign)	Height (ft) (Wall Sign)	Permit Required?
Residential identification or street number and/or identification of a permitted customary home occupation in a single-family house or mobile home	permanent	2	1	2/lot	15	15	6	10	no
Residential identification or street number and/or identification of a permitted customary home occupation in a duplex (2-family) house	permanent	2	1/dwelling unit; 2/building	2/sign	15	15	6	10	no
Apartment complex or mobile home park identification, 3-12 units	permanent	12	1/complex	12	15	15	6	10	yes
Apartment complex or mobile home park identification, over 12 units	permanent	32	1/entrance, maximum of 2/parcel	64	15	15	6	10	yes
Public or private schools, houses of worship, meeting halls, fire stations, private clubs or other similar uses	permanent	32	2, 1 on which may be freestanding	32	15	15	15	10	yes
Cemetery identification	permanent	32	1/entrance	32	15	15	6	not permitted	yes
Not-for-profit organizations (fundraising events, such as bazaars)	temporary, not to exceed 30 days	32	1	32	15	15	6	10	no
<b>Political signs (must be removed within 30 days after election):</b>									
Campaign headquarters	temporary, must be removed within 30 days after election	160	1/political party, plus 1/candidate	160	15	15	20	15	yes
Lawn signs	temporary	4.5	unlimited	4.5	private property	private property	3	10	no
Vehicle and trailer signs	temporary, must be removed within 30 days after election	32	unlimited	NA	30		NA	NA	no
Garage sale signs	temporary	4	1	4	15	15	4	not permitted	no
<b>Real estate for sale or for-rent signs:</b>									
Residential use, 1- and 2- family homes	temporary, must be removed 5 days after property transfer or no longer for sale	6	1/parcel	6	10	15	6	10	no
Commercial property, including apartment complexes	temporary, same as above	32	1/parcel	16	15	15	6	10	no
Construction project identification	temporary, 1 year, renewable	48	2/parcel	48	15	15	10	10	yes
Grand opening identification	temporary, 30 days maximum	32	1	32	15	15	6	10	yes
<b>Commercial use, single or double tenant site</b>									
Freestanding sign	permanent	see Chart A	1 freestanding/site	see Chart A	15	15	20	-	yes
Wall sign	permanent	see Chart C	1 wall/tenant	see Chart C	-	-	-	20	yes
Projecting	permanent	6	1 projecting/site	6	-	-	-	20	yes
<b>Commercial complex, 1 or more parcels occupied by more than 2 tenants or at least 2 tenants and the owner or any combination thereof:</b>									
Freestanding sign, primary complex	permanent	see Chart A	1	see Chart A	15	15	20	-	yes
Freestanding sign, secondary complex	permanent	20	1/each secondary frontage, provided that 600 feet exists between signs, measured in a straight line, and frontage on which sign is located includes direct vehicle access from the complex to the street	20	15	15	20	-	yes
Wall sign	permanent	see Chart C	1/tenant having direct customer access to the out of doors; must be placed on storefront of the tenant identified by the sign	see Chart C	NA	NA	NA	20	yes
<b>Gas station or motor vehicle service station</b>									

Table of Permitted Signs

Function of Sign	Nature of Sign	Area per Sign (sq ft)	Number of Signs	Total Sign Area (sq ft)	Front Line Setback (ft)	Side and Rear Setback (ft)	Height (ft) (Freestanding sign)	Height (ft) (Wall Sign)	Permit Required?
Freestanding sign, single or double tenant site	permanent	see Chart A	1 freestanding/site	see Chart A	15	15	20	-	yes
Wall sign, single or double tenant site	permanent	see Chart C	1 wall/tenant	see Chart C	-	-	-	20	yes
Wall sign, in complex	permanent	see Chart C	1	see Chart C	-	-	-	20	yes
<b>Office, research, development, manufacturing and industrial warehousing, single or double tenant site</b>									
Freestanding sign	permanent	see Chart B	1/site	see Chart B	15	15	20	-	yes
Wall sign	permanent	see Chart C	1/tenant having direct customer access to the out of doors; must be placed by the primary entrance	see Chart C	-	-	-	20	yes
<b>Office, research, development, manufacturing and industrial warehousing complex</b>									
Complex identification	permanent	see Chart B	1	see Chart B	15	15	20	-	yes
Freestanding sign, individual building identification	permanent	see Chart B	1 freestanding/site	see Chart B	15	15	20	-	yes
Wall sign, individual building identification	permanent	see Chart C	1 wall/tenant having direct customer access to the out of doors; must be placed by the primary entrance	see Chart C	-	-	-	20	yes
Complex identification	permanent	Not more than 4 sq ft for header, plus 1.5 sq ft per tenant. The total area of directory signage within a complex shall not exceed the allowable area of primary complex identification sign.	1/building	see Area per sign	45	20	8	10	yes
<b>Sports and recreation center</b>									
Freestanding sign, single or double tenant	permanent	see Chart B	1 freestanding/site	see Chart B	15	15	20	-	yes
Wall sign, single or double tenant	permanent	see Chart C	1 wall/tenant	see Chart C	-	-	-	20	yes
Wall sign, in complex	permanent	see Chart C	1/tenant	see Chart C	-	-	-	20	yes
<b>Farm stand</b>									
Freestanding sign	permanent	16	1 freestanding sign or 1 wall sign, or both, provided that the total sign area or	16	15	15	20	-	yes
Wall sign	permanent	16	per planning board approval	NA	per planning board approval	per planning board approval	per planning board approval	10	yes
On site directional signs	permanent	2	per planning board approval	NA	per planning board approval	per planning board approval	per planning board approval	per planning board approval	yes

## Sign Ordinance Charts

### Chart A

Freestanding signs for:

- Commercial parcels
- Commercial complexes
- Gas stations, motor vehicle service stations

But not including billboards

Allowable sign area:

$$\text{Area of Sign} = 2 \left( \frac{\text{Ground Floor Area}}{1000} + \frac{\text{Primary Frontage}}{10} \right)$$

Except that area need not be less than thirty-two (32) square feet and shall not be greater than one hundred sixty (160) square feet.

### Chart B

Freestanding signs for:

- Office, research, development, warehousing and industrial:
  - Complex identification*
  - Individual building identification*
- Sports and recreation centers

Allowable sign area:

$$\text{Area of Sign} = \frac{\text{Ground Floor Area}}{1000} + \frac{\text{Primary Frontage}}{100}$$

Except that area need not be less than twenty (20) square feet and shall not be greater than seventy (70) square feet.

### Chart C

Wall signs

Allowable area:

$$\text{Area of Sign} = 0.42(\text{Length of Store Front}) + 11.6$$

Except that area need not be less than twenty (20) square feet and shall not be greater than seventy-five (75) square feet. Name plates are not considered part of the allowable sign area.



# **SIGN ORDINANCE**

**TOWN OF**

**HOLDEN, MAINE**

**Adopted June 13, 1984  
Amended June 11, 1997  
Amended June 12, 2002  
Amended June 15, 2005**



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# TOWN OF HOLDEN SIGN ORDINANCE

## **ARTICLE 1 STATEMENT OF PURPOSE**

The purpose of this ordinance is to protect and promote the health, safety, and general welfare of the public; to regulate signs such that they will not, by reason of their size, location, construction, or manner of display, endanger the public safety of individuals, confuse, mislead, or obstruct the vision necessary for traffic safety; and to promote the attractive use and placement of signs, as an integral part of the Comprehensive Plan for municipal development, and consistent with the property rights guaranteed to all persons by the Constitutions of the United States and the State of Maine.

## **ARTICLE 2 DEFINITIONS**

**Section 201.** For the purpose of this Ordinance, the following words and phrases shall have the meaning ascribed to them in this section.

**Animated Sign:** A sign which has any moving billboard light or lights, or has any moving parts.

**Applicant:** A person for whom a sign is proposed to be erected, requesting that a sign permit be issued.

**Attached Sign:** A sign attached to a building or other structure.

**Billboard:** A detached or free standing sign having one or more panels designed to contain informative messages of advertisement which are changed from time to time.

**Detached or Free Standing Sign:** A sign that is not attached to any building or structure and is self-supporting.

**Erect:** To construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way, bring into being or establish. It shall not include any of the foregoing activities when performed as an incident to the change of advertising.

**Flashing Sign:** A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits sudden or marked changes in such light or color effects, including, but not limited to, rotating beacons. Illuminated signs which indicate the time, temperature, weather, or other similar information shall not be considered flashing signs.

**Illuminated Sign:** A sign which has characters, letters, figures, designs, or luminous tubes as part of the sign, or is internally lit.

**Indirectly Illuminated Sign:** An illuminated, non-flashing sign whose illumination is derived entirely from an external artificial source and is so arranged that no direct rays of light are projected from such artificial source into public streets.

**Non-functional Sign:** A sign displayed after the business or product advertised is no longer located, operating, or available on the premises to which the sign pertains.

**Official Business Directional Sign:** A sign erected and maintained in accordance with Title 23, M.R.S.A., Sections 1906 et al, designed to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services and points of scenic, historical, cultural, recreational, educational and religious interest.

**Off-Premise Sign:** A sign which directs attention to a business, profession, product, service, entertainment, merchandise, or goods, not conducted, sold, present, or offered upon the premise or land where such sign is located

**On-Premise Sign:** A sign which directs attention to a business, profession, product, service, entertainment, merchandise, or goods, conducted, sold, present, or offered upon the premise or land where such sign is located.

**Permanent Sign:** An name, identification, description, display, illustration or devise which is intended for a period of display in excess of thirty days. Any sign that is not considered a temporary sign with this Ordinance shall be considered permanent.

**Person.** Any individual, corporation, joint venture, partnership, or any other legal entity.

**Portable Sign.** Any sign that is not permanently affixed to a building, structure or the ground, and/or is designed to be moved from place to place, with or without wheels. Specifically included for purposes of description, but not limitation, are signs mounted on trailers, with or without wheels; A-shaped "sandwich board signs"; and inverted T-shaped signs.

**Premises.** The lot or parcel of land, used in the active conduct of a business, service, profession, or activity, including, but not limited to, structures, driveways, parking lots, storage areas, landscaping and loading areas.

**Projecting Sign.** A sign which is attached to a building wall and which extends more than fifteen (15) inches from the face of such wall and is eight (8) feet above grade level.

**Revolving Sign.** A sign that rotates on an axis, turns, rolls, or otherwise moves or gives the appearance of moving.

**Setback.** The distance from any street, highway, or right-of-way line abutting a lot, and shall also apply to the side and rear lot lines.

**Shopping Center.** Four (4) or more contiguous retail stores with common off-street parking under single or common management.

**Sign.** Any name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public, and which directs attention to a product, place, activity, person, institution, or business. A sign shall include writing, representation, or other fixture of similar character within a building only when permanently installed, illuminated and located in a window. ..

The following shall not be consider signs within the meaning of this Ordinance:

- a. Flags or insignia of any government;
- b. Legal notices, identification, information, traffic-related, or directional signs erected or required by governmental bodies, excluding Official Business Directional Signs;
- c. Signs, measuring not more than (4) square feet, designed to direct and facilitate the flow of vehicular traffic into and out of a commercial

establishment, and containing no advertising matter.

### **Sign Area Measurements.**

a . Sign copy mounted or painted on a background panel or area distinctively painted, textured or constructed as a background for the sign copy;

Sign area is measured as that area contained within the outside dimensions of the background panel or surface.

b. Sign copy mounted as individual letters and/or graphics against a wall or fascia of a building or other structures that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy;

Sign area is measured as the area enclosed by the smallest single rectangle that will enclose all sign copy.

c. Sign copy mounted or painted on an illuminated sign or illuminated architectural element of a building;

The entire illuminated surface or illuminated architectural element which contains sign copy, will be counted as sign area.

d. Number of Sign Faces:

One - area of the single face only.

Two - if the interior angle between the two sign faces is 45 or less, the area will be the area of one face only; if the angle between the two sign faces is greater than 45, the sign area will be the sum of the areas of the two faces.

Three or more - the sign area will be the sum of the areas of the three or more faces.

Spherical, Free Form, Sculptural, Other non-Planar Signs - sign area will be the sum of the areas of the four vertical sides of the smallest polyhedron that will encompass the sign structure.

e. For a sign having more than one component (e.g., a service station identification/price sign combination mounted on the same surface) the sign area will be the area of the smallest rectangle that will encompass the several components of the sign.

**Temporary Sign.** A display, informational sign, banner, or other advertising device, with or without frame, and intended for a limited period of display.

**Wall Sign.** Any sign painted on or attached parallel to the wall surface of a building and projecting there from not more than fifteen (15) inches.

**ARTICLE 3 GENERAL PROVISIONS**

**Section 301.** This Ordinance shall be known and may be cited as the Holden Sign Ordinance.

**Section 302. All New Work to Conform.** All signs erected, constructed, or altered in the Town of Holden shall comply with the requirements set forth in this Ordinance.

**Section 303. Maintenance.** It shall be unlawful to maintain a sign that has been erected or altered in violation of this Ordinance.

**Section 304. Authority.** This Ordinance is adopted pursuant to Home Rule as provided for in Article VIII-A of the Maine Constitution, Title 30-A, Section 4352 and Title 38, Section 435 et. Seq. of the Maine Revised Statutes Annotated.\*

**Section 305. Conflict with Other Ordinances.** Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation and ordinance, the more restrictive requirements shall govern.\*

**Section 306. Supercedure.** All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, but only to the extent of such conflict. The Sign Ordinance in effect at the time that this Sign Ordinance is enacted is hereby repealed. Provided, however, that all lawfully adopted Ordinances or parts thereof shall remain in full force and effect with respect to any violation thereof in existence at the time of adoption of this Ordinance, and provided further that any such violation shall be deemed a violation of this Ordinance and subject to its terms and provisions.\*

**Section 307. Severability.** In the event that any section, subsection or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.\*

**Section 308. Amendments.** The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:\*

308.1 Initiation

A proposal to amend this Ordinance may be initiated by:

308.1.1 The Planning Board, by majority vote;

308.1.2 The Town Council, through a request to the Planning Board; or

308.1.3 Any 5 qualified voters may begin initiative proceedings by a request in writing to the Town Clerk. The Clerk shall provide the appropriate petition blanks within 5 days of when they are requested. The complete text of the proposed amendment shall be included in the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed

amendment. These 5 qualified voters shall be referred to as the Requesting Committee during the initiative procedure. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by 5% of the number of votes cast in the Town at the last gubernatorial election but not fewer than 70 voters. any voter of Holden may circulate the petition. The petition shall be signed only once by qualified voters of the Town and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in MRSA Title 30-A, Section 2102(3) (b)(3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 days after the petition circulation period ends, the Clerk shall certify to the Town Council and notify the Requesting Committee that the petition has been signed by 5% of the total of qualified voters who cast votes in the last gubernatorial Election but not fewer than 70 voters.

Should fewer qualified voters than required by this Ordinance sign the petition in the specific time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same amendment may not be accepted by the Clerk until 120 days after the expiration of the previous filing period.

Upon receipt of certification, the Planning Board shall within 30 days hold a public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Holden and by posting a notice at the Municipal Building and another public place in holden, and the Town Council shall within 60 days after said public hearing hold a municipal election for the purpose of submitting to vote the question of adopting such amendment.

Any such proposed amendment shall be examined by the town attorney before being circulated for signatures. The town attorney is authorized to edit the form of such proposed amendment for the purpose of avoiding repetitions, illegalities, and unconstitutional provisions, and to assure accuracy in its text and references, and clarity and precision in its phraseology, but he/she shall not materially change its meaning and effect. If the town attorney cannot edit or correct the proposed amendment, he/she shall so advise the requesting committee who may revise the proposed amendment. If not revised, the town attorney shall advise the voters at the public hearing of the shortcomings of the proposed amendment.

- 308.1.4 When an amendment is proposed by other than the municipal officers or Planning Board, a fee of one hundred dollars (\$100) shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

## 308.2. PROCESS OF ADOPTION\*

The process to be followed in adopting an amendment to this Ordinance is as follows:

- 308.2.1. Proposed amendments must first be submitted to the Planning Board for their consideration.
- 308.2.2. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment.
- 308.2.3 Notice of the public hearing shall be given as required by State Law.
- 308.2.4 The Planning Board shall make its official report at the next regular meeting of the Town Council following the public hearing.
- 308.2.5. The Town Council shall hold a public hearing, notice of which shall be given at least 7 days in advance by publication in a newspaper having a circulation in the Town of Holden and by posting a notice at the Municipal Building and another public place in Holden, and shall place the proposed amendment on the warrant for the Town Meeting following the Public Hearing, for the purpose of submitting to vote the question of adopting such amendment.

**Section 309. Effective Date.** The provisions of this Ordinance shall become effective the day of their enactment.\*

## **ARTICLE 4 PERMITS**

**Section 401. Permit Required.** No person shall erect any sign, as herein defined, without first obtaining a permit therefore from the Code Enforcement Office, except those signs exempted from this requirement by Article 5.

**Section 402. Filing of Permit.** All applications for permits as specified above, shall be filed with the Code Enforcement Officer, upon forms furnished by him, and shall be accompanied by plans, to scale, showing the area of the sign, the position of the sign in relation to lot lines and streets, the position of the sign in relation to adjoining buildings or structures, the location of the building, structure or lot to which the sign is to be erected, the method of illumination, if any, and such other information as the Code Enforcement Officer may require to assure full compliance with this Ordinance.

**Section 403. Schedule of Fees.** The permit fee for erecting, altering, or replacing signs, shall be fifteen dollars (\$15.00) per sign, except that if a non-conforming sign of record is being altered or replaced so as to bring it in to conformity with this Ordinance, no fee shall be charged.

**Section 404. Limitation.** Should the work authorized by a permit granted under this Ordinance not have commenced within six (6) months, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing, then and in that event, the permit shall become null and void and a new permit shall be required before any work may continue.



## **ARTICLE 5 RESTRICTIONS**

**Section 501. Illuminated Signs.** All illuminated signs erected or maintained shall be illuminated by non-flashing and non-intermittent light or lights. No illuminated signs shall be of the intensity or brilliance to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with such operator.

**Section 502. Off-Premise Signs Prohibited.** All off premise signs are prohibited. This provision shall not apply to Official Business Directional Signs.

**Section 503.1 Attached Signs.** No attached sign shall obstruct any window, door, stairway or other opening intended for ingress or for needed ventilation or light. Further, no sign shall be attached to any tree or public utility pole.

**Section 503.2 Signs Erected on Natural Features.** No on-premise sign may be permitted which is erected or maintained upon trees or painted or drawn upon rocks or other natural features.

**Section 504. Signs Painted on Buildings.** Any existing sign that is painted directly on the surface of a building may remain and may be repainted, even though it may exceed the total allowable surface area of signs. Any new sign that is to be painted on the surface of a building must not exceed the total allowable surface area of signs.

**Section 505. Revolving Signs.** Revolving signs are prohibited in the Town of Holden except for barbershop poles which are not to exceed four (4) feet in height. \*

**Section 506. Projecting Signs.** No signs shall project over any lot line, public sidewalk, street or right-of-way line. No projecting sign shall be less than eight (8) feet above grade level.

**Section 507. Setback.**

**Section 507.1. Setback from Right-of-Way.** No signs except Official Business Directional Signs, shall be erected inside of the public right-of-way. In addition, if the paved surface of the road extends to the edge of the right-of-way, signs must be located at least seven (7) feet from such paved surface.

**Section 507.2. Setback From Side Lot Lines.** All signs shall be set back at least twenty (20) feet from all side lot lines. The setback shall be determined from street or lot lines to that part of the sign that extends nearest to said line, whether it be at ground level or above ground level.

Irregardless of these setback provisions, no sign shall be located such that it interferes with or impairs the vision of the operator of any motor vehicle.

**Section 508. Non-functional Signs.**

**Section 508.1. Non-functional, Non-conforming Signs.** It shall be unlawful for any non-conforming sign to remain on display after it ceases to be functional. If a non-conforming sign is found to be non-functional for a period of ninety (90) days, the owner shall be given written notice to remove such sign within ten (10) days after receipt of said notice. If the owner refuses or neglects to comply with the order, the Board of

Selectmen may order such sign to be removed by whatever means practical, and all expenses therefore shall be repaid to the Town of Holden by the owner within thirty (30) days after demand.

**Section 508.2 Non-functional, Conforming Signs.** If a sign which would otherwise be considered in conformance with this Ordinance becomes non-functional for a period of ninety (90) days or more, that sign shall be considered a non-functional, conforming sign. Non-functional, conforming signs may remain in place for an indefinite period, but must be painted or otherwise colored a solid white, beige, blue, brown, or black color, and may bear no advertising material. This section does not apply to seasonal businesses.

**Section 509. Portable Signs.**

(a) Portable signs bearing a message designed to advertise or promote a product or service are only allowed in the General and Limited Commercial Zones as well as the Community Service and Institutional Zone, and shall be limited to one (1) such sign per lot or parcel, provided that if it is illuminated, the provisions of Section 501 of this Ordinance are met, and provided further that it be placed in the manner set forth in Section 507.1 and 507.2 of this Ordinance. In addition, the area of such signs shall not exceed thirty-two (32) square feet. Such signs shall be held in place by stakes, guy wires, or other adequate means. Said signs shall not be considered detached or free standing within the meaning of this Ordinance. A permit shall be required for said signs, but no fee shall be charged.

(b) Portable signs bearing messages other than those designed to advertise or promote a product or service may be placed on private property, provided that if they are illuminated, the provisions of Section 501 of this Ordinance are met, and provided further that they be placed in the manner set forth in Sections 507.1 and 507.2 of this ordinance. The sign area shall be limited to four (4) square feet in size.

**Section 510. Temporary Signs.** Temporary signs, as defined in this Ordinance shall be classified in one of the three categories below, and subject to the regulations that pertain there to:

a. **Real Estate Sale, Rental, or Lease** - Temporary signs which pertain to use, sale, or lease of real estate shall be permitted, but must not exceed thirty-two (32) square feet in area in the General Commercial, Limited Commercial, and Community Service and Institutional Zones; and eight (8) square feet in the High Density Residential (R-1), Low Density Residential (R-2), Rural Resource and Rural Residential (R-3), Seasonal Residence (R-4) and Resource Protection (R-P) Zones. One sign shall be allowed for each two hundred (200) feet. In addition, signs shall be placed in the manner set forth in Sections 507.1 and 507.2. A permit shall not be required for said signs.

b. **Signs on Motor Vehicles.** Signs on motor vehicles, boats and/or trailers, which are determined by the Code Enforcement Officer to be circumventing the intent of this Ordinance are prohibited. Circumvention shall include, but not limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle.

c. **Special Event and/or Announcement Signs.** Signs shall be prohibited, except temporary signs totaling not more than ten (10) square feet in area on any one lot, appertaining to campaigns, drives, or events of political, civic, philanthropic, educational, or religious organizations. Such signs must be removed not later than thirty (30) days after they are erected. A permit shall not be required for said signs. All other regulations contained in this ordinance shall apply to said signs.

d. **Political Signs.** Signs bearing a political message relating to an election, primary, or referendum shall be permitted without necessity of a permit and may be placed in the right-of-way provided they are removed by the candidate or political committee not later than one week after the election, primary, or referendum to which they relate. Any signs not removed within this time period shall be removed by the Code Enforcement Officer of the Town of Holden, or his agent. The cost of removal of such signs shall be determined by the Town Manager and a bill for such costs shall be sent to the candidate or committee responsible for the placement of such signs.

Any such sign placed on private property shall also be removed within one week after the election, primary, or referendum to which they relate. The Code Enforcement Officer shall notify any property owner on whose property such signs have been placed if the signs are not removed within the time period set forth above.

**Section 511. Signs for Home Occupations.** Sign for home occupations shall be limited to one (1) nameplate, which may display the name of the occupant and/or the name of the home occupation(s). Such sign shall not exceed four (4) square feet in area and shall be non-illuminated.

**Section 512. Affixed Signs.** Signs affixed to any wall or roof of a building or signs composed of individual letters without a background, may be located on the edge of a roof or parapet wall on a flat roof provided it does not project greater than four (4) feet above the edge of the roof, parapet wall of a flat roof or the top of a wall at the roof edge. On other types of roofs, the signs may be affixed to the roof of a structure provided the top of the sign shall be at least 4 feet lower than the ridge of the roof. The maximum length of roof sign shall be no greater than 12 feet.

**Section 513. Height of Signs.** No sign, either attached, detached, or affixed to any wall of a building or roof, shall extend to a height greater than twenty-five (25) feet above the level of the ground upon which it is erected.

**Section 514. Free-Standing or Detached Signs.** No free-standing or detached sign in the Community Service and Institutional, Limited or General Commercial Zones shall have a maximum area of greater than two hundred (200) square feet.

**Shopping Centers Excepted** - Shopping Centers, as defined in this Ordinance, shall not be bound by the provisions of Section 514. Article 7 of this Ordinance shall govern the placement of signs in shopping centers.

## **ARTICLE 6 ZONE RESTRICTIONS**

### **Section 601. Signs in Limited Commercial, Village Center Zone\*, and General Commercial Zones.**

- A. In Limited Commercial, Village Center Zone\*, and General Commercial Zones, signs may be located and may be attached, detached, or projecting signs, single or double faced, identifying uses or goods sold or services rendered on the premises.
- B. No lot or parcel in these zones may have more than one detached sign, except as provided in subsection "C" of this section.
- C. Lots or parcels located in these zones with more than three hundred (300) linear feet of frontage along the public way may have two free-standing signs. Lots or parcels with more than five hundred (500) linear feet of frontage along the public way may have up to three (3) free-standing or detached signs. All detached signs on any one lot or parcel shall maintain a minimum separation of one hundred (100) linear feet.
- D. Golf courses and outdoor recreational facilities may have non-advertising signs appropriate to their use, i.e., driving range distance markers and hole numbers.
- E. Industrial and Business Park signs not exceeding four hundred (400) square feet, and which are in compliance with Section 507, are allowed at the entrance to Route 1A, Main Road.
- F. In no case shall the aggregate area of all signs located on any parcel located in these zones exceed six hundred (600) square feet.

### **Section 602. Signs in the Community Service and Institutional Zone (CS &I) Zone.**

- A. In the CS and I Zone, signs may be in accordance with Section 507, and may be attached, detached, or projection signs, single or double faced, identifying uses or goods sold or services rendered on the premises.
- B. No lot or parcel of land located in this zone shall have more than one (1) free-standing or detached sign except as provided in subsection "C" of this section.
- C. Lots or parcels of land located in this zone with more than three hundred (300) linear feet of frontage along the public way may have up to two (2) free-standing or detached signs. Lots with more than five hundred (500) linear feet along a public way may have up to three (3) free-standing or detached signs. All detached signs (see Portable Signs, Section 507) on any one lot or parcel shall maintain a minimum separation of one hundred (100) linear feet.
- D. In no case shall the aggregate area of all signs located on lots or parcels in this zone exceed six hundred (600) square feet.

**Section 603. Signs in the High Density Residential (R-1) and Low Density Residential (R-2) Zones.**

The following signs are permitted in the R-1 and R-2 Zones:

- a. Signs not exceeding twenty-four (24) square feet in area, which identify a particular residential subdivision, to be located on the subdivision site. No more than two (2) signs may be located on any one subdivision.
- b. Signs, including but not limited to home occupation signs, with an aggregate area not exceeding four (4) square feet directing and guiding traffic on private property, but bearing no advertising matter.

**Section 604. Signs in the Rural Resource and Rural Residential (R-3) Zone.**

The following signs are permitted in the R-3 Zone:

- a. All signs permitted in the R-1 and R-2 zones;
- b. Detached signs, one to a property, which measure not more than (8) square feet in size advertising farm produce grown at that location.

**Section 605. Signs in the Seasonal Residence (R-4) and Resource Protection (R-P) Zones.**

The following signs are permitted in the R-4 and R-P Zones:

- a. All signs permitted in the R-1 and R-2 Zones.

## **ARTICLE 7 SHOPPING CENTERS**

**Section 701. Applicability.** This Article regulates the placement of signs in all shopping centers as defined in this Ordinance.

**Section 702. Attached Signs.** In shopping centers, each store or shop front may have one attached sign aggregating four (4) square feet of area for every running foot of its frontage. However, no attached sign or supporting structure shall extend more than four (4) feet above the level of a flat roof or the level of the eaves on other types of roofs. See Section 512, Affixed Signs.

**Section 703. Detached Signs.** Each shopping center may have one detached sign directing the public to the shopping center and identifying use of services rendered on the premises, but not describing goods by brand or trade name, and having a total area not greater than four hundred (400) square feet.

Detached signs shall not extend to an height greater than twenty five (25) feet above the level of the ground upon which they are erected.

Directional signs, measuring not more than four (4) square feet in area, designed to direct and facilitate the flow of vehicular traffic into and out of a commercial establishment, and containing no advertising matter, shall not be considered detached signs within the meanings of this Ordinance.

## **ARTICLE 8 STRUCTURE AND DESIGN**

**Section 801. Structure.** All signs, except those which are less than eight (8) square feet in size, or those which are temporary signs as defined by this Ordinance shall have a structural frame. All frames shall have corner braces or "gusset plates" or the equivalent at all corners.

**Section 802. Structural Rolled Shapes.** the minimum thickness of structural rolled shapes shall be one-eighth (1/8) inch if galvanized or three sixteenth (3/16) inch if not galvanized.

**Section 803. Light Gauge Steel Members.** Structural members of so-call "light gauge" steel must be galvanized and of no less gauge than no. 10 or one-sixteenth (1/16) inch. The latter must be designed in accordance with specifications for the design of "light gauge" steel members of the American Iron and Steel Institute.

**Section 804. Welding.** All welding of structural frames, whether done in the shop or field, must be done by qualified welders.

**Section 805. Guys.** Guys shall be required on the following signs:

- a. Project signs of horizontal length of twenty-five (25) inches or greater;
- b. Free-standing signs that cannot be sufficiently anchored or supported.

**Section 805.1** Signs without guys shall be figured as "cantilevers" and extra care shall be taken with the effectiveness at the anchor or supporting end.

**Section 805.2** Guys, together with the supports on the buildings, establish certain frame members as "simple beams".

**Section 805.3** When there is not sufficient room for cable guys at both sides of a sign, angle or side guys may be used. All angle or side guys shall form an angle of no less than forty-five (45) degrees with the face of the sign and the wall of the building.

**Section 805.4** With permission of the Code Enforcement Officer, short angle or side guys not reaching to the outer end of frame members, or a gusset plate between members against the wall of a building and the main sign frame member, may be allowed, but the fastening shall be to the continuous, horizontal sign frame member.

**Section 805.5.** The minimum allowable size of cable guys shall be three-sixteenths (3/16) of an inch.

**Section 806. Wind Loads.** All projecting signs, roof signs, detached signs, rectangular signs and free standing signs shall be designed and erected to withstand wind load experienced in this area.

**Section 807. Foundations.** Permanent signs shall be adequately supported by a base that provides protection against frost movement. Materials used in the construction of the sign base shall be of a non-deteriorating nature.

**Section 808. Signs with Concealed spaces.** Signs having concealed spaces shall be inspected and approved by the Code Enforcement Officer before being erected. If

the size of the sign is such that it could be used as an accessory structure, then the building setback standards for the zone in which it is erected shall be met.



## **ARTICLE 9 NON-CONFORMING SIGNS**

**Section 901.** Signs that do not conform to the provisions and conditions of this Ordinance shall be altered so as to comply with this ordinance, or in lieu of such alterations, shall be removed from the premises upon which located, according to the schedule below. Signs existing on the date of the adoption of this Ordinance, which are placed in non-conformance solely because of Article 6 of this Ordinance shall be allowed to remain without alteration for an indefinite period, except that in no case shall more than two (2) free-standing signs be allowed on lots with less than three hundred (300) feet of frontage; or three (3) free-standing signs on lots with more than three hundred (300) feet, but less than five hundred (500) feet of frontage; or four (4) free-standing signs on lots with more than five hundred (500) feet of frontage.

The Code Enforcement Officer shall determine the value of the sign based on current market values.

### **Value of Sign**

### **Period for Removal**

\$10.00 or less	Immediately upon enactment of Ordinance
\$10.01 to \$100.00	One (1) year after enactment of Ordinance
\$100.01 to \$500.00	2 years after enactment of Ordinance
\$501.00 to \$1,000.00	3 years after enactment of Ordinance
\$1,001.00 to \$2,500.00	4 years after enactment of Ordinance
Over \$2,500.00	5 years after enactment of Ordinance

**Section 902. Non-Conforming Flashing and/or Revolving Signs.** All flashing and/or revolving signs are prohibited.

**Section 903.** Non-conforming signs, if destroyed or damaged beyond 50% of replacement cost as determined by the Code Enforcement Officer, must be removed.

## **ARTICLE 10 ENFORCEMENT**

### **Section 1001. Enforcement Procedure.**

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, including signs, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the Municipal Officers and be maintained as a permanent record. Any such notice is not a prerequisite to bringing any legal action noted in Section 1002 below, and the failure to give notice shall not in anyway affect such legal action.
- B. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, violations investigated, violations found, and fees collected.

**Section 1002. Legal Action.** The Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions, and proceedings, either legal or equitable, including seeking injunctions or violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Holden. The Municipal Officers, or their authorized agent, are hereby authorized to enter into consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without court action. Such agreements should not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Officer and there is no evidence that the owner acted in bad faith.

**Section 1003. Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, M.R.S.A., Section 4452.

**Section 1004. Validity.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions.

## **ARTICLE 11 APPEALS AND VARIANCES**

**Section 1101. Administrative Appeals.** The Zoning Board of Appeals shall hear and decide matters where written appeal alleges an error in any interpretation, order, requirement, decision or determination of the Code Enforcement Officer in the enforcement of this Ordinance. The action of the Code Enforcement Office may be modified or reversed by the Board by a concurring vote of a majority of the Board members present.

**Section 1102. Variances.** The Zoning Board of Appeals shall decide upon written requests for variances from the terms of this Ordinance. Variances shall be limited to variations in the dimensions and placement of signs. Before the Board may grant a variance, it must find that a relaxation of the terms of this Ordinance and that literal enforcement of this Ordinance would result in undue hardship. The burden of showing undue hardship is on the applicant. Before the Board may exercise its discretion and grant a variance on the grounds of undue hardship, the applicant must show that:

- a. The plight of the applicant is due to unique circumstances arising out of conditions peculiar to the property in question, and not due to the general conditions in the neighborhood.
- b. The alleged hardship includes substantially more than mere inconvenience or inability to attain a higher financial return or both.
- c. The sign to be authorized by the variance will not alter the essential character of the neighborhood.
- d. The alleged hardship is not the result of action taken by the applicant or a prior owner of the property.

The Board shall grant a variance only upon the concurring vote of a majority of Board members present, and in so doing, may prescribe conditions and safeguards as are appropriate for carrying out the intent and purposes of this Ordinance.

**Section 1103. Appeal Procedure.** Persons appealing the decision of the Code Enforcement Officer shall first file a form for such purposes with the Code Enforcement Officer together with an administrative processing fee of One Hundred Dollars (\$100.00). Such appeal must be commenced and required administrative fee received by the Code Enforcement Officer within thirty (30) days after the decision to be appealed. All forms for appeals shall specifically set forth the grounds for the basis for the appeal. The Code Enforcement Officer shall immediately refer the appeal, together with all materials relative thereto, to the Chairman of the Board of Appeals for consideration by the Board, as provided herein. Before taking any action on the appeal, the Board of Appeals shall hold a public hearing. The Board shall notify by U.S. mail, the owners of all abutting property and/or owners of properties within one hundred (100) feet of the exterior boundaries of the property involved, at least ten (10) days in advance of the hearing, the nature of the appeal, the time and place of the public hearing, in accordance with the following:

- a. The owners of the property shall be considered to be those against whom taxes are assessed. Failure of any person owning property within said

one hundred (100) feet to receive notice of said public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals;

- b. Following the filing of the appeal, the Board of Appeals shall hold a public hearing on the appeal within sixty (60) days. A notice of said hearing shall be published in a newspaper of general circulation in the area specifying the date, time, and place of said hearing at least ten (10) days in advance of the hearing:
- c. At any hearing, a party may be represented by an agent or an attorney. A hearing shall not be continued to another time except for good cause;
- d. The Code Enforcement Officer, or his designated agent, shall attend all hearings and shall present to the Board of Appeals all plans, photographs or other materials he deems appropriate for an understanding of the appeal;
- e. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the chair. All persons at the hearing shall abide by the order of the Chairman;
- f. Within twenty (20) days of the public hearing, the Board of Appeals shall reach a decision on the requested appeal, and shall inform, in writing, the appellant, the Code Enforcement Officer, and the Board of Selectmen of its decision;
- g. Upon notification of the decision of the Board of Appeals, the Code Enforcement Officer shall take all necessary action as instructed by said Board.

**Section 1104. Further Appeals.** Further appeals may be taken from any action of the Board of appeals, within thirty (30) days after the decision is rendered, by any party, including the Town of Holden, to the Superior Court from any order, relief, or denial in accordance with Rule 80B, Maine's Rules of Civil Procedure.



**PARKING**



**CHAPTER 16. PARKING****Sec. 9-21-16-5. Parking restrictions.**

(a) *Generally.* General parking restrictions are as follows:

- (1) A person operating a vehicle on a county highway or on county property shall comply with the county highway or property parking restrictions.
- (2) The county has determined that the operator of a vehicle shall not stop, stand, or park a vehicle on certain county highways or property. The county shall post signs or pavement markings indicating the parking restrictions in effect for the highways or property under IC 9-22-16.
- (3) The county highways and property subject to parking restrictions are set forth in a document entitled "Hamilton County Traffic Control Devices," which is to be maintained by the county highway department.
- (4) The board of commissioners may approve, by motion made in open meeting, amendments to the list contained in the "Hamilton County Traffic Control Devices."
- (5) The parking of vehicles in the right-of-way of any road in the county is unlawful while the road is being paved, repaired, or repaved.
- (6) The county highway department or the department's contractors or assigns may post temporary no parking signs, clearly and conspicuously, along any road or right-of-way in the county when they consider it necessary that parking not be permitted to allow work within the right-of-way.
- (7) If a road or street in the county has been posted with no parking signs for a period of 24 hours, the county highway department or any contractor or designee of the department may order vehicles to be towed from the right-of-way.
- (8) If a vehicle is towed pursuant to this section, the costs of towing and storage become a lien upon the vehicle as permitted by law. The owner of the vehicle is required to pay the costs of towing and storage.
- (9) There shall be no fine or costs imposed on the owner of a vehicle for a violation of this section.

(b) *County parking lots.* Parking in county parking lots shall be in accordance with the following:

- (1) The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Parking lots* means the following parking areas controlled by the county:

- a. The north lot, which is the northwest quadrant of the city block bounded on the west by Eighth Street and the north by Clinton Street;
- b. The south parking lot, which is generally bounded on the north by State Road 32, on the south by Maple Avenue, on the east by Sixth Street, and on the west by White River; and
- c. The sally port and underground parking at the west end of the county government and judicial center.



- (2) All parking spaces within the parking lots owned by the county in downtown Noblesville shall be only for the use of county employees during normal business hours Monday through Friday, other than those designated for visitors or as handicapped spaces.
  - (3) In the parking lots there may also contain parking spaces posted for the use of handicapped persons and visitors.
  - (4) All employees of the county shall be issued a parking permit which shall be prominently placed in the employee's vehicle permitting the employee to park in the employee only spaces within the parking lots.
  - (5) All employees of the county shall park in designated parking lots during normal working hours.
  - (6) No employee of the county who is issued a parking credential shall park in spaces which are designated for public parking within the parking lots.
  - (7) Any person who parks a vehicle or owns a vehicle which is parked in the employee spaces within the parking lots, without a properly displayed county employee parking permit, between 8:00 a.m. and 4:30 p.m., Monday through Friday, shall be guilty of a violation of this section, unless that vehicle is parked in a space designated as a visitor space.
  - (8) Any person who parks in a handicapped parking space in the parking lots, the parking lots at Riverview Hospital, or within the county parks without properly displaying a proper license plate, decal, or credential issued pursuant to IC 9-18-22 shall be guilty of a violation of this section.
  - (9) Any county employee who parks in a designated visitor or handicapped space without the proper license plate, decal, or credential set out in IC 9-18-22 shall be guilty of a violation of this section.
  - (10) Any person who violates this section shall be deemed guilty of an infraction and may be fined up to \$500.00.
  - (11) Any person who violates the parking restrictions of this section shall pay a fine and penalty payable to the offices of the Noblesville City Court at 135 South Ninth Street, Noblesville, Indiana, in the sum of \$10.00 if paid within seven days of the date and time of the issuance of the ticket. If, and only if, such fine has not been paid within two weeks of the date of issuance, the violation shall be docketed in the Noblesville City Court and prosecuted as a class A infraction. In such event, the violator shall be obligated to pay the cost imposed by reason of the docketing in the Noblesville City Court in addition to the fine prescribed in this section.
  - (12) All parking citations issued under this section shall be issued on forms provided by the Noblesville Police Department. Any deputy of the county sheriff's department or a member or designee of the Noblesville Police Department may issue a citation under the terms and conditions of this section.
  - (13) All fines and court costs imposed for parking citations shall be payable to the general fund of the City of Noblesville to help compensate for the cost of enforcement of this section.
- (c) *County courthouse area.* Parking is permitted in the county courthouse area as follows:
- (1) Subject to the approval of the Noblesville City Board of Works, three parking spaces on the west side of the courthouse are designated for the exclusive use of the county sheriff.
  - (2) A vehicle may not park on the outside of the courthouse square on Mondays from

3:00 a.m. to 6:00 a.m., or on the inside of the courthouse square from 3:00 a.m. to 6:00 a.m. on Tuesdays. A vehicle parked in violation of this subsection may be towed.

(d) *Handicapped parking.* Handicapped parking signs shall be placed in the parking spaces next to the former county jail.

(Code 1992, § 9-21-16-5; Ord. No. 6-23-97-A, §§ 1--8, cm, 6-23-1997; Ord. No. 11-22-99A, §§ 1, 2, 4--6, cm, 11-22-1999)

**State law references:** Areas where stopping, standing or parking prohibited, IC 9-21-16-5.

## MAILBOXES



ORDINANCE #2002-04  
MAILBOX ORDINANCE  
TOWN OF PRAIRIE LAKE

Ordinance regulating placement of mailboxes in the Town of Prairie Lake and prescribing procedures thereof.

The Town Board of the Town of Prairie Lake, Barron County, Wisconsin, does hereby ordain as follows:

### Section 1.0 Applicability and Enforcement

- a) The provisions of this Ordinance shall apply to all residents of the Town of Prairie Lake.
- b) This chapter shall be enforced by the officers of the Town of Prairie Lake.

### Section 2.0 Intent

The intent of this ordinance is to require that safe but accessible mailboxes be placed upon the road right-of-ways.

### Section 3.0 Requirements

Mailboxes must meet state requirements for placement. A swinging arm is strongly recommended. The mailbox post must be at least three (3) feet from the shoulder of the road and the bottom of the mailbox must be at least forty two (42) to forty eight (48) inches above the road surface and may not extend into the roadway. Any optional boxes must be attached to the same mailbox post.

### Section 4.0 Penalties

Should any mailbox be deemed unsafe by Town Road Maintenance Personnel, the owner of said mailbox shall be notified in writing that said mailbox is not safe and does not comply with Town of Prairie Lake standards and must be replaced. The aforementioned owner shall

then have 10 days in which to comply with the state requirements for placement of mailboxes as laid out and explained in this ordinance.

### Section 5.0 Town Not Responsible for Damage

The Town of Prairie Lake will not be responsible for repair or replacement of mailboxes not meeting the aforementioned standards that be damaged in the course of lawful and necessary town activities.

### Section 6.0 Effective Date

This ordinance shall be effective after adoption by the Town Board and publication or posting as provided by law.

The foregoing ordinance is hereby adopted at the regular Board meeting of the Town of Prairie Lake on the 15<sup>th</sup> day of October, 2002.

ATTEST:

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W. Kenneth Hoefs, Chairman

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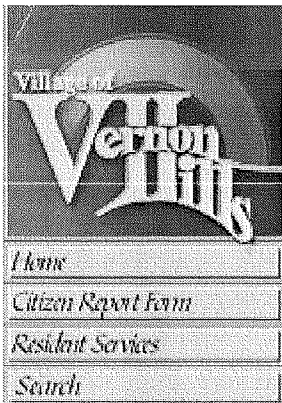
Karn Moe, Clerk

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Allan Morley, Supervisor

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Almar Larson, Supervisor



## VILLAGE OF VERNON HILLS, IL

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### MAILBOX INSTALLATION AND REPLACEMENT GUIDELINES

#### MATERIALS

**Post – 4" x 4" x 80"**: A treated wood post is recommended over steel. Wood posts are unaffected by road salt which significantly accelerates the corrosion of metal posts. The mailbox shall be mounted on a support structure which is a minimum of 4" x 4" or a maximum of 6" x 6" treated wood post, or a minimum 1½" to a maximum of 3" diameter light gauge galvanized steel hollow pipe, or on such other similar structure as is approved by the Director of Public Works, and found by him to be of comparable safety to the wooden post or light gauge steel pipe structures.

Other support structures such as, but not limited to, masonry columns, railroad rails and ties, tractor wheels, plow blades, milk cans, or barrels filled with concrete are expressly prohibited.

**Mailbox:** The mailbox should be U.S. Postal approved and securely attached to the post. A standard mailbox is recommended over the more esoteric varieties for three reasons. First, they tend to weather the impact of snow coming off plows better. Second, Village policy limits mailbox reimbursement to \$50.00 (Ordinance 2004-100). Finally, most people find a row of standard mailboxes actually looks better than a cluttered array of artistic interpretations of what should be a rather utilitarian container. Save yourself money and improve the aesthetics of your neighborhood; buy a standard box.

#### INSTALLATION

**Before You Do Anything:** Call J.U.L.I.E. at 1-800-892-0123 at least 48 hours before you even start to look for your shovel so all underground utilities can be located. If you do not call before you dig, you might be in for quite a surprising jolt. You would also be violating state law.

**Locating the Post:** The center of the post should be located 24 inches behind the back of the curb and 4 feet from any fire hydrant. The hole should be approximately 36 inches deep to deter frost heaving. A small amount of concrete placed in the hole will help set the post in place.

**Locating the Box:** The mailbox itself should be 42 inches off the ground so the mail carrier can easily place mail in your box from his/her vehicle. The face of the mailbox should not be less than 6" or more than 12" behind the curb so it does not get hit by snowplows (or their marker flags).

Following these guidelines in accordance with Ordinance No. 93-43 & 2004-100 will alleviate most mailbox problems. Of course, we cannot guarantee that your mailbox will last forever. Wet, heavy snow has quite an impact as it comes off a snowplow blade. And, in any direct skirmish between an errant plow or car and your mailbox, your mailbox will certainly lose. Rest assured that we do all we can to keep such skirmishes to an absolute minimum and appreciate your efforts to install a mailbox in accordance with the instructions above.

#### REPLACEMENT

We apologize for any inconvenience we may have caused you.

The Public Works Department must be notified by April 15, 2005 of any damages to

receive reimbursement or have repairs made by the Public Works Department.

The Public Works Department will repair the existing box or replace it with a standard U.S. Postal Service box or 4" x 4" wood post.

If the resident desires a non-standard box the Village will reimburse for materials only to maximum amount of \$50.00. Reimbursement will only be made after the installation of the new materials and receipts have been submitted

Should you have any questions please contact our Department at 367-3726 between the hours of 7:00 am and 3:30 pm Monday through Friday.



# City of Waverly Mailbox Ordinance

STATE OF MINNESOTA

COUNTY OF WRIGHT

CITY OF WAVERLY

Ordinance No. 98-03

AN ORDINANCE AMENDING SECTION 1. AND SECTION 2.  
OF WAVERLY CITY ORDINANCE CHAPTER 11.03  
ENTITLED "AN ORDINANCE REGULATING MAIL BOXES ."

The Waverly City Council does hereby ordain:

Section 1. Section 1. and Section 2. of Ordinance Chapter 11.03  
entitled "An Ordinance Regulating Mail Boxes" is hereby amended  
as follows:

Section 1. No person shall erect or cause to be erected or install a  
box for delivery of mail on any property owned by the City of  
Waverly.

Section 2. A person who qualifies for mail delivery may erect a mail  
box in front of their property and the mail box must be erected in  
compliance with federal regulations.

Section 2. This ordinance shall be in full force and effect from and  
after its passage and publication according to law.

Passed by the Waverly City Council this 9th day of June, 1998.

Charles Bush, Mayor

ATTEST: Deborah Ryks, Clerk

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## ORDINANCE NO. 14,236

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by repealing Section 102-596 and Section 102-598 thereof; by enacting a new Section 102-596 and Section 102-598; and, by adding and enacting new subsections (10) and (11) to Section 102-604, to require that all new mailboxes and replacements of existing mailboxes be of a breakaway design.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa, as follows:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, be and is hereby amended by repealing Section 102-596 and Section 102-598 thereof; by enacting a new Section 102-596 and Section 102-598; and, by adding and enacting new subsections (10) and (11) to Section 102-604, to require that all new mailboxes and replacements of existing mailboxes be of a breakaway design, as follows:

**Sec. 102-596. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Breakaway mailbox* means a mailbox approved by the U.S. Postal Service and used for the curbside delivery of mail, which is supported by a wood post no greater in cross section than 4 inches square or by a post with a strength no greater than a 2 inch diameter standard steel pipe. Two such posts may be used to support a cluster of four or more mailboxes.

*City engineer* means the head of the engineering department or the engineer's duly authorized designee.

*Encroachment*, in addition to its usual meaning, means any architectural projection, chimney, stairway, platform, step, railing, door, grate, vault, sign, banner, canopy, marquee, awning, newsrack, trash container, bench, areaway, obstruction, opening or structure.

*Newspaper delivery receptacle* means a device for receiving and containing newspapers delivered for and at the request of a subscriber to the newspaper.

*Newsrack* means an encroachment in the form of an unmanned device for the vending or free distribution of newspapers or news periodicals; provided, however, that this definition shall not include newspaper delivery receptacles.

*Public property*, in addition to its usual meaning, means any street, highway, avenue, alley, sidewalk, skywalk bridge, public place or other real property owned or controlled by the city.

**Sec. 102-598. Damages.**

Any injury or damage to persons or property occurring in consequence of the construction, use or maintenance of any of the encroachments described in this article or because of any defect therein shall be paid by the person using or maintaining such encroachment.

After July 1, 2003, the responsibility for damage to a mailbox upon public property by the city, its officers, employees and agents, shall be limited to replacement of the damaged mailbox by the city with

a breakaway mailbox of a standard design and color selected by the city. The owner of any mailbox remaining upon public property after July 1, 2003, shall be deemed to have agreed to this limitation as a condition of the owner's continued use of the public right-of-way.

**Sec. 102-604. Exemptions from article.**

Nothing in this article shall be held in any way to prohibit or regulate the maintenance or placement of the following:

.....

(10) Breakaway mailboxes.

(11) Mailboxes constructed prior to May 1, 2003, that are not breakaway mailboxes. However, the burden of establishing that an existing mailbox was constructed prior to May 1, 2003, shall be upon the owner. Any mailbox, when replaced, shall be replaced with a breakaway mailbox.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

Preston A. Daniels, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 03-1030-I ), passed by the City Council of said City at a meeting held May 5, 2003 signed by the Mayor on May 5, 2003 and published as provided by law in the Business Record on June 2, 2003 Authorized by Publication Order No.3591.

Diane Rauh, City Clerk

**ORDINANCE MAILBOX ORDINANCE****2005-1-3 PLACEMENT OF MAILBOXES IN THE TOWNSHIP****REGULATING PLACEMENT OF MAILBOXES WITHIN THE TOWN OF VIENNA AND PRESCRIBING THE STANDARDS AND PROCEDURES THEREOF**

The Town Board of the Town of Vienna, County of Dane, State of Wisconsin, has determined that it is in the public interest of the Town to establish uniform standards and procedures for the placement of mailboxes within the Town of Vienna. The Town Board of the Town of Vienna does hereby ordain as follows:

**SECTION 1. APPLICABILITY AND ENFORCMENT.**

The provisions of this ordinance shall apply to all residents of the Town of Vienna who install, erect, or replace mailboxes along Town of Vienna road right-of-ways after the publication date of this ordinance.

This ordinance shall be enforced by the officers of the Town of Vienna

**SECTION 2. INTENT.**

1. The intent of this ordinance is to require that accessible mailboxes be placed upon road right-of-ways in such a manner that allows for efficient snow clearance and the maintenance of road right-of-ways.

**SECTION 3. GENERAL REQUIREMENTS**

All mailboxes shall meet U.S. Post Office, federal, and state requirements.. The front of all mailboxes and any optional boxes must be at least three (3) feet from the paved portion of the road surface. The mailbox container must be at least forty-two (42) inches, but not exceed forty-eight (48) inches, above the road surface. All mailbox posts shall be designed to break away or break off upon the impact with any vehicle.

**SECTION 4. SPECIFIC REQUIREMENTS FOR NEW MAILBOXES IN NEWLY PLATTED SUBDIVISIONS.**

The specific requirements for all new mailboxes in the Nature Valley subdivision and any other newly platted subdivisions within the Town of Vienna after the publication date of this ordinance are as follows: All mailboxes, unless otherwise designated in writing by the Town, shall be placed on the left side of the roadway (north to south and east to west to be determined by local Postmaster). The Town of Vienna may elect to erect the mailbox post(s) and mailbox platform(s). The cost of materials and labor for the erection of any mailbox post(s) and plat form(s) will be paid by the resident, and such cost shall be shared equally by all properties served by the mailbox(s) and mailbox platform(s). Unless otherwise designated in writing by the Town, all mailbox post(s) and platform(s) shall be placed at the property line between residences and shall be designed to accommodate up to four (4) individual mailboxes and optional newspaper boxes. It shall be the responsibility of the residents served by the mailbox platform(s) to place and secure their individual mailbox containers on the mailbox platform. Due to weather conditions temporary mailbox placement may be used by residents until such time as the permanent mailbox platform(s) are erected or installed by the Town or upon thirty (30) days written notice to residents. Such permanent mailbox platform(s) shall be erected or installed as soon as the Town determines that weather conditions will permit such installation. All temporary mailboxes shall be removed at such time as the permanent mailbox platform(s) are erected. All temporary mailbox placements shall be subject to the general requirements of this ordinance. The Town may impose additional requirements to the requirements contained in this ordinance where necessary for public safety, efficient snow clearance ,or maintenance of road right-of-ways. The cost or expense of the Town in erecting, installing, or repairing any mailbox post or platform, subject to Section 5, shall be paid by the resident. In the event any resident fails to pay such charges may be placed upon the tax rolls as a special assessment.

**SECTION 5. MAILBOX PLACEMENT.**

The Town of Vienna will replace mailboxes damaged only along Town roads where it has been determined that:

- Physical damage, which can be proven and documented by the resident of the Town, was caused by actual Town equipment contact;
- The mailbox is of standard design and placed in conformance with this ordinance, and

- The existing installation, mailbox, and mailbox post were in good condition and repair.

The Town of Vienna will **not** replace mailboxes damaged only along Town roads where the Town has been determined that:

- The mailbox was not of standard design or not placed in conformance with this ordinance even though it may have been damaged by Town equipment;
- The mailbox, post, and installation were not in good condition and repair; and
- Evidence indicates that the weight of plowed snow resulted in the damage to the mailbox and/or post.

The replacement of mailboxes by the Town of Vienna shall be limited to a minimum standard U.S. Post Office mailbox with a standard 4" x 4" treated wood post. Special decorative mailboxes and/or posts will not be provided. If the resident wishes to install a decorative mailbox and/or post that meets standards, it shall be at the resident's expense. Replacement of mailboxes in the Nature Valley subdivision and any other newly platted subdivisions shall be in accordance with Sections 4 and 5. The Town will deliver a mailbox and/or post within ninety-six (96) hours of notification of damage provided it has been determined that it is the Town's responsibility to provide the replacement materials as indicated by this Section.

#### **SECTION 6. PENALTIES.**

In the event that any mailbox is deemed to be an obstruction or a road maintenance problem by the Town road maintenance personnel, the owner of the mailbox shall be notified in writing that the mailbox does not comply with the Town of Vienna Mailbox Ordinance standards and shall be repaired or replaced. Upon such notification, the resident shall have fifteen days (15) to make corrections in order to come into compliance with this ordinance. Any and all costs of repair or replacement shall be paid for by the resident and if any resident fails to pay the same, such costs may be placed upon the tax rolls as a special assessment.

Mailboxes installed or maintained in violation of this ordinance shall be subject to removal pursuant to Section 86.04, Wis. Stats.

The Town may take such other enforcement action as permitted under the laws of the state of Wisconsin.

If the Town, pursuant to Section 6, is successful in any enforcement action, all Town costs, including reasonable attorneys' fees and costs, shall be charged against the resident; and if the resident fails to pay the same, such costs may be placed upon the tax rolls as a special assessment.

#### **SECTION 7. TOWN NOT RESPONSIBLE FOR DAMAGE.**

Except as specifically provided in this ordinance, the Town of Vienna shall have no responsibility or obligation for the repair or replacement of mailboxes or supports which may become damaged in the course of Town road maintenance activities regardless of whether the location requirements of this ordinance have been followed.

#### **SECTION 8. SEVERABILITY.**

If any section, subsection, paragraph, clause, sentence, phrase, or word contained in this ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portion of this ordinance, which shall remain in full force and effect and, to this end, the provisions of this ordinance are hereby declared to be severable.

#### **SECTION 9. EFFECTIVE DATE.**

This ordinance shall be effective after adoption by the Town Board and publication and/ or posting as provided by law.

The foregoing ordinance was adopted at a regular meeting of the Town of Vienna Board held on January 3, 2005. Signed and dated January 12, 2005.

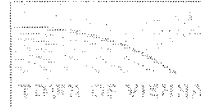
Carlton B. Hamre, Town of Vienna Chair

Daniel Muxfeld, Town of Vienna Supervisor  
Lloyd Simpson, Town of Vienna Supervisor

ATTEST: Robert Pulvermacher, Town of Vienna Clerk

PUBLICATION DATE: Jan. 20, 2005

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# Mailbox Miscellaneous

It's inevitable. Every now and then a plow truck will destroy a mailbox. Accidents with mailboxes are an area of potential friction between residents and highway department.

This article attempts to lessen the friction. There is advice from Bernie Waugh, NHMA Legal Counsel, the postal service's suggestions for mailbox placement, a sample of local public works officials methods to cope with destroyed mailboxes, and suggestions for creating ordinances to deal with issues of liability.

## Bernie Waugh on Mailboxes



Bernie Waugh addresses mailboxes in [A Hard Road to Travel](#).

The U.S. Congress, acting under the "post road" class of the U.S. Constitution (Article I, § 8, Clause 7) has declared all highways maintained by a state and its political subdivisions as post roads. Placement of mailboxes within the right-of-way is thus legitimate "viatic use" of the highway, and snow plow damage to a properly placed mailbox should be viewed no differently than damage to any other abutter property—if the mailbox is damaged by town negligence, the town will likely be liable.

(Viatic use means, any use reasonably incidental to the purpose of traveling. It has been held to include the moving of buildings from one site to another; people gathering to watch a parade; children at play rolling hoops; hoses pumping gas to cars parked in the street; and roadside parking.)

But the question is: what is "properly placed?" Can towns regulate mailboxes? Well, yes and no. The U.S. Postal Service has not limited the extent to which towns can regulate their own highways. In fact postal customers are explicitly required to obey any local regulations when erecting mailboxes (39 CFR, Sec. 111.2(a); Domestic Mail Manual, Sec. DO41.2.7). On the other hand, the Postal Service does regulate how a mailbox must be placed by the owner in order to have mail delivered to it. So think of the town and the post office as two independent overlapping regulatory authorities. Hopefully the two sets of regulations will contain some points of intersection and consistency. If town regulations are so strict as to leave the citizens no options which also comply with postal service regulations, then folks just won't get their mail. This may not be a legal problem, but it sure-as-heck could be a political problem! If you want to regulate mailbox placement, check with your postmaster to make sure the owners are left with delivery options.



## United States Postal Service on Mailboxes



The United States Postal Service website states that: mailboxes must be placed at a vertical height of 3.5 feet and 4 feet from the road surface.

The Postal Service doesn't say anything about what type of posts or supports the customer should use. Nor do they say if it is the post that should be placed 4 feet from the road surface, or just the box.



### **Public Works Officials on Mailboxes**

How do highway departments cope with being one of the (as Bernie puts it), "two independent overlapping regulatory authorities?"

Recently, the UNH T<sup>2</sup> Center surveyed a number of towns and found that municipalities try to make a broken mailbox right. Of the towns surveyed, none have a mailbox policy or ordinance. Jack Petkus, of Nashua, says "we try to replace each mailbox that we knock down with a standard one but when we get resistance we replace 'in kind.' After a knockdown, we try to make an immediate temporary fix so the resident can get mail and then do a permanent replacement in the spring. If we get one that was improperly positioned, we usually replace those but we strive to put it back right." He adds, "I shudder to think what we are going to do as granite mailbox posts and handmade unique (and expensive) boxes become more prevalent. We'll cross that bridge when we come to it."

Nashua does what most towns do: replace the broken mailbox with a standard mailbox and perform the labor themselves. In Bedford, they don't replace mailboxes at their cost if the post is old, or made of untreated lumber. If the post and box are placed in the proper location, then they will replace the mailbox. If, the mailbox appears to have been "faulty," then the mailbox is not replaced. This is done on a case by case situation.

Most towns use a standard mailbox, but what if an expensive mailbox is broken? Municipalities should create an ordinance before these questions come up is the best way to deal with this.



### **Suggestions**

When mailboxes are hit, there are three major questions:

1. Who is at fault?
2. What type of mailbox to use in replacement?
3. And, liability.

To address these issues selectmen should create a mailbox ordinance. RSA 41:11 allows for a mailbox ordinance.

The ordinance should specify placement of the mailbox, the distance from the road surface and reference to the postal services specification for height. The municipal ordinance should not conflict with the postal services.

For people who want "fancy" mailboxes, but to keep the town from having to replace them, the ordinance might say: "All mailboxes shall conform to the following specifications (then describe the mailbox you wish to use). A mailbox may deviate from this specification, but if it is damaged by the town, residents replace it."

Local ordinances should also address potentially dangerous posts. For instance, a granite post might be

considered more dangerous than a lumber post. The ordinance might say the post can be made of (specifying) materials and not of (specify materials).

The ordinance should say, "mailboxes will be replaced by the town, when the mailbox was hit by a plow, and as long as the mailbox was properly placed in accordance with the mailbox ordinance."



## Conclusion

These methods should decrease the friction between residents and its highway department. Also, they might save the municipality from having to replace an expensive mailbox that was incorrectly placed.

### Sources:

- Excerpt from: A Hard Road To Travel, Bernie Waugh, Jr., New Hampshire Municipal Association, 1997, Pgs. 6, 19-20
- A Guide for Erecting Mailboxes on Highways, AASHTO. May 1984
- <http://www.usps.gov/feedback/faq-ccm.htm#mail>, January 30, 1998

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**SELLING ON HIGHWAY RIGHTS-OF-WAY**

## **ARTICLE 25. PEDDLERS**

### **CHAPTER 2. COUNTY REGULATIONS**

#### **Sec. 25-25-2-1. Selling on highway right-of-way.**

(a) A person shall not sell or offer for sale any fruit, vegetable, or any other item to any person along or on the right-of-way of a highway of the county.

(b) A person who violates this section commits an infraction. A judgment of up to \$2,500.00 shall be entered against a person who violates this section.

(Code 1992, § 25-25-2-1)

**State law references:** Peddlers, vendors and hawkers, IC 25-25.

## **OVERSIZED LOADS ON HIGHWAYS**

**CHAPTER 6. SPECIAL AND EMERGENCY PERMITS****Sec. 9-20-6-4. House moving.**

(a) This section does not apply to the following:

(1) Mobile homes and manufactured housing that have been approved for moving by the state; or

(2) Agricultural buildings weighing less than 10,000 pounds.

(b) A person shall not move a building or structure that temporarily obstructs or crosses a county road or highway unless the person first files an application for a permit and receives an approved permit from the county highway department. The application shall include a traffic control plan approved by the county sheriff or the sheriff's designated representative.

(c) Prior to the approval of any request to move a building or structure, the applicant must post with the county highway department a surety bond, irrevocable letter of credit, or insurance policy payable to the board of commissioners in the amount of no less than \$30,000.00 to indemnify and protect the county from any damage to the roads or highways arising out of the move or any other liability.

(d) The highway department shall consider and approve the application unless the county engineer considers the bond insufficient to adequately indemnify the county for any damages that may arise from moving the building. The county engineer may then request that an additional surety bond be posted. Additional surety will be required if the move exceeds any building load rating. Approval may also be withheld if the route, traffic control, or time of the move is found to be unacceptable by the county engineer or the engineer's designated representative.

(e) An applicant under this section shall submit a nonrefundable fee of \$150.00 with the applicant's permit and bond. The check or money order shall be made payable to the county treasurer and deposited by the county highway department with the county auditor into the motor vehicle highway fund. This fee may be waived at the discretion of the county engineer if the applicant is another governmental entity or a charitable organization which benefits the county.

(f) The approved permit shall be visibly posted on the structure being moved while the structure is within the county road right-of-way.

(g) Any permit denied by the county highway department may be appealed by the applicant to the board of commissioners. The applicant shall request through the county auditor to be put on the first available time of a regularly scheduled meeting of the commissioners. The applicant shall notify the county engineer of the applicant's intent to appeal.

(h) A person who violates this section commits an infraction. A judgment of up to \$2,500.00 shall be entered against a person who violates this section.

(Code 1992, § 9-20-6-4)

**State law references:** Issuance of emergency permits, IC 9-20-6-4.

**ABANDONED VEHICLES**

ABANDONED AND JUNKED MOTOR VEHICLES ORDINANCE  
OF WAKE COUNTY, NORTH CAROLINA

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF WAKE COUNTY:

ARTICLE I

TITLE. This ordinance shall be known and may be cited as the  
Abandoned and Junked motor Vehicle Ordinance of Wake County, North Carolina.

ARTICLE II

PURPOSE. The purpose of this ordinance is to insure the public health, safety, and general welfare by providing controls on the removal and disposal of abandoned and junked motor vehicles. Among other reasons, this ordinance is deemed necessary to prohibit abandoned or junked vehicles from being disposed of by leaving them on public or private property. Abandoned and junked motor vehicles constitute a hazard to the health and welfare of the people of Wake County in that such vehicles can harbor diseases, furnish shelter and breeding places for mosquitoes and other insects, and are a breeding ground and harbor for rats and other pests. Abandoned and junked motor vehicles constitute a hazard to the safety of the people of Wake County in that said vehicles can have areas of confinement which cannot be opened from the inside such as trunk compartments and engine compartments and present physical dangers to the safety and well-being of children and other citizens. It is therefore in the public interest that the present accumulation of abandoned and junked motor vehicles be eliminated and that the future abandonment of such vehicles be prevented.



### ARTICLE III

LEGAL PROVISIONS. This ordinance is enacted pursuant to the provisions of N.C.G.S. 153A-132, N.C.G.S. 153A-121, N.C.G.S. 153A-122, and N.C.G.S. 153A-123.

### ARTICLE IV

JURISDICTION. This ordinance shall govern the removal and disposal of abandoned and junked motor vehicles on public grounds and private property within Wake County and not within a city unless specified as below. However, this ordinance shall govern the removal and disposal of abandoned and junked vehicles on Wake County-owned property wherever located. In addition, the governing board of a city in Wake County may by resolution permit this ordinance to be applicable within that city. That city may by resolution withdraw its permission to this ordinance. If it does so, that city shall give written notice to Wake County of its withdrawal of permission; 30 days after the day Wake County receives this notice this ordinance shall cease to be applicable within that city.

### ARTICLE V

APPLICATION OF ORDINANCE. This ordinance is applicable in all cases involving an abandoned motor vehicle or a junked motor vehicle on public grounds and private property within Wake County's ordinance-making jurisdiction and on Wake County-owned property wherever located. Wake County may enforce this ordinance by removing and disposing of abandoned or junked motor vehicles according to the procedures prescribed in this ordinance.

## ARTICLE VI

EXCEPTIONS. This ordinance does not apply to any vehicle in an enclosed building, to any vehicle on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise, or to any vehicle in an appropriate storage place or depository maintained in a lawful place and manner by Wake County, or to a vehicle in the process of repair or restoration on property under the control of the owner of the vehicle or property under the control of the party repairing or restoring the vehicle, provided however, such repair or restoration shall be accomplished in a reasonable time.

## ARTICLE VII

DEFINITIONS. The term “motor vehicle” as used herein is hereby defined to include any machine designed or intended to travel over land or water by self-propulsion or while attached to self-propelled vehicle.

An “abandoned motor vehicle” as used herein is hereby defined as one that:

(1) Is left on public grounds or Wake County-owned property in violation of a law or ordinance prohibiting parking; or

(2) Is left for longer than 24 hours on property owned or operated by Wake County; or

(3) Is left for longer than two hours on private property without the consent of the owner, occupant, or lessee of the property or

(4) If left for longer than seven days on public grounds.

A “junked motor vehicle” is an abandoned motor vehicle that also:

(1) Is partially dismantled or wrecked; or

(2) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or

(3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00); or

(4) Does not display a current license plate.

A motor vehicle that has been declared to be a health hazard or a safety hazard shall, for purposes of disposal by Wake County, be deemed to be either a junked motor vehicle, or an abandoned motor vehicle, according to its apparent value, notwithstanding the other provisions of this ordinance.

A motor vehicle shall be declared to be a health hazard when its condition is such that the motor vehicle can or does harbor diseases, furnish shelter and breeding places for mosquitoes and other insects or become a breeding ground and harbor for rats and other pests.

A motor vehicle shall be declared to be a safety hazard when its condition is such that the motor vehicle’s areas of confinement which cannot be opened from the inside, such as trunk compartments and engine compartments or glass, windows, or any exterior or interior fixtures, present physical dangers to the safety and well-being of children or others.

## ARTICLE VIII

REMOVAL OF VEHICLES. Wake County may remove to a storage garage or area an abandoned or junked motor vehicle found to be in violation of this ordinance. Such removal shall be accomplished by and under the direction of the Wake County Department of Natural Resources. A vehicle may not be removed from private property, however, without the written request of the owner, lessee, or occupant of the premises unless the Wake County Board of Commissioners on a duly authorized County official or employee has declared the vehicle to be a health or safety hazard. Appropriate County officers and employees have a right, upon presentation of proper credentials, to enter on any premises within the ordinance-making jurisdiction of Wake County at any reasonable hour in order to determine if any vehicles are health or safety hazards. Wake County may require a person requesting the removal from private property of any abandoned or junked motor vehicle to indemnify Wake County against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

When an abandoned or junked motor vehicle is removed, the Wake County Department of Natural Resources shall promptly give written notice of the removal to the registered owner at his last known address according to the latest registration certificate or certificate of title on file with the Department of Motor Vehicles. The notice shall inform the owner of the possible sale or other disposition that may be made of the vehicle. The owner may regain possession of the vehicle by paying to Wake County all reasonable costs incidental to the removal and storage. If the vehicle

does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, Wake County need not give notice to the vehicle's registered owner.

#### ARTICLE IX

DISPOSAL OF ABANDONED MOTOR VEHICLES. After holding an abandoned motor vehicle for 30 days after the day the vehicle is removed, Wake County may sell or dispose of it as follows:

(1) If the vehicle appears to be worth less than one hundred dollars (\$100.00), Wake County may dispose of the vehicle as a junked motor vehicle as provided by Article X of this ordinance. With the consent of the owner, Wake County may remove and dispose of a motor vehicle as a junked motor vehicle without regard to the value, condition, or age of the vehicle and without holding it for any prescribed period of time.

(2) If the vehicle appears to be worth one hundred dollars (\$100.00) or more, it shall be sold at public auction. Wake County shall give 20 days' written notice of the sale to the registered owner at his last known address, to each holder of a lien of record against the vehicle, and to the Department of Motor Vehicles. Any person having an interest in the vehicle may redeem it at any time before the sale by paying all costs accrued to date. The proceeds of the sale shall be paid to the finance officer of Wake County, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens in that order. The remainder of the proceeds of sale, if any,

shall be paid over to the registered owner, or held by Wake County for 60 days if the registered owner cannot be located with reasonable diligence. If the owner does not claim the remainder of the proceeds within 60 days after the sale, the funds shall be deposited in Wake County's General Fund and the owner's rights in the vehicle are extinguished. When it receives Wake County's bill of sale from a purchaser or other person entitled to receive a vehicle disposed of as provided in this Article, the Department of Motor Vehicles shall issue a certificate of title for the vehicle as required by law.

#### ARTICLE X

DISPOSAL OF JUNKED MOTOR VEHICLES. After holding a junked motor vehicle for 15 days, Wake County may destroy it or sell it at private sale as junk. Within 15 days after final disposition of a junked motor vehicle, the Wake County Department of Natural Resources shall notify the Department of Motor Vehicles that the vehicle has been determined to be a junked motor vehicle and has been disposed of as such. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined. The proceeds of the sale of a junked motor vehicle shall be paid to the finance officer of Wake County, who shall pay to the appropriate officers or persons the cost of removal, storage, investigation, sale, and liens, in that order. The remainder of the proceeds of sale, if any, shall be held by Wake county for 30 days and paid to the registered owner upon demand. If the owner does not claim the remainder of

the proceeds within 30 days after the day the vehicle is disposed of, the funds shall be deposited in Wake County's General Fund and the owner's rights in the vehicle are extinguished.

#### ARTICLE XI

##### DISPOSAL OF VEHICLES WITHOUT PLATES OR

IDENTIFICATION NUMBERS. If a junked motor vehicle does not display a current license plate and the vehicle identification numbers have been removed or defaced so as to be illegible, Wake County may dispose of it under this Article rather than Articles IX or X. Wake County may destroy the vehicle or sell it at private sale (without regard to value), after having held the vehicle for 48 hours. The proceeds shall be placed in Wake County's General Fund.

#### ARTICLE XII

##### ENFORCEMENT.

1. The Director of the Wake County Health Department or his authorized representative shall have a right, upon presentation of proper credentials, to enter on any premises within Wake County's ordinance-making jurisdiction at any reasonable hour in order to determine if any motor vehicle is a health hazard or a safety hazard.

2. When the Director of the Wake County Health Department or his authorized representative has declared a motor vehicle to be a health hazard or a safety hazard, the aforesaid director or his authorized representative shall cause a tag to be placed on the motor vehicle that has been declared to be a health hazard or a safety hazard declaring it to be such, and shall give written notice by registered mail, return

receipt requested, to the owner, lessee, or occupant of the premises upon which the motor vehicle is situated. The notice shall contain as full and accurate a description of the vehicle as can be reasonably determined and shall advise the said owner, lessee, or occupant that unless the vehicle is removed from the premises within ten (10) days after receipt of the notice, Wake County may remove the vehicle pursuant to the provisions of this ordinance. The notice shall also advise the said owner, lessee, or occupant that during the ten (10) day period following receipt of the notice he may contact the Director of the Wake County Health Department for a hearing to contest the finding that the vehicle is a health hazard or a safety hazard.

3. Wake County may secure injunctions, abatement orders, and other appropriate equitable remedies to further insure compliance with this ordinance as provided in N.C.G.S. 143A-123.

#### ARTICLE XIII

LEGAL RESPONSIBILITY. No person nor Wake County may be held to answer in a civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, junked, lost, or stolen motor vehicle for disposing of the vehicle as provided in this ordinance.

#### ARTICLE XIV

SEVERABILITY. If any word, clause, sentence, paragraph, article, or other part of this ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof.



#### ARTICLE XV

This ordinance supersedes and nullifies the former Abandoned and Junk Motor Vehicles Ordinance of Wake County, North Carolina, which was adopted by the Wake County Board of Commissioners on December 3, 1973, and which appears on Pages 70 through 72 of the Ordinance Book maintained by the clerk to the Wake County Board of Commissioners.

#### ARTICLE XVI

This ordinance will become effective at 12:01 o'clock A.M. on June 1, 1977.

Adopted this 18<sup>th</sup> day of April 1977.

## ORDINANCE 3879

### AN ORDINANCE FOR THE REMOVAL AND DISPOSAL OF ABANDONED VEHICLES

Whereas, the Goshen Common Council finds that abandoned vehicles create a health and safety hazard;

Whereas, Ordinance 3494 was passed and adopted March 3, 1992 to establish procedures for the removal and disposal of abandoned vehicles within the City of Goshen, and to establish charges for the towing and storage of abandoned vehicles;

Whereas, Ordinance 3494 specifically adopted the provisions of Indiana Code 9-22-1-1 through 9-22-1-32 pertaining to abandoned motor vehicles, and some sections of this chapter have been amended since the ordinance was originally passed; and

Whereas, the Goshen Common Council finds it necessary to update the ordinance for the removal of abandoned vehicles by passage of a new ordinance.

Now, therefore, be it ordained by the Common Council of the City of Goshen, Indiana, that:

#### **Section 1. Adoption of Indiana Code 9-22-1 et seq.**

This ordinance specifically adopts the provisions of Indiana Code 9-22-1-1 through 9-22-1-32 inclusive.

#### **Section 2. Vehicle Defined**

The term "vehicle" refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, or a motorized bicycle.

(See 9-13-2-196)

#### **Section 3. Abandoned Vehicle Defined**

A. The term "abandoned vehicle" means the following:

1. A vehicle located on public property illegally.
2. A vehicle left on public property without being moved for three (3) days.
3. A vehicle located on public property in such a manner as to constitute a hazard or obstruction to the movement of pedestrian or vehicular traffic on a public right-of-way.
4. A vehicle that has remained on private property without the consent of the owner or person in control of that property for more than forty-eight (48) hours.
5. A vehicle from which the engine, transmission, or differential has been removed or that is otherwise partially dismantled or inoperable and left on public property.

6. A vehicle that has been removed by a towing service or public agency upon request of an officer enforcing a statute or an ordinance if the impounded vehicle is not claimed or redeemed by the owner or the owner's agent within twenty (20) days after the vehicle's removal.
7. A vehicle that is at least three (3) model years old, is mechanically inoperable, and is left on private property continuously in a location visible from public property for more than twenty (20) days.

(See 9-13-2-1)

B. A vehicle otherwise fitting the definition of an abandoned vehicle shall not be considered an abandoned vehicle if it is:

1. A vehicle in operable condition specifically adapted or constructed for operation on privately owned raceways.
2. A vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.
3. A vehicle located on a vehicle sale lot or at a commercial vehicle servicing or leasing facility.
4. A vehicle located upon property licensed or zoned as an automobile scrapyard.
5. A vehicle registered and licensed under Indiana Code 9-18-12 as an antique vehicle.

(See 9-22-1-1)

C. A vehicle shall not be considered an abandoned vehicle if it is stored in a garage or other building or within a fenced area which blocks the vehicle from public view.

#### **Section 4. Parts Defined**

The term "parts" refers to all components of a vehicle that as assembled do not constitute a complete vehicle.

(See 9-13-2-122)

#### **Section 5. Enforcement Authority**

The City of Goshen Ordinance Administrator, a representative of the Goshen Building Department, a representative of the Goshen Planning and Zoning Department, or any member of the Goshen Police Department, including the Public Services Officer, is hereby designated to carry out the provisions of this ordinance or the provisions of Indiana Code 9-22-1-1 through 9-22-1-32. For the purposes of this ordinance, the preceding authorized persons may hereafter be referred to as "officer."

(See 9-22-1-2)

#### **Section 6. Responsibility and Liability of Owner of Abandoned Vehicle or Parts**

The person who owns an abandoned vehicle or parts is responsible for the abandonment and liable for all of the costs incidental to the removal, storage, and disposal of the vehicle or the

parts. All costs incurred shall constitute a lien against the vehicle or parts, and the vehicle or parts shall not be released until all such costs are paid.

(See 9-22-1-4; 9-22-1-8)

### **Section 7. Tagging Abandoned Vehicle or Parts**

- A. A officer authorized under section 5 who finds or is notified of a vehicle or parts believed to be abandoned shall attach in a prominent place a notice tag containing the following information:
1. The date, time, officer's name, public agency, and address and telephone number to contact for information.
  2. That the vehicle or parts are considered abandoned.
  3. That the vehicle or parts will be removed after seventy-two (72) hours.
  4. That the person who owns the vehicle will be held responsible for all costs incidental to the removal, storage, and disposal of the vehicle.
  5. That the person who owns the vehicle may avoid costs by removal of the vehicle or parts within seventy-two (72) hours.

(See 9-22-1-11)

### **Section 8. Abandoned Vehicle Report**

If a vehicle or a part tagged under section 7 is not removed within the seventy-two (72) hour period, the officer shall prepare a written abandoned vehicle report of the vehicle or parts, including information on the condition, missing parts, and other facts that might substantiate the estimated market value of the vehicle or parts. Photographs shall be taken to describe the condition of the vehicle or parts.

(See 9-22-1-12)

### **Section 9. Disposal of Vehicle or Parts**

If, in the opinion of the officer, the market value of an abandoned vehicle or parts determined under section 8 is less than five hundred dollars (\$500.00), the officer may immediately dispose of the vehicle to an automobile scrapyards. A copy of the abandoned vehicle report and photographs relating to the abandoned vehicle shall be forwarded to the Indiana Bureau of Motor Vehicles. The city shall retain the original records and photographs for at least two (2) years.

(See 9-22-1-13)

### **Section 10. Towing and Storage of Vehicle or Parts**

If, in the opinion of the officer, the market value of the abandoned vehicle or parts determined under section 8 is at least five hundred dollars (\$500.00), the officer, before placing a notice tag

on the vehicle or parts, shall make a reasonable effort to ascertain the person who owns the vehicle or parts or who may be in control of the vehicle or parts. After seventy-two (72) hours, the officer shall require the vehicle or parts to be towed to a storage area.

(See 9-22-1-14)

### **Section 11. Non-Liability for Loss or Damage**

The City of Goshen shall not be liable for the loss or damage to a vehicle or parts occurring during the removal, storage or disposition of a vehicle or parts under this ordinance.

(See 9-22-1-32)

### **Section 12. Search by Indiana Bureau of Motor Vehicles for Owner or Lien Holder**

A. Within seventy-two (72) hours after removal of an abandoned vehicle to a storage area under sections 9 or 10, the officer or storage lot shall prepare and forward to the Indiana Bureau of Motor Vehicles an abandoned vehicle report containing a description of the vehicle, including the following information concerning the vehicle:

1. The make.
2. The model.
3. The identification number.
4. The number of the license plate.

(See 9-22-1-19(a))

B. The officer or storage lot shall request that the bureau advise the officer or storage lot of the name and most recent address of the person who owns or holds a lien on the vehicle.

(See 9-22-1-19(b))

### **Section 13. Charges Allowed for Towing and Storage**

A. The owner of an abandoned vehicle which is not removed within the seventy-two (72) hour period is responsible for the towing and storage charges incurred by the City of Goshen. The towing charge shall be the amount actually incurred by the city, but not exceed the sum of one hundred dollars (\$100.00). The storage charge shall be the amount actually incurred by the city, but not exceed one thousand dollars (\$1,000.00).

(See 9-22-1-25)

B. All costs incurred by the city against the vehicle or parts must be paid before the vehicle or parts will be released.

(See 9-22-1-8)

- C. The proceeds from the sale of an abandoned vehicle or parts by the Indiana Bureau of Motor Vehicles shall be credited against the cost of the removal, storage, and disposal of the vehicle.

(See 9-22-1-26)

- D. Should the proceeds from the sale of an abandoned vehicle or parts be insufficient to meet the total costs incurred for the removal, storage, and disposal of a vehicle or parts, the city may file suit in a court of competent jurisdiction against the person owning the abandoned vehicle or parts to collect the balance due.

#### **Section 14. Abandoned Vehicle Fund**

- A. The Abandoned Vehicle Fund established under Ordinance 3494 shall continue.

(See 9-22-1-30)

- B. The fund shall be used to pay for the costs for removal and storage of an abandoned vehicle or parts not claimed by the person who owns or holds a lien on a vehicle.

(See 9-22-1-25)

- C. The costs incurred by the city in administering this ordinance shall be paid from the abandoned vehicle fund.

(See 9-22-1-27(c))

- D. The Common Council shall annually appropriate sufficient money to the fund to carry out this ordinance. Money remaining in the fund at the end of a year remains in the fund and does not revert to the general fund.

(See 9-22-1-27(d))

#### **Section 15. Severability**

If any provision of this ordinance shall be declared invalid by a court of competent jurisdiction, such provision shall be deemed severable and the invalidity thereof shall not affect the remaining provisions of this ordinance.

#### **Section 16. Other Ordinances or Statutes**

- A. All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency. It is provided, however, that such repeal shall be only to the extent of such inconsistency, and in all other respects the ordinance or parts of ordinances are hereby ratified, re-established and confirmed.
- B. This ordinance specifically repeals Ordinance 3494.

- C. This ordinance shall not limit the authority of the City of Goshen from towing a vehicle prior to the seventy-two (72) hour period if authorized by another ordinance or statute.

**Section 17. Effective Date**

This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and publication according to the laws of the State of Indiana.

This Ordinance is duly passed by the Common Council of the City of Goshen, Indiana on April 12, 1999.

\_\_\_\_\_  
Presiding Officer

Attest:

\_\_\_\_\_  
Nancy Hoke, Clerk-Treasurer

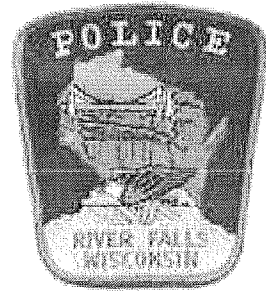
This Ordinance, having been passed by the Common Council, is presented by me to the Mayor for his approval on April 12, 1999.

\_\_\_\_\_  
Nancy Hoke, Clerk-Treasurer

This Ordinance, having been passed by the Common Council and presented to me is approved by me and duly adopted on April 12, 1999.

\_\_\_\_\_  
Allan Kauffman, Mayor

# ABANDONED & JUNKED VEHICLES



## City Ordinance 9.15

### 9.15 Vehicle Abandonment Prohibited; Removal; Disposal.

(1) **PROHIBITED.** No person shall leave unattended or place any motor vehicle, trailer, home or parts thereof, hereafter inclusively referred to as "*vehicle*", on any public highway or public property, for such time and under such circumstances as to cause the vehicle to have been abandoned.

(a) A vehicle shall be deemed abandoned whenever:

1. It is left unattended on any street or highway or any public property within the without the permission of the City for a period in excess of 48 hours.
2. It is left unattended without the permission of the property owner for more than the discretion of the City and its officials, this situation may be addressed by parking citations pursuant to Sec. 346.55(3), Wis. Stats. Removal of violating responsibility of the property owner.
3. It is disabled in a manner and to an extent that it cannot legally be operated on roadways, including lack of current license and registration.
4. It reasonably appears abandoned to a city officer.
5. While in the possession of the City, it is left unclaimed 10 days after notice by to any known owner or lien holder.

(b) A motor vehicle shall not be considered abandoned whenever:

1. It is out of ordinary public view in an enclosed area. Vehicle covers, tarps, pla similar coverings do not satisfy this requirement.
  - Enclosed area is defined as: inside a building or behind a non-transparent fenced area and out of the public view.
2. The private property is the primary business of the sale, repair, towing or salv vehicles.
3. It is a seasonal or recreational vehicle in off season storage and it is legally o registered.

(2) **REMOVAL.** Any vehicle in violation of this section shall be removed and impounded claimed or disposed of under sub. (3).

(a) **Public Property.** The vehicle shall be issued a notice stating the date of issuan violation of the abandoned vehicle ordinance. If the vehicle is not in compliance w the vehicle shall be impounded.



(b) **Private Property.** The landowner, occupant / tenant and vehicle owner, if readily available, shall be issued, either personally, by regular mail or conspicuously on the property, a notice stating the date of issuance and the violation of the abandoned vehicle ordinance. If the vehicle is not in compliance after 5 days, a citation will be issued. The landowner, occupant / tenant of the property and vehicle owner have responsibility for compliance with the ordinance. Upon a finding of the municipal court that the vehicle is in violation of this ordinance, it shall be impounded.

(c) **Junk Vehicles.** If it is deemed by the Chief of Police or his or her designee that the cost of towing and storage of the vehicle would exceed the value of the vehicle and that the vehicle is not stolen or otherwise wanted for evidence or other reason, the vehicle may be junked or sold prior to the expiration of the impoundment period.

**(3) DISPOSAL.** Vehicles impounded shall be disposed of as follows if not claimed by a lawful owner or lien holder after due notice.

(a) **Storage.** Any vehicle removed and not junked under sub. (2) shall be retained in storage for a minimum period of ten (10) days after notice to owner and lien holders of record.

(b) **Notice.** Notice shall be by certified mail to the owner and lien holders of record to permit reclamation after payment of accrued charges. Such notice shall set forth the year, make, model, VIN number, and where the vehicle is being held. The notice shall state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle under this section shall be deemed a waiver of all right, title, and interest in the vehicle and consent to the sale of the vehicle.

(c) **Sale or Disposal.** Each retained vehicle not reclaimed by its owner or lien holder may be sold or otherwise disposed. Sale or disposal shall be at the discretion of the Chief of Police or his or her designee and shall be conducted pursuant to then applicable city policy and procedures.

**(4) FORFEITURE AND COSTS.** Any person who violates this section shall be subject to penalty as provided in sec. 25.04 of this Municipal Code and is further responsible for all reasonable costs of impounding and disposing if necessary, of the vehicle. Failure by owner to reclaim a vehicle after notice of its impound shall constitute a separate additional offense of this ordinance. Costs not recovered from the sale of the vehicle may be recovered against the vehicle owner or landowner in addition to any applicable forfeiture and may be entered as a special charge on the tax roll if left unpaid. For those vehicles reclaimed, all costs of impounding the vehicle must be paid by the owner or lien holder prior to release of the vehicle. Neither forfeiture nor costs shall be imposed on owners of vehicles that have been stolen.

**If you have any questions about this ordinance or need clarification, please e-mail us your question.**

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## **RESTRICTIONS OF USING ENGINE BRAKING ON SEMI-TRACTORS**

Sec. 62-33. Engine-braking or jake-braking.

(a) *Definition.* "Engine-braking", commonly known as "jake-braking," shall mean the use or operation of any mechanical exhaust device designed to aid in the braking, decompression or deceleration of any motor vehicle which results in the excessive, loud, unusual or explosive noise from such vehicle.

(b) *Prohibited acts.* It shall be unlawful for the driver of any motor vehicle to use or operate or cause to be used or operated, at any time and on any street or road within the town, any mechanical exhaust or decompression device which results in the practice known as "engine-braking", or commonly known as "jake-braking".

(c) *Exemptions.* The provisions of this section shall not apply to the application of unmuffled compression brakes where necessary for the protection of persons and/or property which cannot be avoided by application of an alternative braking system. Noise caused by the application of engine compression brakes, otherwise known as "engine-braking" and commonly known as "jake-braking", which is effectively muffled or if the application is necessary for the health, safety and welfare of the community is exempt from the provisions of this section. Sounds created by emergency equipment for emergency purposes are also exempt.

(d) *Posting of signs.* The town street department is hereby authorized and directed to post, at reasonable locations within the town, signs indicating the prohibition of "engine-braking" and/or "jake-braking".

(e) *Penalty.* Unless another penalty is expressly provided in this Code, any person in violation of this section shall be punished for a violation thereof as provided in section 1-9 of this Code. (Ord. No. 2005-12-27, 12-27-2005)

**UTILITIES IN RIGHTS-OF-WAY**

Ordinance No. 1997-5-6

AN ORDINANCE REGULATING THE  
INSTALLATION OF UTILITIES IN  
COUNTY RIGHT OF WAY

Be it Ordained by the Board of Commissioners of Hancock County, Indiana, That:

Section I

The Hancock County Code is amended by the addition thereto of a new Article 7 of Chapter 3 as follows:

Article 7. Regulation of Utility Installation.

Sec. 3-70 Compliance with ordinance required.

No utility shall install new or replacement transmission equipment in or over any county road right of way, except as permitted by this ordinance.

Sec. 3-71 Application, plans and specifications.

An application, in a form approved by the county commissioners, together with detailed plans and specifications showing the proposed location of the transmission equipment, shall be submitted to the county commissioners or their designee, who will issue a permit if the requirements of this ordinance, other relevant ordinances and state and federal laws have been met.

Sec. 3-72 Location of transmission equipment.

The location and depth of the transmission equipment shall be that which the county commissioners or their designee determines least interferes with the highway function of the right of way.

Sec. 3-73 Crossing the traveled portion.

The traveled portion of a right of way may not be cut without the written approval of the county commissioners or their designee, who will determine the backfill and surface repair material to be used and whether a bond, in addition to that required by Sec. 3-75, shall be posted. The county commissioners or their designee shall approve the manner of drilling under the traveled portion of the right of way.



Sec. 3-74 Safety during installation.

The installer of the transmission equipment shall take all necessary precautions, including traffic control, to insure the safety of the public during installation, and shall comply with specific requirements of the county commissioners or their designee.

Sec. 3-75 Posting bond.

The installer of any transmission equipment shall post a bond in an amount determined by the county commissioners or their designee to insure compliance with this ordinance and restoration of the right of way and all improvements thereon to its original condition. The installer may post an annual bond covering all projects.

Sec. 3-76 County Authority.

Hancock County does not represent that it has authority to authorize the use of right of way for utility purposes.

Sec. 3-77 Hold harmless.

Any utility that installs transmission equipment in county right of way shall hold the county harmless from any damage or injury caused at the time of installation or thereafter resulting from the installation.

Sec. 3-78 Penalty.

Any person found to be in violation of any of the provisions of Article 7 of Chapter 3 shall be fined in an amount not to exceed one thousand dollars (\$1,000.00).

Adopted this 23 day of MAY, 1997.

Attest:

*J. Jettles*  
Hancock County Auditor

Hancock County  
Board of Commissioners

*[Signature]*  
President

*[Signature]*

*[Signature]*

**92.01 REGULATIONS FOR INSTALLATION OF UTILITIES IN A COUNTY RIGHT-OF- WAY.**

(A) No utility shall install new or replacement transmission equipment in or over any county road right-of-way, except as permitted by this section.

(B) An application, in a form approved by the County Commissioners, together with detailed plans and specifications showing the proposed location of the transmission equipment, shall be submitted to the County Commissioners or their designee, who will issue a permit if the requirements of this section, other relevant ordinances and state and federal laws have been met.

(C) The location and depth of the transmission equipment shall be that which the County Commissioners or their designee determines least interferes with the highway function of the right-of- way.

(D) The traveled portion of a right-of-way may not be cut without the written approval of the County Commissioners or their designee, who will determine the backfill and surface repair material to be used and whether a bond, in addition to that required by division (F) below, shall be posted. The County Commissioners or their designee shall approve the manner of drilling under the traveled portion of the right-of-way.

(E) The installer of the transmission equipment shall take all necessary precautions, including traffic control, to insure the safety of the public during installation, and shall comply with specific requirements of the County Commissioners or their designee.

(F) The installer of any transmission equipment shall post a bond in an amount determined by the County Commissioners or their designee to insure compliance with this section and restoration of the right-of-way and all improvements thereon to its original condition. The installer may post an annual bond covering all projects.

(G) The county does not represent that it has authority to authorize the use of the right-of-way for utility purposes.

(H) Any utility that installs transmission equipment in a county right-of-way shall hold the county harmless from any damage or injury caused at the time of installation or thereafter resulting from the installation.

(I) Any person found to be in violation of any of the provisions of this section shall be fined.

(Ord. 1997-5G, passed 5-23-97) Penalty, see § 10.99

**§ 92.02 PROHIBITION OF FOUNDRY SAND.**



(A) It is unlawful to place foundry sand on or in the ground in any location outside of a city or town, and within a regulated drain right-of-way anywhere in the county.

(B) Any person found to be in violation of this section shall be fined in the amount of \$2,500 and shall be required to remove the sand.

(Ord. 2000-12E, passed 12-27-00)

**§ 92.03 REGULATIONS FOR THE PLACEMENT OF MAIL BOXES AND NEWSPAPER DELIVERY BOXES.**

(A) All mail boxes and newspaper delivery boxes installed after February 1, 1997 shall, in addition to the requirements of the U.S. Postal Service, be built and located in a manner that complies with standards established by the County Highway Engineer.

(B) All mail boxes and newspaper delivery boxes that are found by the County Highway Engineer to be in violation of division (A) above shall, after written notice, be removed by the landowner within a time period fixed by the County Highway Engineer. If the boxes are not removed, then the county will remove them at the expense of the owner.

(Ord. 1997-1B, passed 1-6-97)

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# CITY OF UNIVERSITY PLACE

## Ordinances

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**Ord #: 166**

**Subject: Granting 20 Year Water Franchise**

**Passed: 09/15/1997 Repealed by: Amended by:**

**Click Here for Council Minutes:** [\[icon\]](#)

### ORDINANCE NO. 166

AN ORDINANCE OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, GRANTING UNTO THE CITY OF TACOMA DEPARTMENT OF PUBLIC UTILITIES, WATER DIVISION, A MUNICIPAL CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT, PRIVILEGE, AUTHORITY AND NONEXCLUSIVE FRANCHISE FOR TWENTY YEARS, TO CONSTRUCT, MAINTAIN, OPERATE, REPLACE AND REPAIR A WATER SYSTEM, IN, ACROSS, OVER, ALONG, UNDER, THROUGH AND BELOW CERTAIN DESIGNATED PUBLIC RIGHTS-OF-WAY OF THE CITY OF UNIVERSITY PLACE, WASHINGTON.

WHEREAS, the City of Tacoma Department of Public Utilities, Water Division has requested that the City Council grant it a nonexclusive franchise; and

WHEREAS, the City Council has the authority to grant franchises for the use of its streets and other public properties (RCW 35A.47.040); NOW, THEREFORE,

THE CITY COUNCIL OF CITY OF UNIVERSITY PLACE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

**Section 1. Franchise Granted.** Pursuant to RCW 35A.47.040, the City of University Place, a Washington municipal corporation (hereinafter the "City"), hereby grants to City of Tacoma, Department of Public Utilities, Water Division, a municipal corporation organized under the laws of the State of Washington (hereinafter "Grantee"), its heirs, successors, legal representatives and assigns, subject to the terms and conditions hereinafter set forth, a franchise for a period of 20 years, beginning on the effective date of this ordinance.

Grantee and City may agree to extend the term of this franchise on substantially the same terms and conditions as set forth herein for up to two extensions of five years per extension.

This franchise grants the Grantee the right, privilege and authority to construct, operate, maintain, replace, and use all necessary equipment and facilities for a water system, in, under, on, across, over, through, along or below the public rights-of-way and public places located in the City of University Place, as approved under City permits issued pursuant to this franchise.

**Section 2. Non-Exclusive Franchise Grant.** This franchise is granted upon the express condition that it shall not in any manner prevent the City from granting other or further franchises in, along, over, through, under, below or across any of said rights-of-way, streets, avenues or all other public lands and properties of every type and description. Such franchise shall in no way prevent or prohibit the City from using any of said roads, streets or other public properties or affect its jurisdiction over them or any

part of them, and the City shall retain power to make all necessary changes, relocations, repairs, maintenance, establishment, improvement, dedication of same as the City may deem fit, including the dedication, establishment, maintenance, and improvement of all new rights-of-way, thoroughfares and other public properties of every type and description. It is provided, however, the City agrees not to compete with Grantee as a water system or provider of water in the current service area of the Grantee during the period of this Franchise.

**Section 3. Relocation of Water Facilities.** The Grantee agrees and covenants at its sole cost and expense, to protect, support, temporarily disconnect, relocate or remove from any street, any component of its installations when so required by the City by reason of traffic conditions or public safety, dedications of new rights-of-way and the establishment and improvement thereof, widening and improvement of existing rights-of-way, street vacations, freeway construction, change or establishment of street grade, or the construction of any public improvement or structure by the City, provided that the Grantee shall in all such cases have the privilege to temporarily bypass, in the authorized portion of the same street upon approval by the City, any section of water line or facility required to be temporarily disconnected or removed. The provisions of this section shall not be applicable if the relocation need results from a private development, use or activity.

If the City determines that the project necessitates the relocation of the Grantee's then existing facilities, the City shall:

- A. At least ninety (90) days prior to commencement of construction of such improvement project, provide the Grantee with written notice and plans requiring such relocation, unless another time period for the notice is agreed to by the parties for a particular project; and
- B. Provide the Grantee with copies of pertinent portions of the plans and specifications for such improvement project and a proposed location for the Grantee's facilities so that the Grantee may relocate its facilities in other City rights-of-way in order to accommodate such improvement project.

After receipt of such notice and such plans and specifications, the Grantee shall complete relocation of its facilities at no charge or expense to the City (except as hereinafter provided) so as to accommodate the improvement project construction schedule.

The Grantee may, after receipt of written notice requesting a relocation of its facilities, submit to the City written alternatives to such relocation. The City shall evaluate such alternatives and advise the Grantee in writing if one or more of the alternatives is suitable to accommodate the work which would otherwise necessitate relocation of the facilities. If so requested by the City, the Grantee shall submit additional information to assist the City in making such evaluation. The City shall give each alternative proposed by the Grantee full and fair consideration. In the event the City ultimately determines that there is no other reasonable alternative, the Grantee shall relocate its facilities as otherwise provided in this Section. Provided, however, the parties agree to exercise good faith, reasonable and timely decision making especially when issues arise in the field pertaining to relocations. The provisions of this Section shall survive the expiration or termination of this franchise agreement.

The provisions of this Section shall in no manner preclude or restrict the Grantee from making any arrangements it may deem appropriate when responding to a request for relocation of its facilities by any person or entity other than the City, where the facilities to be constructed by said person or entity are not or will not become City-owned, operated or maintained facilities, provided that such arrangements do not unduly delay a City construction project. The City on occasion will be constructing, reconstructing and/or relocating roads, streets, public ways, areas or facilities within the right-of-way or property which will require Grantee to install and/or relocate part of its water system. Grantee will be relying on the alignment, lines and grades as set forth in City's approval plans wherein Grantee thereafter constructs or reconstructs its water system in accordance with City's requirements and City standards. Therefore, if City thereafter again adjusts and/or revises the alignment, line or grade for a road, street, public way or

area, before this part of the Grantee's water system has been in place for fifteen (15) years (commencing with the initial City revision), then City agrees to reimburse Grantee a pro rata share of the total relocation costs based on fifteen (15) year life expectancy for the portion of Grantee's water system that is affected by the City revision unless differently agreed to in writing by City and Grantee at the time of the installation or relocation.

**Section 4. Consideration For Agreement.** (a) The consideration for this agreement includes, but is not limited to, the mutual and individual benefits of this agreement that allow each of the parties the ability to make long term planning decisions in light of the provisions set forth herein, the waiver of permit fees after the first three years of this agreement, as provided in Section 10 of this agreement, the non-competition provisions as provided in Section 16 of this agreement.

(b) If the City grants to any other water provider a franchise with terms that are over-all more favorable than those set forth herein, Grantee shall have the right to renegotiate the provisions of this franchise that Grantee believes are over-all more favorable than those set forth herein. Grantee shall also have the right to renegotiate the provisions of this franchise that are affected by a substantial change in state or federal law that would allow the City the opportunity to tax and assess additional revenue from the Grantee's operations within the corporate boundaries of the City.

In the case where the parties do not agree on the renegotiation or identification of affected provisions of this franchise, the parties agree to a binding arbitration process as follows: Each of the parties shall select an arbitrator, and the two arbitrators shall select a third arbitrator. If the two arbitrators are unable to select a third arbitrator, the third arbitrator shall be selected by the Presiding Judge of the Pierce County Superior Court. In accordance with the procedures of Chapter 7.04 of the Revised Code of Washington, the panel of three arbitrators shall review the evidence and authorities presented by the parties and hear the argument of the parties, and thereafter decide the issue(s) presented for arbitration. The arbitrators shall be authorized to require each party to provide to the other reasonable discovery. The arbitrators shall render their decision based upon their interpretation of the provisions of this franchise agreement. The arbitrators are not empowered to modify or amend the text of this franchise agreement. The parties agree to be bound by the decisions of the panel of arbitrators as to the identification of affected provisions of this franchise and/or the re-negotiation thereof.

If there is a substantial change in the law that undermines the ability of one or both of the parties to receive the benefits of this agreement, one or both of the parties may re-open this agreement to address the terms affected by the substantial change in the law.

**Section 5. The Grantee's Maps, Records and Plans.** After construction is complete, and at a reasonable time thereafter, the Grantee shall provide to the City upon request and at no cost, a copy of all as-built plans, maps and records.

**Section 6. Excavations.** During any period of relocation, construction or maintenance, all surface structures, if any, shall be erected and used in such places and positions within said public rights-of-way and other public properties so as to interfere as little as practicable with the free passage of traffic and the free use of adjoining property, and the Grantee shall at all times post and maintain proper barricades and comply with all applicable safety regulations during such period of construction as required by the ordinances of the City or the laws of the State of Washington.

Whenever the Grantee shall excavate in any public right-of-way or other public property for the purpose of installation, construction, repair, maintenance or relocation of its facilities, it shall apply to the City for a permit to do so and upon obtaining a permit shall give the City at least twenty-four (24) hours notice during the normal work week of the Grantee's intent to commence work in the public right-of-way. In no case shall any work commence within any public right-of-way or other public property without a permit, except as otherwise provided in this franchise ordinance. During the progress of the work, the Grantee shall not unnecessarily obstruct the passage or proper use of the right-of-way, and shall file as-built plans or maps with the City showing the proposed and final location of its facilities. If either the City or the Grantee shall at any time plan to make excavations in any area covered by this franchise and as described in this Section, the party planning such excavation shall afford the other, upon receipt of a written request to do so, an opportunity to share such excavation, PROVIDED THAT:

- A. Such joint use shall not unreasonably delay the work of the party causing the excavation to be made;
- B. Such joint use shall be arranged and accomplished on terms and conditions satisfactory to both parties; and
- C. Either party may deny such request for safety reasons. The provisions of this Section shall survive the expiration or termination of this franchise agreement.

**Section 7. Restoration after Construction.** The Grantee shall, after abandonment approved under Section 13 herein, or installation, construction, relocation, maintenance, or repair of water facilities within the franchise area, restore the surface of the right-of-way or public property to at least the same condition the property was in immediately prior to any such installation, construction, relocation, maintenance or repair. The Public Works Director shall have final approval of the condition of such streets and public places after restoration. All concrete encased monuments which have been disturbed or displaced by such work shall be restored pursuant to all federal, state and local standards and specifications. The Grantee agrees to promptly complete all restoration work and to promptly repair any damage caused by such work to the franchise area or other affected area at its sole cost and expense. The provisions of this Section shall survive the expiration, revocation or termination by other means of this franchise.

**Section 8. Emergency Work -- Permit Waiver.** In the event of any emergency in which any of the Grantee's facilities located in or under any street, breaks, are damaged, or if the Grantee's construction area is otherwise in such a condition as to immediately endanger the property, life, health or safety of any individual, the Grantee shall immediately take the proper emergency measures to repair its facilities, to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals without first applying for and obtaining a permit as required by this franchise. However, this shall not relieve the Grantee from the requirement of obtaining any permits necessary for this purpose, and the Grantee shall apply for all such permits not later than the next succeeding day during which City Hall is open for business.

**Section 9. Dangerous Conditions, Authority for City to Abate.** Whenever construction, installation or excavation of facilities authorized by this franchise has caused or contributed to a condition that appears to substantially impair the lateral support of the adjoining street or public place, or endangers the public, an adjoining public place, street utilities or City property, the Public Works Director may direct the Grantee, at the Grantee's own expense, to take actions to protect the public, adjacent public places, City property or street utilities; and such action may include compliance within a prescribed time.

In the event that the Grantee fails or refuses to promptly take the actions directed by the City, or fails to fully comply with such directions, or if emergency conditions exist which require immediate action, the City may enter upon the property and take such actions as are necessary to protect the public, the adjacent streets, or street utilities, or to maintain the lateral support thereof, or actions regarded as necessary safety precautions; and the Grantee shall be liable to the City for the costs thereof. The provisions of this Section shall survive the expiration, revocation or termination of this franchise. Grantee shall relocate, at its cost, any structures that the City Engineer objectively determines are located in a place or in a way so as to constitute a danger to the public.

**Section 10. Permits and Fees.**

Grantee shall be required to obtain all permits from the City necessary for work in the City and/or in the City's rights-of-way. During the first three years of this franchise, Grantee and contractors of Grantee shall pay for all permit fees associated with projects of Grantee located within the corporate limits of the City, pursuant to the applicable City fee schedules, Provided, however, that permit fees shall be based on actual costs to the City. Thereafter, in consideration of this agreement, including the factors set forth in Section 4, and the non-competition agreement provided in Section 16 hereof, Grantee shall not further be subject to any permit fees associated with Grantee's activities (except those undertaken for a private development customer) through the authority granted in this franchise ordinance or under the laws of the

City.

In addition to the above, the Grantee shall promptly reimburse the City for any and all costs the City reasonably incurs in response to any emergency caused by the negligence of the Grantee. City agrees to process Grantee's and Grantee's contractors permits in the same expeditious manner as other permit applicants' permits are processed. Permits may be processed by facsimile or electronic mail.

**Section 11. Indemnification.** The Grantee hereby releases, covenants not to bring suit and agrees to indemnify, defend and hold harmless the City, its officers, employees, agents and representatives from any and all claims, costs, judgments, awards or liability to any person, including claims by the Grantee's own employees to which the Grantee might otherwise be immune under Title 51 RCW, arising from injury or death of any person or damage to property, monetary losses, including refunds of charges or fees paid by customers, of which it is alleged or proven that the acts or omissions of the Grantee, its agents, servants, officers or employees in performing this franchise caused or contributed thereto, including claims arising against the City by virtue of the City's ownership or control of the rights-of-way or other public properties, by virtue of the Grantee's exercise of the rights granted herein, including payment of any monies to the City, or by virtue of the City's permitting the Grantee's use of the City's rights-of-way or other public property, based upon the City's inspection or lack of inspection of work performed by the Grantee, its agents and servants, officers or employees in connection with work authorized on the City's property or property over which the City has control, pursuant to this franchise or pursuant to any other permit or approval issued in connection with this franchise.

Inspection or acceptance by the City of any work performed by the Grantee at the time of completion of construction shall not be grounds for avoidance of any of these covenants of indemnification. Said indemnification obligations shall extend to claims which are not reduced to a suit and any claims which may be compromised prior to the culmination of any litigation or the institution of any litigation.

In the event that the Grantee refuses the tender of defense in any suit or any claim, said tender having been made pursuant to the indemnification clauses contained herein, and said refusal is subsequently determined by a court having jurisdiction (or such other tribunal that the parties shall agree to decide the matter), to have been a wrongful refusal on the part of the Grantee, then the Grantee shall pay all of the City's costs for defense of the action, including all reasonable expert witness fees and reasonable attorneys' fees and the reasonable costs of the City, including reasonable attorneys' fees of recovering under this indemnification clause.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee and the City, its officers, employees and agents, the Grantee's liability hereunder shall be only to the extent of the Grantee's negligence unless otherwise provided by law. It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee's waiver of immunity under Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this Section shall survive the expiration or termination of this franchise agreement.

**Section 12. Insurance.** Grantee is currently self insured and has excess insurance coverage for potential liability in excess of its self insured retention amounts. To the extent that Grantee is legally obligated by this franchise, Grantee's self insurance fund and/or insurance policies shall provide adequate protection to City in amounts equivalent to the levels set forth herein below. Grantee's general comprehensive liability policy which includes automobile liability coverage (if such a policy continues to be obtained), shall have an endorsement naming City and its officers and employees as additional insureds for their actions pursuant to this franchise.

The amounts of insurance coverage that the grantee shall maintain, whether by self insurance or insurance policies shall not be the equivalent of less than the following:

A. Automobile Liability insurance with limits no less than \$1,000,000 Combined Single Limit per accident for bodily injury and property damage; and

B. Commercial General Liability insurance, written on an occurrence basis with limits no less than \$1,000,000 combined single limit per occurrence and \$2,000,000 aggregate for personal injury, bodily injury and property damage. Coverage shall include but not be limited to: blanket contractual;

products/completed operations; broad form property damage; explosion, collapse and underground (XCU); and employer's liability.

Any deductibles or self-insured retentions must be declared to and approved by the City. Payment of deductible or self-insured retention shall be the sole responsibility of the Grantee.

Any insurance policy(ies) obtained by the Grantee to comply herewith shall name the City (its officers, employees and volunteers,) as an additional insured with regard to activities performed by or on behalf of the Grantee. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers. In addition, the insurance policy shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. The Grantee's insurance shall be primary insurance with respect to the City, its officers, officials, employees and volunteers. Any insurance policy or policies obtained by the Grantee to comply with this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Any failure to comply with the insurance reporting provisions of the policies required herein shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

**Section 13. Abandonment of the Grantee's Facilities.** No water line larger than 12 inches or significant facility installed by the Grantee under street pavement may be abandoned by the Grantee without the express written consent of the City. Any proposal for abandonment that requires City consent or removal of the Grantee's facilities subject to this section must be first approved by the Public Works Director, and all necessary permits must be obtained prior to such work. If any abandoned facility conflicts with City projects (i.e., storm sewer improvements or lowering the profile of a road), the Grantee will remove the abandoned facility at its own expense. The provisions of this Section shall survive the expiration, revocation or termination of this franchise agreement.

**Section 14. Street Vacations.** City may have occasion to vacate certain streets, public ways or areas that have Grantee's lines and facilities located thereon. City agrees to exert reasonable good faith efforts to reserve an easement for Grantee's lines and facilities when a street, public way or area is vacated. If it is not feasible for City to reserve an easement for Grantee's line(s) and facilities, the proponents of the vacation shall be required (by the City) as part of land use or other permitting approvals, to reimburse Grantee all costs to relocate said line(s) and facilities.

**Section 15. Modification.** The City and the Grantee hereby reserve the right to alter, amend or modify the terms and conditions of this franchise upon written agreement of both parties to such alteration, amendment or modification.

**Section 16. Exercise of City Authority.** The parties acknowledge that the City has authority to operate its own water system and also has authority to contract with other public or private entities for the purchase of water. Grantee's long range planning would be improved, and its rate structure stabilized if the City did not elect to exercise its authority in the service area of the Grantee. Therefore, Grantee agrees that for and in consideration of the City not exercising its authority to operate its own water system in the service area served by Grantee, or not contracting with other public or private entities for the purchase of water in said service area, and the other factors of consideration set forth in Section 4 of this agreement, Grantee shall pay to the City an annual fee in the amount of \$75,000 for 1998; in the amount of \$125,000 for 1999; in the amount of \$150,000 for 2000; and in the amount of \$200,000 for 2001 and each year thereafter, provided that the amount thereof shall be adjusted annually thereafter by an amount equal to the percentage of the difference in the Grantee's annual gross revenues derived from the franchise area as indicated in the two most recent financial reports, and further provided that the total payment to the City shall not exceed eight percent (8%) of the total gross revenues Grantee receives from Grantee's water system customers served from Grantee's water system located within City's street rights-of-way. Gross revenues means money or funds received by reason of transaction of water utility service business including sales of water to customers. Gross revenue does not include: (a) uncollected amounts; (b) amounts received from condemnation award or condemnation settlements; (c)

amounts received as compensation or reimbursement of damages to or protection of any property of Grantee; (d) amounts received as compensation for or in aid to construction; (e) amounts collected as sales tax; (f) discounts, returns, allowances and repossessions; and (g) amounts received from surcharge to water rates for system improvements necessary to meet Grantee's standards.

The payments to the City shall be made quarterly, in four equal payments each year, on or before March 31, June 30, September 30, and December 31 each year during the term hereof. It is provided, however, that absent any Federal, State or other governmental laws or regulations to the contrary, such payments made by the Grantee to the City shall not result in a surcharge to the customers in the City of University Place. It is further provided that nothing herein shall be deemed to impair the authority of the City to exercise its governmental powers.

**Section 17. Forfeiture and Revocation.** If the Grantee willfully violates or fails to comply with any of the provisions of this franchise, or through willful misconduct or gross negligence fails to heed or comply with any notice given the Grantee by the City under the provisions of this franchise, then the Grantee shall, at the election of the University Place City Council, forfeit all rights conferred hereunder and this franchise may be revoked or annulled by the Council after a hearing held upon reasonable notice to the Grantee. The City may elect, in lieu of the above and without any prejudice to any of its other legal rights and remedies, to obtain an order from the superior court having jurisdiction compelling the Grantee to comply with the provisions of this Ordinance and to recover damages and costs incurred by the City by reason of the Grantee's failure to comply.

**Section 18. Remedies to Enforce Compliance.** In addition to any other remedy provided herein, the City reserves the right to pursue any remedy to compel or force the Grantee and/or its successors and assigns to comply with the terms hereof, and the pursuit of any right or remedy by the City shall not prevent the City from thereafter declaring a forfeiture or revocation for breach of the conditions herein.

**Section 19. City Ordinances and Regulations.** Nothing herein shall be deemed to direct or restrict the City's ability to adopt and enforce all necessary and appropriate ordinances regulating the performance of the conditions of this franchise, including any valid ordinance made in the exercise of its police powers in the interest of public safety and for the welfare of the public. The City shall have the authority at all times to control by appropriate regulations the location, elevation, manner of construction and maintenance of any facilities by the Grantee, and the Grantee shall promptly conform with all such regulations, unless compliance would cause the Grantee to violate other requirements of law.

**Section 20. Cost of Publication.** The cost of the publication of this Ordinance shall be borne by the Grantee.

**Section 21. Acceptance.** Within sixty days after the passage and approval of this Ordinance, this franchise may be accepted by the Grantee by its filing with the City Clerk an unconditional written acceptance thereof. Failure of the Grantee to so accept this franchise within said period of time shall be deemed a rejection thereof by the Grantee, and the rights and privileges herein granted shall, after the expiration of the sixty day period, absolutely cease and determine, unless the time period is extended by ordinance duly passed for that purpose.

**Section 22. Survival.** All of the provisions, conditions and requirements of Sections 3, Relocation of Water Facilities; 9, Dangerous Conditions; 11, Indemnification; and 13, Abandonment of the Grantee's Facilities, of this franchise shall be in addition to any and all other obligations and liabilities the Grantee may have to the City at common law, by statute, or by contract, and shall survive the City's franchise to the Grantee for the use of the areas mentioned in Section 1 herein, and any renewals or extensions thereof (however, such survival period extends only through the applicable statute of limitations period). All of the provisions, conditions, regulations and requirements contained in this franchise Ordinance shall further be binding upon the heirs, successors, executors, administrators, legal representatives and assigns of the Grantee and all privileges, as well as all obligations and liabilities of the Grantee shall inure to its heirs, successors and assigns equally as if they were specifically mentioned wherever the Grantee is named herein.

**Section 23. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality



shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this franchise Ordinance. In the event that any of the provisions of this franchise are held to be invalid by a court of competent jurisdiction, the City reserves the right to reconsider the grant of this franchise and may amend, repeal, add, replace or modify any other provision of this franchise, or may terminate this franchise.

**Section 24. Assignment.** This agreement may not be assigned or transferred without the written approval of the City, except the Grantee may freely assign this Agreement in whole or in part to a parent, subsidiary, or affiliated corporation or as part of any corporate financing, reorganization or refinancing and provided that the City's approval shall not be unreasonably withheld. In the case of transfer or assignment as security by mortgage or other security instrument in whole or in part to secure indebtedness, such consent shall not be required unless and until the secured party elects to realize upon the collateral. The Grantee shall provide prompt, written notice to the City of any such assignment.

**Section 25. Notice.** Any notice or information required or permitted to be given to the parties under this franchise agreement may be sent to the following addresses unless otherwise specified:

City of University Place  
Windmill Village  
3715 Bridgeport Way West, Suite B  
University Place, WA 98466

City of Tacoma  
Department of Public Utilities  
Water Division  
3628 South 35th Street  
Tacoma, WA 98409  
Attention: Water Superintendent

**Section 26. Effective Date.** This Ordinance has first been submitted to the University Place City Attorney; granted an approving vote of at least a majority of the City Council at a regular meeting after initial introduction on September 2, 1997, and a summary of the ordinance has been published at least once in a newspaper of general circulation in the City of University Place. This franchise ordinance shall be effective five (5) days after passage and publication as provided for by law.

ADOPTED by the City Council this 15th day of September, 1997.

CITY OF UNIVERSITY PLACE

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Linda Bird, Mayor

Attest:

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Susan Matthew, City Clerk

Approved as to Form:

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Timothy X. Sullivan, City Attorney

Published: September 17, 1997

Effective: September 22, 1997

**YAMHILL COUNTY ORDINANCE 776**

**GENERAL PROVISIONS**

**FOR USE, CONSTRUCTION AND INSTALLATIONS IN**

**YAMHILL COUNTY PUBLIC ROAD RIGHTS OF WAY**

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## Section 1

## Purpose and Policy

The purpose of these regulations is to establish the procedures for construction and activities conducted in the Public Rights-Of-Way under Yamhill County jurisdiction. [ORS 203.010, 368.011, 374.305-374.320 & 30.315]

## Section 2

## Definitions

2.1 “**Applicant**” is the company, corporation, agency, organization, or individual conducting or financing a utility activity or other regulated activity covered by these regulations.

2.2 “**Clear Zone**” is an unobstructed area that is available for errant vehicle recovery as defined by AASHTO standards and policies.

2.3 “**County**” is Yamhill County.

2.4 “**County Road Official**” or “**Public Works Administrator**” means the Public Works Director, Road Master, engineer, road supervisor, or other administrative officer designated by the county governing body as being responsible for administration of road activities of the county.

2.5 “**Emergency**” is a condition which (a) causes or poses an imminent risk to the public of an unsafe or unhealthy condition; (b) results in the loss of utility service to a customer.

2.6 “**Hazard**” is a condition that exposes traffic or pedestrians to imminent danger of personal injury or destruction of property.

2.7 “**Location**” is the placement of any utility facility described by depth, height, width, length, parallel distance from centerline or station and angle of crossing the county or public rights-of-way.

2.8 “**Maintenance Period**” is the length of time that an applicant is responsible to repair or maintain construction of a regulated activity covered by a permit, bond and or bond agreement. The time frame starts when the County acknowledges final acceptance of the project and will last for a period of one year.

2.9 “**Public Road**” is a road within Yamhill County over which the public has a right of use that is a matter of public record, but which is not a city street, state or federal highway.

2.10 “**Regulated Activity**” is the occupation, use, or performance of work in public road rights-of-way under County jurisdiction. Also included are utility facility construction, installation, maintenance, and repair.

2.11 “**Special Provisions**” includes specifications or requirements attached to or contained in the permit issued under these regulations.

2.12 “**Utility Facility**” or “**Facility**” is any pole, wire, cable, conduit, pipe, valve, manhole, junction box, pedestal, cabinet or other device which the County allows within the public road rights-of-way.

### **Section 3**

### **Permit**

3.1 A permit application is required for all regulated and utility activity within the public rights-of-way. Exemption may be allowed for aerial service and routine maintenance that does not involve excavation in the rights-of-way and will not disrupt traffic. A start of work notice is required. Applicant must notify the Yamhill County Public Works Department of scheduled work no earlier than 1 working day prior to the start of the regulated or utility activity and no later than 7:00 a.m. the day work commences. Scheduling must be made by telephone to the number specified in the general provisions of the permit and include a contact person, call back telephone number, location of work, type of work, time that the work is scheduled to start and permit number. A supplemental fax or e-mail with the required information can be sent for documentation but will not eliminate the telephone notification requirement. [ORS 374.305, 374.307, 374.310,]

3.2 Applicant shall submit with the permit application, plans showing in detail the location of the proposed facility or operations as described in the project description. Two (2) prints of the plans are required. The Department of Public Works will make its best efforts to take action on an application for a permit within 5 working days after the application is deemed complete, provided that the decision is wholly within the authority and control of the department.

3.3 The permit application will be reviewed by a public works administrator. The County road official will notify the applicant of any revisions needed to the plan and of the amount, if any, of the bond required for the permit. Upon receipt of the revised application (if required), the bond (if required), bond agreement (if required) and a certificate of insurance (if required), the permit will be issued to applicant.

3.4 Any violation of a permit (and/or any of its conditions) shall be a Class "A" violation pursuant to ORS 153.025. Failure to give the Public Works Department notice of start of work is also a Class "A" violation. Permit violations may result in the revocation of the permit and/or the violator being cited into Yamhill County Circuit Court. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law.

3.5 No person, firm, corporation, or other entity shall engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code, statute, ordinance, or county-issued permit or other regulation without first having obtained such permit, certificate, label or other formal authorization. Any such conduct shall be a Class "A" violation pursuant to ORS 153.025. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law.

### **Section 4**

### **Liability**

Applicant shall indemnify and hold harmless the County, its officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature, including reasonable attorneys fees, which may result from any physical injury to or the death of any persons or from the loss of or physical damages to property of any kind or nature, including the road and bridges, property or equipment used or owned by the County Public Works Department, and facilities which may now or may hereafter occupy the rights-of-way of the said road, when such injury, death, loss or damage arises out of the action of the applicant, its

employees or subcontractors in the operation of the activity authorized by the permit.

## **Section 5**

### **Insurance**

5.1 Applicant or applicant's contractor shall obtain and carry, for the period of time required to complete installation of the facilities authorized by permit, a liability and property damage insurance policy. Liability coverage shall include repair and restoration of the road facilities, where the applicant is legally liable under this Ordinance or otherwise, including the repair, relocation, or removal of facilities authorized by the permit. The policy shall include Yamhill County, its officers and employees as additional insured to the extent of applicant's indemnity obligations hereunder. The policy minimum dollar amounts of liability coverage shall be as specified in ORS 30.270. The policy must be issued by an insurance company duly authorized and licensed to do business in the State of Oregon. Applicant shall submit an insurance certificate evidencing coverage to the County Public Works Department.

5.2 Applicant shall be exempt from providing evidence of insurance with each permit application if applicant has on file with the County an annual certificate of insurance providing coverage for all activities of the permit holder.

5.3 Applicant may self-insure the required liability insurance coverage. Evidence of self-insurance shall be provided to the County Public Works Department.

## **Section 6**

### **Bond**

6.1 Applicant may be required to furnish a bond to insure final acceptance of construction and maintenance period. The bond shall be in the amount specified in the Special Provisions of the permit. If a bond is furnished, it must be written by a surety company duly qualified and licensed to do business in the State of Oregon and in a form satisfactory to the public works administrator.

6.2 A cashier's check or bond agreement may be submitted to County in lieu of a bond.

6.3 Applicant may not be required to furnish a bond if both of the following conditions are met:

- (a) County has on file at least five (5) permits that have been successfully completed.
- (b) County has not experienced difficulties in obtaining compliance from applicant for activities associated with previous permits.

## **Section 7**

### **Effective Period of Permit**

7.1 The permit shall be in effect for 180 days from the date of issue, except:

- (a) When the Special Provisions provide otherwise.
- (b) When the permit has been revoked by mutual consent of the department of public works and the applicant.
- (c) When the permit has been revoked by the County Board for failure of the applicant to abide by the terms and conditions of the permit.
- (d) When the permit has been revoked by operation of law.
- (e) When the applicant requests a reasonable extension of time from the Public Works Administrator and the request is approved.

7.2 Failure of applicant to abide by the special provisions and conditions of the permit, the regulations and terms outlined in these General Provisions, or any applicable law at time of permit



10.6 Unless approved in the Special Provisions, all longitudinal plowing, trenching or tunneling activities shall be outside the existing travel lanes. Location of the facility is to be a minimum of three (3) feet from the edge of the travel surface and with a minimum depth of three (3) feet of cover.

10.7 Diameter of boreholes under roadways shall not be more than one (1) inch larger than the outside diameter of the pipe or conduit fittings to be placed therein, except when void fillers are utilized. Bore pits are to be located a minimum of three (3) feet from the edge of the travel surface. A minimum depth of three (3) feet of cover is required for all buried facilities.

10.8 A tracer wire with a surface termination shall be installed with all nonmetallic buried utility facilities. A valve or meter may serve as a surface termination point if the tracer wire is accessible to public location. All operators of underground utility facilities in the public rights-of-way are required to join the Oregon Utility Notification Center as stipulated in ORS 757.557.

10.9 Trench width shall not exceed twenty-four (24) inches plus the outside diameter of the facility being installed or maintained.

10.10 No trench shall be left open or uncovered overnight. Applicant must comply with all applicable laws and safety requirements involving trenches.

10.11 When approved by the Special Provisions, trench activities in the roadbed, live load zone and shoulder areas, shall be backfilled with a minimum of 36" inches of  $\frac{3}{4}$ "-0 crushed rock and thoroughly compacted to 95% of AASHTO T-99 proctor or CDF (controlled density fill) as specified by the County. Ditch area excavation backfill requirements will be specified by the Public Works Administrator.

10.12 New above ground facilities shall be located outside the clear zone according to the AASHTO roadside design guide.

10.13 All debris, refuse, and waste shall be removed immediately upon completion of the associated project operation. The road rights-of-way must be restored as close as reasonably possible to its prior condition. All ditch lines disturbed by work performed under this permit must be restored to original condition or better and shall allow water to flow unrestricted. The ditch bank contour needs to be constructed with side slopes that are no steeper than 2:1. The horizontal unit of measurement shall be at least 2 times the vertical unit of depth. [ORS 368.251, 368.256]

10.14 County may take corrective actions to restore the road and rights-of-way if the work is not in compliance with the permit, the approved project plans or these General Provisions. County will charge applicant for all related costs. Prior to taking corrective actions, County will provide reasonable notice to the applicant and give applicant an opportunity to correct the problem. [ORS 374.320, 758.010]

10.15 If a public hazard is discovered due to a regulated or utility activity, County may, without prior notice to applicant, take corrective actions to protect the public. County will charge applicant for all related costs. County will notify applicant of any corrective actions taken as soon as practical. [ORS 374.307(2)(a)&(b)]

10.16 Applicant shall be responsible for any and all survey monuments damaged or destroyed by activities of applicant or applicant's subcontractor(s). Applicant shall, in compliance with Oregon



Revised Statutes, replace any and all survey monuments so damaged or destroyed within 90 days of notification of the damage or destruction. [ORS 209.150]

## **Section 11**

### **Pavement Details**

11.1 Special permission is required in the Special Provisions for open cutting of the paved or surfaced portion of the road.

11.2 Trench edges in paved areas shall be saw cut or by other methods acceptable to the public works administrator prior to breaking the pavement slab.

11.3 Pavement restoration shall be made according to specifications of the special provisions and street cut detail.

11.4 County will require at least a temporary pavement cold patch on all paved or oiled roads. Temporary patching shall be completed at the end of each workday. Applicant shall maintain the trenched area until permanent pavement patching is completed. Unless otherwise specified in the special provisions, permanent pavement patching shall be completed within two weeks after pavement and patching material is available for purchase from a commercial hot asphalt plant.

11.5 During the maintenance period, the applicant shall repair all pavement patches that settle, crack, break or fail regardless of the source of the problem.

## **Section 12**

### **Traffic Control**

12.1 During the course of a regulated or utility activity, applicant or applicant's subcontractor shall maintain flagging personnel, signs, lights, flares, barricades and other safety devices as specified in the ODOT "Short-Term Traffic Control Handbook". Where the "Handbook" indicates engineering judgment is required to establish the specific requirements for traffic control, the County Public Works Administrator's decision shall be final. Applicant shall furnish the name and telephone number of the person who is responsible for traffic control maintenance. [ORS 810.200, 184.619]

12.2 Applicant shall conduct operations to minimize interference with or interruption of traffic along the road.

12.3 Restriction to traffic flow or closure of roadways, intersecting streets, road approaches or other access points for more than fifteen (15) minutes, will require a traffic control plan. Said plan(s) shall be reviewed and approved by the Public Works Administrator.

## **Section 13**

### **Emergency Maintenance and Hazard Repairs**

13.1 In case of an emergency or hazard, applicant shall notify the Yamhill County Sheriff's Office and Yamhill County Public Works of a need to close any roadway.

13.2 In case of an emergency or hazard, applicant may begin necessary work. Applicant shall notify the County Public Works Administrator as soon as possible of the work in process. Following completion of the work, applicant shall submit a permit application for any new or expanded installation. County reserves the right to require changes to any utility facilities installed during an

emergency, at no cost to County.

13.3 In case of an emergency or hazard, applicant may trench across or into a roadway without prior notice to County. Permanent back fill and patching requirements are to be made according to these General Provisions.

13.4 In case of an emergency or hazard and applicant does not complete work required under this section within a reasonable period of time, the County may perform necessary activities to protect the public. County will charge the applicant or other responsible parties for all related costs.

#### **Section 14**

#### **Inspection**

14.1 The applicant shall be responsible to notify the County of all required inspections. To insure compliance with the terms and conditions of the permit and plans, County may designate an inspector to the job during periods deemed necessary and appropriate by the Public Works Administrator. The inspector may require the applicant to correct all construction that deviates from the terms and conditions of the permit.

14.2 The applicant shall not perform construction activities that will interfere with the appropriate inspection without advanced notice to the County. If the applicant fails to provide the advanced notice as required in this section, County may require test holes to be excavated at applicant's expense. The number and location of the test holes shall be determined by County as needed to verify proper construction of specified facilities or improvements.

14.3 Any requirement and/or correction exercised by the County Public Works Administrator shall in no way relieve applicant of any duty or responsibility to the general public, or relieve applicant from any liability for loss, damage, or injury to persons or property as required in these regulations.

#### **Section 15**

#### **Maintenance**

Applicant shall at all time keep facilities authorized by the permit in a good state of repair in order to maintain the safety of the public. [ORS 374.315]

#### **Section 16**

#### **Removal, Relocation or Repair**

16.1 County may require applicant, to remove, relocate, or repair any facility or other improvements lying within public rights-of-way covered by the permit at no cost to the County. If relocation is required, the County may provide alternative locations, within the Public Rights-Of-Way that are consistent with sound engineering practices or applicable state and local law.

16.2 Upon receiving written notice from the County Board or Public Works Administrator to remove, relocate, or repair a facility or other condition, applicant shall arrange to comply in accordance with the notice at applicant's sole cost. Compliance shall be completed within 30 days, unless an extension of time is requested in writing and agreed to by the Public Works Administrator. [ORS 374.320]

16.3 If an applicant fails to complete the removal, relocation, or repair of facilities or conditions required pursuant to this section, County may cause such removal, relocation, or repair to be

completed using qualified contractors in accordance with Oregon law, and charge the applicant or other responsible parties for the expenses incurred by the County. County may recover for such expenses from the bond, bond agreement or security deposit submitted by the applicant.

**Section 17**

**Violation**

Any regulated or utility activity that is contrary to the terms of these regulations or any permit issued herein is prohibited. Any violation of current Oregon Revised Statutes or Administrative Rules or Yamhill County ordinances or regulations or these general provisions shall be a Class "A" violation. Failure to give the Public Works Department notice of start of project is also a Class "A" violation. Permit violations may result in the revocation of the permit and/or the violator being cited into Yamhill County Circuit Court. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law. No person, firm, corporation, or other entity shall engage in or procure, aid or abet any other person to engage in any conduct or activity for which a permit, certificate, label or other formal authorization is required by any specialty code, statute, ordinance, or county-issued permit or other regulation without first having obtained such permit, certificate, label or other formal authorization. Any such conduct shall be a Class "A" violation pursuant to ORS 153.025. Penalties may include fines up to \$720 for each and every day in violation of the permit, stop-work and/or removal orders, injunctive relief, and any other remedy allowed by law [ORS 30.315, ORS 153.025, 203.065]

**Section 18**

**Authority**

The Yamhill County Public Works Department has authority to impose any conditions to a permit deemed necessary to meet the standards of the American Association of State Highway and Transportation Officials (AASHTO standards), or to make the road safe for travel, or to otherwise ensure compliance with these regulations. [ORS 368.011]

**ORDINANCE NO. 1950-6-01**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, AMENDING THE CODE OF ORDINANCES BY ADDING ARTICLE III MANAGEMENT OF PUBLIC RIGHTS-OF-WAY TO CHAPTER 13, IN ORDER TO ADMINISTER AND REGULATE THE USE OF PUBLIC RIGHTS-OF-WAY IN THE PUBLIC INTEREST, HEALTH, SAFETY AND WELFARE; PROVIDING FOR THE ISSUANCE AND REGULATION OF CONSTRUCTION PERMITS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Allen is charged with maintaining control of and access to the Right-of-Way in order to protect the health, safety and welfare of its citizens; and,

**WHEREAS**, in accordance with applicable federal, including, but not limited to, 47 U.S.C., Section 253(c) and state laws, including, but not limited to, Texas Utility Code, Section 14.008 and Section 54.205, Texas Civil Statutes, Article 1175(2) and the Local Government Code, Section 283.056, the City seeks to exercise its historical rights to control and manage its Public Rights-of-Way in a competitively neutral and nondiscriminatory basis; and implement certain police power regulations in the use of those Public Rights-of-Way; and,

**WHEREAS**, establishing a permitting process to improve coordination of work in Public Rights-of-Way under City jurisdiction will ease traffic congestion and limit inconvenience to citizens of and visitors to the City; and,

**WHEREAS**, the permitting process is necessary to enhance the public's access to information about construction in Public Rights-of-Way, and to protect and preserve the valuable investment of the City's taxpayers in the construction and maintenance of the Public Rights-of-Way; and,

**WHEREAS**, the permitting process is necessary to minimize the impact of construction on neighborhood residents and businesses by enforcing cleanliness and safety standards for construction sites, imposing strict timelines for construction, and requiring Owners to comply with standards and requirements for compaction, backfill and pavement restoration and resurfacing that ensure the best possible restoration of the paved surface over and adjacent to the trench; and,

**WHEREAS**, the permitting process is necessary to allow the City to properly enforce violations of this Ordinance by the imposition of civil, criminal, or administrative penalties; and,

**WHEREAS**, the permitting process is necessary to conserve the limited physical capacity of the Public Rights-of-Way held in public trust by the City; and,

**WHEREAS**, regulation of excavations in City streets helps reduce disruption of an interference with public use of the streets, helps prevent pavement damage, helps maintain the safe condition of the streets, protects the public health, safety and welfare, is a valid and appropriate exercise of the City's police power, and is a municipal responsibility; and,

**WHEREAS**, the City Council finds there is increasing demand for use of the City Right-of-Way; and,

**WHEREAS**, the permitting process will assist in keeping track of the different entities using the Rights-of-Way to prevent interference between them; and,

**WHEREAS**, the permitting process will protect the safety, security, appearance, and condition of the Public Rights-of-Way.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, THAT:**

**SECTION 1.** The Code of Ordinances of the City of Allen, Collin County, Texas, be and the same is hereby amended by amending Section 13-17 to add the following language:

"Sections 13-18 – 13-20 reserved."

**SECTION 2.** The Code of Ordinances of the City of Allen, Collin County, Texas, be and the same is hereby amended by adding Article III Management of Public Rights-of-Way, to Chapter 13, to read as follows:

**"ARTICLE III. MANAGEMENT OF PUBLIC RIGHTS-OF-WAY**

**Sec. 13-21. Definitions.**

For the purpose of this chapter, the following words shall be defined hereinbelow:

*City* means the City of Allen, Texas, or its designated agent of the City.

*Construction* means any work performed above the surface, on the surface or beneath the surface of a Public Right-of-Way, including, but not limited to, installing, servicing, repairing, upgrading, or modifying any Facility(s) in, above or under the surface of the Public Right-of-Way, and restoring the surface and subsurface of the Public Right-of-Way, subject to the provisions of Section 13-24(a). The phrase "construction" does not include the installation of Facilities necessary to initiate service to a customer's property, or the repair or maintenance of existing Facilities unless such installation, repair or maintenance requires the breaking of pavement, excavation or boring.

*Construction Security* means any of the following forms of Security provided at the Owner's option:

- (a) Individual project or performance bond
- (b) Cash deposit
- (c) Security of a form listed or approved under State of Texas Statutes
- (d) Letter of Credit, in a form acceptable by City

*Construction Permit* means the permit which, pursuant to this Ordinance, must be obtained before an Owner may construct facilities in a Right-of-Way. A Construction Permit allows the holder to construct Facilities in that part of the Right-of-Way described in such permit.

*Department* means the Engineering Department of the City.

*Director* means the Director of the Engineering Department of the City or his or her designee.

*Emergency* means a condition that (1) poses a clear and immediate danger to life or health, or an immediate and significant loss of property; or (2) requires immediate repair or replacement of Facilities in order to restore service to a customer.

*Facility or Facilities* shall include, but not be limited to, any and all cables, pipelines, splice boxes, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an Owner or Owners, that are located or are proposed to be located in the Public Right-of-Way.

*Municipal Authorization* means the individual grant to use the Public Rights-of-Way issued by the City and accepted by the individual Owners in accordance with the Ordinances of the City of Allen, Texas, a Franchise Agreement, a License, or under operation of state law which provides a specific grant of authority to use the Rights-of-Way.

*Owner* means any Person who owns any Facility or Facilities that are or are proposed to be installed or maintained in the Public Right-of-Way. Included within this definition is the Owner's contractor, subcontractor, agent or authorized representative.

*Permit or Permit to Construct* means a Permit to perform Construction in accordance with this ordinance.

*Person* means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, excluding the City, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

*Public Rights-of-Way* means the area of land within the City that is acquired by, dedicated to, or claimed by the City in fee simple, by easement, or by prescriptive right and that is expressly or impliedly accepted or used in fact or by operation of law as a public roadway, highway, street, sidewalk, alley, or utility access easement. The term includes the area on, below, and above the surface of the Public Right-of-Way. The term applies regardless of whether the Public Right-of-Way is paved or unpaved. The term does not include airwaves above the Public Right-of-Way with regard to wireless telecommunications.

*Restore or Restoration* means the process by which a Right-of-Way is returned to a condition that is equal to or better than the condition that existed before Construction.

**Sec. 13-22. Right-of-Way Occupancy.**

(a) Any person prior to constructing facilities in, on or over the Public Rights-of-Way, must first obtain separate Municipal Authorization.

(b) This Ordinance does not constitute or create authority to place, reconstruct, or alter Facilities in, on or over the Rights-of-Way nor to engage in construction, excavation, encroachments, or work activity within or upon any Public Right-of-Way, and said authority must be obtained in accordance with the terms of this Ordinance.

(c) Any Person with a current, unexpired Franchise, Municipal Authorization, License or other authorization from the City (Grant) or State to use the Public Right-of-Way that is in effect at the time this Ordinance takes effect, shall continue to operate under and comply with that Grant, and in the event this Ordinance conflicts with existing authorization, the more restrictive provision shall apply.

**Sec. 13-23. Registration.**

(a) In order to protect the public health, safety and welfare, all Owners of Facilities in the Right-of-Way will register with the City of Allen. Registration and Permits will be issued in the name of the Person who will own the Facilities. Registration must be renewed on or before January 31 of each year. The City shall provide written notification of this renewal requirement. If a registration is not renewed, and subject to 60 calendar days notification to the Owner, the facilities of the user will be deemed to have been abandoned. When any information provided for the registration changes, the Owner will inform the City of Allen of the change no more than thirty (30) days after the date the change is made. Registration shall include:

- (1) The name, address(es) and telephone number(s) of the Owner;
- (2) The names, address(es) and telephone number(s) of the contact person(s) for the Owner;
- (3) The name(s), address(es) and telephone number(s) of any contractor(s) or subcontractor(s) who will be working in the Right-of-Way on behalf of the Owner. If the names of contractors and subcontractors are not available at the time of permit application, they must be submitted to the City prior to permit issuance;
- (4) The name(s) and telephone number(s) of an emergency contact who shall be available twenty-four (24) hours a day;
- (5) The source of the Owner's Municipal Authorization (e.g., franchise, state law, etc.). If the Owner is a certificated telecommunications provider, the certificate number issued by the Texas Public Utility Commission;
- (6) The Owner shall submit two year projections of their plans for the construction of facilities in the City at the time of Registration Renewal; and
- (7) Registration shall be a prerequisite to issuance of a construction permit. Each Owner shall update and keep current its registration with the City at all times.

**Sec. 13-24. Construction Permits.**

(a) General

- (1) No Owner shall perform any Construction or installation of Facilities in the Right-of-Way without first obtaining a Construction Permit, except as provided herein. Permit applications are required for Construction of new, replacement or upgrades of the company's facilities in the Right-of-Way whether aerial or underground.
- (2) Emergency responses related to existing Facilities may be undertaken without first obtaining a Permit; however, the Department shall be notified in writing within two (2) business days of any Construction related to an emergency response; including a reasonably detailed description of the work performed in the Right-of-Way. An updated map of any Facilities that were relocated, if applicable, shall be provided within 90 days.
- (3) A permit is not required under Subsection (1) if the activity in the public Right-of-Way consists exclusively of:

- a. a residential service connection on the same side of the Public Right-of-Way, if the connection does not require a pavement cut; or
  - b. the replacement of a single damaged pole.
- (4) Unless approved by the City Engineer, the Owner or Contractor shall not close any traffic lanes or otherwise impede rush hour traffic on Major Thoroughfares during the morning or evening rush hours on weekdays during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:30 p.m. Any closure of a traffic lane for more than four hours during any non-peak traffic period shall also require a Permit, unless waived by the Director.
  - (5) All Construction and installation in the Right-of-Way shall be in accordance with the Permit for the Facilities. The Director shall be provided access to the work and to such further information as he or she may reasonably require to ensure compliance with the Permit.
  - (6) A copy of the Construction Permit and approved engineering plans shall be maintained at the Construction site and made available for inspection by the Director at all times when Construction work is occurring.
  - (7) All Construction work authorized by Permit must be completed in the time specified in the Construction Permit. If the work cannot be completed in the specified time periods, the Owner may request an extension of the time period from the Director. The Director will use his/her best efforts to approve or disapprove a request for Permit as soon as possible. If the request for the extension is made prior to the expiration of the permit, work may continue while the request is pending.
  - (8) Construction, Excavation, or Work Area. No Owner or contractor shall perform construction, excavation, or work in an area larger or at a location different than that specified in the permit or permit application. If, after construction, excavation, or work is commenced under an approved permit, it becomes necessary to perform construction, excavation, or work in a larger or different area than originally requested under the application, the Owner or Contractor shall notify the Director immediately and, within 24 hours, shall file a supplementary application for the additional construction, excavation, or work.
  - (9) A copy of any Permit or approval issued by federal or state authorities for work in federal or state Right-of-Way located in the City of Allen shall be provided, if requested by the Department.

(b) Permit Application

- (1) The Permit shall state to whom it is issued, location of work, location of Facilities, dates and times work is to take place and any other conditions set out by the Director. If the Owner fails to act upon any Permit within 90 calendar days of issuance, the Permit shall become invalid, and the Owner will be required to obtain another Permit. No Permit shall be transferable.
- (2) The Permit will be in the name of the Person who will own the Facilities to be constructed. The Permit application must be completed and signed by a representative of the Owner of the Facilities to be constructed.



- (3) Any person requesting a Permit will provide the Director with documentation in the format specified by the Department, at the time of Permit submittal, describing:
  - a. The proposed location and route of all Facilities to be constructed or installed and the Owner's plan for Right-of-Way Construction.
  - b. Three (3) set of engineering plans, including plan and profile, which will be on a reasonable scale, acceptable to the Department, unless waived by the director. When required by the Texas Engineering Practice Act, as amended, the plans must be sealed by a professional engineer licensed to practice in the State of Texas.
  - c. Detail of the location of all Right-of-Way and utility easements that Owner plans to use.
  - d. Detail of existing utilities located in the Right-of-Way, including the City's utilities, in relationship to Owner's proposed route.
  - e. Detail of what Owner proposes to construct including size of facilities, materials used, such as pipe size, number of ducts, valves, etc.
  - f. Detail of plans to remove and replace asphalt or concrete in streets in accordance with Exhibit "A," Standard Specifications and Details for Restoration within Public Rights-of-Way.
  - g. Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth located in Public Right-of-Way.
  - h. Typical details of manholes and/or handholes Owner plans to use or access.
  - i. Complete legend of drawings submitted by Owner, which may be provided by reference to previously submitted documents acceptable to the City.
  - j. The construction methods to be employed for the protection of existing structures, fixtures, and Facilities within or adjacent to the Right-of-Way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the Director.
  - k. Proof of Insurance and Bonds as required by Section 13-35.
- (4) A request for a Permit must be submitted at least fifteen (15) business days before the proposed commencement of work identified in the request, unless waived by the Director.
- (5) Requests for Permits will be approved or disapproved by the Director within a reasonable time of receiving all the necessary information. The Director will use his/her best efforts to approve or disapprove a request for Permit as soon as possible. The Director will consider all information submitted by the applicant including a review of the availability of space in the Right-of-Way based on the applicant's proposed route and location. The Director will provide a written notification of denial for rejected permits.
- (6) The Department or the Owner can request a pre-construction meeting with the construction contractor.

**Sec. 13-25. Construction Standards.**

(a) All Construction shall be in conformance with all City codes and applicable local, state and federal laws.

(b) The Department must be notified two (2) business days in advance that Construction is ready to proceed by either the Owner, its contractor or representative. At the time of notification, the Owner will inform the Department of the number (or other information) assigned from the appropriate one-call notification center. "Notification center" means the same as in Texas Civil Statutes, Article 9033, or its successor. The name, address and phone numbers of the contractor or subcontractor who will perform the actual Construction, including the name and telephone number of an individual with the contractor who will be available at all times during Construction. Such information shall be required prior to the commencement of any work.

(c) Public Notification of work to be performed.

- (1) For any closure of a traffic lane or blocking of a sidewalk or alley lasting six days or less, the permittee shall conspicuously mark its vehicles with the permittee's name and telephone number.
- (2) For projects scheduled to last more than seven (7) calendar days three feet by three feet (3' x 3') informational sign stating the identity of the person doing the work, a local telephone number and Owner's identity shall be placed at the location where Construction is to occur forty-eight (48) hours prior to the beginning of work in the Right-of-Way and shall continue to be posted at the location during the entire time the work is occurring. The informational sign will be posted on Public Right-of-Way one hundred (100) feet before the Construction location commences, unless other posting arrangements are approved or required by the Director.
- (3) When projects last more than seven(7) calendar days, the Owner shall also provide written notification to all adjacent property occupants forty-eight (48) hours prior to the beginning of construction. Informational fliers shall include the person doing the work, a local telephone number, Owner's identity, and proposed schedule.

(d) Erosion control measures (e.g. silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins.

(e) Lane closures on major thoroughfares will be limited to one lane between 9:00 a.m. and 3:30 p.m. unless the Director grants prior approval. Arrow boards will be required for lane closures on all arterials and collectors, with all barricades, advanced warning signs and thirty-six (36) inch reflector cones placed according to the Texas Manual on Uniform Traffic Control Devices.

(f) Without affecting the legal relationship between the Owner and their contractor, Owners are responsible for the workmanship of, and any damages by, their contractors or subcontractors. A responsible representative of the Owner will be available to the Department at all times during construction.

(g) Owner shall be responsible for storm water management, erosion control and excavation safety measures that comply with city, state and federal guidelines. Requirements shall include, but not be limited to, construction fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing. Upon request Owner may be required to furnish documentation submitted or received from federal or state government.

(h) Owner or contractor or subcontractor will notify the Department immediately of any damage to other utilities, either city or privately owned.

(i) It is the City's policy not to cut streets or sidewalks; however, except in case of emergency when a street or sidewalk cut is required, prior approval must be obtained from the Department and all requirements of the Department shall be followed in all street and sidewalk cuts. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic, and shall be in accordance with Exhibit "A," Standard Specifications and Details for Restoration within Public Rights-of-Way.

(j) Installation of Facilities must not interfere with City utilities, in particular gravity dependent facilities. Facilities shall not be located over, or within three (3) feet, horizontally or vertically, of any water or sanitary sewer mains, unless approved by the Director.

(k) New Facilities must be installed to a minimum depth required by state and federal codes and standards.

(l) All directional boring shall have a locator place bore marks and depths while the bore is in progress. Locator shall place a mark at each stem with a paint dot and depth at least every other stem.

(m) No directional boring zones. In the City, the public infrastructure must be maintained and protected by all Owners and Contractors. The public health, safety and welfare is at risk when damages to water and sewer mains occur. To protect the water and sewer system, no Person, Agency, or Contractor will be allowed to directionally bore longitudinally with water mains that are larger than 12" and sewer mains that are 12" or larger, unless this requirement is waived in writing by the Director. The installation of Facilities in the Public Rights-of-Way or easements will be installed by open excavation to assure the protection of the City's water and sewer system. The City has available mapping that identifies such mains. The Owner is responsible for obtaining and using this information in the design of new Facilities

(n) The working hours in the Rights-of-Way are 7:00 a.m. to 8:00 p.m., Monday through Friday, unless otherwise approved by Director. Any work performed on Saturday must be approved by the utility inspector by 9:00 a.m. on the Thursday prior to the proposed Saturday. No work will be done, except for emergencies, on Sundays or City holidays.

(o) Persons working in the Right-of-Way are responsible for obtaining line locates from all affected utilities or others with Facilities in the Right-of-Way prior to any excavation. Use of a Geographic Information System or the plans of records does not satisfy this requirement.

(p) Owner will be responsible for verifying the location, both horizontal and vertical, of all Facilities. When required by the Department, Owner shall verify locations by pot holing, hand digging or other method approved by the Department prior to any excavation or boring.

(q) Placement of all manholes and/or handholes must be approved in advance by the Department. Handholes or manholes will not be located in sidewalks, unless approved by the Director.

(r) Locate flags shall not be removed from a location while Facilities are being constructed.

(s) When Construction requires pumping of water or mud, the water or mud shall be contained in accordance with federal and state law and the directives of the Department.

(t) A Person shall perform operations, excavations and other Construction in the Public Rights-of-Way in accordance with all applicable City requirements, including the obligation

to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the Public Right-of-Way. The City shall waive the requirements of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the City by the Person. All excavations and other Construction in the Public Rights-of-Way shall be conducted so as to minimize interference with the use of public and private property. A Person shall follow all reasonable construction directions given by the City in order to minimize any such interference.

(u) All construction shall conform to the City of Allen Tree Preservation Ordinance.

(v) Excavation Safety. On construction projects in which excavation will exceed a depth of five (5) feet, the Agency must have detailed plans and specifications for excavation safety systems. The term "excavation" includes trenches, structural or any construction that has earthen excavation subject to collapse. The excavation safety plan shall be designed in conformance with State law and Occupational Safety and Health Administration (OSHA) standards and regulations.

**Sec. 13-26. As-Built Plans.**

(a) Right-of-Way users will provide the Director with "as-built plans" within ninety (90) days of completion of Facilities in the Right-of-Way. The plans shall be provided to the City with as much detail and accuracy as required by the Director. All the requirements specified for the plans submitted for the initial Permit, as set forth in Section 13-24(b)(3) shall be submitted and updated in the "as-built plans." Users which have facilities in the Right-of-Way existing as of the date of this ordinance who have not provided "as built plans" shall provide one (1) quarter of the information concerning facilities in City Right-of-Way within one (1) year after the passage of the ordinance and one (1) quarter each six (6) months thereafter. The detail and accuracy will concern issues such as location, size of Facilities, materials used, and any other health, safety and welfare concerns. Submittal of "as-built plans" shall be in digital format compatible with City hardware and software or shall be subject to a conversion fee. Owner shall include one set of plans in a paper format.

(b) If as-built plans submitted under this section include information expressly designated by the Owner as a trade secret or other confidential information protected from disclosure by state law, the Director may not disclose that information to the public without the consent of the Owner, unless otherwise compelled by an opinion of the Attorney General pursuant to the Texas Open Records Act, as amended, or by a court having jurisdiction of the matter pursuant to applicable law. This subsection may not be construed to authorize an Owner to designate all matters in its as-built plans as confidential or as trade secrets.

(c) This requirement, or portions of this requirement, may be waived by the Director for good cause.

**Sec. 13-27. Conformance with Public Improvements.**

(a) Whenever by reasons of widening or straightening of streets, side walks, water or sewer line projects, or any other City project, it shall be deemed necessary by the governing body of the City to remove, alter, change, adapt, or conform an Owner's underground or overhead facilities within the Right-of-Way to another part of the Right-of-Way, such alterations shall be made by the Owner of the Facilities at the Owner's expense (unless provided otherwise by state law, a franchise, a license or a Municipal Authorization until that grant expires or is otherwise terminated). The Owner shall be responsible for conforming its facilities within mutually agreed upon time limits. If no time limits can be agreed upon, the time limit shall be ninety (90) days from the day the City secures any

additional Right-of-Way and transmits final plans and notice to make the alterations. The Owner of facilities shall be responsible for any direct costs associated with project delays associated with failure to conform facilities within the mutually agreed upon time limits. Reimbursement for all costs provided for by this paragraph shall be made within thirty (30) calendar days.

(b) An Owner may trim trees in or over the Public Rights-of-Way for the safe and reliable operation, use and maintenance of its Facilities. All tree trimming shall be performed in accordance with standards promulgated by the National Arborist Association and the International Society of Arboriculture. Should the Owner, its contractor or agent, fail to remove such trimmings within twenty-four (24) hours, the City may remove the trimmings or have them removed, and upon receipt of a bill from the City, the Owner shall promptly reimburse the City for all costs incurred within thirty (30) calendar days.

(c) An Owner shall temporarily remove, raise or lower its aerial Facilities to permit the moving of houses or other bulky structures. The Owner shall temporarily remove, raise or lower its aerial Facilities within fifteen (15) working days of receiving a copy of a permit issued by the City. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. The Owner may require prepayment or prior posting of a bond from the party requesting the temporary move.

**Sec. 13-28. Improperly Installed Facilities.**

(a) Any Owner doing work in the City Right-of-Way shall properly install, repair, upgrade and maintain Facilities.

(b) Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:

- (1) The installation, repair, upgrade or maintenance endangers people or property;
- (2) The Facilities do not meet the applicable City codes;
- (3) The Facilities are not capable of being located using standard practices;
- (4) The Facilities are not located in the proper place at the time of construction in accordance with the directions provided by the Department or the plans approved by the Department.

**Sec. 13-29. Location of Utility Structures.**

(a) Utility structures not exceeding 20 cubic feet are allowed in the right of way or utility easements, subject to available room and located as approved by the Director. The placement of utility structures larger than 20 cubic feet, but not exceeding 30 cubic feet will be reviewed on a case by case basis by the Director. Such structures shall not encroach within a sidewalk area, including a vertical clearance of 7.5 feet above the sidewalk or within the sight visibility area.

(b) Utility structures larger than 30 cubic feet shall be located as close as practical to the back of a public or private utility easement and subject to available room and located as approved by the Director.

(c) Above-ground Facilities such as pedestals, switching boxes and similar Facilities shall be located no less than three (3) feet from the edge of an alley or the back of street curbs and such that they do not create a physical or visual barrier to vehicles leaving or entering roads, driveway or alleys. They shall also not be located in front of residential lots creating an unreasonable visual or aesthetic impairment for the property owner.

(d) The Owner's identity and telephone number shall be placed on all Utility structures placed in the Rights-of-Way.

**Sec. 13-30. Restoration of Property.**

(a) Owners shall restore property affected by Construction of Facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work. Owners shall submit photographs and/or a video of the construction area at the time of the issuance of the permit. Restoration must be approved by the Department.

(b) Restoration must be made within ten (10) working days of completion of trench backfill for a length of three hundred (300) feet, or within the limits of one city block, unless otherwise approved by the Director. If Restoration is not satisfactory and performed in a timely manner, after written notice, then all work in progress, except that related to the problem, including all work previously permitted but not complete may be halted and a hold may be placed on any future Permits until all Restoration is complete.

(c) Upon failure of an Owner to perform such Restoration, and five (5) days after written notice has been given to the Owner by the City, and in the event Restoration has not been initiated during such five day period, the City may repair such portion of the Public Rights-of-Way as may have been disturbed by the Owner, its contractors or agents. Upon receipt of an invoice from the City, the Owner will reimburse the City for the costs so incurred within thirty (30) calendar days from the date of the City invoice.

(d) If the City determines that the failure of an Owner to properly repair or Restore the Public Rights-of-Way constitutes a safety hazard to the public, the City may undertake emergency repairs and Restoration efforts, after emergency notice has been provided, to the extent reasonable under the circumstances. Upon receipt of an invoice from the City, the Owner shall promptly reimburse the City for the costs incurred by the City within thirty (30) calendar days from the date of the City invoice. If payment is not received within the thirty (30) calendar days, the City shall initiate a claim for compensation with the appropriate bonding company.

(e) Should the City reasonably determine, within two (2) years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional Restoration work to meet the standards of subsection (a), an Owner shall perform such additional Restoration work to the satisfaction of the City, subject to all City remedies as provided herein.

(f) Restoration must be to the reasonable satisfaction of the Department. The Restoration shall include, but not be limited to:

- (1) Replacing all ground cover with the type of ground cover damaged during work to a condition equal to or better either by sodding or seeding, or as directed by the Department;
- (2) Adjusting of all manholes and handholes, as required;
- (3) Backfilling all bore pits, potholes, trenches or any other holes shall be completed daily, unless other safety requirements are approved by the Department. Holes with only vertical walls shall be covered and secured to prevent entry. If bore pits, trenches or other holes are left open for the continuation of work, they shall be fenced and barricaded to secure the work site as approved by the Department;
- (4) Leveling of all trenches and backhoe lines;

- (5) Restoration of excavation site to City specifications;
- (6) Restoration of all paving, sidewalks, landscaping, ground cover, trees, shrubs and irrigation systems.

(g) Removal of all locate flags during the clean up process by the Owner or his/her contractor at the completion of the work.

**Sec. 13-31. Revocation or Denial of Permit.**

If any of the provisions of this ordinance are not followed, a Permit may be revoked by the Director or designee. If a person has not followed the terms and conditions of this ordinance in work done pursuant to a prior Permit, new Permits may be denied or additional terms required. Revocation shall be effective upon the expiration of fifteen days after written notice of the violation(s), unless cured during that period, except for violations which pose a threat to public safety or health, for which the revocation will be immediate upon delivery of written notice.

**Sec. 13-32. Appeals.**

(a) Applicability. Appeals may be filed pursuant to this Section for decisions of the Director related to the denial, suspension, or revocation of a permit. However, the appeal process provided by this Section shall not be available for criminal violations of this Ordinance.

(b) Appeal to City Manager. A permittee may appeal decisions referred to in Subsection A above by filing a written appeal with the City Manager within seven (7) working days of receipt of denial, suspension, or revocation of the permit. An appeal filed pursuant to this Section shall specifically state the basis for the aggrieved party's challenge to the City's authority under this Ordinance.

(c) Issuance of Decision by City Manager. Decisions of the City Manager shall be issued within five (5) working days of receipt of the written appeal. Decisions of the City Manager shall be final.

**Sec. 13-33. Penalty for Violation.**

Any person, firm or corporation violating any of the provisions or terms of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not exceeding two thousand dollars (\$2,000) for each violation, and each day that such violation shall continue to exist constitutes a separate offense.

**Sec. 13-34. Indemnity.**

(a) Each Owner placing Facilities in the Public Rights-of-Way shall promptly defend, indemnify and hold the City harmless from and against all damages, costs, losses or expenses (i) for the repair, replacement, or Restoration of City's property, equipment, materials, structures and Facilities which are damaged, destroyed or found to be defective as a result of the Owner's acts or omissions, (ii) from and against any and all claims, demands, suits, causes of action, and judgements for (a) damage to or loss of the property of any Owner (including, but not limited to the Owner, its agents, officers, employees and subcontractors, City's agents, officers and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any Owner (including, but not limited to the agents) arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the Owner, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this Ordinance.

(b) This indemnity provision shall not apply to any liability resulting from the negligent or willful acts of the City, its officers, employees, agents, contractors, or subcontractors.

(c) The provisions of this indemnity are solely for the benefit of the City and is not intended to create or grant any rights, contractual or otherwise, to any other Owner or entity.

**Sec. 13-35. Insurance Requirements.**

(a) General

- (1) An Owner must provide acceptable proof of insurance in the total amount required by this Section for Permits for Construction within Public Rights-of-Way, or make other provisions acceptable to the Director.
- (2) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion and collapse hazards.
- (3) Each policy must include a cancellation provision in which the insurance company is required to notify the City in writing not fewer than thirty (30) days before canceling, failing to renew, or reducing policy limits.
- (4) The Owner shall file the required original certificate of insurance prior to the issuance of a permit. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.
- (5) Owner shall file an annual surety bond, which will be valid for one full year, from a surety company authorized to do business in the State of Texas in the amount equal to the estimated amount of the cost to Restore the Right-of-Way for the work anticipated to be done in that year, in the event the Owner leaves a job site in the Right-of-Way unfinished, incomplete or unsafe. Owner may make other provisions, in lieu of a bond, as acceptable to the Director. The Director may waive the requirement if the Owner submits documentation, in a form acceptable to the City Attorney, that demonstrates the Owner has assets in excess of 10 million dollars.
- (6) Owner shall file a Maintenance Bond for twenty-five (25%) percent of the cost of Restoring the Right-of-Way for the preceding year. Said bond shall be in force for two (2) years. Owner may make other provisions, in lieu of a bond, as acceptable to the Director. The Director may waive the requirement if the Owner submits documentation, in a form acceptable to the City Attorney, that demonstrates the Owner has assets in excess of 10 million dollars.
- (7) The above requirements (1-6) may be met by utilities with a current franchise, license or Municipal Authorization if their current franchise, license or Municipal Authorization adequately provides for insurance or bonds or provides an indemnity in favor of the City.
- (8) The City will accept certificates of self-insurance issued by the State of Texas or letters written by the agency in those instances where the State does not issue such letters, which provide the same coverage as required herein. However, certificates of self-insurance must be approved in advance by the Risk Manager for the City.



- (9) An insurer has no right of recovery against the City. The required insurance policies shall protect the Agency or Public Infrastructure Contractor and include the City as an additional insured. The insurance shall be primary coverage for losses covered by the policies.
- (10) Each policy must include a provision that requires the insurance company to notify the City in writing at least 30 days before canceling or failing to renew the policy or before reducing policy limits or coverages.

(b) Insurance Requirements.

- (1) Owners. Each owner applying for a permit shall obtain, maintain, and provide proof of the each of the following types of insurance and coverage limits:
  - a. Commercial General liability on an occurrence form with minimum limits of \$5,000,000 per occurrence and \$10,000,000 aggregate. This coverage shall include the following:
    - (1) Products/Completed Operations to be maintained for one year.
    - (2) Personal and advertising injury.
    - (3) Owners and contractors protective liability.
    - (4) Explosion, Collapse, or Underground (XCU) hazards.
  - b. Automobile liability coverage with a minimum policy limits of \$1,000,000 combined single limit. This coverage shall include all owned, hired and non-owned automobiles.
  - c. Workers Compensation and Employers Liability Coverage. Statutory coverage limits for Coverage A and \$500,000 Coverage B Employers Liability is required.
- (2) Contractors and Sub-contractors. Each Contractor and sub-contractor applying for a permit shall obtain, maintain, and provide proof of insurance for the same types of insurance coverages outlined in Subsection 1 above; however, the policy limits under the General Liability insurance shall be \$1,000,000 per occurrence and \$2,000,000 aggregate. All other coverages provisions outlined in Subsection 1 above shall apply.
- (3) An Owner or Contractor that has registered and filed proof of insurance under Section 13-23 of this Ordinance is not required to furnish separate proof of insurance under this Section when obtaining a permit but must comply with all other requirement of this Section."

**SECTION 3.** All ordinances of the City of Allen, Collin County, Texas, in conflict with the provisions of this ordinance be, and the same are hereby, repealed; provided, however that all other provisions of said ordinances not in conflict with the provisions of this ordinance shall remain in full force and effect.

**SECTION 4.** Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance, as amended hereby, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance, which shall remain in full force and effect.

**SECTION 5.** An offense committed before the effective date of this ordinance is governed by prior law and the Code of Ordinances of the City of Allen, as previously amended, in effect when the offense was committed and the former law is continued in effect for this purpose.

**SECTION 6.** Any person, firm or corporation violating any of the provisions or terms of this ordinance or of the Code of Ordinances, as amended hereby, shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Allen, as previously amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand Dollars (\$2,000) for each offense.

**SECTION 7.** This ordinance shall take effect immediately from and after its passage and publication in accordance with its provisions of the Charter of the City of Allen, and its is accordingly so ordained.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF ALLEN, COLLIN COUNTY, TEXAS, ON THIS THE 7<sup>TH</sup> DAY OF JUNE, 2001.**

**APPROVED:**

**/s/ Stephen Terrell, MAYOR**

**APPROVED AS TO FORM:**

**/s/ Peter G. Smith, CITY ATTORNEY**

**ATTEST:**

**/s/ Judy Morrison, CMC/AEE, CITY SECRETARY**

## RESOLUTION

**WHEREAS**, the Illinois Vehicle Code (*Chapter 625 of the Illinois Compiled Statutes*) provides for the limitations of weights of vehicles operating on the various highway systems in the State of Illinois; and

**WHEREAS**, the Illinois Vehicle Code provides the authority of the County Board of Lake County to further place limitations on the operation of vehicles and weights thereof on the County Highway System; and

**WHEREAS**, the County Board of Lake County from time to time has adopted by resolution or ordinance said limitations on the operation of vehicles and weight thereof; and.

**WHEREAS**, the County Board of Lake County deems it in the public interest and for the safety of the motoring public to further codify, refine and establish said limitations on the operation of vehicles and weight thereof.

**NOW, THEREFORE BE IT RESOLVED** that the County Board of Lake County, Illinois, hereby adopts the Lake County Highway Weight Control Ordinance;

### **LAKE COUNTY HIGHWAY WEIGHT CONTROL ORDINANCE**

#### **SECTION I. Repeal of Previous Action**

All resolutions and/or ordinances in conflict with this Ordinance are hereby repealed with the exception of those identified in SECTION II. The repealed resolutions include the following:

1. Resolution creating 6-ton weight limit roads dated July 1956.
2. Resolution creating 6 and 8 ton weight limit roads dated July 1985 and oversize and overweight permits and enforcement.
3. Resolution establishing garbage truck weight limits dated May 1985.
4. The following resolutions providing for the designation of County Highways as Class II Truck routes, Size Only:

No.	Road Name	County Board Action
1.	Lewis Avenue	November 1988
2.	Sunset Avenue	June 1989
3.	Bonner Road	October 1989

\* Note: Refer to the appropriate County Board resolutions for the exact detail of these designations.

The penalty provisions of the resolutions and/or ordinances listed in SECTION II are repealed and the provision of Section VIII of this Ordinance, as amended, shall govern.

**SECTION II. Saving of Previous Action**

The following resolutions and/or ordinances are hereby expressly not repealed by the adoption of this Ordinance:

A. The following resolutions providing for the designation of County Highways as Class II Truck Routes:

No.	Road Name*	County Board Action
1.	Casimer Pulaski Drive	February 1991
2.	Washington Street	March 1991

\* Note: Refer to the appropriate County Board resolution for the exact detail of these designations.

B. The following resolution providing for the designation of "No Through Truck" routes on a County Highway:

No.	Road Name*	County Board Action
1.	Old McHenry Road	April 1988

\* Note: Refer to the appropriate County Board resolution for the exact detail of these designations.

C. The following resolution providing for the seasonal weight limit reduction on the County Highway System:

No.	Road Name*	County Board Action
1.	Any County Highway	January 1961

\* Note: Refer to the appropriate County Board resolution for the exact detail of these designations.

D. The following resolutions providing for the establishment of fees for Oversize and Overweight Movements on the County Highway System:

No.	Name*	County Board Action
1.	Initial Fee Schedule	November 1988
2.	Revised Fee Schedule	November 1989

### SECTION III. Designation of 6-Ton Weight Limit Roads

A. The following portions of County Highways are hereby designated as to the maximum weight of vehicles to be operated upon said portions of County Highways per axle of 6 tons.

No.	C.H. No.	Road Name	From	To
1.	42	Cuba Road	Ill. Rte. 59	U.S. Rte. 12
2.	56	Duffy Lane	Riverwoods Road	A point 8,114' East of Riverwoods Road
3.	52	Everett Road	St. Mary's Road	Estate Lane
4.	49	Fairfield Road	Ill. Rte. 132	Petite Lake Road
5.	66	Gelden Road	Deep Lake Road	Grass Lake Road
6.	26	Gilmer Road	A point 6,155' east Of Illinois Rte. 120	Illinois Rte. 176
7.	2	Miller Road	Kelsey Road	U.S. Rte. 12
8.	32	Old McHenry Road	Ill. Rte. 22	U.S. Rte. 12
9.	51	Petite Lake Road	Ill. Rte. 59	Ill. Rte. 83
10.	58	Riverwoods Road	Deerfield Road	Ill. Rte. 22
11.	41	St. Mary's Road	Everett Road	Ill. Rte. 60
12.	55	Engle Drive	Ill. Rte. 83	N. Nathan Hale Drive
13.	55	Granada Blvd.	Genoa Drive	Ill. Rte. 132
14.	55	N. Nathan Hale Drive	Engle Drive	Genoa Drive
15.	55	Genoa Drive	N. Nathan Hale Drive	Granada Blvd.

B. The County Engineer shall have said portions of County Highways posted with appropriate signs as to the maximum weight limit of 6 tons per axle and said limitations shall not be effective until such posting is in place.

### SECTION IV. Designation of Class II Truck Routes, Size Only

This section has been deleted.

## SECTION V. Designation of Class II Truck Routes

In addition to the appropriate designations contained in Section II-A and II-B of this Ordinance the following portions of County Highways are hereby designated in accordance with Section 5/15-102(e), Section 5/15-107(e) and Section 5/15-111(g) of Chapter 625 of the Illinois Compiled Statutes.

NO.	C.H. No.	Road Name	From	To
1.	26	Gilmer Road	Ill. Rte. 120	A point 6,155 feet east Ill. Rte. 120
2.	20	Peterson Road	U.S. Rte. 45	A point 3,000 feet west of U.S. Rte. 45
3.	31	Rollins Road	Ill. Rte. 83	A point 3,350 feet east IL Rte. 83
4.	54	Martin Luther King Jr. Drive	U.S. Rte. 41	Ill. Rte. 43
5.	33	Aptakisic Road	U.S. Rte. 45/ Ill. Rte. 21	Buffalo Grove Road
6.	22	Delany Road	U.S. Rte. 41	A point 0.9 miles north U.S. Rte. 41
7.	27	Lewis Avenue	Ill. Rte. 137	24th Street
8.	69	Winchester Rd.	Ill. Rte. 21	2,075 Feet W. of Ill. Rte. 21
9.	17	Wadsworth Road	Ill. Rte. 131	A point 2,000 Feet E. of IL 131
10.	65	York House Road	Ill. Rte. 131	McAree Road
11.	57	Butterfield Rd.	Armour Boulevard	Allanson Road
12.	14	Millburn Road	U.S. Route 45	5600 feet east of
13.	27	Lewis Avenue	Ill. Rte. 173	27 <sup>th</sup> Street
14.	5	Quentin Road	U.S. Rte. 12	Ill. Rte. 22
15.	39	Alleghany	Peterson Rd.	3,120 Feet north of the centerline of Peterson
16.	20	Peterson Rd.	Ill Rte. 83	1,326 Feet west of the centerline of Alleghany
17.	45	Washington St.	U.S. Rte. 45	6,100 Feet east of U.S. Rte. 45
18.	17	Wadsworth Road	U.S. Rte. 41	A point 2,400 feet east of U.S. Rte. 41

**SECTION VI. Oversize and Overweight Permits**

The County Engineer is authorized by this resolution and ordinance to issue special permits for excess size and weight on the County Highway System in accordance with Section 5/15-301 of Chapter 625 of the Illinois Revised Statutes, as amended, and with fees as provided by separate resolution of the County Board and as amended from time to time.

**SECTION VII. Map**

The County Engineer may, from time to time, have published a map illustrating the limitations imposed by this Ordinance or any other County Highway Ordinances and as they may be amended from time to time.

The County Engineer may, from time to time, publish a short consolidated listing showing the weight limits as codified from the various County Board resolutions.

**SECTION VIII. Posting**

The County Engineer shall post signs, as appropriate, indicating such limitations as imposed by this Ordinance, or any other related ordinance and as they may be amended from time to time.

**SECTION IX. Enforcement**

The County Board of Lake County hereby authorizes the prosecution of the owner or driver or both of any vehicle operated in violation of this Ordinance in the manner provided by Section 5/15-112 of Chapter 625 of the Illinois Compiled Statutes, as amended. The penalty upon conviction of any provision of this Ordinance, in accordance with Section 5/15-316 of the Illinois Compiled Statutes, as amended, shall be as follows:

- A. Any person, firm or corporation convicted of violating any provision of this Ordinance for any weight exceeding the limit posted as provided by SECTION VIII hereof but not exceeding the axle or gross weight limit allowed a vehicle as provided for in subsections (a) or (b) of Section 5/15-111 of Chapter 625 of the Illinois Compiled Statutes, as amended, shall be fined \$50.00.
- B. Any person, firm or corporation convicted of violating any provision of this Ordinance for any weight exceeding the limit posted as provided by SECTION VIII hereof and exceeding the axle or gross weight limit allowed a vehicle as provided for in subsections (a) or (b) of Section 5/15-111 of Chapter 625 of the Illinois Compiled Statutes, as amended, shall be fined \$50.00 and \$75.00 per every 500 pounds or fraction thereof for any weight exceeding said Sections 5/15-111(a) or (b).
- C. Any person, firm or corporation convicted of violating any provision of this Ordinance on a highway not required to be posted as provided by SECTION IX hereof shall be

fined in accordance with the schedule in Section 5/15-113 of Chapter 625 of the Illinois Compiled Statutes, as amended.

**SECTION X. Separability**

If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not effect any provision of this Ordinance not specifically included in the judgment.

**SECTION XI. Amendments**

This Ordinance may be amended by the County Board; and other limitations as to the operation of vehicles and weights thereof on the County Highway System, or changes thereto, may be enacted by separate ordinance.



**SECTION XII. Effective Date**

This Ordinance is effective upon passage by the County Board.

ORIGINAL APPROVAL BY THE  
COUNTY BOARD JULY 9, 1991

AMENDED BY THE COUNTY BOARD  
DECEMBER 22, 1992

AMENDED BY THE COUNTY BOARD  
JANUARY 12, 1993

AMENDED BY THE COUNTY BOARD  
SEPTEMBER 14, 1993

AMENDED BY THE COUNTY BOARD  
DECEMBER 14, 1993

AMENDED BY THE COUNTY BOARD  
JANUARY 11, 1994

AMENDED BY THE COUNTY BOARD  
MARCH 8, 1994

AMENDED BY THE COUNTY BOARD  
NOVEMBER 10, 1994

AMENDED BY THE COUNTY BOARD  
JANUARY 10, 1995

AMENDED BY THE COUNTY BOARD  
NOVEMBER 12, 1996

AMENDED BY THE COUNTY BOARD  
OCTOBER 14, 1997

AMENDED BY THE COUNTY BOARD  
NOVEMBER 11, 1997

AMENDED BY THE COUNTY BOARD  
FEBRUARY 10, 1998

AMENDED BY THE COUNTY BOARD  
NOVEMBER 10, 1998

AMENDED BY THE COUNTY BOARD  
MARCH 9, 1999

AMENDED BY THE COUNTY BOARD  
SEPTEMBER 12, 2000

AMENDED BY THE COUNTY BOARD  
JANUARY 09, 2001

AMENDED BY THE COUNTY BOARD  
AUGUST 14, 2001

## **Regulation For The Accomodation Of Mailboxes And Newspaper Delivery Boxes On Public Highway Rights-of-way**

No mailbox or newspaper delivery box (hereafter referred to as mailbox) will be allowed to exist on Hancock county rights-of-way if it interferes with the safety of the traveling public or the function, maintenance, or operation of the highway system.

The location and construction of mailboxes shall conform to the rules and regulations of the U.S. Postal Service as well as to standards established by Hancock County.

A mailbox installation that conforms to the following criteria will be considered acceptable unless in the judgment of the Highway Engineer, the installation interferes with the safety of the traveling public or the function, maintenance, or operation of the highway system.

### **Location:**

Mailboxes shall be located on the right-hand side of the roadway in the direction of the delivery route except on one-way streets where they may be placed on the left-hand side. The bottom of the box shall be set at an elevation established by the U.S. Postal Service. The roadside face of the box shall be offset from the edge of the traveled way as follows: the width of the all-weather shoulder present plus 8 to 12 inches or on curbed streets, the roadside face of the mailbox shall be set back from the front face of a flat faced curb 6 to 12 inches or 6 to 12 inches from the back of a roll curb, or 8 to 12 inches behind the edge of pavement/road.

Where a mailbox is located at a driveway entrance, it shall be placed on the far side of the driveway in the direction of the delivery route.

Where a mailbox is located at an intersecting road, it shall be located a minimum of 100 feet beyond the center of the intersecting road in the direction of the delivery route. This distance shall be increased to 200 feet when the average daily traffic on the intersecting road exceeds 400 vehicles per day.

### **Structure:**

Mailboxes shall be of light sheet metal or plastic construction conforming to the requirements of the U.S. Postal Service. Newspaper delivery boxes shall be of light sheet metal or plastic construction of minimum dimensions suitable for holding a newspaper.

No more than two mailboxes may be mounted on a support structure unless the support structure and mailbox arrangement have been shown to be safe by crash testing. However, lightweight newspaper boxes may be mounted below the mailbox on the side of the mailbox support.

Mailbox supports shall not be set in concrete unless the support design has been shown to be safe by crash tests when so installed.

A single 4-inch x 4-inch or 4-1/2-inch diameter wooden post or a metal post with a strength no greater than a 2-inch diameter standard strength steel pipe and embedded no more than 24 inches into the ground will be acceptable as a mailbox support. A metal post shall not be fitted with an anchor plate, but it may have an anti-twist device that extends no more than 10 inches below the ground surface.

The post-to-box attachment details should be of sufficient strength to prevent the box from separating from the post top if the installation is struck by a vehicle.

The minimum spacing between the centers of support posts shall be three-fourths the height of the posts above the ground line.

Mailbox support designs not described in this regulation will be acceptable if approved by the Highway Engineer.

**Removal of nonconforming or unsafe mailboxes:**

All mailboxes and newspaper delivery boxes installed after February 1, 1997, shall in addition to the requirements of the U.S. Postal Service, be built and located in a manner that complies with these standards.

Any mailbox that is found to violate the intent of this regulation shall be removed by the landowner upon written notice by Hancock County. At the discretion of the County, based on assessment of hazard to the public, the landowner will be granted not less than 24 hours nor more than 30 days to remove an unacceptable mailbox. After the specified removal period has expired, the unacceptable mailbox will be removed by Hancock County at the owner's expense.



Municipal Research and Services Center of Washington

Working Together for Excellence in Local Government

## **King County Regulations for Accomodations of Utilities on County Road Rights-of-Way**

**King County Department of Transportation  
1997**

### **PURPOSE**

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- 1.02 General References
- 1.03 Application
- 1.04 Compliance
- 1.05 Permit Requirement
- 1.06 Objectives
- 1.07 Limitations
- 1.08 Responsibility for Compliance
- 1.09 Standards and Codes

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### **CHAPTER 4 ADJUSTMENT AND RELOCATION OR ABANDONMENT OF FACILITIES**

- 4.01 Adjustments and Relocations
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### **CHAPTER 5 UNDERGROUND UTILITIES**

- 5.01 Location and Alignment
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- 6.01 Joint Use of Poles

6.02 Power and Communication Lines

**CHAPTER 7 INSTALLATIONS ON ROADWAY BRIDGES AND STRUCTURES**

7.01 Installations on Roadway Bridges and Structures

**CHAPTER 8 RESTORATION OF COUNTY ROAD RIGHTS-OF-WAY**

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**CHAPTER 9 AESTHETIC AND SCENIC CONSIDERATIONS**

9.01 Aesthetic and Scenic Consideration

**CHAPTER 10 TRAFFIC CONTROL AND PUBLIC SAFETY**

10.01 Traffic Control and Public Safe

**CHAPTER 11 EMERGENCY REPAIRS**

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12.01 Utility Plans  
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13.01 Road Vacations

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15.01 Utilities are responsible for  
15.02 King County Property Services Division is responsible for  
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15.04 Department of Transportation's Utility Inspection Unit is responsible for

**APPENDICES:** (see the original document for the appendices)

Certification of Conformance Form  
Right-of-Way Construction Permit Application

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**KING COUNTY REGULATIONS OR ACCOMMODATION OF UTILITIES  
ON COUNTY ROAD RIGHT-OF-WAY**

**1996**

## PURPOSE

King County has adopted these Regulations in order to effectively administer its authority to:

1. Grant utility franchises and permits on County roads and bridges, as provided in Chapter 36.55 RCW;
2. Promulgate regulations governing the use and occupancy of County roads and bridges for telecommunication facilities by telecommunications companies in such manner and at such points as not to incommode the public use of the County roads and bridges, as provided in RCW 80.36.040;
3. Exercise overall responsibility for County roads and bridges, as provided in Chapter 36.75 RCW; and
4. Exercise its police power as a home rule charter county.

References herein to laws, codes, King County Code provisions, public rules, regulations, and the King County Road Standards refer to those now in effect or as hereafter amended, or as may be in effect at any point in time a Utility has facilities within a King County road right-of-way.

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## CHAPTER 1

### GENERAL CONSIDERATIONS

#### 1.01 Organizations Affected:

- A. Public and Private Utilities
- B. King County Road Services Division, Department of Transportation
- C. King County Property Services Division, Department of Construction and Facilities Management
- D. King County Department of Development and Environmental Services
- E. County Road Administration Board
- F. Contractors

#### 1.02 General References:

- A. WAC 136-40
- B. RCW Title 80, 36.55, 19.122
- C. King County Road Standards, Chapter 8
- D. King County Code 6.27,6.27A, 14.44,14.42.060
- E. King County Franchise Agreements
- F. King County Public Rules Document Code Nos. PUT 10-2 (PR) Procedures for Requesting Variances from the King County

Road Standards; RPM 14-1 (P-R) Permit Procedure for Overhead Utility Installations Within Existing or Proposed King County Right-Of-Way.

G. "Application Procedures for Obtaining a Franchise on King County "Rights-of-Way" as provided by Property Services Division of King County

H. State Environmental Policy Act

I. King County Environmental Standards and Ordinances

J. King County Noise Code

### **1.03 Application:**

These Regulations apply to the installation, replacement, adjustment, relocation, and maintenance of all above and below ground utilities located within all King County road rights-of-way.

### **1.04 Compliance:**

All Utilities with facilities within King County road rights-of-way, whether or not the Utility holds a franchise from King County, shall comply with these Regulations and with all applicable federal, state and local laws, codes, rules and regulations including - but not limited to - the general references set forth in Section 1.02 of these Regulations.

### **1.05 Permit Requirement:**

All construction and maintenance work by Utilities within the County road right-of-way requires a right-of-way construction permit, as provided in King County Code Chapter 14.44.

### **1.06 Objective:**

A. It is recognized that there is a need to accommodate Utility Companies in their provision of public services; however, King County must ensure that the primary purpose of the roadway, passage of vehicular, bicycle, and pedestrian traffic, is maintained to the greatest extent possible. The use of the roadway corridors by utility companies is secondary to the movement of traffic. These Regulations strike a balance between the public need for efficient, safe transportation routes and Utility services within these routes.

B. The County must ensure that public safety is maintained during all utility-related work and minimize the effect such work has on the public.

C. The County must protect the County owned infrastructure by establishing standards for all utility related work and by enforcing a quality control program of inspection.

D. The County wishes to facilitate utility work within the road right-of-way through the standardization of utility placements and the maintenance of an efficient permit process.

### **1.07 Limitations:**

A. In the event of a conflict between these Regulations and the specifications established in a Utility's franchise and/or right-of-way construction permit, the terms of the franchise and/or right-of-way construction permit shall control.

B. Compliance with these Regulations does not relieve the Utility or its representative from the responsibility of meeting other applicable codes, standards or regulations, and does not preclude the need for acquisition of any pertinent federal, state or local permit. Identification of the required permit and applicable regulations is the sole responsibility of the Utility or its representative.

C. These Regulations cannot address all situations and conditions that may be encountered. Specific provisions contained herein may not be appropriate for all locations and existing conditions. These Regulations are intended to assist, but not substitute for, competent work by both road and utility design and installation professionals. These Regulations are not intended to limit any innovative or creative effort which could result in better quality, cost savings, or improved safety



characteristics.

D. Except as provided for elsewhere in these Regulations, deviation from these Regulations may only be granted by the County. The decision to grant, deny, or modify the proposed deviation shall consider the following criteria:

1. The deviation will achieve the intended result with a comparable or superior design and a better quality of finished product.
2. The deviation will not adversely affect safety and/or operation.
3. The deviation will not adversely affect maintainability.
4. The deviation will result in a pleasing appearance.

### **1.08 Responsibility for Compliance:**

A. It shall be the responsibility of any Utility installing or relocating any of its facilities to comply with the requirements and conditions of these Regulations. The Utility shall be responsible for the design, construction, operation and maintenance of the facility and for public safety during the facility's installation, operation, or maintenance. This responsibility shall include, in addition to the integrity of the proposed utility facility, provisions for public safety during the course of construction, as well as consideration of traffic safety and accident potential for the life of the installation.

B. All permits for the operation, maintenance, repair or construction of a Utility's facility within the County road right-of-way shall be applied for and given in the name of the Utility, which will be responsible for all work done under the permit, including but not limited to, paving, patching, grading, and any other reasonably necessary repair or restoration to the road right-of-way. The Utility remains responsible whether the work is done by the Utility, its contractors, or by third parties.

### **1.09 Standards and Codes:**

All utility installations shall be designed, constructed and operated in accordance with the standards, codes and regulations applicable to the type of utility. The methods of installation and materials used shall conform to the codes and standards of the federal, State, and County government and of the industry. This shall also include any road standards that the County deems necessary to provide adequate protection to the safe operation, appearance and maintenance of the road.

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## **CHAPTER 2**

### **DEFINITIONS**

**Abandonment** An action by a Utility to cease operation of a structure or facility, subject to the Utility maintaining ownership and responsibility for the structure or facility.

**Appurtenance** Equipment and/or accessories that are a necessary part of an operating utility system or subsystem.

**Arterial** A street, designated by the County as principal or minor, that provides the high-speed, high-volume network for travel between major points in both rural and urban areas.

**Backfill** Compacted materials used to replace excavated materials.

**Boring** The method of installing a pipe or casing under a road without disturbing the surrounding medium by using grade and alignment control equipment.

**Carrier** A pipe used for transmitting a fluid or gas.

**Casing** A pipe with a greater diameter than the carrier, enclosing a carrier for the purpose of providing structural or other protection to the carrier and/or allowing for carrier replacement without reexcavation, jacking or boring.

**Coating** A protective material applied to the exterior of a pipe or conduit to prevent or reduce abrasion and/or corrosion

damage.

**Collector** A street that connects local streets to arterial streets.

**Conduit** An enclosed tubular runway for protecting wires or cables.

**Contractor** An entity hired to perform work.

**The County** King County or its designee.

**County Road Engineer** The King County Road Engineer, having authorities specified in RCW 36.75.050 and 36.80, or his/her designee.

**Cover** The material placed above top of pipe, conduit, casing, or gallery below the grade of a road or ditch.

**Drain** An appurtenance to discharge accumulated liquids from casings or other enclosures.

**Encasement** A structural element surrounding a pipe or conduit for the purpose of preventing future physical damage to the pipe or conduit.

**Franchise** An occupancy and use document granted by the County required for occupancy of road rights-of-way in accordance with RCW 36.55, RCW 80.32, and King County Codes 6.27 and 6.27A.

**Gallery** An underpass for two or more utility lines.

**Jacking** A method of installing pipe or conduit under roadways by hydraulic force to avoid excavating or cutting.

**Local Street** A street or cul-de-sac that provides direct access to adjacent property or individual homes.

**Manhole** An opening in an underground utility system permitting workers access for the purpose of making installations, inspections, repairs, connections, cleaning, and testing.

**Pavement** Asphalt concrete or Portland cement concrete used as the surfacing course on a roadway.

**Pipe** A structural tubular product designed, tested, and produced for transmitting liquids and gases under specific conditions.

**Plowing** The direct burial of utility lines by means of a 'plow' type mechanism that breaks the ground, places the utility line at a pre-determined depth, and closes the break in the ground.

**Pressure** The force exerted by a fluid or gas on the pipe wall in pounds per square inch (psi).

**Private Line** A utility facility owned, operated, and maintained by a single or group of individuals devoted exclusively to the use of the owner.

**Relocation** The removal of an existing pipeline, pole, structure or other facility and installation of that facility in an alternate location.

**Replacement** The removal of an existing element that has been damaged or is worn or obsolete, and installation of a like or improved element of a utility system or subsystem.

**Restoration** The work necessary to replace, repair or otherwise restore the road rights-of-way and all features contained within to the same or better condition as existed prior to any construction activities that uprooted, destroyed or otherwise altered the original condition.

**Right-of-Way** A document issued under the authority of the King County

**Construction Permit** Property Services Division (see King County Code 14.44) which provides specific authorization, requirements and conditions for specific utility work at specific locations within the road rights-of-way.

**Road** A facility providing public or private access including the pavement width and any non-paved shoulders and all other

improvements within the Right-of-Way.

**Road Right-of-Way** Public land, property, or interest therein, usually in a strip, as well as bridges, trestles, or other structures, acquired for or devoted to transportation or secondary purposes, such as the accommodation of utilities. This does not include recreational or nature trails, except where they intersect with or are located within road rights-of-way.

**Roadway** A street, road, or other public way, as well as bridges, trestles, or other structures, including shoulders, designated for the purpose of vehicular traffic.

**Sleeve** A short casing through a pier, wall, or abutment of a highway structure used for protection.

**Standards** The most recently adopted version of the King County Road Standards (KCRS).

**Telecommunications** The transmission of information by wire, radio, optical cable, electromagnetic, or other similar means, as defined in RCW 80.04.010. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

**Traffic Control** Activities necessary to safeguard the general public, as well as all workers, during the construction and maintenance of utility facilities within the road rights-of-way.

**Utility** A private or public agency providing a public service, including but not limited to gas, all petroleum products, steam, chemicals, electric power, telecommunications, water, sewer, drainage, irrigation, or cable television.

**Variance** A proposed departure from the King County Road Standards (KCRS).

**Vent** An appurtenance to discharge gaseous contaminants from casing or other enclosures.

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## CHAPTER 3

### WORKING HOURS, ROAD CLOSURES, LOCATION,

#### 3.01 Working Hours and Road Closures:

- A. Working hours shall comply with the requirements of the County noise ordinance, unless otherwise approved by the regulatory agency
- B. There will be no road closures or detours unless the Utility obtains approval from the county.
- C. Further restrictions on working hours, road closures and detours may be applied as conditions of permit approval, and will be evaluated on a case by case basis.

#### 3.02 Location:

- A. Utility installations shall be located to minimize the need for later adjustments to accommodate future roadway improvements and to permit access to servicing such installations with minimum interference to roadway traffic. The County shall make available to Utilities a copy of its six-year transportation improvement program in order to minimize both utility customer and road user inconvenience should future road improvements require adjustment or relocation of the utility facilities. Said Utilities shall, within the limits of standard business practice, make available appropriate short and long range development plans to the County.
- B. Installations that are required for a road purpose, such as street lighting or traffic signals, are to be located and designed in accordance with these Regulations.
- C. Where existing facilities are in place, new facilities shall be compatible with the existing installations and conform to these Regulations as nearly as practicable.
- D. In order to expedite county road construction, the County may acquire additional road rights-of-way to accommodate Utilities.

## CHAPTER 4

### ADJUSTMENT AND RELOCATION OR ABANDONMENT OF FACILITIES

#### 4.01 Adjustments and Relocations

The Utility shall be responsible, at no expense to the County, to repair, remove or relocate all existing facilities within County road right-of-way if such installation, repair, removal, or relocation is required by the County for any purpose, including but not limited, to road or drainage work funded by the County. If the Utility fails or refuses to do so, the County reserves the right to order its own agents or representatives to accomplish the required work, and all costs of such installation, repair, removal or relocation shall be borne by the Utility.

Notwithstanding reinforcement or protection otherwise provided, a Utility shall be responsible for the security of any existing pipelines and utilities within a road construction zone. Where there are unusual utility hazards or where heavy construction equipment will be used, the Utility shall provide adequate temporary protection. In restoring the right-of-way, the Utility shall give due consideration to the protection of previously placed utilities in the right-of-way without sacrificing the geometrics of the road.

#### 4.02 Abandonment

Except for asbestos pipe, Utilities may abandon existing underground facilities or structures that do not pose a hazard to the public use of the road right-of-way, subject to the requirement that Utilities maintain ownership and responsibility for the facilities or structures.

A Utility proposing to cease operation of an asbestos pipe system shall remove the abandoned system from the road right-of-way upon the completion of its use or shall obtain a formal waiver from the County Road Engineer.

As a condition of the waiver, the Utility shall be required to retain the responsibility for the ultimate disposal of the pipe. If required by the County Road Engineer, the Utility shall remove the abandoned asbestos pipes and restore the roadway to the same or better condition at its own expense. The use of new asbestos pipe is not permitted within King County.

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## CHAPTER 5

### UNDERGROUND UTILITIES

#### 5.01 Location and Alignment

- A. For all roadway crossings, the angle of crossing should be as near a right angle to the road centerline as practicable.
- B. Where practicable, crossings should avoid deep cuts, footings of bridges and retaining walls, or locations where highway drainage would be affected.
- C. Longitudinal installations should run parallel to the roadway and shall comply with the King County Road Standards and with the requirements of right-of-way construction permits.
- D. Where irregularly shaped portions of the road right-of-way extend beyond the normal road right-of-way limits, a uniform alignment of facilities may be allowed, subject to approval by the County Road Engineer.
- E. Open cut requests shall be reviewed on a case by case basis and, when allowed, shall be completed as described in Section 8.03 of the King County Road Standards.

#### 5.02 Cover

The grade, depth and material of resulting cover for an underground utility shall be in compliance with applicable federal, State and County road standards unless otherwise specified.

### **5.03 Encased Carriers**

- A. Casings shall be installed for roadway crossings where required by appropriate industry code.
- B. Casings may be required for the following conditions:
  - 1. As an expediency in the insertion, removal, replacement, or maintenance of a carrier line crossing or other locations where it is necessary in order to avoid open trench construction.
  - 2. As protection for carrier lines from external loads or shock either during or after construction of a road.
- C. Within the road right-of-way, where practicable, casing pipes shall extend beyond the toe of fill slopes, back of roadway ditch, or outside of curb or sidewalk.
- D. Other than for necessary vents and/or drains, casing pipes shall be sealed at both ends.
- E. Casing pipes shall be designed to support the load of the road and superimposed loads thereon and, as a minimum, shall equal the structural requirements for road drainage facilities. Casing materials shall be selected based on their durability to withstand conditions to which they may normally be exposed.

### **5.04 Uncased Carriers**

- A. The carrier pipe shall conform to the material and design requirements of the appropriate utility industry and applicable federal, State, and County codes and specifications.
- B. The carrier pipe shall be designed to support the load of the road, plus superimposed loads thereon, when the pipe is operated under all ranges of pressure from zero to maximum internal pressure.

### **5.05 Appurtenances**

- A. Vents required by federal safety standards for casings and galleries enclosing carriers of fuel should be located and constructed so as neither to interfere with maintenance of the road nor to be concealed by vegetation. Preferably, vent standpipes should be located by a fence or on the road right-of-way line.
- B. Drains shall be required for casings, tunnels or galleries enclosing carriers of liquid, liquefied gas, or heavy gas. Drains for carriers of hazardous materials shall be directed to natural or artificial holding areas to prevent the potential for surface or ground water contamination. Drains for which only water or other non-hazardous liquids may discharge may be directed into the roadway ditch or natural water course at locations approved by the County. The drain outfall shall not be used as a wasteway for routine purging of the carrier unless specifically authorized by the County.
- C. Location markers and emergency information should be used when required by applicable State and Federal standards.
- D. Manholes should be designed and located in a manner that will cause the least interference to other- utilities or future road expansion.

### **5.06 Installations**

- A. Installations shall ensure safety of traffic and preservation of the roadway structure. Required construction shall, unless otherwise provided in an approved variance attached to the Right-of-Way Construction Permit, be in accordance with Chapter 8 of the King County Road Standards.
- B. Care shall be taken during utility installations to avoid disturbing existing drainage facilities. Underground utility facilities shall be backfilled with pervious materials and outlets shall be provided for entrapped water. Underdrains should be provided where necessary.

### **5.07 Utility Identification**

Utilities shall be located and identified in accordance with Title 19 RCW, Chapter 19.122, sections 19.122.010 through 19.122.900. The one-call number is (800) 424-5555.

### **5.08 Overlay Requirements**

A. Any utility installation parallel to the centerline in a traveled lane shall require a full width overlays described in Section 8.03 of the King County Road Standards.

B. If a County road has been previously identified by the Pavement Management System as needing resurfacing, the County may resurface that road after a utility installation at no cost to the Utility.

### **5.09 Cuts, Trenching and Backfill**

A. Pavement cuts, trenching, and backfill compaction shall be performed in accordance with Section 8.03 of the County Road Standards.

B. In no case shall a Utility or its contractor cut into the pavement of a signalized intersection without having contacted Department of Transportation Maintenance and Operations seventy-two (72) hours prior. Maintenance and Operations will locate buried loop detection devices so as to protect them from damage. Any contractor who damages a loop detector will have the loop repaired or be charged for the repair or reinstallation of the device.

### **5.10 Lane Striping and Painting**

Lane striping or other painted and affixed delineators; which are removed by a Utility shall be replaced by the Utility before restoration will be considered complete. The utilities inspector will notify the Utility of the product (traffic paint, thermoplastic, raised pavement markers, lane tape) and applications, and the County Traffic Engineer will approve all traffic delineation materials.

### **5.11 Sidewalks**

A. Sidewalks damaged by Utilities shall be removed and replaced in full sections. A section's size will be determined by the adjacent section or by the County Inspector, but in any case no section shall be less than five feet (5) in length.

B. Should damage to the County sidewalks be observed after the work has been completed, the utility company shall be notified to perform the repairs in a timely manner. Where sidewalk sections are removed at street corners, the sidewalk and adjacent curb shall be restored as a curb cut handicapped ramp. Construction of the ramp shall be in accordance with the King County Road Standards.

### **5.12 Driveway Aprons**

Driveway aprons will not be "patched" following utility work. The Utility will notify the inspector when a concrete apron is to be disturbed and they will agree on the extent and restoration method. In any event, all edges of concrete restoration shall be sawcut and the property owner's access to his or her property shall not be unreasonably denied. In the event of a repair being necessary, an apron will be repaired with the same material from which it was made (i.e. exposed aggregate aprons will be repaired with exposed aggregate concrete)

### **5.13 Curb and Gutter Replacement**

When curb and gutter is replaced, it will be restored in full ten-foot (10') sections. Match existing curb elevations and ensure constant grade and positive drainage. Expansion material will be used at joints. Should the work include removal of a section that was finished with a dummy joint, the contractor will sawcut the joint prior to forming and pouring the new section.

### **5.14 Street/Road Crossings**

A. The approved method of crossing a street within King County will be by jacking or boring the new pipe, service line or system extension under the street crossed. In some cases, it may be determined that a street can be crossed with an open cut to the pavement. All installations shall comply with requirements of Section 8.03 of the King County Roads Standards.

B. The use of road plating and a controlled density fill material may be required to ensure uniform compaction as well as the ability to reopen the street to traffic at the earliest possible time. At no time should it be assumed that the County will permit an open pavement cut; these may be permitted but only as considered on a case-by-case basis.

### **5.15 Utility Marking**

Utility marks shall be large enough and frequent enough so as to be seen by the contractor, but not so as to become graffiti on the pavements, curbs, and sidewalks. Marking of valve box and service locations shall be made neatly and be less than four inches square. As the use of concrete pavers increases, the Utility companies, are specifically cautioned to be discrete with marks on these surfaces, whether on County-owned or private property. Only white paint shall be used to mark proposed construction.

**CHAPTER 6**

**ABOVE-GROUND UTILITIES**

**6.01 Joint Use of Poles**

- A. Single-pole construction and joint use of the pole by Utilities is desirable and should be utilized whenever feasible.
- B. In the event of pole relocation, replacement, or removal, all utilities using the original pole shall transfer to the new pole within six months of the pole installation. The Utility responsible for the original installation of the pole under permit shall remain responsible for the coordination of transference.

**6.02 Power and Communication Lines**

- A. Where irregularly shaped portions of the road right-of-way extend beyond the normal road right-of-way limits, a uniform alignment of facilities may be allowed subject to approval by the County Road Engineer.
- B. The vertical clearance for overhead power and communication lines above the road and the lateral and vertical clearance from bridges shall conform with the following chart

<b>Type of Utility Line</b>	<b>Line Crossing Roadway (in feet)</b>	<b>Longitudinal Line (in feet)</b>
Communications:	18	14
Electrical (in volts): 0-750	18	18
751-22,000	20	20
22,000-50,000	21	21

- C. The minimum vertical clearance of a line crossing the road shall be f, measured from the lowest portion of the line crossing the road.
- D. The minimum vertical clearance of longitudinal lines shall be measured from the ground line.

**CHAPTER 7**

**INSTALLATIONS ON ROADWAY BRIDGES AND STRUCTURES**

**7.01 Installations on Roadway Bridges and Structures:**

Any attachment of a utility to a County bridge, trestle or other structure shall require a right-of-way construction permit. The attachment of utility lines must conform to sound engineering considerations for preserving the roadway structure and its safe operation, maintenance and appearance. The attachment shall be in accordance with the following:

- A. Attachment of a utility shall not be considered unless the structure in question is of a design that is adequate to support the additional load and can accommodate the utility facility without compromise of highway features, including reasonable ease of maintenance.

- B. Manholes and other utility access panels should be avoided within the roadway portion of the structure.
- C. Attachment to a structure of a pipeline carrying a hazardous material shall be avoided where practicable.
- D. The utility attachment shall not reduce the clearance of a structure where such clearance is critical. Attachment to the outside of a structure should be avoided where there are reasonable alternatives.
- E. Utility attachments shall be of a type that shall not create noise resulting from vibration. .
- F. The hole created in a structure abutment shall be sleeved, shall be of the minimum size necessary to accommodate the utility line, and shall be sealed to prevent any leakage of water or backfill material. .
- G. The utility line back of the abutment shall curve or angle out to align outside the roadbed area in as short a distance as is operationally practicable. .
- H. Communication and electrical power fine attachments shall be suitably insulated, grounded, and preferably carried in protective conduit or pipe from point of exit from the ground to re-entry. Carrier pipe and casing pipe shall be properly isolated from electric power line attachments..
- I. Attachments to traffic rails or supports should be avoided where there are reasonable alternatives. All connections to the structure shall be galvanized and designed to carry the load.

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## **CHAPTER 8**

### **RESTORATION OF COUNTY ROAD RIGHTS-OF-WAY**

#### **8.01 Utility Responsibility**

Upon completion of work by a Utility on, under, or adjacent to road right-of-way, the Utility is responsible for and shall leave the road right-of-way in as good or better condition as it was in before any work was performed, including the removal of refuse and debris. In the event that the Utility, its contractors, or third parties working under permit should fail to restore the road right-of-way to the satisfaction of the County Road Engineer, the County may make the necessary repairs or restorations to return the County right-of-way to its prework condition. Upon the presentation of an itemized bill for repairs or restorations, including the costs of labor and equipment, the Utility will pay the bill within thirty (30) days. If suit is brought upon the Utility's failure to pay for repair and restoration, and if judgment in such a suit is entered in favor of the County, then the Utility shall pay all of the actual costs, including interest from the date the bill was presented, disbursements, attorney's fees, and litigation-related costs incurred.

#### **8.02 Preservation, Restoration and Cleanup**

- A. The size of disturbed area affected by the installation of a utility shall be kept to a minimum.
- B. Restoration methods shall be in accordance with the specifications of the County and/or special provisions of the franchise, permit, or agreement.
- C. Care shall be taken to protect areas surrounding the job site including areas chosen to park maintenance vehicles, avoiding any damage to sidewalks and or landscaping. Upon completion of work, these areas shall be restored to as good or better condition as they were before any work was done. Equipment or vehicles shall not be located to obstruct entrance or exit from a driveway.
- D. The Utility shall take precautions to prevent sediments from entering storm drain systems. And, shall comply with all regulations for temporary erosion control and water quality specified in the King County Surface Water Management Design Manual.

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## **CHAPTER 9**



## **AESTHETIC AND SCENIC CONSIDERATIONS**

### **9.01 Aesthetic and Scenic Considerations**

- A. Utility installations shall be designed and constructed to minimize the adverse effect on existing roadside, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as scenic strips, viewpoints, rest areas, recreation areas, public parks and historic sites.
- B. Overhead utility installation shall be permitted in areas of scenic beauty only when underground utility locations are not available, not technically feasible, unreasonably costly, or less desirable from the standpoint of visual quality.
- C. If the Utility intends to use chemical sprays to control or kill weeds and brush in scenic areas, prior written approval must be obtained from the County Road Engineer on a minimum annual basis. The County may limit or restrict the types, amounts, and timing of application if a significant negative impact on the aesthetics or environment of the area is anticipated, provided such limitations or restrictions are not in conflict with State laws governing Utility right-of-way maintenance and the King County Code related to sensitive areas.

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## **CHAPTER 10**

### **TRAFFIC CONTROL AND PUBLIC SAFETY**

#### **10.01 Traffic Control and Public Safe**

- A. Traffic controls for all utility work shall conform with the currently applicable "Manual on Uniform Traffic Control Devices for Streets and Highways" (MUTCD). The Contractor is responsible for ensuring that all traffic control devices are maintained throughout the construction, seven days a week, 24 hours a day.
- B. Detours and road closures will not be allowed without prior approval of the County Road Engineer. Work shall be planned so that closure of intersecting streets, road approaches, or other access points is held to a minimum.
- C. All construction and maintenance operations shall be planned to keep interference with traffic to a minimum.
- D. Open excavations shall be covered and protected so that they do not present a hazard to vehicular and pedestrian traffic. Safeguards may include barricades, fences, sheets, lights, flaggers, or other protective devices as may be necessary.
- E. The storage of materials on roadways shall not be allowed, and parking of vehicles on roadways shall be kept to a minimum.

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## **CHAPTER 11**

### **EMERGENCY REPAIRS**

#### **11.01 Emergency Repairs**

- A. All utility facilities shall be kept in a good state of repair. Emergency repairs shall be undertaken in a timely manner.
- B. If emergency repairs disturb the road rights-of-way, such repairs may be immediately undertaken and the road right-of-way restored. When it becomes necessary to work on the road right-of-way to make an emergency repair such as a broken water main, power or communication lines downed in a storm, or any legitimate emergency, the Utility may proceed immediately with their repair and notify the Utility Inspection Unit and the Property Services Division by phone as soon as feasible, but no later than the next working day., as described in Section 14.02 of these Regulations.

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## **CHAPTER 12**

## **PERMIT APPLICATION AND INSPECTION FEES**

### **12.01 Utility Plans**

For work performed by a Utility within King County right-of-way, the County may review and approve or require amendment to the Utility's plans with respect to:

1. Location.
2. The manner in which the utility facility is to be installed.
3. Measures to be taken to preserve safe and free flow of traffic.
4. Structural integrity of the roadway, bridge, or other structure.
5. Ease of future road maintenance, and appearance of the roadway.
6. Scheduling of construction to coordinate with ongoing County projects, where feasible.

### **12.02 Right-of-Way Construction Permits**

As required by King County Code 14.44, applications for Right-of-Way Construction Permits shall be submitted in a standard format as prescribed by the County.

### **12.03 Certification of Conformance**

As specified in the County Road Standards, any Utility placing poles within the road right-of-way will complete a Certification of Conformance Form or obtain a variance from the County Road Engineer. See General References at Section 1.02F of these Regulations for procedures.

### **12.04 Permit and Inspection Fee**

The County may impose reasonable permit and inspection fees to offset permit review and inspection expenses, as provided in King County Code 14.44.

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## **CHAPTER 13**

### **ROAD VACATIONS**

#### **13.01 Road Vacations**

If at any time King County, in accordance with RCW Chapter 36.87, vacates any County road right-of-way, King County will not be liable for any damages or loss to a Utility by reason of such vacation. When a right-of-way is vacated, it ceases to be a County road and the Utility's authority from King County to have its facilities within such right-of-way is extinguished. King County will use its best efforts to notify any Utility that may have facilities within the right-of-way to be vacated in order to allow the Utility an opportunity to negotiate an easement for its facilities.

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## **CHAPTER 14**

### **PROCEDURES**

#### **14.01 Nonemergency Procedure**

A. Utility:

1. Applies for and obtains franchise in accordance with King County Code 6.27 or 6.27A. RCW Title 80,36.55 and "Application Procedures for Obtaining a Franchise on King County Rights-of-Way."
2. Applies for any variances to the King County Road Standards, if necessary, in accordance with King County Code 14.42 and King County Public Rule Doc. No. PUT 10-2(PR) and submits to the County Road Engineer. Attaches an approved, signed variance approval to the application for Right-of-Way construction permit, if requesting a variance.
3. Obtains all other necessary permits, e.g. shorelines, clearing, grading, etc.
4. Submits completed right-of-way construction permit to Property Services Division at 500-A, King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104.
  - a. Includes description of the facilities to be installed, including a description of the work location indicating the starting and ending locations using street designations, County roads to be used, the number of poles or linear feet of line, pipe, or cable to be installed, and bridge crossings.
  - b. Includes three copies of maps and plans using a scale of 50 to 100 feet/inch depicting existing or proposed location of the facility in relation to the centerline, fogline and edge of the road; relationship to currently planned road revisions, if applicable; and all locations and situations for which deviations in depth of cover (including the proposed method of protection) or other local standards are anticipated. The plans shall be highlighted to show new facilities as distinct from existing ones.
  - c. Signs permit agreeing to all pertinent provisions of these Regulations and to such special conditions as the County may deem appropriate to fulfill obligations of the franchise agreements or the County Road Standards.
5. Completes a Certification of Conformance Form, if necessary, for pole installation and submits to the Department of Development and Environmental Services (DDES).
6. Posts a bond to the County, if required (in a form approved by the County) in the amount sufficient for any road repair or restoration. The amount of the bond shall be set by the County Road Engineer and must be filed with Property Services Division before a permit is issued. Utilities may post a blanket bond in lieu of an individual bond for each permit. This bond would cover all permits as long as the bond is in place.

B. Property Services Division:

1. Checks application, certification forms, and plans/ drawings for completeness, correctness, and code compliance. Notes use of road right-of-way on plans/ drawings.
2. Prepares permit to perform work on King County road right-of-way.
3. Sends one copy of plans, permit and certification forms to the Department of Transportation's Utility Inspection Unit.
4. Sends one copy of plans and permit for water and sewer main extensions to the Department of Development and Environmental Services (DDES), where it is inspected for conformance to the King County Comprehensive Plan and the Utility's water or sewer comprehensive plan.
5. Reviews pen-nit applications to determine that applicant has obtained other necessary permits, e.g. shorelines permit.

C. Utility Inspection Unit:

1. Reviews plans, certification forms, and permit. Signs inspector review form and returns it and the permit to Property Services Division with approval or denial and any conditions added.

D. Property Services Division:

1. Types added conditions, if any, onto permit. Obtain approvals from County Road Engineer and Manager of Property Services Division.
2. Retains one copy of all Forms and plans; sends approved permit to Utility; sends copy of approved permit and plans to Utility Inspection Unit.

E. Utility:

1. Performs approved work in road right-of-way after notification of Utility Inspection Unit as described on face of permit.

F. Utility Inspection Unit:

1. Inspects work for conformance to the permit.

**14.02 Emergency Procedures:**

A. Utility

1. Performs emergency repair work on road right-of-way.
2. Notifies Property Services Division by phone as soon as feasible, but not later than the next working day from day in which work was performed.

B. Property Services Division

1. Gives Utility a permit number and prepares permit.
2. Retains copy of permit; sends permit to Utility; sends copy of permit to Utility Inspection Unit.

C. utility

1. Notifies Utility Inspection Unit of permit number and location of performed.

D. Utility Inspection Unit

1. Inspects work performed by Utility.

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**CHAPTER 15**

**RESPONSIBILITIES**

**15.01 Utilities are responsible for:**

- A. Ascertaining and abiding by the requirements and conditions set forth in these Regulations.
- B. Applying for and obtaining a right-of-way franchise agreement, if applicable.

C. Applying for and obtaining a right-of-way construction permit before entering the road rights-of-way for the purpose of operating, maintaining, repairing, or constructing its transmission, distribution and service lines and appurtenances.

D. Obtains all other necessary permits, e.g., shorelines, clearing, grading, etc.

E. Performing work in the County road right-of-way as approved on the right-of-way construction permit and appropriate plans/ drawings.

F. Leaving all road right-of-way in as good or better condition as it was in before any work was done upon the completion of work on, under or adjacent to the road right-of-way.

G. Abiding by all terms and conditions of any applicable ordinances, franchises, and permits.

H. Obtaining any other required permits for work in King County right-of-way (e.g. Shoreline Permit).

**15.02 King County Property Services Division is responsible for:**

A. Enforcing conditions of King County Road Standards and these Regulations pertaining to the review, evaluation, approval and issuance of right-of-way construction permits.

B. Preparing permit to perform work on King County road right-of-way and sending permit to Utility Inspection Unit.

C. Answering applicant's calls regarding the status of permits and public inquiries.

D. Maintaining a file of bonds and completed permits.

E. Collecting pen-nit application fees.

F. Reviewing and processing all franchise applications and maintaining franchise files.

G. Accepting calls for emergency permits.

H. Routing water and sewer main extensions to the Department of Development and Environmental Services (DDDES).

1. Enforcing regulations set forth in the Sensitive Areas Ordinance (SAO), Grading and Clearing Ordinance, and Shoreline Management Act.

**15.03 County Road Engineer is responsible for.**

A. Setting the amount of the bond posted by the Utility and filing it with the Property Services Division before a right-of-way construction permit is issued.

B. Granting road variance applications.

C. Approving all work performed by the Utility.

**15.04 Department of Transportation's Utility Installation Unit is responsible for:**

A. Enforcing conditions of King County Road Standards and these Regulations through review of plans and inspection of work in King County road right-of-way.

B. Collecting inspection fees.

## **SNOW EMERGENCIES**

**70.02 SNOW EMERGENCY PROCEDURES.**

(A) Pursuant to I.C. 10-4-1-23, the President of the County Board of Commissioners may declare a local disaster emergency if he or she determines that snow or ice conditions require that vehicles should not travel on county roads. The declaration may be extended beyond seven days only with the approval of the Board of Commissioners.

(B) During the emergency no vehicle may block or in any way impede an emergency vehicle, a county highway vehicle or a vehicle hired by the county to plow snow.

(C) Any vehicle found on a county road in violation of division (B) above may be forcefully moved out of the way and towed by order of a law enforcement officer. The county is not responsible for damage to the vehicle. The owner shall pay the cost of the tow and, if required, storage.

(D) The President may, when some roads are hazardous or impassable, but the conditions do not warrant the declaration of an emergency, issue a declaration that there is a traveler's warning in effect on county roads.

(E) The operator of a vehicle found to be in violation of division (B) above may be fined.

(Ord. 1999-3A, passed 3-8-99) Penalty, see

**10.08.030 Parking – Snow removal.**

A. On the even days of the months of December, January and February, the person who owns, controls or operates any vehicle in the city shall park the vehicle on the even numbered side of the street and on the odd days of said months, the person shall park the vehicle on the odd numbered side of the street. This section applies to all streets and avenues in the city, and the days referred to in this section shall commence at 10:00 p.m. and end at 7:00 a.m. the following morning.

B. The chief of police of the city, in conjunction with the street superintendent, is authorized and directed to promulgate regulations for the orderly enforcement of this section, such regulations to be in keeping with the intent and purpose of this section and to not be inconsistent herewith.

C. Any person convicted of violating the provisions of this section shall be guilty of an infraction, subject to a fine not to exceed \$100.00. (Ord. 91-6 § 3, 1991; Ord. 369 § 4, 1984; Ord. 275 § 4, 1978)

**10.08.040 Valley Mall Parkway – Two-hour limit.**

It is unlawful for any person to stand or park a vehicle within the designated parking spaces on the Valley Mall Parkway for a period longer than two consecutive hours between 6:00 a.m. and 8:00 p.m.; excepting therefrom Sundays and holidays, and specially designated parking spaces. (Ord. 369 § 7, 1984; Ord. 275 § 6, 1978)

**10.08.060 Certain trucks – Parking prohibited.**

It is unlawful for the owner and/or operator of a vehicle exceeding six and one-half feet in width or 18 feet in length to park the vehicle on any street, highway, alley or public way in the city, either in the daytime or at night, except for the purpose of loading or unloading the same. (Ord. 275 § 8, 1978)

**10.08.070 Parking in driveways – Hydrants and traffic signals.**

It is unlawful to park or stand a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers, in front of a public or private driveway or within five feet of the end of a curb radius leading thereto; or within 15 feet of a fire hydrant; or within 20 feet of a crosswalk; or within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway; or at any place where official signs prohibit parking. (Ord. 275 § 9, 1978)

**10.08.080 Valley Mall Parkway.**

Except as otherwise provided by EWMC 10.08.010, it is unlawful for any person to park a vehicle or obstruct in any other way Valley Mall Parkway or the sidewalk adjacent thereto. This section is intended to limit, but not to be limited to, obstruction by rubbish, water, earth or other debris. It is intended the public of the city have free access to the use of streets and sidewalks adjacent thereto. (Ord. 91-6 § 5, 1991; Ord. 275 § 10, 1978)

**10.08.090 Parking on sidewalks.**

It is unlawful for any person to drive over, to park or to stand any vehicle on any sidewalks within the city; except that it is not unlawful to cross any sidewalk where access to the street is provided by a driveway and the curb and sidewalk is contoured accordingly. (Ord. 369 § 9, 1984; Ord. 275 § 11, 1978)

**10.08.100 Pleasure vehicles.**

A. It is unlawful to park or stand any part of any pleasure vehicle on or within five feet of the paved surface of any city right-of-way. For purposes of this subsection, the term “the paved surface of any city right-of-way” shall not include the paved surface of any driveway located a distance of five feet from the continuing parallel line created by the extension of the edge of the paved surface of the right-of-way across the driveway and connecting to the edge of the pavement of the paved surface of the right-of-way on the other side of the driveway. The provisions of this subsection shall only permit parking that is not otherwise prohibited by other ordinances, rules or regulations of city or state law.

B. For purposes of this section, the term “pleasure vehicle” means and includes any motor vehicle or trailer designed and used as a travel trailer, camper, motor home, tent trailer, boat, boat trailer, snowmobile, snowmobile trailer, motorcycle trailers, camping trailer, utility trailer, any other device towed by or used in conjunction with a motor vehicle, and any other similar devices.

C. For purposes of this section, the term “right-of-way” means and includes all of the land dedicated and/or platted for street purposes in the city. In the case of undedicated or unplatted roadways, “right-of-way” means and includes all of the paved surface of the roadway and two strips of land five feet in width located on each side of and parallel to the paved roadway surface.



D. For purposes of this section, the paved surface of city right-of-way means and includes the paved surface as it exists upon passage of Ordinance 98-4, and any paved surface added after passage of the ordinance. (Ord. 98-4 § 1, 1998; Ord. 275 § 12, 1978)

**10.08.110 Use of public right-of-way for commercial purposes.**

It is unlawful to park any vehicle upon any city right-of-way and conduct from the vehicle any business which involves the sale of food or merchandise from the vehicle to individuals located in the city right-of-way or located on private property immediately adjacent to the city right-of-way. (Ord. 03-06 § 1, 2003; Ord. 275 § 13, 1978)

**10.08.120 Parking restrictions in alley.**

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. (Ord. 275 § 14, 1978)

**10.08.130 Loading zone.**

A. It is unlawful for any person to double park any vehicle for a period longer than five minutes for the purpose of loading or unloading freight or passengers during the hours between 9:00 a.m. and 5:00 p.m. excepting Sundays and holidays. At any other times no person shall double park any vehicle for a period longer than reasonably necessary to discharge freight and/or passengers or to load passengers and/or freight.

B. "Double park" means stopping or standing any vehicle in the traveled portion of any street, highway or alley. (Ord. 91-6 § 6, 1991; Ord. 275 § 15, 1978)

**10.08.140 Additional restrictions – Traffic devices, signs, markers, curb paintings and signals.**

A. The city may from time to time further prohibit or restrict the operation of vehicles on streets or portions thereof within the city; or limit or restrict parking thereon for specified loading and unloading purposes or for such other restrictive uses as the city may establish; and further, may designate such restricted areas by traffic-control devices, signs, markers, curb paintings and/or signals. Restrictions intended to be in force for a period of time greater than 30 days shall be established by ordinance.

B. A curb painted a solid yellow color shall indicate that all parking or standing of vehicles adjacent to such curb is prohibited, except for such limited use as may otherwise be permitted by adjacent official signs; and the parking of any vehicle not in accordance with such signs in such yellow zone shall be unlawful and shall be subject to penalties provided by this chapter. It is unlawful for any person to operate, stand or park a vehicle on any public street in the city contrary to the directions of any such traffic-control device, sign, marker, curb painting or signal. (Ord. 2000-16 § 1, 2000; Ord. 369 § 11, 1984; Ord. 275 § 16, 1978)

**10.08.141 Fifteen-minute parking restrictions.**

A. It is unlawful for any person to allow or permit their vehicle to be parked in excess of 15 continuous minutes in the following described locations at the following described days and times:

1. The parking space located in front of 858 Valley Mall Parkway from Monday through Saturday, between the hours of 8:00 a.m. and 6:00 p.m.
2. The parking space located in front of 810 Valley Mall Parkway, seven days per week, between the hours of 4:00 p.m. and 10:00 p.m.

B. Parking restrictions identified in this section shall be marked to provide notice to the public consistent with the provisions of EWMC 10.08.140.

C. Any person who violates or fails to comply with any of the provisions of this section shall be subject to monetary penalties and removal and impounding as provided in this chapter. (Ord. 2000-16 § 2, 2000)

**10.08.150 Unlawful parking – Removal and impounding.**

Whenever any vehicle shall be stopped, parked or standing in violation of any ordinance of the city or shall constitute a menace, danger or obstruction to traffic or to the safety of the general public, or shall become stalled, disabled or unable to move under its own power on any public street in the city, the city is empowered, through the chief of police or any police officer, to remove such vehicle, either by governmental or private equipment, and such vehicle shall be impounded and held until the towing charges have been paid by the owner or operator thereof, and such charges shall be a lien on the vehicle until so paid. (Ord. 275 § 17, 1978)

**10.08.155 Overtime parking unlawful.**

It is unlawful for any person to cause, allow, permit or for any vehicle registered in the name, or operated by such person, to be parked overtime or beyond the period of legal parking time established for any limited parking zone and said vehicle shall be considered unlawfully parked if it remains in said parking space beyond the legal parking limit. (Ord. 91-6 § 8, 1991)

**10.08.160 Violation – Penalty.**

Any person who violates or fails to comply with any of the provisions of this chapter shall be deemed to have committed an infraction and shall be punished by a fine in any sum not to exceed \$100.00; provided, however, that the penalty for overtime parking shall be \$15.00 if paid within the next 48-hour period from the time the violation occurred; \$30.00 if paid thereafter. (Ord. 91-6 § 7, 1991; Ord. 412 § 1, 1986; Ord. 369 § 13, 1984; Ord. 275 § 19, 1978)

**10.08.170 Presumption of liability.**

The fact that an automobile which is illegally parked is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such parking. (Ord. 275 § 20, 1978)

**10.08.180 Bail schedule – Summons.**

A. A bail schedule shall be devised and adopted by the municipal court to set forth the payment of bail for any of the violations set forth in this chapter. Such schedule shall not conflict with any of the provisions of this chapter.

B. The police chief and/or his subordinates shall have authority to issue summons to appear for any of the violations set forth herein. The police chief or his subordinates shall set forth the bail established by the schedule adopted by the municipal court. (Ord. 275 § 21, 1978)

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**Chapter 12.12**  
**DUMPING SNOW IN STREETS**

**Sections:**

12.12.010 Prohibited – Exception.

12.12.020 Violation – Penalty.

**12.12.010 Prohibited – Exception.**

It is unlawful for any person, by any means, to scrape, plow, pile, dump, push or deposit snow on, into or upon any street, highway, alley or around or upon any fire hydrant or traffic sign in the city; provided, however, this chapter shall not prevent the removal of snow from public sidewalks into the streets or prohibit the city, county or state snow removal or street maintenance operation. (Prior code § 8.30.010).

**12.12.020 Violation – Penalty.**

Any person violating this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$250.00. (Prior code § 8.30.020).

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Title 12 STREETS AND SIDEWALKS\***Chapter 12.32 Snow Removal\***

Note to Chapter 12.32

12.32.010 Depositing snow from private property on streets, sidewalks.

12.32.020 Exception.

12.32.030 Removing snow by truck.

12.32.040 Penalty for violations.

**Note to Chapter 12.32**

\* Code cities empowered to manage and control all high-ways, streets and sidewalks, etc.-See RCW Ch. 35A.47.

**12.32.010 Depositing snow from private property on streets, sidewalks.**

No person, firm or corporation shall shovel, push, doze or by other means remove any snow from any service station lot or driveway, any parking lot, any private driveway or other private property and deposit the same upon any curbing, parking strip, sidewalk, or upon any alley or city street within the corporate limits of the city. (Ord. D-24 § 1; December 16, 1952).

**12.32.020 Exception.**

The provisions of Section 12.32.010 of this chapter shall not apply to the removal of snow from any public sidewalk. (Ord. D-24 § 2; December 16, 1952).

**12.32.030 Removing snow by truck.**

No person, firm or corporation shall shovel or otherwise remove any snow from any building or other structure situated on private property and deposit the same in any street or alley within the corporate limits of the city unless the same is immediately loaded upon a truck or other vehicle and removed from such street or alley. Snow sliding from roofs of any building or other structure upon any street or alley shall be construed to have been removed by the owner or tenant thereof and the same shall be immediately removed by truck or other vehicle from such street or alley at the expense of the owner or tenant. (Ord. D-24 § 3; December 16, 1952).

**12.32.040 Penalty for violations.**

Any person violating the terms and provisions of this chapter shall be guilty of a misdemeanor and shall be fined in a sum of not more than one hundred dollars or by imprisonment in the city jail for a period of not more than thirty days or by both such fine and imprisonment and each day's violation thereof, including allowance of removed snow deposited upon any sidewalk, street or alley shall constitute a separate offense and upon conviction thereof a separate penalty shall be assessed for each day's offense. (Ord. D-24 § 4, 1952).

## Snow Removal Ordinance

An ordinance adding to Chapter 96, Streets and Sidewalks, to establish snow removal conditions within the City of Rochester, Indiana

Whereas, accumulations of snow and ice on the city streets of Rochester represent a potential threat to the health, safety and general welfare of the citizens of Rochester, and;

Whereas, the City Council of the City of Rochester deems it appropriate to establish snow removal regulations within the City of Rochester , and:

Whereas, inoperable, abandoned or parked vehicles located on public streets and roads in the City of Rochester hinder the timely and efficient removal of ice and snow by the City of Rochester Street Department:

### SECTION 1 SNOW REMOVAL CONDITIONS

- (A) When, in the opinion of the City of Rochester Street Department Superintendent and the Mayor of the City of Rochester , the actual or expected precipitation of snow will create hazardous or dangerous roadway conditions for vehicular or pedestrian traffic, the Mayor shall have the authority to declare a snow removal condition.
- (B) A snow removal condition shall be declared by the Mayor of the City of Rochester by issuing a media release to the local radio station and news media.
- (C) The snow removal condition shall continue in full force and effect until the Mayor declares it to be over by issuing a media release to the local radio station and news media.

### SECTION 2

#### PARKING RESTRICTIONS DURING SNOW REMOVAL PERIODS

When a snow removal condition has been declared, the following traffic regulations will be in effect for all city streets:

- (A) All regular parking restrictions will remain in full force and effect on streets where parking is only permitted on one side and areas of no parking.
- (B) On even numbered days parking will only be permitted on the side of the street with even numbered street addresses.
- (C) On odd numbered days parking will be permitted only on the side of the street with odd numbered street address.
- (D) These restrictions will remain in force until the snow removal condition has been declared over or the snow has been removed from curb to curb for the entire length of the street.

## REMOVAL AND IMPOUNDMENT OF VEHICLES

The City of Rochester Police Department is authorized to remove or have removed a vehicles from a city street to the nearest garage or place of safety, including another place on the street under the following circumstances or conditions:

- (A) If a person attempts to or does congest, obstruct or unduly restrict a free, clear and unimpeded movement of traffic by parking, unparking, stopping, standing or driving his registered vehicle.
- (B) If a person should fail to remove his registered vehicle from any street or alley within the city after a 12 hour period after the declaration of a snow removal emergency.

**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Rochester, Indiana, that the following Ordinance shall be adopted; adding Snow Removal to Chapter 96 of the Rochester code. This ordinance shall become effective thirty (30) days after passage of the Rochester City Council.

### *City of Rochester*

320 Main Street ....P.O. Box 110 .....Rochester, Indiana 46975  
Phone 574-223-2510 Fax: 574-223-6509  
**Philip E. Thompson, Mayor**

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Contact Webmaster

**Important note:** In an effort to help eliminate unsolicited e-mails (spam), we have removed the @ symbol from the e-mail address and replaced it with a + symbol. If you wish to contact a member of the city via e-mail simply copy the address into your email program and replace the + symbol with the @ symbol.

This site is best viewed using Microsoft's Internet Explorer

Last Modified on: 12/11/01



# Madison County



County Seat: Winterset, Iowa 50273

## Madison County Snow Ordinance (Ordinance No. SR-3-03)

**Title.** An Ordinance establishing the level of service in respect to the clearing of snow, ice or frost from Madison County's secondary roads during the winter months.

Be it ordained by the Board of Supervisors of Madison County:

### SECTION 1.

**Purpose.** The purpose of this Ordinance is to establish this County's normal level of service in respect to the clearing of snow, ice or frost from the secondary road system during the winter months, as provided in HF2487, Section 10(2), Acts of the 63rd G.A., Second Session, and pursuant to the provisions of Section 309.67, Code of Iowa. The level of service is to be implemented within the amount of money budgeted for this service, and as contained in the County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors.

### SECTION 2.

**Level of Service.** Clearing of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of this County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or concentrated on hills, in valleys, curves, and/or intersections. The entire width of the traveled portion of the roadway may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from the traveled portion of the roadway shall be placed on or in adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to an extent that motorist's sight distance to the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The line of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulders by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway and reduced or impaired visibility. In respect to roadways that have only one-lane open, the motorist should exercise further extreme watchfulness and caution. During these conditions no additional warning or regulatory signs will be placed warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

### SECTION 3.

**Sequence of Service.** In the implementation of snow and ice removal and other maintenance of the County's secondary road system during the winter months, the County Engineer shall select the actual sequence of roads to be cleared as provided for in this Section of the Ordinance, and shall determine when drifting, wind velocity and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, or that additional clearing of paved routes be accomplished prior to the clearing of unpaved roads. The judgment of the County Engineer or his designated representative shall prevail.

#### 1. PAVED ROUTES

- A. The initial effort will be to get all residents open to two-lane traffic as soon as possible. During initial snow removal operations, paved roads may only have one-lane plowed for a period of time.
- B. After two-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
- C. The truck mounted snowplows and spreaders will normally, if needed, be in operation between the hours of 5:00 A.M. to 6:00 P.M. The trucks may be called off the road if snow and blowing snow reduces visibility to hazardous working conditions, in the judgment of the County Engineer or his delegated representative.
- D. When required, due to drifting snow, motor graders may be used to keep the paved roads open and the opening of unpaved roads may be delayed.
- E. It is not the policy of the County to provide a "dry" pavement condition.

#### 2. UNPAVED ROADS

- A. The effort will be to get all residents open to one-lane traffic as soon as possible after a storm has passed, but if conditions warrant, two-lanes may be opened on some roads prior to one-lane being opened on others.
- B. After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
- C. Motor graders and/or truck plows will normally be in operation between the hours of 5:00 A.M. and 6:00 P.M.

- Unpaved roads may not be plowed if the wind is causing continual drifting.
- D. Snow or ice will not be removed from roads designated as Area Service Systems B, unless deemed an emergency by the County Engineer or his delegated representative.
  - E. It is not the policy of the County to provide neither a "dry" surface condition nor to provide a surface free of snow, ice, compacted snow and ice, or frost.
3. DUST FREE SURFACE ROUTES
- A. The effort will be to get all residents open to two-lane traffic as soon as possible after paved routes have been open to two-lane traffic.
  - B. Truck mounted snowplows and spreaders will normally, if needed, be in operation between the hours of 5:00 A.M. and 6:00 P.M. The trucks may be called off the road if snow and blowing snow reduces visibility to hazardous working conditions, in the judgment of the County Engineer or his delegated representative.
  - C. Motor graders will not normally be used to open dust free surfaced roads or to keep these roads open.
  - D. It is not the policy of the County to provide neither a "dry" surface condition nor to provide a surface free of snow, ice, compacted snow and ice, or frost.
  - E. Dust free routes within the Madison County Secondary Road System include: R35 from the Madison/Clarke County line north to G68.
4. PRIVATE DRIVES  
The County will not clear snow from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives shall not be placed on the roadway or shoulders.
5. MAILBOXES  
The County will replace mailboxes damaged by snow removal operations with materials for an approved postal installation if replacement is required.

**SECTION 4.**

Limitation On Service. The level of service provided for in this Ordinance may be suspended, shall not include and/or may not be performed in the following situations:

1. The sequence of service may be suspended or altered during "Emergency" conditions.
2. Sanding, salting, or placing of abrasives upon the traveled portion of the roadway that is slick, slippery, and dangerous due to freezing rain that occurs outside the County's normal hours of operation.
3. Sanding, salting, or placing of abrasives upon the traveled portion of the roadway that is slick, slippery, and dangerous due to the formation of frost.
4. Sanding, salting, or placing of abrasives upon an unpaved road.

**SECTION 5.**

Emergency. An "Emergency" condition shall be considered as one where loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through a physician or sheriff's office.

**SECTION 6.**

Disaster Proclamation. The provisions of this Ordinance shall be further suspended in the event the Governor, by proclamation, implements the State disaster plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County disaster plan. If such occurs, the County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairman of the Board of Supervisors.

**SECTION 7.**

Repealer. All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 8.**

Severability Clause. If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**SECTION 9.**

Effective Date. This Ordinance shall be in effect upon publication in a newspaper of general circulation in the County following final approval.

Passed and approved on this 8th day of April, 2003.

MADISON COUNTY BOARD OF SUPERVISORS

\_\_\_\_\_  
Bob Weeks, Chairman



**DUMPING**

Home [www.Limington.org](http://www.Limington.org)  
Proposed Limington Dumping Ordinance  
Index of Town Regulations

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**Town of Limington, Maine**  
**Dumping Ordinance**  
**Proposed for the November 2, 2004 Ballot**

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Any discarding of material on public or private land in Limington shall be subject to fine and community service. This ordinance is not meant to include materials properly stored or used by private landowners on their own property.

The penalty for "hazardous dumping" shall be \$5,000 for the first offence plus 20 hours of community service plus 3 times the cost of cleanup. The penalty for each subsequent infraction shall be \$10,000 plus 20 hours of community service plus 3 times the cost of cleanup. "Hazardous dumping" is defined as the disposal of liquids, gases, biological materials or medical supplies, which cause or have the potential to cause health risk or pollution to? air, water, or soil. Examples of hazardous dumping include but are not limited to disposal of vehicles (which contain gas, oil, antifreeze, and/or freon), air conditioners (freon) refrigerators (freon), fuel, motor oil, herbicides, pesticides, used medical equipment or supplies, spent computer equipment, dry cleaning chemicals, solvents, paints, stains, degreasers and industrial chemicals. Containers containing any of the above chemicals shall be deemed hazardous.

The penalty for "promiscuous dumping" shall be \$1,000 for the first offence plus 10 hours of community service plus 3 times the cost of clean up. The penalty for each subsequent infraction shall be \$2,000 plus 20 hours of community service plus 3 times the cost of cleanup. "Promiscuous dumping" is defined as the disposal of more than 5 pounds or 3 cubic feet of litter whichever is less and which is not defined as "hazardous." Examples include but are not limited to disposal of tires, wheels, vehicle parts, mattresses, furniture, sinks, toilets, stoves, animal carcasses, and construction debris.

The penalty for littering of quantities defined as less than "promiscuous" and not "hazardous" shall be \$500 for the first offence and \$ 1,000 plus 10, hours of community services for subsequent offences.

All conveyances including aircraft, trucks, watercraft, or other vehicles used to dump more than 1,000 pounds or 100 cubic feet of litter whichever is less shall be subject to forfeiture.

Community service shall be related to removal of litter or the restoration of an area polluted by litter. Failure to perform on town designated cleanup days within one year of conviction shall result in an additional fine of \$ 1,000 per 10 hours of community service due.

All legal fees and court costs sustained by Limington or private parties in Limington if action results in a civil proceeding, shall be paid by the convicted offender.

Any individual or group who provides information leading to the arrest and conviction of persons

violating Limington's dumping ordinance shall receive a bounty equal to 1/2 of the fines collected by the Town of Limington after costs incurred.

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Please note that [www.Limington.org](http://www.Limington.org) is not the official website of the Government of the Town of Limington. For legal reference, please obtain a copy of the ordinance from the town office.

## **DRIVEWAYS**

## **Residential Drive Requirements**

**Certificate of Insurance:** \$500,000 General Liability from the contractor.  
Certificate Holder: Tippecanoe County Board  
of Commissioners.

**Information Sheet:** Must be filled out in full by the owner or a designated representative. A letter of consent from the owner must accompany the permit if not filled out by the owner.

**Contract Owner:** Must have a copy of a letter of consent from the owner.

**Site Plan:** Show drive width, drive radii or tapers, distance from drive to property lines, and proposed drive surface.

**Restrictions:** Subdivision - 5' x 5' tapers, 12' - 20' width  
County Road - 10' radii, 12' - 20' width  
One drive per tract, lot or parcel of land.

**Culvert:** Pipe size will be determined by county inspector after permit is submitted. **No plastic pipe is allowed.**

**Stake Drive:** Visible stakes at the property lines and at each side of the drive.

**Easement:** If drive is to be built on easement, a copy of the recorded easement must be furnished.

**Fee:** \$25.00, Checks payable to the Treasurer of Tippecanoe County.

*Prepared by the Tippecanoe County Highway Engineering Department  
20 North 3<sup>rd</sup> Street  
Lafayette, IN 47901*

(765) 423-9210

PERMIT TO CONSTRUCT A DRIVEWAY ENTRANCE AND APPROACH

Permission is hereby granted to \_\_\_\_\_

TO CONSTRUCT A DRIVEWAY ENTRANCE AND APPROACH ON THE (NORTH, SOUTH, EAST, WEST)

Side of County Road \_\_\_\_\_ Township \_\_\_\_\_, Section \_\_\_\_\_

At the following described location: \_\_\_\_\_

To serve as access to \_\_\_\_\_

SIZE OF PIPE TO BE USED: \_\_\_\_\_  
(EITHER GALVANIZED CORRUGATED STEEL OR REINFORCED CONCRETE PIPE)

OTHER CONDITIONS: \_\_\_\_\_

UNDER THE TERMS OF THIS PERMIT, THE PERMITTEE SHALL COMPLY WITH THE FOLLOWING PROVISIONS:

- (A) No entrance shall be closer than five (5) feet to adjacent property line and no approach shall be so constructed that any part of the same extends in front of property belonging to a person other than the permittee unless both property owners sign a joint application for a permit.
- (B) All drainage pipes or tile used in the construction of driveways and approaches shall be a minimum of twelve (12) inches in diameter and as much larger as the Department shall deem necessary for proper drainage, and on all new driveways and approaches, shall be furnished by the permittee. All pipe or tile and other drainage structures used shall meet the approval of the Department as to type, quality, size and length.
- (C) All driveways and approaches shall be so constructed that they shall not interfere with drainage of, or cause erosion to the street or highway. If it is proposed to construct any portion of an approach on a slope or grade greater than fifteen (15) percent, the grade or slope shall be designated on the application. If no designation of grade is shown on the application, the approach shall not be constructed on a grade greater than fifteen (15) percent.
- (D) All disturbed areas shall be fertilized and seeded or sodded to prevent erosion.
- (E) The construction of such driveways and approaches shall not interfere with any existing structure or any county highway right-of-way without specific permission in writing from the Department or other owner thereof.
- (F) Concrete headwalls or other obstacles will not be permitted under the terms of this permit.
- (G) All entrances and approaches shall be so located as to provide adequate sight distance in both directions along the highway for safe access to the highway without interfering with traffic on the highway.
- (H) No entrance or approach shall be located or constructed so as to interfere with or prevent the proper location of necessary highway signs.
- (I) The permittee shall assume responsibility for all maintenance of such approaches from the right-of-way line to the edge of the traveled roadway. If the approach or driveway is built of loose aggregate, said aggregate shall be bound with some material so as to prevent loose aggregate from being carried onto the highway pavement, or the permittee shall keep the pavement free of loose aggregate at all times.

(OVER)

- (J) No such entrance or approach shall be relocated or its dimensions altered without written permission of the Department.
- (K) On the day preceding the beginning of work under any permit for approach construction, the permittee shall secure special permission to proceed from the local Department representative in charge.
- (L) The permittee shall assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the construction of any approach or driveway.
- (M) The permittee shall remove or relocate any such entrances or approaches when requested to do so by the Department in the interest of safety to highway traffic. For the purpose of Road or Bridge construction or improvement, said driveway entrances and approaches shall be removed at any time upon the request of the Tippecanoe County Highway Department. Permits issued for driveway entrances and approaches may be rescinded at any time by the Tippecanoe County Highway Department. Driveway entrances and approaches must be complete within one (1) year after the permit is issued; otherwise, the permit will be canceled.

The right-of-way area adjacent to or between the approaches may be graded at the permittee's expense, subject to drainage requirements as determined by the Department. The permittee may plant in this area, grass, flowers, or low growing shrubs that never attain sufficient height to obstruct clear vision in any direction.

All work shall be done in accordance with the approved plans, and the latest issue of the Indiana State Highway Standard Specifications, and shall meet the approval of the Tippecanoe County Highway Department.

THE ABOVE CONDITIONS ARE UNDERSTOOD AND AGREED TO:

\_\_\_\_\_  
NAME (Property Owner)

\_\_\_\_\_  
NAME (Contractor)

\_\_\_\_\_  
ADDRESS (Present Address)

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PHONE NO.

\_\_\_\_\_  
PHONE NO.

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Contractor

\_\_\_\_\_  
Title / Representative's Position

\_\_\_\_\_  
Title / Representative's Position

\_\_\_\_\_  
Opal Kuhl, P.E., Executive Director  
Michael J. Spencer, Assistant Executive Director  
Tippecanoe County Highway Department

\_\_\_\_\_  
Date

THIS AGREEMENT MUST BE EXECUTED BY THE CONTRACTOR FOR THE PROJECT AND ALL OWNERS OF THE LAND SERVED THEREBY.

DRIVEWAY ENTRANCE PERMIT INFORMATION SHEET  
TIPPECANOE COUNTY HIGHWAY DEPARTMENT

DATE \_\_\_\_\_ PERMIT # \_\_\_\_\_  
I HAVE READ THE FOLLOWING INFORMATION, AND CERTIFY IT IS CORRECT:

\_\_\_\_\_  
SIGNATURE OF APPLICANT PRINTED NAME OF APPLICANT

RECORDED OWNER OF PROPERTY \_\_\_\_\_  
LETTER OF CONSENT OF RECORDED PROPERTY OWNER (PLEASE ATTACH)

CONTRACT PROPERTY OWNER \_\_\_\_\_

PRESENT ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

ADDRESS \_\_\_\_\_ PHONE \_\_\_\_\_  
CONTRACTOR'S CERTIFICATE OF INSURANCE EXPIRATION DATE \_\_\_\_\_

PURPOSE OF DRIVEWAY \_\_\_\_\_

PROPERTY ADDRESS \_\_\_\_\_ CITY \_\_\_\_\_ ZIP \_\_\_\_\_

TOWNSHIP \_\_\_\_\_, SECTION \_\_\_\_\_, T \_\_\_\_\_ N, R \_\_\_\_\_ W

BRIEF DIRECTIONS \_\_\_\_\_  
\_\_\_\_\_ STAKES OUT \_\_\_\_\_

SIDE OF ROAD: NORTH SOUTH EAST WEST

FINAL PLAT RECORDED: YES NO  
SUB-DIVISION \_\_\_\_\_ LOT \_\_\_\_\_

PARCELIZATION NAME \_\_\_\_\_ TRACT # \_\_\_\_\_

KEY # \_\_\_\_\_

ANY EXISTING EASEMENTS: YES NO (IF YES PLEASE ATTACH)  
EASEMENT # \_\_\_\_\_

SITE PLAN: YES NO (IF YES PLEASE ATTACH)  
CONSTRUCTION PLANS ON FILE IN ENGINEERS OFFICE: YES NO

PERMIT FEE PAID AT TIME OF APPLICATION: YES NO  
AMOUNT PAID \$ \_\_\_\_\_ CHECK # \_\_\_\_\_

TO BE COMPLETED BY INSPECTOR:  
CHECKED BY \_\_\_\_\_ DATE \_\_\_\_\_

SIZE PIPE NEEDED \_\_\_\_\_

REMARKS \_\_\_\_\_



Tippecanoe County Highway Department  
Tippecanoe County Highway Engineer

APPLICATION FOR A PERMIT TO INSTALL A POLE LINE

This permit is required in all cases where new poles are installed or where present poles are moved to a new location.

TO THE TIPPECANOE COUNTY HIGHWAY DEPARTMENT

Tippecanoe County Highway Engineer  
Lafayette, Indiana

DATE: \_\_\_\_\_, 20\_\_\_\_

I hereby make application for a permit to install a Pole Line on:

LOCATION: From \_\_\_\_\_ to \_\_\_\_\_

On \_\_\_\_\_ side of County Road \_\_\_\_\_,

(North, East, West, South)

Sec. \_\_\_\_\_ Township \_\_\_\_\_

Draw a sketch on back of this sheet showing plan view, and if trees are involved, show elevations, or submit a sketch or construction diagram on a separate sheet securely fastened hereto three (3) copies showing the following data:

1. Show North point. Distance from nearest well-known landmark or County Road junctions. Distance from centerline of road to right-of-way line.
2. Length of spans, pole locations from right-of-way line, length of poles, and show all overhead guys, anchor guys and guy poles. Show all guy leads.
3. Show contact pole number where possible.
4. List: Voltage, Phase, Type of Construction and Engineer.

PURPOSE: \_\_\_\_\_

If this application to install a pole line is granted, the applicant agrees to the following provisions: That (a) The poles, including brace poles, will be placed not more than 1'6" from the right-of-way: (b) All guy wires shall be placed not more than 1'6" from the right-of-way line, except where it is more practical to set the guy wires between the pole and the edge of the pavement, but, they shall never be placed closer to the edge of the edge of the pavement than 18' where the right-of-way is 70' or less, 23' where the right-of-way is 80' to 100': (c) The applicant will move said pole line at his own expense when so requested by the Tippecanoe County Highway Department: (d) said pole line will comply with all regulations outlined in the National Electrical Safety Code, and any other handbook issued by the Department of Commerce Bureau of Standards, which refers to the installation and maintenance of communication lines: (e) The applicant will assume all responsibility for any injury or damage to persons or property resulting directly or indirectly from the proposed work: (f) No trees or plants on the right-of-way of any County Road will be trimmed or removed without special written permission from the Tippecanoe County Highway Engineer (make special request for the tree trimming or tree removal): (g) Said work will not interfere in any way with any pole line or other existing structure along or across the County Road at said location: (h) Applicant will notify the Tippecanoe County Highway Engineer the day preceding the beginning of such work: (j) Work will not be permitted during times of excessive moisture, whereby, shoulders or berm will be damaged.

\_\_\_\_\_  
Name of Company

PERMIT APPROVED:

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Opal Kuhl, P.E., Executive Director  
Michael J. Spencer, Assistant Executive Director  
Tippecanoe County Highway Department

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

**ORDINANCE 300-01  
TOWN OF ALBANY**

Revised 8/19/03

**GREEN COUNTY  
WISCONSIN**

**DRIVEWAY ORDINANCE**

**1. AUTHORITY**

This ordinance is adopted pursuant to the general police powers granted under Sec.60.22 (3) and 61.34 (1), Wis. Stats., and specific authority under Sec.236.45, Stats.

**2. PURPOSE**

The purpose of this ordinance is to promote public safety and general welfare of the community and to enforce the goals and policies of the Town Board of the Town of Albany. This ordinance applies to construction or modification of private driveways located in the Town of Albany which provide access to buildings constructed or to be constructed or substantially modify a driveway after the effective date of this ordinance.

**3. DEFINITION**

Driveway is defined as a road giving access from a public highway or private road to one or more dwelling units or commercial buildings located or to be constructed on adjacent lands.

**4. GENERAL PROVISIONS**

- a. This ordinance pertains to all driveways off of state, county, township or private roads in the Town of Albany.
- b. No building permit for new construction will be issued until the driveway is constructed according to the specifications of this ordinance and inspected by the (3) three member Albany Town Board.
- c. No person shall construct, improve or rework a driveway which changes the existing topography of the eland without first obtaining a Driveway Permit from the Town of Albany Supervisors. Re-graveling of a previously constructed driveway does not constitute a change in the existing topography of the land. All new driveways proposed to be installed or any driveway alleged to be existing and serving open land without improvements and proposed to be converted to a driveway to serve one or more structures shall be subject to an inspection fee as established by the Town Board to be paid to the township prior to the start of any construction on a new driveway and prior to issuance of a building permit. An approved driveway shall be in place before an "Approval for Driveway" form is sent to the Albany Township Building Inspector and a building permit can be issued. Prior to consideration of the application by the Town Board, the applicant (owner, agent, or contractor) shall submit to the town Chairman of Albany and "Application for Driveway Construction Permit" and a driveway construction plan which shall accurately describe the location of the proposed driveway and the specifications (grade, slope, width, and length and erosion control procedures, etc.) as required by Section (5) of this ordinance for the driveway's construction. When the application is approved a "Driveway Construction Permit" will by issued. When construction is completed and inspected the "Approval for Driveway" will be sent to the Albany Township Building Inspector.
- d. Driveway permits will be valid for (1 year) one year from date of issue. Another application for a permit will be required for any improvements not completed during the (1 year) one year permit period.
- e. A fee of (\$1,000.00 plus footage to building site) one thousand dollars plus footage to building site shall be charged for the issuance of a Driveway Permit. The fee is due when the "Application for Driveway Construction Permit" is submitted to the Town Chairman or the Town Board.
  1. A refundable security deposit of (\$500.00) five hundred dollars for the first (100 feet) one hundred feet of roadway and thereafter (\$1.00) one dollar per running foot to building site. The refund will be made after roadway is completed and inspected by the Town Chairman and, if required, the (2) two town supervisors. The fee or part thereof may not be refundable should there be damage to the town road or other costs (plan evaluations, expert help) incurred by the Town of Albany by construction of the said driveway.

**5. SPECIFICATIONS FOR THE CONSTRUCTION OF DRIVEWAYS**

- a. An engineer's plan showing adequate erosion control measures is required for any segment of the

- proposed driveway which disturbs land with a grade of more than (25%) twenty five percent, unless waived by the Town Board.
- b. The driveway shall be constructed with a minimum roadway of (15 feet) fifteen feet in width and a minimum shoulder of (3) three feet on each side having a slope of (1 foot) one foot of vertical rise for each (6 feet) six feet of horizontal distance. To provide for the safe passage of meeting vehicles a segment of the roadway shall be (50 feet) fifty feet in length and (25 feet) twenty five feet in width at each (300 foot) three hundred foot segment of the roadway. These requirements can be waived by the Town Board.
  - c. Each driveway shall have a culvert at the ditch line where the driveway meets the public road, unless waived by the Town Board. The culvert shall be a minimum (18 inches) eighteen inches in diameter and (30 feet) thirty feet in length.
  - d. A driveway which is at least (24 feet) twenty-four feet in length shall have a maximum (5%) five percent grade at the point where the driveway inters onto a public road. A slight dip across the driveway shall be placed just before the culvert at the entrance to the public road to prevent debris from washing onto the public road.
  - e. Ditches, roadway crowning and culverts which provide acceptable drainage are required.
  - f. The driveway's side banks shall be graded to a slope of no more than (1 foot) one foot of vertical rise in each (3 feet) three feet of horizontal distance, except where retaining walls and/or other erosion control measures are installed as specified in an engineer's plan approved by the Town Board.
  - g. The side banks shall be seeded within (30) thirty days to control erosion.
  - h. Curves in the driveway shall have an inside radius of not less than (36) thirty-six feet.
  - i. The maximum grade of the entire driveway or any given segment of the driveway shall not exceed (10%) ten percent.
  - j. Once the construction of the driveway has begun, all specified erosion control measures, including retaining wall, ditching, culverts, crowning, seeding, mulching and matting shall be completed within (90) ninety days.
  - k. When completed, the driveway must have at least (8 inches) eight inches of (3 inch) three inch rock on the roadbed, and covered with (6 inches) six inches of (3/4 inch) three quarter inch gravel unless the Town Board considers otherwise. The (6 inches) six inches of (3/4 inch) three quarter inch rock may be placed after the heavy equipment has left the site.
  - l. All costs of the construction of the driveway, including the cost of the culverts and engineer's plan, if required, shall be paid by the property owner requesting the driveway permit. The maintenance cost of the driveway is the responsibility of the owner.
  - m. An area of (25 feet) twenty-five feet in width and (20 feet) twenty feet in height shall be cleared along the driveway right-of-way in order to permit the safe passage of emergency vehicles. This area shall be free of all trees, wires or any other possible obstruction. This area must be maintained with the designated clearance. In cases where such a clearing would be environmentally damaging the Town Board will determine if failure to clear will prevent or interfere with emergency service or create a safety hazard.

On longer driveways, the Town Board shall specify additional width shall be required for safe passage of meeting vehicles. The driveway surface shall be a minimum of (18 feet) eighteen feet wide for a distance of (40 feet) forty feet at distances determined by the Town Board, in consultation with emergency medical service and fire personnel, necessary for emergency vehicle access.

- n. Clearly mark your house and driveway with your fire number so emergency vehicles can find your home.
- o. The driveway must have a back out with a radius of at least (90 degrees) ninety degrees or a (50 foot) fifty foot turning radius and the grade must not exceed (10%) ten percent.
- p. The driveway must have an approach at the place where it intersects with the public road of at least (30 feet) thirty feet in width and an unobstructed view of at least (300 feet) three hundred feet in each direction at that place unless the Town Board considers otherwise. County and state roads may have a longer sight distance.
- q. Joint driveways will not be permitted without prior review and specified approval by the Town Board of a written "Joint Driveway Agreement" establishing the proposed joint driveway and the manner of its construction, maintenance and use. The written Joint Driveway Agreement shall be signed by each landowner who will be using the driveway and the signatures shall be notarized and dated and

a copy given to the Town Board to be filed with the Clerk.

- r. Private roads that will serve two or more driveways are required to obtain prior approval by the Town Board. The Town Board shall determine if such private roads are to be constructed to driveway specification or town road specifications.

#### 6. MAILBOX LOCATION

- a. Mailbox location(s) shall be submitted at the time of a required for a driveway permit. Mailboxes shall be placed in a manner and at a location that allows for the safest mail delivery and allows for the widest travel distance along the public road and right of way.

For driveway/field roads serving multiple structures or to be used for access to private roads, a single location for mailboxes shall be required.

#### 7. EXISTING DRIVEWAYS OR FIELD ROADS:

- a. When washing or other conditions created by existing driveways or field roads becomes a potential hazard to a public road, the Town Board of the Town of Albany shall notify the owners of the land through which the driveway passes of such conditions. Any property owner failing to correct such conditions with (90 days) ninety days after notice by the Town Board shall be subject to the penalties of this ordinance and shall be liable for any costs incurred by the Town of Albany to eliminate the hazard as provided in Wis. Stats, Section 66.60 (126).

#### 8. REQUIREMENTS FOR AN ENGINEER'S PLAN

- a. The Town Board of Supervisors of Albany Township may require the applicant to obtain a plan prepared by a professional engineer licensed by the State of Wisconsin prior to the construction or modification of any proposed driveway. An engineer's plan is required:
  - 1. For a driveway or segment of a driveway whose construction requires the disturbance of land with a slope of (25%) twenty five percent or greater, unless waived by the Town Board of Supervisors.
  - 2. For a driveway or segment of a driveway whose construction requires a retaining wall or other special erosion control measure as determined by the Town Board of Supervisors or its authorized representative; or
  - 3. For reasonable cause as determined by the Town Board of Supervisors and upon request of such.
- b. The engineer's plan will include the following:
  - 1. The precise location of the driveway.
  - 2. Grade of the driveway showing no segments exceeding (10%) ten percent.
  - 3. Location and structure of any retaining walls.
  - 4. Location and size of any culverts.
  - 5. Cross section of the driveway.
  - 6. Seeding, mulching, matting or other erosion control measures.
- c. When an engineer's plan is required, no construction of a driveway may commence until the engineer's plan is approved by the Town Board of Supervisors and a Driveway Permit issued, and when applicable, any necessary approvals are obtained from Green County or the State of Wisconsin per Wis. Stats. Section 86.07.
- d. The preparation of an engineer's plan does not guarantee the approval of a driveway permit application.
- e. A proposed driveway construction or modification shall be accompanied by an erosion control plan presented to the Town Board prior to the issuance of a Driveway Permit. An erosion control plan shall include the driveway owner's intentions and timetable to reseed, mulch, ditch, placement of culverts, and carry out other erosion control measures, all of which shall be completed within (90) ninety days after beginning driveway construction or modification. If an engineer's plan of the driveway is prepared according to the requirements of Section (7) of this ordinance, an erosion control plan shall specify only those measures which are not mentioned or required in the engineer's plan.
- f. It is the responsibility of the property owner to contact the local school district regarding rules and regulations for school bus pickup on private drives.

#### 9. PENALTIES:

- a. Should a driveway be constructed or modified in a way which violates the provisions of this ordinance, the owners of the land through which the driveway passed shall pay a fine equal to (3

times) three times the fee charged for the permit application, whether or not that fee has been paid. The owners of the land shall also make the corrections indicated by the Town Board within a reasonable period of time by the Town Boards of Albany Township.

- b. If the owners of the land through which the driveway passes do not make the required corrections within the time specified, the Town Board of Albany Township shall determine the cost of correcting violations of the provisions of this ordinance including when necessary the return of disturbed land to its original condition. The cost shall be paid to the Town by the owners of the property through which the driveway passes as provided in Wis. Stats. Section 66.60 (16).

10. WAIVER:

The Town Board may, when it deems it appropriate, waive parts of this ordinance, when granting such a waiver will not be detrimental to the public safety, health or welfare or be injurious to other property or improvements in the area in which the driveway is located.

11. EFFECTIVE DATE

This ordinance shall take effect and be in force the day after its passage by the Town Board of the Town of Albany, Green County, Wisconsin publication and posting by law.

Dated this 17th day of October, 2000.

Revisions Adopted – August 19, 2003  
(Original Ordinance Adopted 10/17/00)  
Published – August 27, 2003  
Effective – August 28, 2003

**TOWN OF ALBANY****DRIVEWAY PERMIT PROCEDURES**

1. Persons wishing to construct a new driveway or rework an existing driveway must obtain a driveway permit application from the Town Chairman. Rework means improvement or changes that change the drainage, topography (width, location) or grade of the existing drive. Rework does not include any maintenance of an existing drive that does not require changing the drainage, grade or topography of the existing driveway (examples; replacing existing culvert with same size culvert, regravelling, surface grading, sealcoating, patching). These items do not require a permit.
2. The Town Chairman or Supervisor shall review the following points with the applicant.
  - a. A plan showing locations and specifications as described in the Town of Albany Driveway Ordinance must be submitted to the Town Board.
  - b. The applicant will receive a copy of the driveway ordinance when they pay the \$500 fee for the "Application For Driveway Construction Permit". If the applicant wants a copy of the ordinance before the application fee is paid, a charge of \$5.00 per copy will apply.
  - c. The \$500 refundable security deposit for the first 100 feet of roadway and \$1.00 per running foot to building site, is due when the "Driveway Construction Permit" is issued by the Town Board.
3. The Town Board will review the plan presentation and either approve, deny or postpone approval if further study is required. If the plan is approved, the applicant must submit the security deposit before the construction permit will be issued. Permits are valid for one year.
4. Driveways will be inspected by the three member Town Board. It is up to the applicant to contact the Town Chairman to schedule an inspection. Driveway permits issued and not inspected within the one year time frame will have to reapply for a driveway permit.

No building permits will be issued until the driveway is inspected and approved by the entire Town Board and a notification of "Approval Of The Driveway" is sent to the Albany Township Building Inspector.

Security deposits will be refunded after final inspection and approval. Expenses for damages, plan evaluation, expert help or other expenses incurred by the Town regarding this driveway project will be deducted from the security deposit.

5. When the applicant returns the application and pays the fee, the Chairman schedules the plan presentation on the appropriate date and posts in on the meeting agenda.

**SIZE AND WEIGHT REGULATION AND FROST LAW**

# Town of Lamoine

## ORDINANCE RESTRICTING VEHICLE WEIGHT ON POSTED WAYS

Section 1. Purpose and Authority
Section 2. Definitions
Section 3. Restrictions and Notices
Section 4. Exemptions
Section 5. Permits
Section 6. Administration and Enforcement
Section 7. Penalties
Section 8. Amendments
Section 9. Severability; Effective Date

### Section 1. Purpose and Authority

The purpose of this ordinance is to prevent damage to town ways and bridges in the Town of Lamoine which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-A M.R.S.A. §3009 and 29-A M.R.S.A. § 2395 and 2388.

### Section 2. Definitions

The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this ordinance. Any words not defined therein shall be given their common and ordinary meaning.

### Section 3. Restrictions and Notices

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travelway. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be



removed and replaced with new notices.

No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

## **Section 4. Exemptions**

The following vehicles are exempt from this ordinance:

- (a) any two-axle vehicle while delivering home heating fuel;
- (b) any vehicle while engaged in highway maintenance or repair under the direction of the State or Town of Lamoine;
- (c) any emergency vehicle (such as firefighting apparatus or ambulances) while training or responding to an emergency;
- (d) any school transportation vehicle while transporting students;
- (e) any public utility vehicle while providing emergency service, repairs, or installation; and
- (f) any vehicle whose owner or operator holds a valid permit from the municipal officers or their designee as provided herein.

## **Section 5. Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers or their designee for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers or their designee may issue a permit only upon all of the following findings:

- (a) no other route is reasonably available to the applicant;
- (b) it is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) the applicant has tendered cash, a bond or other suitable security acceptable to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers or their designee make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways.

In determining whether to issue a permit, the municipal officers or their designee shall consider the following factors:

- (a) the gross registered weight of the vehicle;
- (b) the current and anticipated condition of the way or bridge;
- (c) the number and frequency of vehicle trips proposed;
- (d) the cost and availability of materials and equipment for repairs;
- (e) the extent of use by other exempt vehicles; and
- (f) such other circumstances as may, in their judgment, be relevant.

The municipal officers or their designee may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

## **Section 6. Administration and Enforcement**

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee (such as road commissioner, code enforcement officer or law enforcement officer).

## **Section 7. Penalties**

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250.00 nor more than \$1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the Town may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs.

Prosecution shall be in the name of the Town of Lamoine and shall be brought in the Maine District Court.

## **Section 8. Amendments**

This ordinance may be amended by the municipal officers at any properly noticed meeting.

## **Section 9. Severability; Effective Date**

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

This ordinance shall take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

**The above ordinance was enacted effective October 8, 1998 upon an affirmative vote by the Lamoine Board of Selectmen**

**signed,**

/s/ Glenn Crawford, Chairman

/s/ Arthur Alley

/s/ Richard A. Davis, Sr.

Attest: A True Copy: /s/ Stuart Marckoon, Deputy Clerk

State of Maine  
Hancock, ss.

Personally appeared before me the above named Glenn Crawford, Arthur Alley, and Richard A. Davis, Sr. and affixed their signatures by their own free act and deed on this 8<sup>th</sup> day of October, 1998.

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Stuart Marcloon, Notary Public  
My Commission Expires June 11, 2000

**TOWN OF HOLDEN**  
**RESTRICTING VEHICLE WEIGHT ON POSTED ROADS ORDINANCE**

**Section 1. Purpose and Authority**

The purpose of this ordinance is to prevent damage to Town ways and bridges in the Town of Holden, which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of Town ways and bridges, and to reduce the public expense of their maintenance and repair.

This ordinance is adopted pursuant to 30-a M.R.S.A., Section 3009 and 29 M.R.S.A., Subsection 902 and 1611.

**Section 2. Definitions**

The definitions contain in title 29 M.R.S.A. shall govern the construction of words contained in this ordinance. Any word not defined therein shall be given their common and ordinary meaning.

**Section 3. Restrictions and Notices**

The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse on the highways, and designate the Town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

The notice shall contain, at a minimum the designated section of the way or bridge, the periods of closing and the prescribed restrictions or exclusions.

The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the travel way. Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices.

No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

**Section 4. Exemptions**

The following vehicles are exempt from this ordinance:

- (a) Any two-axle vehicle while delivering home heating fuel;
- (b) Any vehicle while engaged in highway maintenance or repair under the direction of the State of Town;

- (c) Any emergency vehicle (such as fire fighting apparatus or ambulances) while responding to an emergency;
- (d) Any school transportation vehicle while transporting students;
- (e) Any public utility vehicle while providing emergency service or repairs;
- (f) Any vehicle detoured by a law enforcement officer at an accident scene; and
- (g) Any vehicle whose owner or operator holds a valid permit from the Town Manager or his designee.

**Section 5. Permits**

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the Town Manager for a permit to operate on a posted way or bridge notwithstanding the restriction. The Town Manager may issue a permit only upon all of the following findings:

- (a) No other route is reasonably available to the applicant;
- (b) It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- (c) The applicant has tendered cash, a bond or other suitable security running to the Town in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the Town Manager makes the forgoing findings, he need not issue a permit if he determines the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage. He may also limit the number of permits issued or outstanding as may, in his judgment, be necessary to preserve and protect the highway.

In determining whether to issue a permit, the Town Manager shall consider the following factors:

- (a) The gross registered weight of the vehicle;
- (b) The current and anticipated condition of the way or bridge;
- (c) The number and frequency of vehicle trips proposed;
- (d) The cost and availability of materials and equipment for repairs;
- (e) The extent of use by other exempt vehicles; and
- (f) Such other circumstances as may, in his judgment, may be relevant.

- (g) The Town Manager may issue permit subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

**Section 6. Administration and Enforcement**

This ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee.

**Section 7. Penalties**

Any violation of this ordinance shall be a civil infraction subject to a fine of not less than \$250.00 or more than \$1,000.00. Each violation shall be deemed a separate offense. In addition to any fines, the Town shall be awarded restitution for the cost of repairs to any damaged way or bridge and a reasonable attorney fees and costs. All fines inure to the benefit of the Town.

Prosecution shall be in the name of the Town and shall be brought in the Maine District Court.

**Section 8. Amendments**

This ordinance may be amended by the municipal officers at any properly notice meeting.

**Section 9. Sever ability; Effective Date**

In the event a court of competent jurisdiction declares any portion of this ordinance invalid, the remaining portions shall continue in full force and effect.

This ordinance shall take effect immediately upon enactment by the municipal officers at any properly notice meeting.

**Date Approved: September 19,1994**

s/ R.Larry Varisco, Town Clerk  
s/ Joel Dearborn, Chairman  
s/ George McDonald,Sr., V.Chairman  
s/ Michael Legasse  
s/ Ralph McLeod  
s/ Clare Payne

**ARTICLE 20. SIZE AND WEIGHT REGULATION****CHAPTER 1. GENERAL PROVISIONS****Sec. 9-20-1-1. Vehicle size or weight restrictions.**

(a) Except as otherwise provided by law, a person may not operate or move upon a highway a vehicle or combination of vehicles of a size or weight that exceeds the limitations set forth on a sign posted upon or at the entrances to the highway or part of the highway that is affected.

(b) The limitations governing vehicle size or weight on highways under the jurisdiction of the county are set forth in a document entitled "Hamilton County Traffic Control Devices," which is to be maintained by the county highway department.

(c) The board of commissioners may approve, by motion made in open meeting, amendments of regulatory signs and restrictions to the list contained in the "Hamilton County Traffic Control Devices."

(Code 1992, § 9-20-1-1)

**State law references:** Operation of vehicle exceeding size or weight limitations, IC 9-20-1-1.

**Sec. 9-20-1-3. Frost law.**

(a) This section does not apply to the following:

- (1) Trash company trucks when engaged in regular pickups.
- (2) School buses.
- (3) County-owned maintenance vehicles.

(b) The county may act under IC 9-20-1-3(a) to:

- (1) Prohibit the operation of vehicles upon highways; or
- (2) Impose restrictions as to the weight of vehicles to be operated upon highways;

for a total period of no more than 90 days in any one year whenever a highway, by reason of deterioration, rain, snow, or other climatic conditions, will be seriously damaged or destroyed without the regulation of vehicles.

(c) The county highway department shall post temporary road weight restriction signs in accordance with the requirements set forth in IC 9-20-1-3(b) to protect county highways during the period designated by the commissioners in an ordinance adopted under IC 9-20-1-3(a). The sign shall designate the maximum permitted gross weight of a loaded motor vehicle that may travel on the highway.

(d) Unless otherwise specified under subsection (c) of this section, the gross weight for a vehicle under this section is as follows:

- (1) On a blacktop road: 16,000 pounds.
- (2) On a gravel road: 20,000 pounds.

(Code 1992, § 9-20-1-3)

**State law references:** Prevention of damage to highways during certain climatic conditions, IC 9-20-1-3.