

*Right of Way
Ordinance*



Torrington, Connecticut

RIGHT OF WAY ORDINANCE

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RIGHT OF WAY ORDINANCE

§ 1. INTENT AND PURPOSE

The purpose of this Ordinance is for the regulation of the use of public Rights of Way in the interest of public safety and convenience, and the operation and protection of public works infrastructure. Excavation and restoration standards are required to preserve the integrity, operational safety, and function of the public Right of Way. The following sections shall be made a part of the specifications for any and all work or use within an existing or future public Right of Way.

§ 2. ADMINISTRATION

The City Engineer is the principal City of Torrington official responsible for the administration of the Rights of Way, Right of Way Permits, and the ordinances related thereto. The City Engineer's authority shall establish rules and regulations governing street excavations and shall implement this ordinance. The City Engineer may delegate any or all of the duties hereunder.

§ 3. DEFINITIONS

The following words and phrases, when used in this ordinance, shall have the meanings respectively ascribed to them:

CDOT refers to the Connecticut Department of Transportation.

City shall mean the City of Torrington; Torrington, Connecticut.

City Standard Details and City Standards, Specifications, Rules and Regulations refers to the written Standards, Specifications, Rules and Regulations and the Standard Details for construction activities within the City Right of Way (latest edition as amended).

Driveway shall mean access for vehicles from any public or private road leading to property adjacent thereto and shall include the driveway approach, which is the portion of the driveway from the traveled roadway to the property line.

Emergency shall mean any event which may threaten public health or safety, including, but not limited to; damaged or leaking water or gas conduit systems, damaged, plugged, or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed overhead pole structures.

Excavation means an operation for the purposes of movement or removal of earth, rock or other materials in or on the ground, or otherwise disturbing the subsurface of the earth, by the use of powered or mechanized equipment, including but not limited to; digging, blasting, auguring, backfilling, test boring, drilling, pile driving, grading, plowing-in, hammering pulling-in, trenching, tunneling, reclamation processes, and milling; excluding the movement of earth by tools manipulated only by human power and tilling of soil for agricultural purposes.

Facility(ies) means any wire, cable, pipe, vault, storage tank, transformer, or other similar property or equipment owned by public utilities for furnishing electric, gas, telephone, communications and pipeline (whether for hire or not), sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), water, traffic signal, fire signal or similar service, regardless of whether such property or equipment is located on land owned by a person or public agency or whether it is located within an

easement or right of way, but excluding such property or equipment owned by the owner of a private residence for utility service solely for such residence.

Form 816 refers to the State of Connecticut Department of Transportation, Standard Specifications for Roads, Bridges and Incidental Construction and all supplements thereafter (latest edition as amended).

Permittee shall mean a person who has obtained a permit as required by this ordinance.

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

Rehabilitation shall mean that activity of work on any street which provides structural improvement having a minimum service life of ten (10) years with minor maintenance, which includes pavement overlay of one and one-half (1 1/2) inches minimum depth, and partial or full depth reconstruction.

Right of Way Permit refers to a permit issued by the City of Torrington Engineering Department, describing the work proposed within the City right of way and conditions Permittee shall be obligated to comply with including requirements set forth under this Right of Way Ordinance.

Right of Way or Public Way shall mean the area on, below, or above a public roadway, highway, street, cartway, vegetative area, bicycle path, place, alley, sidewalk, park, square, plaza, or any other similar public property or easement owned or controlled by the City and dedicated to public use. The City has an interest for public travel and utility purposes. A Right of Way does not include the airwaves above a Right of Way with regard to cellular or other non-wire telecommunications or broadcast service.

Substructure shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, utility system appurtenance, or any other similar structures located below the surface of any public place.

Utility means the owner or operator of underground or above ground facilities and their plant or similar facilities. Such facilities may consist of, but not be limited to; public or private companies selling or controlling the sale, distribution or use of water, gas, electricity, cable television, communication systems, sewage (including storm sewers, sanitary sewers and drainage systems, or parts thereof), railroad lines and tracks, wires, cables, ducts, pipes, manholes, transformers, poles, towers, steam, traffic signal, fire signal or similar service.

§ 4. PERMIT REQUIRED

No person or utility shall make any excavation, modify, or fill any excavation excluding previously permitted locations in any City Right of Way without first obtaining a permit to do so from the City except as otherwise provided in this Ordinance. Any excavation within the City's streets, sidewalks, or other public right of way shall only be permitted in accordance with this Ordinance. The granting of such a permit shall cover all required activities to conform to this ordinance.

In addition, a Right of Way Permit shall be obtained when any type of construction activity requiring that associated vehicles/equipment, either mobile or stationary, be located or operated within the right of way in order to perform work on the abutting property.

Permits are not required for utility pole and mailbox installation. However, restoration work shall comply with City Standard Specifications.

A copy of the Right of Way permit **MUST BE KEPT AT THE WORK SITE** and be made available upon the request of any City representative.

§ 5. FAILURE TO OBTAIN A PERMIT

Any person or utility found to be conducting any excavation activity within the public right of way, without having first obtained the required permit(s), except in special cases as outlined in Paragraph 14, Emergency Action, of this ordinance, shall immediately cease all activity (exclusive of actions required to stabilize the area), and be required to obtain a permit before work may be restarted. A surcharge fee defined in Paragraph 20, Fees and Charges, shall be applied in addition to all other applicable permit fees. The City Engineer may waive the surcharge fee in situations where emergency action was required.

§ 6. LIABILITY OF CITY INSURANCE

This ordinance shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of excavation work for which a permit is required under this ordinance, nor shall the City or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any excavation work. For purposes of this section, every Permittee shall maintain, at all times, general liability (including bodily injury and property damage), automobile and excess liability insurance coverage in accordance with the current amounts listed in the "**Accord Certificate of Liability Insurance**", available in the City of Torrington Engineering Department, protecting himself, his agents and the City from all such claims for damages or injuries and naming the City as an additional insured. All such insurance shall include, without being limited to; endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the City. Evidence of such coverage shall be a condition precedent to the issuance of any permit hereunder and shall be submitted in a form satisfactory to the City Engineer. **All insurers must have an AM Best rating of A-VII or better.**

§ 7. CITY CONSTRUCTION STANDARDS, TECHNICAL SPECIFICATIONS

Infrastructure and site improvements shall be in conformance to City Standard Details and City Standards, Specifications, Rules and Regulations. Which more specifically include driveway standards, street excavation requirements, right of way permit requirements, improvement completion requirements, infrastructure design requirements and Water Pollution Control Authority rules and regulations. The Standards, Specifications, Rules and Regulations are subject to annual updates and revisions by the City Engineer. Conditions encountered that are not covered within these Standards, Specifications, Rules and Regulations shall be resolved on a case-by-case basis at the direction of the City Engineer.

§ 8. RESTORATION OF STREETS AND SIDEWALKS

All street, sidewalk and driveway apron restorations, including temporary and permanent work shall be performed by and at the Permittee's sole expense and in accordance with the City's Code of Ordinances and according to the Rules & Regulations promulgated by said authority pursuant to Paragraph 2, Administration. All repairs and restoration work shall be completed by the Permittee to City Standard Details and CDOT Standard Specifications, Form 816, in a manner and to the extent deemed acceptable to the City Engineer.

§ 9. PROTECTION AND REPAIR OF UTILITIES

The Permittee shall not interfere with any existing facility without the written consent of the owner of the facility. Relocation of existing facilities shall be done by its owner, should it become necessary. No facility owned by the City shall be moved to accommodate the Permittee unless approved by the City Engineer and the cost of such work is borne by the Permittee. The cost of moving privately owned facilities shall be similarly borne by the Permittee unless it makes other arrangements with the facility owners. The Permittee

shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The Permittee shall secure approval of method of support and protection from the owner of the facility. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, the Permittee shall promptly notify the owner thereof. All damaged facilities shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the Permittee. The exception to this case is in the event that the City's sanitary or storm sewer is damaged. The Permittee is to notify the City of Torrington Water Pollution Control Authority and the City of Torrington Engineering Department immediately. The Permittee is responsible to perform the necessary repairs under the inspection of the City prior to backfilling. It is the intent of this section that the Permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such facility damage and such assumption of liability is a contractual obligation of the Permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to any action because of this section. The Permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

§ 10. PROTECTION OF PUBLIC PROPERTY

The Permittee shall not remove, even temporarily, any trees or shrubs which exist in a public way without first obtaining the consent of the City Tree Warden.

Any monument set for the purpose of identifying, locating or preserving the lines of any street Right of Way or property, or a precise survey reference point, or a permanent survey bench mark within the City, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the City Engineer to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed substructure or conduit is available. If the City Engineer is satisfied that no alternate route is available, permission shall be granted only upon condition, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by a Connecticut licensed land surveyor. Said monuments, reference points or benchmarks shall not be disturbed until witnessing has been completed by a Connecticut licensed land surveyor. The Permittee shall be responsible for any damage to said monuments, reference points or benchmarks.

No person or utility shall remove, damage, haul away or cause misalignment of any pavement, curbing, catch basins, manholes, pipes, castings, frames, and/or covers owned by the City for any reason whatsoever without first receiving written permission from the City Engineer. Any damage to the aforementioned items with or without a permit will subject the responsible person(s) to the requirements as listed in this Ordinance.

§ 11. READJUSTMENT OR REMOVAL OF UTILITY SERVICES

The City Engineer may issue an appropriate order to any utility company or corporation to readjust, relocate, or remove its utility facility at the utility's expense for any municipal project within the City Street Right of Way as is deemed necessary by the City Engineer. Failure to follow such order by any utility company or corporation shall be subject to fine defined under paragraph 21, Violations.

§ 12. EXCAVATION DURING WINTER

No person or utility shall be granted a Right of Way Permit or open any street or sidewalk from the time of December 1st of each year to April 1st of the following year unless an emergency or special condition exists and permission is obtained in writing from the City Engineer. Any person or utility wishing to obtain a Right of Way Permit to perform right of way excavation work between these aforementioned dates shall

first explain fully in writing the emergency situation or special condition existing to the City Engineer before a permit may be granted. If an emergency condition that could endanger life, health or property exists, this section shall not delay excavation work; however, a written explanation shall be delivered to the City Engineer the next business day and a Right of Way Permit obtained for the work performed. A WINTER MORATORIUM SURCHARGE fee in the amount defined in Paragraph 20, Fees and Charges shall be charged for an excavation made between the aforementioned dates that are not due to an emergency condition. For the purpose of this section, an emergency shall be defined as one of the following: damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged underground electrical and communications facilities, or downed overhead pole structures; all remaining excavations will be considered non-emergency situations and may only be authorized upon written documentation of special circumstances.

§ 13. PROMPT COMPLETION OF WORK

After an excavation is commenced, the Permittee shall carry out with diligence and expedition all excavation work and shall promptly complete such work and restore the street or sidewalk as specified in this ordinance. The Permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel. On highly traveled roadway, the trench excavations shall be temporarily patched with bituminous concrete on a daily basis. On less traveled roadways with average daily traffic counts below 100 vehicles per day, trenches may be temporarily topped with a gravel surface if weather conditions are dry and a paving schedule is submitted and approved by the City Engineer. Also, on less traveled roadways, excavated trenches may be kept open with adequate protection using steel plates and other traffic protection devices if approved by the City Engineer. If the work, including all street restoration, is not completed within the time shown on the permit or paving schedule submitted by the Permittee, the City or its agent may complete the restoration, and the Permittee will be responsible for the cost of restoration. In the event an extension of time is required for permit performance, a written request shall be made to the City Engineer, with reasons for the delay, prior to the expiration of the permit.

§ 14. EMERGENCY ACTION

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life, health or property or for the location of trouble in conduit or pipe which may be a threat to life, health or property, or for making emergency repairs, provided that the person making such excavation shall apply to the City for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations. The City Engineer shall determine whether said excavation required emergency action and whether a failure to obtain permit charge is waived.

§ 15. URGENT WORK

When traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the City shall have the full power to order, at the time the permit is granted, that a crew and adequate facilities be employed by the Permittee beyond normal working hours, including up to twenty-four (24) hours a day, to the end that such excavation work may be completed as soon as possible.

§ 16. WARRANTY OF WORK

The Permittee shall, for a period of eighteen (18) months thereafter, be fully liable for all defects in materials and workmanship relating to such excavations and shall promptly repair or replace the same upon notice of the City Engineer and to the satisfaction thereof. All street excavation repair warranty periods shall begin on the date the permanent pavement repair is approved in accordance with the sections of this ordinance.

Pavement repairs guaranteed by each Permittee shall meet all of the following conditions in order to remain in conformance with this ordinance:

1. The entire area shall be free from delamination of the approved surface material.
2. No distortion of one-half (1/2) inch or greater shall exist over more than five (5) percent of the total surface area of the repair.
3. No cracks of one-quarter (1/4) inch or greater shall exist in the surface or edges of the repair totaling more than five (5) percent of the repair perimeter.
4. The hot-mixed asphalt within the trench shall not be completely flushed and bleeding.
5. Non-conformance with any of the above conditions shall constitute a breach of guarantee and subject the Permittee to remedial actions as provided in the sections of this ordinance.

Each Permittee is required to maintain their restoration work through the warranty period. Quick response is expected to any notice received about a malfunction or failure to the work area. The City will attempt to notify the Permittee before Emergency Maintenance is performed. However, Permittee must provide appropriate emergency contact person(s) and phone number(s). If the Permittee is not reachable at the emergency contact number(s) or fails to maintain or repair the problem within the required twenty-four (24) hour time period, the City may cause the necessary repairs to be accomplished, and shall keep an account of the expense thereof, and in such case the Permittee shall be billed as defined under Paragraph 20, Fees and Charges. Bills rendered in accordance with this section shall be due and payable by the Permittee immediately upon receipt. The City shall issue no further or new permits to the Permittee until full payment of the billed costs have been received. Funds received shall be deposited into the Street Restoration Account. The City may use the security deposit as specified in Paragraph 20, Fees and Charges, toward any unpaid invoices. If for any reason, the City has to perform repair work to an excavation after the Permittee's guarantee period has started, that guarantee period shall start over again upon completion of the repairs. The presence of City personnel during the performance of any work within the street right of way shall not relieve the Permittee of its responsibilities hereunder.

§ 17. INSPECTIONS

The Permittee shall make a request for inspection at least twenty-four (24) hours prior to the time of commencement of excavation. The City shall make such inspections as are reasonably necessary in the enforcement of this Right of Way Ordinance. Any work done without inspection will be considered defective. All defective work will be subject to re-excavation for inspection at the order of the City Engineer. Inspections requested by the permittee outside the regular City working hours (7:00 a.m. – 3:00 p.m., Monday through Friday, excluding holidays) shall pay the required overtime rate for the period being worked, using the City Inspector's hourly overtime rate structure. The inspection fee for the project shall be based upon the actual total of overtime hours worked and deducted from the deposit if necessary. The City Engineer may order such actions, as it deems necessary to insure that this ordinance is not violated.

§ 18. SHOP DRAWINGS AND TESTING REQUIREMENTS

The Permittee shall submit, to the City Engineer for approval, four (4) copies of the manufacturer and vendor's drawings of any specially fabricated and assembled items, including technical data, installation drawings, and setting drawings. Shop drawings are required for reinforced concrete construction and fabricated steel items. All shop drawings, etc. and/or printed matter submitted shall be properly identified by project, location and specific application with reference to specification items. No construction, purchase, delivery, installation or work shall be performed which is dependent on shop drawing review. Any comments, corrections or revisions must be resubmitted for approval prior to commencing work.

The Permittee is to provide a sieve analysis on materials to be used prior to placement of such to insure compliance with CDOT Standard Specifications, Form 816.

The City Engineer may require the Permittee to perform his own compaction testing as the project progresses to insure compliance with compaction specifications. The City may conduct random spot testing upon the completion of the work for verification that the work has been done in accordance with City of Torrington Standard Details and Technical Specifications, CDOT Standard Specifications, Form 816, and sections of this ordinance. The Permittee shall pay for all testing and retesting to verify the proper restoration in accordance with this Ordinance.

§ 19. MAINTENANCE OF DRAWINGS

Every person or utility owning, using, controlling or having an interest in substructures under the surface of the public way or public property, used for the purpose of supplying or conveying water, gas, electricity, or communications, may be required to file with the City an "Improvement Location Survey" to A-2 and V-2 classes or accuracy, prepared by a surveyor licensed in the State of Connecticut, depicting in detail the plan, location, depth, size and kind of installation, of all existing substructures and shall be drawn to a scale of not less than one (1) inch to forty (40) feet. This as-built map(s) shall be provided to the City no later than thirty (30) days after the completion date of construction in paper and in digital file in the same format as the version of AutoCAD or other computer aided drafting program currently being used by the City of Torrington Engineering Department.

§ 20. FEES AND CHARGES

No Permit Shall Be Issued Without Appropriate Payment of Fees.

- A. Subdivision Inspection Fee:** Prior to issuance of a city Grading Permit, the developer or permittee shall pay to the City of Torrington an inspection fee up to five (5) percent of the total construction cost for street and infrastructure improvements. The total construction cost is based on a cost estimate submitted by the Developer's or Permittee's contractor and approved by the City Engineer. Construction costs include but are not limited to new pavement, curbs, driveway aprons, storm drainage and storm water management facilities, demolition and clearing, erosion control, landscaping, and other miscellaneous improvements. The minimum fee shall be \$100.00.
- B. Right of Way Permit:** Each Right of Way Permit may be assessed the following fees: All fees below shall be in the format of a cashier's check payable to the "City of Torrington" and shall be paid at time of issuance of the Right of Way Permit. Checks shall be deposited into the City's "Street Restoration Account".
 - 1. Administrative Fee:** This fee shall reimburse the City for the direct cost of labor and equipment necessary for the administration of this ordinance. The fee shall be twenty-five dollars (\$25.00).
 - 2. Street Maintenance Fee:** This fee is assessed for the long-term maintenance of City streets. This fee is used as partial funding support for the City Street Restoration Program. This fee shall be applied only to permits involving opening of street pavement. The Street Maintenance Fee is based on plan measurements. The City may measure as-built field conditions when actual disturbed area exceeds the plan quantity. Any increase of the lineal footage may be assessed accordingly. Checks shall be deposited into the City's "Street Restoration Account". The fee is based on the following schedule:

DISTURBED PAVEMENT

<u>Pavement Opening</u>	<u>Lineal Feet</u>	<u>Fee Per Cut</u>
Perpendicular Cut	0 - 100	\$200.00
Longitudinal Cut	0 - 100	\$200.00
Longitudinal Cut	Over 100	\$200.00 + \$5.00/L.F.

- 3. Additional Charges:** All necessary materials, traffic aids, and labor furnished by the City for work that the Permittee fails to perform shall be billed an amount equal to one hundred fifty percent (150%) of the total expense incurred by the City. Also, an inspection fee shall be charged for overtime work as specified in Paragraph 17, Inspections. Charges shall include testing fees as defined in Paragraph 18, Shop Drawings and Testing Requirements. These charges are in addition to other permit fees. Charges include replacement of traffic signal loop detectors, electrical wires and conduit, and communication cables if damaged.
- 4. Security Deposit and Performance Bond:** If the City elects to take action to remedy a problem due to the failure of the Permittee to complete, maintain or repair the work or is unreachable at the emergency contact number(s) as specified under Paragraph 16, Warranty of Work, the permittee shall be billed an amount equal to one hundred fifty percent (150%) of the total expense incurred by the City. The security deposit shall be set by the City Engineer for each excavation to be made in the City right of way, but shall not be less than one thousand dollars (\$1,000.00) per permit. Such a deposit shall serve as security for the repair and performance of work necessary to put the right of way area in as good a condition as it was prior to the work if the Permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the Right of Way Permit. The City may use any or all such deposit to pay the cost of any work the City or hired City subcontractor may perform to restore or maintain the City right of way as herein provided in the event the Permittee fails to perform such work, in which event the amount refunded to the Permittee shall be reduced by the amount thus expended by the City. Any settlement of the surface within the warranty period shall be deemed conclusive evidence of defective backfilling or construction by the Permittee. Upon written request by the Permittee, such cash deposit shall be returned to the Permittee without interest after expiration of guarantee period given all work covered by such permit is in conformity of City Standards and accepted by City as complete. Such deposit shall also serve as security for any unpaid invoices charged by City under other sections of these standards. For larger scale projects a Performance Bond may be required in addition to the \$1,000.00 deposit. Performance Bonds may be used for work exceeding the \$1,000.00 security deposit in order to guarantee performance. Performance Bonds shall be posted for a minimum of eighteen (18) months. The required bond value shall be a minimum of the total value equivalent to the estimated cost to repair the excavation minus \$1,000.00 and shall be determined by the City Engineer. All Performance Bonds shall be executed by the Permittee as Principal and by a surety company licensed to do business under the laws of the State of Connecticut. The Permittee shall pay the premiums for such bonds.
- 5. Annual Cash Security Deposit Alternative:** Those companies performing annual work within the City rights of way may provide an annual cash deposit at the beginning of each year to cover excavations. The City Engineer shall determine the deposit by using prior permit history.
- 6. Failure To Obtain Permit Charge:** A surcharge fee of two hundred fifty dollars (\$250.00) shall be applied in addition to all other applicable permit fees for work started without securing the proper permits in advance and as further defined in Paragraph 5, Failure to Obtain a Permit.
- 7. Winter Moratorium Surcharge:** The surcharge fee shall be 150% of all other permit fees due and as further defined in Paragraph 12, Excavation During Winter.

C. Fee Revision: All fees shall be enacted by order of the City Council and may be revised by the City Council, as economic changes require fee updates. The City Engineer shall periodically review all fees and recommend any changes to the City Council.

D. Waiver of fees:

1. To prevent untimely delays to construction activities within the limits of City of Torrington planned reconstruction areas, the City may waive street opening repair charges for utilities and individuals having work to do in such areas until the time reconstruction takes place.
2. The City Engineer may waive all permit fees in streets or sidewalk/driveway areas to contractors under contract to the City.
3. To promote the use of tunneling, jacking, and boring technologies, the Street Maintenance Fee and Winter Moratorium Surcharge will not be assessed to any excavation area achieved by these technologies, which does not result in pavement damage.

E. Cancellation of Work: All fees except the Administration Fee may be refunded if work is canceled by giving written request to City Engineer stating reasons for cancellation. Refund shall be at discretion of City Engineer.

§ 21. VIOLATIONS

- A. Any person or utility failing to comply with or violating any provision of this ordinance or not in conformance with the City Standards, Specifications, Rules and Regulations may be served by the City with written notice stating the nature of the failure or violation and providing a reasonable time limit for the necessary corrective actions. Such person or utility shall, within the period of time stated in such notice, permanently cease or correct all failures or violations.
- B. In order to insure public safety, the City shall have the right to verbally notify and require immediate corrective actions of any person or utility whose failure to comply with this ordinance could cause a safety hazard.
- C. Any person or utility who shall continue any failure or violation beyond the time limit required for compliance in any notice given pursuant to this ordinance shall be guilty of a violation of this ordinance.
- D. Any person or utility violating any of the provisions of this ordinance shall be liable to the City for any expense, loss, or damage occasioned by the City by reason of such violation. The City may seek injunctive relief for the purposes of enforcing this right of way ordinance.
- E. Any violation of this ordinance other than the violations of state law shall subject the person or utility to a \$100.00 fine per day for each calendar day that a violation continues.
- F. Any person or utility who continues to violate any section of this ordinance and fails to correct violations in a timely manner shall receive no further permits and will be invoiced for permanent repairs until such time as the City is satisfied that the Permittee shall have corrected all violations in compliance with the terms of this ordinance.
- G. The City reserves the right to notify a Permittee's insurance and/or bond carrier of repeated violations.

§ 22. APPEALS PROCESS

Any decision or order issued by the City Engineer or any dispute to the amount, nature, or scope of work may be appealed to the City Council within fifteen (15) days of receipt of notice of the decision or order. The appeal must be in writing, specifically setting forth the grounds for the appeal and the relief requested and shall be filed with the City Clerk. The City Council shall hold a hearing on the appeal at its next regularly scheduled meeting and shall issue its decision within thirty (30) days thereafter. The decision of the City Council shall be final for purposes of an appeal to the Superior Court.

§ 23. NOISE, DUST AND DEBRIS

Each Permittee shall conduct and carry out construction activities in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the Permittee shall act to reduce noise, dust, and unsightly debris in the performance of the excavation work. Construction work, including the use of any tools, appliance, or equipment, shall be conducted under the conditions of the Torrington Area Health District "Noise Control Regulation".

§ 24. CONTAMINATED AND/OR HAZARDOUS MATERIAL

In the event that the Contractor encounters or exposes any material, not previously known or suspected to be contaminated, but which exhibits abnormal properties that may indicate the presence of hazardous or contaminated material, the Contractor shall cease all operations in the vicinity of the abnormal condition, and the City Engineer shall be notified immediately. The presence of barrels, discolored earth, wood, metal, visible fumes, smoke, abnormal odors or excessively hot earth may indicate the presence of hazardous or contaminated material, and shall be treated with extreme caution. The proper disposition of the material shall be arranged for with an appropriate party.

The Contractor shall faithfully observe all safety and security precautions established pursuant to OSHA 29 CFR, including all revisions and amendments, and shall not work in any area known to contain or suspected of containing hazardous or contaminated material without prior written approval of the City Engineer.

The Contractor will assume sole responsibility for the proper storage, handling, management and disposal of all regulated materials and wastes associated with the Contractor's operations, including but not limited to; lubricants, antifreeze, engine fluids, paints and solvents. All costs associated with the Contractor's failure to properly manage such materials in accordance with the federal and state regulations, and all remedial and punitive costs incurred by the City as a result of such failure will be borne by the Permittee.

§ 25. SOIL EROSION AND SOIL CONTROL

Depending on the scope of the work to be done under the Right of Way Permit, a soil erosion and sedimentation control plan may be required as a condition of the permit. This plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and to reduce the danger from storm water runoff on the proposed site. Such principles, methods and practices are found in the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control as amended. Alternative principles, methods and practices may be used with prior approval of the City Engineer. The soil erosion and sediment control plan will contain, at a minimum, the following information:

- A. A site-specific narrative describing the proposed scope of work.

- B.** The schedule for grading and construction activities including:
 - 1.** The start and completion dates.
 - 2.** A site-specific sequence of grading and construction activities.
 - 3.** The sequence for installation of soil erosion and sediment control measures.
 - 4.** The sequence for final stabilization of the project site.
- C.** The design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
- D.** The construction details for proposed soil erosion and sediment control measures and storm water management facilities.
- E.** The installation and application procedures for proposed soil erosion and sediment control measures and storm water management facilities.
- F.** The operations and maintenance program for proposed soil erosion and sediment control measures and storm water management facilities.

Property owners shall be responsible for the long-term maintenance of their respective access onto the public way. Periodic maintenance by property owner shall be accomplished to maintain the integrity of the driveway apron and prevent erosion and runoff onto the public way. If there is a continuous occurrence of erosion and runoff onto the public way, the property owner shall be considered in violation of this ordinance under Paragraph 21, Violations.

§ 26. PROTECTION OF INLAND WETLANDS & WATERCOURSES

The Permittee shall be responsible for obtaining approval from the Inland Wetlands Commission or Inland Wetlands Agent for all regulated activities and any other applicable permits.