

TOWN OF WILLISTON

ORDINANCE

**Regulation of the Placement of Utility Lines
Within Public Road Rights of Way and Public Property**

Pursuant to the provisions of 19 V.S.A. §1111, 24 V.S.A. §2291, and Chapter 59 of Title 24 of the Vermont Statutes Annotated, the Williston Selectboard hereby ordains as follows:

ARTICLE I. PURPOSE

1.1 The purposes of this Ordinance are:

(a) to compensate the Town for the additional costs of maintaining, repairing and replacing public highways which are encumbered by public utilities and utility lines within the Town's highway right of way and to otherwise protect the public investment in the existing highway infrastructure;

(b) to reimburse the Town for its costs in reviewing plans for placing utility lines/apparatus in a public highway and to ensure compliance with permits issued therefor;

(c) to improve visual quality along major traveled ways and other areas in the Town and diminish the visual blight and clutter created by above ground utility lines;

(d) to minimize the disruption of overhead utility services as the result of inclement weather and other factors;

(e) to implement the objectives of the Williston Town Plan with regard to the burial of utility lines where feasible to advance the community's goals for enhancement of visual and historic resources.

ARTICLE II. DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

2.1 "Town" shall mean the Town of Williston.

2.2 "Installed Underground" shall mean the placement, including by directional boring, of utility lines (including individual service lines, transmission lines and distribution lines) below the finished grade of the right of way and the removal (if appropriate) of all poles, guy wires and related structures used to support overhead utility service. "Utility Apparatus" as defined in this Ordinance may be mounted on pads at ground level within the right of way, if such will not interfere with the convenience of the public.

2.3 “Overhead Utility Service” shall mean the location of utility lines, typically for electrical, telephone and cable television service, or for traffic signals, above ground, supported by utility poles and related structures.

2.4 “Person” shall mean any individual, firm, company, association, society, corporation or group.

2.5 “Public Improvement Project” shall mean any project undertaken by a local, state or federal body for the benefit of the general public, such as, but not limited to, road or bridge construction or the development of a park.

2.6 “Public road”, “public road right of way”, “town street” and “town highway” shall have the meaning set forth in 23 V.S.A. §4 (13).

2.7 “Public Works Director” shall mean the Public Works Director for the Town of Williston.

2.8 “Utility Lines” shall include any wire, cable, conduit or other material for the transmission or distribution of electrical, telecommunication, audio/visual or other signals, impulses or energy and any pipes or lines for the transmission or distribution of water, wastewater and gas.

2.9 “Utility Apparatus” shall include equipment used in connection with a utility service such as transformers, switches, amplifiers and other similar equipment. “Utility Apparatus” shall not include utility lines or poles or related structures to be used to support lines or apparatus above ground.

2.10 “Town Manager” shall also mean his or her authorized representative.

ARTICLE III. UTILITY SERVICE INSTALLATION REQUIREMENTS

3.1 Unless otherwise approved by the Williston Development Review Board, all utility lines hereinafter constructed shall be installed underground in the right of way of any road or highway hereafter constructed which is to be dedicated to the Town as a public road or in a separate utility right of way adjacent to any such public road.

3.2 Any individual utility service line which originates in a public road right of way and extends to any building or structure hereafter constructed (including residential, commercial or industrial) shall be installed underground.

3.3 On all other town streets, utility lines shall be placed underground during major public improvement projects. (Without limiting the foregoing, all new streets or portions thereof which are proposed to become town highways shall be deemed to be a major public improvement.) The Williston Selectboard may waive this requirement for specific projects upon a determination, after a public hearing, that placing utility lines underground is not economically feasible.

3.4 Street lighting, if proposed for any project regulated under this Ordinance, shall be installed to meet minimum IES (Illuminating Engineering Society of North America) standards and shall be served by underground electrical service.

3.5 No work shall be performed within a town highway right of way without securing a permit from the Williston Public Works Department. (The requirement to secure a permit shall also apply to Town departments, fire districts and stormwater utilities.) All work performed pursuant to a permit issued hereunder shall be in accordance with the Public Works Specifications for the Town of Williston.

ARTICLE IV. FEES/PERMITS.

4.1 Except as otherwise provided herein, prior to the issuance of any permits to perform work in a town highway, the applicant shall pay such fees as established from time to time by the Williston Selectboard. All fees shall be paid to the Williston Public Works Director and shall be non-refundable.

4.2 The following alternative methods of payments may be utilized with the approval of the Public Works Director:

(a) monthly, with payments due and owing within fifteen (15) days of Town's invoice;

(b) an annual payment may be made in the amount determined by the Public Works Director providing that:

(1) the annual payment is made on or before the first day of May in each year;

(2) an accounting of the fees actually due and owing by the applicant for work performed in the previous twelve (12) month period is made on or before the 30th day of April of each year. If the accounting reveals additional sums are due from the applicant, payment of such sum shall be made within fifteen (15) days of Town's invoice. Should the applicant have overpaid the actual fee, the amount of the overpayment shall be credited to applicant's annual fee for the next fiscal period.

4.3 Should Town determine that work has been performed beyond that which was approved in a permit (the "approved work"), the applicant shall immediately cease all work until all required fees have been paid. In the event work has been completed beyond the approved work, all unpaid fees shall be paid within seven (7) business days of Town's written notice to applicant.

4.4 Except as otherwise provided herein, no work shall be performed in, upon or under a town highway without a permit having been issued by the Williston Public Works Director.

4.5 In the event of an emergency when it is not reasonably possible to secure in advance a permit from the Williston Public Works Director, work may be performed on a town highway on the conditions that:

(a) on the next business day following such work application is made to the Williston Public Works Director; and

(b) all required fees are paid at the time of application.

ARTICLE V. ENFORCEMENT AND PENALTIES

5.1 Any person found to be in violation of any provision of this Ordinance shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof.

5.2 The Town may commence appropriate enforcement proceedings against any person who fails to cease all violations within the time prescribed in Section 4.2 and may seek to recover fines in an amount not exceeding Five Hundred Dollars (\$500.00) for each violation per week, with each week the violation continues considered a separate offense. The Town may also seek injunctive or other appropriate relief.

ARTICLE VI. ENACTMENT

This Ordinance is a civil ordinance which shall take effect sixty (60) days after the date of its adoption by the Town Selectboard.

Adopted by the Williston Selectboard
December 7, 2009

Effective February 8, 2010