

## **Chapter 17 -Streets and Sidewalks**

### **Article III – Work and Encroachments Within Rights of Way**

#### **Division 1. - Generally**

##### **Sec 17-29. - Rights of Way Ordinance.**

- (a) The provisions of this Article III – (Work and Encroachments Within Rights of Way) of Chapter 17, may be cited and may be referred to hereinafter, and in any matters as may be related hereto, as the “Rights of Way Ordinance”, and shall apply to all Regulated Activities, as defined herein.

##### **Sec 17-30. - Applicable definitions and terminology.**

- (a) Particular definitions as shall apply for purposes of this Rights of Way Ordinance are included below, other definitions and terminology shall be as set forth in the Permit Manual (redundancy is for convenience):
  - (1) Authorized Enforcement Agent (AEA). The Authorized Enforcement Agent (“AEA”) is the Town Manager, or the official or employee of the Town of Bloomfield so designated by the Town Manager. The AEA may, as deemed appropriate, at any time authorize other officials or employees of the Town to act in his stead, to any degree or limitation and on any relevant matter.
  - (2) Permit Manual. The term “Permit Manual” shall mean and refer to the Rights of Way Permit Manual created by the Authorized Enforcement Agent for the administration, implementation, and enforcement of the provisions of this Rights of Way Ordinance. The Permit Manual as adopted by the Town Council shall be the Rights of Way Regulations of the Town of Bloomfield.
  - (3) Permittee. The term “Permittee” means the entity to whom a subject Permit or License has been duly issued, including any officers, employees, subcontractors, representatives, or agents who act, fail to act, omit, or make representations on behalf of said entity in any manner with respect to any subject Permit or License.
  - (4) Regulated Activities. The term “Regulated Activities” means any excavation or other construction activities or work, connections to the Town storm drainage system, any encroachments, including the installation thereof, whether considered temporary or permanent, the moving of structures, and the removal and trimming of trees, and including activities incidental or appurtenant to any of the same, within, or directly related to travel within, public rights of way (including streets) of the Town of Bloomfield.

##### **Sec 17-31. - Jurisdiction of the Town.**

- (a) Nothing herein contained, nor any action of the Town associated with this Rights of Way Ordinance, shall in any way diminish or waive the jurisdiction, dominion, or control of the Town with respect to its rights of way, including the Town’s right to control the location, or future relocation, of non-Town facilities or improvements within Town rights of ways.

**Sec 17-32. - Administration.**

- (a) The AEA shall administer, implement, and enforce the provisions of this Rights of Way Ordinance, in a manner deemed appropriate and in the interests of the Town, on behalf of the Town Manager. The AEA shall have all powers and authority as set forth in this Rights of Way Ordinance and in the Permit Manual.
- (b) The Chief of Police shall have authority to act, individually or in concert with others, in enforcement of any provisions of this Rights of Way Ordinance as may fall under the jurisdiction thereof.
- (c) While provisions of this Rights of Way Ordinance may require of a Permittee knowledge and compliance with laws and regulations, the Town incurs no obligation to ensure or enforce such knowledge or compliance requirements.
- (d) The Town is not, and shall not be construed to be, responsible for any means, methods, acts, failures to act, omissions, or representations of, by, or on behalf of any Permittee.
- (e) The AEA may assert additional reasonable requirements with respect to any Regulated Activities as deemed appropriate and in the interests of the Town.

**Sec 17-33. - License requirements; fee.**

- (a) Any entity (i.e. Permittee) desiring to undertake Regulated Activities must first obtain a License to conduct Regulated Activities from the AEA. Such License shall have an annual duration, expiring on December 31 of each calendar year. The existence of an active License is a condition precedent to the issuance of any Permit for any Regulated Activities; and any such Permit is issued under the umbrella of and subject to the Permittee's active License at the time of Permit issuance. A license may be suspended at any time by the AEA for cause in accordance with the provisions of the Permit Manual.
- (b) The fee for any such License issued will be twenty dollars (\$20.00).
- (c) License Obligations: The Permittee, (as License requirements and in conjunction with, in addition to, or as may be redundant to, other applicable obligations), is obligated to:
  - (1) Maintain in force insurance coverage, security bond, and Indemnification and Hold Harmless Warranty as set forth in the Permit Manual.
  - (2) Obtain a Permit and perform all work and activities in accordance with the requirements of laws and regulations, this Right of Way Ordinance, the Permit Manual, the Indemnification and Hold Harmless Warranty, or an applicable permit.
  - (3) Perform/address all corrective work, restoration work, or concerns of the Town in a timely manner.

**Sec 17-34. - Permit requirements; fee.**

- (a) Any entity desiring to undertake Regulated Activities must obtain an applicable Permit from the AEA, on behalf of the Town Manager, to cover each and every activity to be undertaken. The AEA may organize

Permit types and particular activities covered by any Permit as deemed appropriate thereby. Any such Permit shall be issued under, and subject to, the current active License of the Permittee.

- (b) The base fee for any such Permit shall be fifty dollars (\$50.00) for excavation within the limits of the street improvements and twenty-five dollars (\$25.00) for other regulated activities.

**Sec 17-35. - Waivers and Exceptions.**

- (a) The AEA may waive or modify any or all, as deemed appropriate thereby, requirements of Sec. 17-33 or Sec. 17-34 hereof in the case of any governmental agency or public service company as deemed thereby to be in the interests of the Town or public; however, nothing herein contained shall be deemed to waive any of such requirements.
- (b) None of the provisions of this Rights of Way Ordinance shall apply to any work performed in connection with the maintenance, repair, replacement, or relocation of existing utility poles owned by any public service company, nor the erection of any temporary protective warning signs or devices.
- (c) None of the provisions of this Rights of Way Ordinance shall apply to any work performed directly by the Town of Bloomfield; nor work performed on behalf of the Town of Bloomfield under a purchase order duly issued by the Town of Bloomfield, unless so required in writing by the AEA.
- (d) Nothing in the provisions of this Rights of Way Ordinance shall be construed to prevent the making of any necessary excavation or the performance of any work related thereto by any public service company or governmental agency in the event of emergency.

**Sec 17-36. - Standards and specifications.**

- (a) The standards and specifications, including reference standards and specifications, for Regulated Activities shall be as set forth in the Permit Manual.

**Sec 17-37. - Implied Condition.**

- (a) The provisions of this Rights of Way Ordinance and the Permit Manual constitute a set of implied conditions on all Permits, including any general Permit, issued, created, or in effect pursuant to this Rights of Way Ordinance, and on all Regulated Activities pursuant to this Rights of Way Ordinance.

**Sec 17-38. - Citation.**

- (a) Notwithstanding any other enforcement action, within or external to this Article III or the Permit Manual, as may be available to or undertaken by the Town or other regulatory agency with respect to any subject violation, any violation of this Article III shall be subject to penalties and enforcement per this Sec. 17-38 and Sec. 1.8, and the hearing procedure with respect to the same as per Sec. 1.8.5, of this Code of Ordinances. Any failure to comply with any provision of this Article III or the Permit Manual shall be considered a violation of this Article III for each and every day that any such non-compliance or violation is allowed to exist and is not fully mitigated.

- (b) The violation of any provision of this Article III or the Permit Manual shall be punished by a fine not to exceed fifty dollars (\$50.00) per violation; provided that the AEA, with the approval of the Town Manager, and taking into consideration, as applicable, the actual or potential effects on the health, safety, and general welfare of the citizens of Bloomfield or the general public, the actual or potential harm to person, property, general public policy, and any other extenuating factors, may increase the penalty up to two hundred fifty dollars (\$250.00) per offense as deemed warranted thereby.

## Division 2. – Conduct of Regulated Activities

### **Sec 17-39.** - Quality of work and activities.

- (a) All Regulated Activities shall be performed and the provisions of the Permit Manual applied such that the best and highest result is achieved.

### **Sec 17-40.** - Safety:

- (a) The Permittee is responsible for the protection of person and property from harm or other adverse effects as a result of or arising from Regulated Activities.

### **Sec 17-41.** - Monitoring, inspection, testing and correction of unsatisfactory work:

- (a) The Town may reasonably monitor or inspect, which may include testing, any Regulated Activities to any degree, at any time, and in any manner deemed appropriate or in its interests thereby in accordance with the procedures and requirements set forth in the Permit Manual; and the AEA is hereby authorized to perform, or arrange for the performance of, the same. The Permittee shall fully cooperate with the same.
- (b) The Permit Manual sets forth additional provisions regarding testing and corrective work, including recoverable costs as may be associated with testing or corrective work performed by or on behalf of the Town. Any monies as may be owed to the Town hereunder shall be paid within 30 days of billing by the Town.

### **Sec 17-42.** - Closure to traffic.

- (a) No public way may be entirely closed to any mode of traffic intended or allowed prior to the commencement of Regulated Activities except by express direction of the Chief of Police or by prior express written consent of the Chief of Police or the AEA, except in the case of an emergency. In case of any such emergency, the Permittee shall notify the Police Department dispatch, through its regular phone number or by dialing "911" as soon as possible.

### **Sec 17-43.** - Suspension of Activities.

- (a) Notwithstanding any other provisions of this Rights of Way Ordinance, wherever deemed appropriate thereby, the Chief of Police may suspend activities or operations of the Permittee consistent with the authorities of such position.

## Division 3 – Driveway Aprons

**Sec 17-44.** - Work on driveway aprons to be permitted.

- (a) New, reconstructed, resurfaced, expanded, or removed driveway aprons are Regulated Activities under this Rights of Way Ordinance.

**Sec 17-45.** - Number.

- (a) Approval must be obtained from the Town Manager to install more than two driveway aprons on one parcel of property.

## Division 3.5. – Encroachments

**Sec 17-46.** - Encroachments to be permitted.

- (a) All encroachments are Regulated Activities. Obstructions within the right of way are a form of encroachment.

**Sec 17-47.** - General Requirements.

- (a) No encroachment shall pose a hazard or hindrance to travel on or within a highway.
- (b) No encroachment shall interfere, or pose the potential to interfere, with routine or typical Town maintenance or repair operations as associated with streets or rights of way.
- (c) Any encroachments shall be kept in good condition by the responsible party therefor.
- (d) A permit for any encroachment may be revoked by the Town for any reason the Town Manager determines to be in the public interest; and any encroachment subject to having its permit so revoked shall be deemed in non-compliance.

**Sec 17-48.** - Town not liable.

- (a) Any encroachment shall not be, and shall not be deemed to be, the property or responsibility of the Town. The Town shall not be held responsible or liable for any damage or other adverse effects to any encroachment, except as may be superseded by applicable federal or state law, as a result of:
  - (1) Any activities or efforts of or on behalf of the Town to avoid, prepare for, mitigate, or recover from public hazards or emergencies.
  - (2) Any activities or efforts associated with routine or typical maintenance or repair operations associated with streets or rights of way, including snow plowing, sweeping or other cleaning activities, maintenance or repair of facilities or improvements, maintenance or repair to drainage ways, or management of vegetation.

- (b) The decision or act of the Town to remediate or mitigate any damage or adverse effects to any encroachment as may be covered under (a) above, for any reason or to any degree, does not in any way alter or affect any future application or effect of this Sec. 17-48.

**Sec 17-49.** - Obstruction of sight lines at intersections.

- (a) The owner, tenant, occupant or agent of any lot in any zone, shall maintain said lot in such a manner that no encroachment or obstruction shall interfere with the free line of sight, in accordance with accepted state and federal highway design standards, for any motor vehicle operator, or other traveler, when legally traveling upon, entering onto, or exiting any highway.

**Sec 17-50.** - Responsibility to town and public.

- (a) The permit holder or other responsible party (collectively “responsible party”) for any encroachment or obstruction is solely responsible to the Town and to the public for all aspects or matters related to the existence of the subject encroachment or obstruction.
- (b) Where an encroachment or obstruction exists without a permit, or the permit holder of an encroachment is not identified, then the rebuttable presumption shall be that the responsible party for any such encroachment or obstruction is the owner of the property that directly abuts the subject location within the subject right of way. The burden shall be on the foregoing presumed responsible party to present sufficient evidence to have some other entity judged as the responsible party.
- (c) The responsible party receiving notice of non-compliance of a subject encroachment or obstruction per applicable provisions of the Permit Manual shall remove or correct such non-compliance in accordance with the applicable provisions of the Permit Manual and the subject notice of non-compliance; failure to so act is a violation of this Rights of Way Ordinance.
- (d) Where deemed thereby to be necessary and that the responsible party is unresponsive or is otherwise not likely to address any subject non-compliant encroachment in a timely manner, the Town Manager may, in the public interest, cause such non-compliant encroachment or obstruction to be removed or made compliant.
- (e) The Town may seek to recover, and the responsible party shall be liable to the Town for, any costs or expenses incurred by the Town in association with actions or measures undertaken by the Town under Provision 17-50.(d) above. If any invoice from the Town seeking to recover such costs or expenses remains unpaid for over 30 days from its issuance, then the Town may, at any time subsequent thereto, place a lien on any associated property of the responsible party to cover such liability to the Town. Any such lien may be administered and enforced by the Town in the same manner as a tax lien.

**Sec 17-51.** - Liability for placing obstructions in highway.

- (a) In accordance with Sec. 52-558 of the Connecticut General Statutes: “When any person places or keeps building materials, or any obstacle, in any highway, either with or without a License therefor from the town, city or borough in which such highway is situated, he shall pay to such town, city or borough all costs and damages which it sustains or is compelled to pay by reason thereof.”