

ORDINANCE 2005- 14

**AN ORDINANCE ESTABLISHING
CERTAIN STANDARDS RELATING TO
WORK IN A TOWN ROAD RIGHT OF WAY**

BE IT ORDAINED:

SECTION 1: Chapter ⁵, section ^{51.1} of the Newburgh Code of Ordinances is added by this Ordinance.

SECTION 2: APPLICABILITY OF ORDINANCE.

The standards created by this Ordinance shall apply to any Town road right of way accepted for maintenance by the Town.

SECTION 3: DEFINITIONS.

EMERGENCY shall mean a condition or situation which requires immediate action to repair a facility which has been interrupted or damaged, or, which creates an imminent threat to the public health, safety or welfare.

FEDERAL ENERGY REGULATORY COMMISSION shall mean that agency of the United States Government with jurisdiction over some of the operations of gas and electric utilities.

HANDBOOK FOR TRAFFIC CONTROL IN CONSTRUCTION AND MAINTENANCE AREAS [HANDBOOK] shall mean the then current edition of the handbook as published by HERPICC at Purdue University

INDIANA MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES [IMUTCD] shall mean the then current edition of the IMUTCD as adopted by the Indiana Department of Transportation.

INDIANA UTILITY REGULATORY COMMISSION [IURC] shall mean that agency of state government with jurisdiction over all public utilities and municipal water, gas, telephone and electric utilities.

NATIONAL ELECTRICAL SAFETY CODE [NESC] shall mean the then current addition of the NESC as recognized by the Indiana Utility Regulatory Commission.

NATIONAL FIRE PROTECTIVE ASSOCIATION [NFPA] shall mean those NFPA codes adopted by the Indiana Utility Regulatory Commission, the United States Department of Transportation or any other state of federal agency with jurisdiction over a public utility.

NEWBURGH STANDARDS shall mean those standards adopted by the Town Council applicable to the construction and reconstruction of road ways and sidewalks in the Town.

RECOMMENDED STANDARDS FOR WASTEWATER FACILITIES, GREAT LAKES UPPER MISSISSIPPI RIVER BOARD OF STATE PUBLIC HEALTH AND ENVIRONMENTAL MANAGERS [10 State Standards] shall mean the standards adopted by the Indiana Department of Environmental Management as applicable to wastewater pipe construction by public and municipal utilities.

TOWN RIGHT OF WAY [or right of way] shall mean that public right of way located in the

Town of Newburgh that has been dedicated to the public use and accepted for maintenance by the Town.

UNITED STATES DEPARTMENT OF TRANSPORTATION [USDOT] shall mean that agency of the United States Government with jurisdiction over pipeline companies.

SECTION 4: TRAFFIC CONTROL STANDARDS.

(A) Performance of any work in a right of way shall conform to the traffic control standards of the IMUTCD and the HANDBOOK, including the requirement that flaggers be provided as detailed in those publications.

(B) Unless otherwise permitted by the Town, or as a result of a condition beyond the control of the entity performing the work, a Town right of way shall not be completely closed while work in the right of way is conducted.

(C) In the event a Town right of way is completely closed, a traffic detour plan shall be submitted to and approved by the Town Marshall before work commences in the Town right of way.

SECTION 5: POLE LINES, UNDERGROUND CABLES AND PIPING.

(A) Pole lines and underground cables for the provision of electric, telephone or cable television service located in the right of way shall be installed in accordance with the NESC or other standards adopted by any state or federal agency with jurisdiction over the installer or owner.

(B) Underground pipe lines for the carriage of water, sewer, gas, oil or other liquids or gasses, to be located in the right of way, shall be constructed in conformance with the 10 States Standards and other standard adopted by the USDOT, IURC or any other state or federal agency with jurisdiction over the installer.

SECTION 6: NOTICE REGARDING CUTTING BURIED FACILITIES.

Any person who, in the course of digging in a right of way, cuts or disrupts any buried facility shall give notice to the owner of such facility, if known, and if such owner is not known then notice to the adjoining property owner and the Town shall be given. Any person who intends to dig in the Town road right-of-way shall comply with the Indiana statues relating to underground utility location before such excavation shall begin.

SECTION 7: REPAIR OF RIGHT OF WAY.

The Newburgh Standards defined in Section 1 shall be applicable to the repair of any right of way:

SECTION 8: PENALTY.

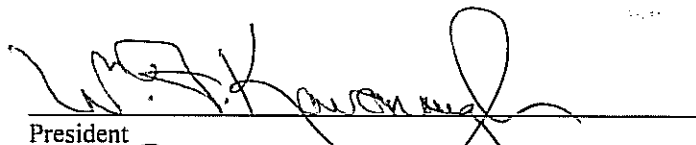
Any person, firm or corporation who violates this ordinance shall be subject to a civil penalty not to exceed \$2500 per day and each day of violation shall be a separate violation.

SECTION 9: REVOCATION OF CONFLICTING ORDINANCES.

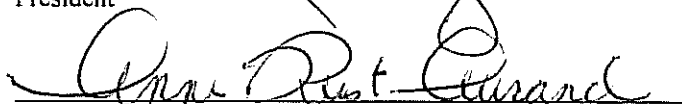
Any Ordinance in conflict with this Ordinance is repealed.

ADOPTED this 12 day of October, 2005.

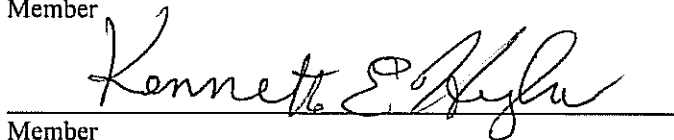
TOWN COUNCIL OF THE
TOWN OF NEWBURGH



President



Member



Member



Member



Member

ATTEST:


Rebecca Gentry, Clerk-Treasurer