

## **Utility Line Ordinance**

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Section 1: SHORT TITLE

This ordinance shall hereafter be known and cited as the "Town of Brandon Utility Line Ordinance."

Section 2: PURPOSE

It is the purpose of this Ordinance to regulate the placement of utility lines within public rights of way and public property in order to promote the public health, safety and welfare as follows:

- a. 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;
- b. To minimize the disruption of overhead utility services as a result of inclement weather and other factors;
- c. To bring about the removal of utility poles which present visual or physical inconvenience to the motoring or pedestrian public and pose possible safety hazards due to their location near sidewalks or intersections;
- d. To implement the objectives of Brandon Workbook (2002) with regard to the burial of utility lines where feasible to advance the community's goals for enhancement of visual and historic resources.

Section 3: AUTHORITY

This ordinance is adopted pursuant to the authority set forth in 24 V.S.A., Section 2291 (6). This ordinance shall constitute a civil ordinance within the meaning of 24 V.S.A. Section 1974a.

#### Section 4: Definitions

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

- a. "TOWN" shall mean the Town of Brandon.
- b. "INSTALLED UNDERGROUND" shall mean the placement 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 services. "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.
- c. "MAJOR ROADWAY RECONSTRUCTION" shall mean a project where an entire width of road surface and subsurface is to be opened or newly laid, with a minimum length of ¼ mile.
- d. "OVERHEAD UTILITY SERVICE" shall mean the location of utility lines, typically for electrical, telephone and cable service, or for traffic signals, above ground, supported by utility poles and related structures.
- e. "PERSON" shall mean any individual, firm, company, association, society, corporation or group.
- f. "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.
- g. "UTILITY LINES" shall include any wire, cable, conduit or other material for the transmission or distribution of electrical, telecommunications, audio/visual or other signals, impulses or energy.
- h. "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 of apparatus above ground.

#### Section 5: Utility Service Installation Requirements

- a. All utility services shall be installed in the right of way of any road or highway hereafter constructed which is to be dedicated to the Town as a public road.

b. In areas as described in section 5-d below, all utility services located within the boundaries of a major roadway reconstruction or public improvement project undertaken by the Town, the Vermont Agency of Transportation, or the US Federal Highway Administration shall be placed underground. The Select Board may waive this requirement for specific projects upon determination, after a public hearing, that placing utilities underground is not economically feasible.

c. In areas as described in section 5-d below, 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. The Select Board may waive this requirement for specific projects upon determination, after a public hearing, that placing utilities underground is not economically feasible.

d. Areas of the Town affected by Section 4-b and 4-c include the Brandon Downtown as described in “the application for Designated Downtown for the Town of Brandon, Vermont” to the Vermont Downtown Development Board dated November 24, 2003 and depicted on the “Brandon Downtown Designation Proposed District” map of February 2003.

e. On all other Town streets, utilities should be placed underground during major roadway or public improvement projects. The Select Board may waive this requirement for specific projects upon determination, after a public hearing, that placing utilities underground is not economically feasible.

f. 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.

g. On side streets with above ground utility services which intersect with a roadway with underground utility lines, the first pole supporting the above ground service shall be placed on such side street at least one hundred (100) feet from the center of the roadway with the underground utilities.

## Section 6: Enforcement and Penalties

1. Any person found to be in violation of any provision of this ordinance shall be subject to a civil penalty up to \$500.00 per day for each day that such violation continues. The Administrative Officer, Assistant Administrative Officer, Director of Public Works or any Law Enforcement Officer of the Town of Brandon shall be authorized to act as Issuing Municipal Officials to issue and pursue a municipal complaint before the Judicial Bureau.

2. In addition to the enforcement procedures available before the Judicial Bureau, the Town Manager is authorized to commence a civil action to obtain injunctive and other appropriate relief or to pursue any other remedy authorized by law.

#### Section 7: SEVERABILITY

Any part or provision of this Ordinance shall be considered severable, and if any provision of this Ordinance or the application thereto to any person or circumstance is held invalid, such invalidity shall not effect other provisions or applications of the Ordinance which can be given effect without the invalid provisions of application, and to this end the provisions of this Ordinance are declared severable.

This Ordinance was adopted on \_\_\_\_\_ and shall take effect 60 days hence.

Dated, this \_\_\_\_\_ day of \_\_\_\_\_, 2004

G. William Hatch, Chair

Richard Baker

Bruce Brown

Stephen Carr

Kellie Patten