

VILLAGE OF NEW HAVEN
ORDINANCE NO. _____

RIGHT-OF-WAY ORDINANCE

AN ORDINANCE TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS-OF-WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS.

THE VILLAGE OF NEW HAVEN HEREBY ORDAINS:

ARTICLE 1.00 - TITLE AND PURPOSE

Section 1.1 — Title

“This Ordinance shall be known and cited as the "Village of New Haven Right-of-Way Ordinance.”

Section 1.2 — Purpose

The Village of New Haven recognizes that the public rights-of-way (ROW) within its geographic boundaries are assets held in trust for its citizens. The Village also recognizes that some persons, by placing their equipment in the ROW and charging the citizens for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, and although the installation of such facilities is in most cases necessary and proper use of the ROW, the Village must regulate and manage such uses.

To provide for the health, safety, and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of the ROW, the Village strives to keep the ROW within its boundaries in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of the ROW is frequent excavation and other intrusions into the sub-surface area.

This Ordinance imposes reasonable regulations on the placement and maintenance of equipment currently within the ROW or to be placed therein. It is intended to complement and not replace or contradict the Macomb County Road Commission or the Michigan Department of Transportation standards and regulations.

The provisions of this Ordinance shall not apply to ROW users exempted by the statutes of the state of Michigan.

ARTICLE 2.00 - PERMIT REQUIREMENTS

Section 2.1 — Permit Required

No person, firm, or corporation shall conduct, any operations in the public right of way or easements of the Village of New Haven without first obtaining a permit and filing with the Village the necessary proof of insurance and bonds as herein after provided. All permits shall be authorized by the Village Council or their designated representative.

Work is considered to be: installing/repairing/replacing/removing overhead or underground utilities (wires, pipe, poles, culverts, etc.); repairing or installing drive approaches/lane improvements, sidewalks, mailboxes, irrigation lines, signs, planting or relocating trees, shrubs, and other vegetation.

Section 2.2 — Exceptions to Permit Requirements

A right-of-way permit is generally not necessary for: work performed by the Village personnel; regular maintenance of landscaping (cutting grass, planting flowers, trimming trees) by a property owner; when a contractor is working on behalf of the Village performing work under a current contractual obligation; when right-of-way work is being done in conjunction with another approved permit (i.e. plot plan). All site development plans shall obtain a right-of-way permit.

Section 2.3 - Permit Forms

Required permit application, conditions, specifications, indemnity forms shall be provided to the applicant by the Village. The Village Council may update all related forms from time to time as necessary.

ARTICLE 3.00 – FEES

Section 3.1- Fees

All fees shall be paid in full prior to issuance of permits. Any unused portions to be refunded to the applicant upon project completion.

Application Fee: \$50 non-refundable.

Review Fee: 1.30% of the estimate of cost of construction (\$50.00 minimum).

- Based on 1.15% of construction cost estimate plus 0.15% admin fee.

Section 3.2 - Inspection Deposits

All developments – 6.35% of the cost of construction (\$200 minimum)

- Based on 6.15 % of construction cost estimate plus 0.20% admin fee

Section 3.3 - Security Bond

Cash, certified check, or surety from an approved financial institution acceptable to the Village shall be filed equal in amount to the total cost of restoration (\$500.00 minimum).

These fees may be waived or reduced for individual homeowners performing sidewalk replacement, mailbox or landscaping installation in front of their residences themselves. Homeowners shall submit a sketch of the proposed work along with a copy of their homeowner's insurance policy.

ARTICLE 4.00 - EMERGENCIES

Each registrant shall immediately notify the Village and all other affected parties or property owners of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been Issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency apply for the necessary permits and fulfill the remaining requirements necessary to bring itself into compliance with this Ordinance for the actions it took in response to the emergency.

If the Village becomes aware of an emergency regarding a registrant's facilities, the Village shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The Village may take whatever action deemed reasonably necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

ARTICLE 5.00 - VIOLATIONS AND PENALTIES

As set forth in Chapter 59, Municipal Civil Infractions, of the Village code of ordinance.

ARTICLE 6.00 - INDEMNIFICATION AND LIABILITY

By registering with the Village and accepting a permit granted under this Ordinance, a registrant or permit holder agrees as follows:

Section 6.1 — Limitation of Liability

By reason of the acceptance of a registration or the grant of a ROW permit, the Village does not assume any liability for: 1) injuries to persons, damage to property or loss of service claims by parties, or 2) claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.

Section 6.2 — Indemnification

A registrant or permit holder shall indemnify, keep and hold the Village, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair, or operation of its equipment and facilities, or out of any activity undertaken in or near the ROW, whether or not any act or omission complained of is authorized, allowed, or prohibited by a ROW permit. The foregoing does not indemnify the Village for its own negligence except for claims arising out of or alleging the Village's negligence in issuing the permit or in failing to properly to adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the Village, and registrant or permit holder, in defending any action on behalf of the Village, shall be entitled to assert in any action every defense or immunity that the Village could assert on its own behalf.

ARTICLE 7.00 - SEVERABILITY

If any article, section, sub-section, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or administrative agency or competent jurisdiction, such article, section, sub-section, clause, phrase or portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remainder thereof.

SECTION 8.00 - REPEALER

Ordinance No. 350 shall be hereby repealed. Any ordinances, parts of ordinances, or sections of the New Haven Village Book of Ordinances in conflict with this ordinance are repealed only to the extent necessary to give this ordinance full force and effect.

ARTICLE 9.00 - PUBLICATION AND EFFECTIVE DATE

This Ordinance, or a summary hereof, shall be published within 30 days of adoption in a newspaper of general circulation in New Haven Village and shall become effective 30 days after such publication, as provided by law.

ENACTMENT

This ordinance is declared to have been enacted by the Village Board of Trustees of the Village of New Haven at a meeting called and held on the _____ day of _____ 2025, and ordered to be given publication in the manner prescribed by law.

Motioned by: _____

Seconded by _____

Ayes: _____

Nays: _____

Abstentions: _____

Absent: _____

CERTIFICATION

I, Rachel Whitsett, Clerk of the Village of New Haven, Macomb County, Michigan, do hereby certify that the within and foregoing Ordinance was adopted by the Village of New Haven Council on _____, at its regular meeting and notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Rachel Whitsett, Clerk
Village of New Haven