

**TOWN OF ROCK ELM
ORDINANCE NO. 2018-2**

**AN ORDINANCE TO PRESCRIBE POLICIES AND PROCEDURES TO
ACCOMMODATE UTILITY USE OF ANY TOWN HIGHWAY OR BRIDGE
AND RIGHT-OF WAY**

The Town Board of the Town of Rock Elm does hereby ordain as follows:

1. OVERVIEW OF UTILITY ACCOMMODATION.

The Town constructs, operates, and maintains the Town Highway System. Utility companies provide service to individual users. Both the Town and utility companies typically provide facilities that consider future as well as present needs. Cooperation between these two entities is essential if the public is to be served at the lowest costs consistent with the respective public service needs, obligations, and interests.

2. PRIMARY PURPOSE OF THE TOWN HIGHWAY SYSTEM.

The primary purpose of the Town Highway System is to provide a safe and convenient means for the vehicular transportation of people and goods. Any permitted use and occupancy of highway right-of-way for non-highway purposes is subordinate to the primary interests of the traveling public.

The purpose of this ordinance is to prescribe the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy in the future, any Town Highway or bridge, including any right-of-way upon which any such Town highway or bridge is located, over which the Town has maintained jurisdiction.

4. UTILITY ACCOMMODATION.

(a) Permits. It is the policy of the Town to permit utility facilities on Town Highways when:

1. Such use and occupancy does not adversely affect the primary functions of the highways or materially impair their safety, operational, or visual qualities.
2. There would be no conflict with the provisions of federal, state or local laws or regulations or the accommodation provisions stated herein.
3. The occupancies would not significantly increase the difficulty or future cost of highway construction or maintenance.

(b) Additions. Nothing in this policy shall be construed as limiting the rights of the Town to impose restrictions or requirements in addition to

and/or deviations from those stated herein in any permit where the Town deems it advisable to do so. An appropriate explanation for such action should be provided to the utility.

(c) Alterations. The permitted facilities shall, if necessary, be altered by the utility to facilitate alteration, improvement, safety control, or maintenance of the highway as may be ordered after permit approval. All costs for constructing, maintaining, altering, and relocating the permitted facilities shall be the obligation of the applicant, unless a specific Town-executed utility agreement otherwise provides. If the utility encounters a hardship which prevents installation in accordance with the terms of the permit, the utility may deviate from the terms of the permit as necessary to avoid the hardship, but in making such deviation does so at the risk of having to move the installation. Therefore the utility is urged to obtain pre-approval from the Town prior to taking action which deviates from the terms of the permit. The Town has final determination as to the validity of the hardship. If the Town determines that the changes were made due to the installers preference, and not due to hardship, the utility will take action within 10 days to correct such alterations. For clarification purposes: hardships are solid rock, uncrossable swamps, cemeteries, or similar circumstances that make construction physically or economically unfeasible.

5. GENERAL PROVISIONS.

(a) Authority. The town regulates the use and occupancy of highways under Chapters 83, 86 and 182.017, Wis. Stats.

(b) Design Responsibility. The utility shall be responsible for the design of the utility facility to be installed or adjusted within the right-of-way. The Town shall be responsible for review of the utility's proposal and for permit approval.

(c) Buried Line Location Notification. Each applicant for a permit for work on a Town Highway shall provide a reliable line-locate notification service by either or both of the following means: If the applicant has membership in a one-call utility notification service, the applicant shall enter the complete and current telephone number(s) for the service on the face of each permit application. The applicant shall also provide written notification to the town upon or in advance of any subsequent changes in the one-call contact information, such as, cessation or membership, changes in the contact telephone number(s), etc.

(d) Utility Facility Condition Requirements. All utility facilities shall be kept in good state of repair both structurally and from the standpoint of appearance.

6. SPECIFIC PROVISIONS.

(a) Chemical Treatment and Cutting of Trees. The utility shall be prohibited from chemical treatment or cutting of trees on highways without a permit from the Town. The permit application shall provide the area intended to be sprayed, the schedule in which the work is to be completed, the chemical and application rate. If a permit for chemical treatment is granted by the Town it is the responsibility of the utility to notify adjacent land owners. Cutting of trees in conjunction with activities listed as maintenance do not require a permit.

(b) Permanent Seeding. Permanent seeding is the establishment of a perennial vegetative cover. Permanent seeding shall be included on all projects where exposed soils are expected or vegetation is required. Seeding shall be highway mix #20 or #10 grass seed with cover of seed oats or rye.

(c) Mulching. The purpose of mulch is to prevent erosion by protecting the soil surface from raindrop impact and is to be used in conjunction with seeding. The protective ground cover (mulch) shall be composed of straw, hay, woodchips or wood fibers.

Mulch shall be applied:

1. Unless another cover such as erosion mat is used, to all disturbed areas which are seeded with either temporary or permanent seed. Seeded areas must be mulched immediately following seeding.
2. In areas that cannot be seeded because it is too early or late in the season mulch may provide protection to the soil surface depending on the site conditions. The application of a Soil Stabilizer Type B along with mulch should be used and the area over seeded as soon as weather or seasonal conditions permit, or dormant seeded if it is past the germination date.

(d) Erosion Mat. Erosion mat is a general term for any rolled protective soil covering mat or soil retention blanket that is install on a prepared planting area of a slope.

Erosion mat shall be used:

1. On steep slopes or roadway embankments where the erosion potential is high and planting is likely to be too slow in providing adequate protective cover. Erosion mat shall be considered to help stabilize and revegetate sensitive slopes steeper than 3:1.
2. Whenever typical revegetation measures do not provide the desired degree of erosion control or revegetation emphasis.

7. COMPLIANCE.

(a) Authority. All utilities required to abide by the provisions stated in this Chapter and those specific provisions related to their individual-permits.

(b) The provisions of this Chapter shall be enforced by the Town Board. In emergency circumstances the Town chairperson, or his designee, can approve deviations from the permit.

8. FAILURE TO COMPLY.

(a) Permit Revocation. When a utility is in noncompliance with the provisions of their permit, the Town may revoke the utility's permit. The utility may reapply for a permit to the Town Board when they can demonstrate a good faith effort to comply.

(b) Withholding Approval of Future Permits. Continued violations by a utility of this Chapter and/or the provisions of their permits may cause the Town to withhold approval of permit applications for that utility until the violations are corrected to the satisfaction of the Town. The severity and number of written reprimands against a utility shall serve as a guide in determining future permit approval.

9. PERMIT REQUIREMENTS

(a) Need for a Permit. A utility shall obtain a permit from the Town before any use or occupancy of Town highways is allowed.

10. REQUIRED INFORMATION.

(a) Permit Application Forms.

1. One original, with attached copies, of the permit form shall be submitted per application to the Town Clerk via regular mail, courier service, or delivered in person. The permit application form shall be in such form as is from time-to-time approved by the Town Board.

3. The telephone number of the applicant shall be included on each permit form.

(b) Permit Drawings. Each permit application shall contain adequate drawings showing the existing and/or proposed location of all utility facilities within the right-of-way with respect to the existing highway or any planned highway improvement. The details shall include dimensions from the proposed utility installation to the commonly accepted right-of-way line and to the edge of the traveled way. For highway crossings, a cross-section detail showing depth of bury or overhead clearance is required along with the location of any bore pits (if needed). A distance reference from the crossing to the nearest public roadway intersection is also required. Measurements showing approximate distance from the proposed

facility to side road intersection, county line, etc. shall be submitted with all permit drawings.

(c) Installation Information. The utility shall provide installation information:

1. This information shall include, but is not limited to, a general description of the location, size, type, nature, and extent of the utility facilities to be installed or to be adjusted, and the impact on the utility's existing facilities to remain in place within the right-of-way.

2. The Town may require the utility to provide a description of proposed construction procedures, special traffic control and protection measures, proposed access points, coordination of activities with the highway contractor, and/or vegetation to be removed.

3. When an attachment to a structure is proposed, additional information is required. This information should include, but not be limited to, bridge number, weight of lines, hanger spacing, hanger details, and expansion/contraction details. (see Section (21) for additional requirements regarding structure attachments.

(d) The application may be obtained from the Town clerk. The Town Board shall give final approval.

(e) Fees. The Town Board shall from time to time set the amount of the following fees:

1. The permit application and review fee, which shall accompany the application.

2. The inspection fee for each permit shall be due with the application. An inspection fee is not required for spraying and trimming permits.

3. The fee for open cuts across roadways, which shall be due at the time of application.

11. CONSTRUCTION REQUIREMENTS.

(a) Permit at Job Site. When a permit is required, a complete copy of the permit shall be in possession of the utility work forces, or the contract forces under utility control, at all times when utility work is being performed within the right-of-way.

(b) Use of Temporary Guard Poles. No guard pole shall be set within the right-of-way unless specifically authorized by the permit. By definition, a guard pole is used to prevent aerial lines from falling onto the traveled

way. Any guard poles permitted in the clear zone shall comply with Location Requirements of this policy.

(c) After Hours Equipment Storage. All machinery and equipment not in use shall be parked and/or stored in a manner which does not obstruct the traveled portion of the highway or the use thereof, and does not make hazardous the use of the traveled portion of the highway and its adjoining shoulder. All such equipment, when so stored, shall be marked with fluorescent warning signs on all sides.

(d) Unexpected Field Conditions. Any modification of the terms of the approved permit to meet changed or unexpected field conditions shall require prior approval from the Town.

(e) Blasting. Any blasting on the right-of-way is prohibited unless specifically authorized by the permit.

(f) Vegetation.

1. No tree or shrub shall be cut, trimmed, or damaged to facilitate the installation of a newly permitted facility unless specifically authorized by the permit.

2. When the removal of a tree is permitted, the stump shall be removed and the hole properly backfilled except, however, upon specific written approval of the Town the stump may be cut flush with the ground.

(g) Survey Markers. No U.S. government section corners may be disturbed without notifying the county surveyor's office. Any private survey corners disturbed that are documentable by recorded survey will be restored by registered surveyor at the utility's expense.

12. TRAFFIC CONTROL.

(a) Authority.

1. All utility work performed on Town highways shall abide by:

- a. The specific provisions within this section.

- b. The three traffic control diagrams as shown on the following pages, and

- c. The current Wisconsin Manual on Uniform Traffic Control Devices (MUTCD) and any supplements thereto.

2. The standards set forth in the Wisconsin MUTCD are minimum guidelines, and additional traffic control shall be used when necessary.

13. CLEANUP AND RESTORATION.

(a) Work Site Cleanup.

1. All debris, refuse, and waste resulting from the utility's activities shall be removed from the site and motorists' view unless otherwise provided by the permit. Burning of cuttings, brush, or other debris shall not be permitted within the limits of the right-of-way.
2. All replaced poles shall be completely removed from the highway. No replaced pole shall be allowed to remain, in whole or in part, and it shall not be sawed off. The poles shall be properly backfilled and compacted. All anchor rods shall be removed or cut off one foot below ground level.

(b) Restoration of Highway.

1. The utility shall be responsible for prompt restoration of the highway.
2. Any curb, gutter, pavement, sidewalk, driveway, gravel base, ballast, shouldering material, or other element of the highway disturbed by the permitted works shall be restored in kind to the qualities, grades, compactions and conditions at least equal to those prevailing prior to the permitted work operations and in a manner satisfactory to the Town.
3. Failure of the utility to make prompt and satisfactory restorations of the highway may be cause for the town to arrange for restoration by others at the utility's expense.
4. Any subsequent heavings, settlements, or other faultings attributable to the permitted works shall be repaired in a manner satisfactory to the Town at the utility's expense.
5. Any turfed area of the highway disturbed by the permitted works and operations shall be restored with topsoil having a depth of not less than 4 (four) inches and reseeded to perennial grass, or sodded to the satisfaction of the Town. The restoration shall be performed within one week after completion of the facility installation. Exceptions may be allowed (e.g. in the case of bad weather) with prior approval from the Town.
6. If, in the opinion of the Town, the permitted works or facilities are found to obstruct highway drainage, unduly increase the difficulty of highway maintenance, or in any other manner adversely affect a highway interest, the utility shall, upon notice, cure the fault as directed and restore the highway facility to the satisfaction of the Town.

14. MODIFICATION OF UTILITY'S PERMIT.

The Town reserves the right to modify the utility's permit application as necessary to protect the highway interests. The modifications may be more restrictive than

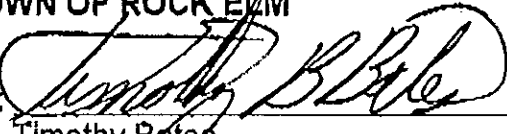
what was originally proposed. The permit, as approved, shall embody the conditions to which the utility shall comply in order to use and/or occupy the right-of-way.

15. PENALTY.

Any person or entity found to be in violation of any provision of this Ordinance shall be subject to a penalty of not less than \$1,000.00 and not more than \$2,000.00 per day, plus cost of prosecution and Court costs. Each day a violation continues or exists shall constitute a separate violation.

TOWN OF ROCK ELM

By:



Timothy Bates
Town Chairman

I, the undersigned Town Clerk, hereby certify the foregoing Ordinance was posted in the following three public places in the Township of Rock Elm on

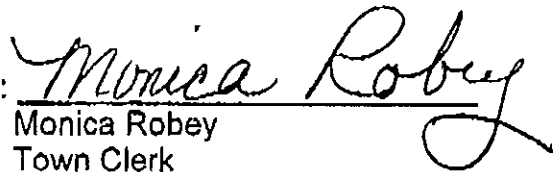
March 14, 2019.

Rock Elm Town Hall

Rock Elm Town Refuse Center

Exile Bar

Attest:



Monica Robey
Town Clerk