

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE  
GOVERNING PUBLIC WAYS AND RIGHTS-OF-WAY  
IN SHIELDS TOWNSHIP, LAKE COUNTY, ILLINOIS**

**WHEREAS**, the Shields Township, Lake County, Illinois (the “Township”), has the authority to regulate the use of public ways and rights-of-way within its jurisdiction; and

**WHEREAS**, it is in the best interest of the Township to establish clear guidelines and regulations to ensure the safety, maintenance, and orderly use of its public ways and rights-of-way; and

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Trustees of Shields Township, Lake County, Illinois, as follows:

**SECTION 1. PURPOSE AND SCOPE**

**1.1. Purpose:** The purpose of this ordinance is to establish policies and procedures for constructing facilities on rights-of-way within the Township's jurisdiction. These policies aim to provide public benefits while preserving the integrity, safe usage, and visual qualities of the Township's rights-of-way and the Township as a whole.

**1.2. Intent:** In enacting this ordinance, the Township intends to exercise its authority over the rights-of-way within its jurisdiction to:

- a. Prevent interference with the use of streets, sidewalks, alleys, parkways, and other public ways and places.
- b. Prevent the creation of visual and physical obstructions and other conditions hazardous to vehicular and pedestrian traffic.
- c. Prevent interference with the facilities and operations of the Township's utilities and other utilities lawfully located in the rights-of-way or on public property.
- d. Protect against environmental damage, including damage to trees during construction within rights-of-way.
- e. Protect against increased stormwater runoff due to structures and materials that increase impermeable surfaces.
- f. Preserve open space, particularly the tree-lined parkways that characterize the Township's residential neighborhoods.
- g. Prevent visual blight within rights-of-way.
- h. Ensure the continued safe use and enjoyment of private properties adjacent to rights-of-way.

**1.3. Facilities Subject to This Ordinance:** This ordinance applies to all areas on, over, above, along, upon, under, across, or within the rights-of-way within the Township's jurisdiction. Any facility lawfully established before the effective date of this ordinance may continue to be

maintained, repaired, and operated by the applicant as constructed and located, except as otherwise provided in applicable franchise, license, or similar agreements.

**1.4. Conflicts With Other Ordinances:** This ordinance supersedes all prior ordinances or parts of ordinances that conflict with it to the extent of such conflict.

**1.5. Conflicts With State and Federal Laws:** In the event that applicable federal or state laws or regulations conflict with the requirements of this ordinance, the applicant shall comply with this ordinance to the maximum extent possible without violating federal or state laws or regulations.

**1.6. Sound Engineering Judgment:** The Township shall use sound engineering judgment when administering this ordinance. The Township may vary the standards, conditions, and requirements expressed in this ordinance when necessary. Nothing herein shall limit the Township's ability to regulate its rights-of-way for the protection of public health, safety, and welfare.

**1.7. Authority Under Illinois Highway Code:** This ordinance is enacted pursuant to the authority granted to the Township under Section 9-117 of the Illinois Highway Code (605 ILCS 5/9-117), which authorizes the Township to regulate, prevent, and remove obstructions and injuries to public highways and rights-of-way within its jurisdiction.

## **SECTION 2. DEFINITIONS**

For purposes of this ordinance, the following terms shall have the meanings ascribed to them unless the context clearly indicates otherwise:

**APPLICANT:** A person applying for a permit under this ordinance.

**CONSTRUCTION OR CONSTRUCT:** The installation, repair, maintenance, alteration, enlargement, or modification of facilities.

**DISRUPT THE RIGHT-OF-WAY:** Any work that obstructs the right-of-way or materially affects its intended use, including excavation, placement of materials, and damage to vegetation.

**EMERGENCY:** Immediate maintenance required for public safety or to address health and safety risks posed by a facility.

**EQUIPMENT:** Materials, tools, and other items used to facilitate construction of facilities.

**EXCAVATION:** The process of making a hole or cavity by digging.

**FACILITY:** Structures, devices, or materials located on, over, above, along, upon, under, across, or within the rights-of-way governed by this ordinance.

**HIGHWAY:** A right-of-way used for vehicular traffic, including streets, roads, and related structures.

**OBSTRUCTION:** Any object, structure, or material placed, maintained, or allowed to remain in the public way or right-of-way that hinders or prevents the free and safe passage of pedestrians or vehicles. Obstructions include, but are not limited to, signs, fences, landscaping materials, debris, vehicles, temporary structures, trees or cuttings left in the right-of-way, ditches, excavations, or any material that interferes with the free flow of water inside gutters or ditches, or any other action that saturates, washes, or damages the public way or right-of-way.

**PERMIT:** Official permission granted by the Township to perform work within the public ways or rights-of-way.

**PERMITTEE:** The entity issued a permit under this ordinance.

**PUBLIC WAY:** Any street, alley, sidewalk, or other area dedicated for public pedestrian or vehicular traffic.

**RESTORATION:** Repairing a right-of-way disrupted by facility construction.

**RIGHT-OF-WAY OR RIGHTS-OF-WAY:** Any street, alley, or other land used for pedestrian or vehicular traffic or similar purposes under the Township's jurisdiction.

### **SECTION 3. PERMIT REQUIRED; APPLICATION, FEES, AND COSTS**

**3.1. Permit Required:** No person shall construct (as defined in this ordinance) any facility on, over, above, along, upon, under, across, or within any Township right-of-way that: (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this ordinance), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across, or within the right-of-way without first filing an application with the Township Supervisor, or his designee, and obtaining a permit from the Township, except as otherwise provided in this ordinance.

**3.2. Permit Application:** All applications for permits pursuant to this ordinance shall be filed on a form provided by the Township and in such number of duplicate copies as the Township may designate. The Township Supervisor, or his designee, is directed and authorized to establish permit application requirements, which shall include the following information:

1. The name, address, and telephone number of the applicant.
2. The name and telephone number of the person to be contacted in the event of an emergency involving the facility.
3. A description of the facility proposed to be constructed.
4. A site plan, including all existing utilities and other facilities within the right-of-way, with construction plans and specifications.
5. The proposed construction schedule.
6. Evidence of insurance as required in Section 3.6.

7. Evidence of a surety bond as required in Section 3.8.

**3.3. Permit Fees:** Applications for permits shall be accompanied by the required non-refundable application fee as set by the Township Board. The applicant shall also be responsible for any additional costs incurred by the Township in the review of the application, including engineering and legal review costs. The Township shall provide the applicant with an estimate of such costs, and the applicant may be required to provide an additional deposit to cover these expenses before the permit is issued. The permit shall not be issued until all applicable fees and costs have been paid in full.

#### **SECTION 4. ACTION ON PERMIT APPLICATIONS**

**4.1. Decision on Permit:** The Township Supervisor, or his designee, shall examine each application for a permit and accompanying documentation. If the application does not conform to the requirements of applicable law, the Supervisor, or his designee, shall reject such application in writing, stating the reasons therefor. If the Supervisor, or his designee, is satisfied that the proposed work conforms to the requirements of this ordinance and applicable law, a permit shall be issued as soon as practicable.

**4.2. Notice of Decision:** The Township Supervisor, or his designee, shall provide written notice of the decision to the applicant within thirty (30) days after receiving a completed application.

#### **SECTION 5. EFFECT OF PERMIT**

**5.1. Authority Granted:** A permit from the Township authorizes an applicant to undertake only those activities specified in accordance with this ordinance and does not confer any property rights or grant authority to impinge upon the rights of others who may have an interest in the right-of-way.

**5.2. Duration:** The permit shall specify the duration for which it is valid, which shall not exceed twelve (12) months from the date of issuance, unless the Township Supervisor, or his designee, grants an extension upon request.

#### **SECTION 6. REVISED PERMIT DRAWINGS**

**6.1. Changes in Work:** Any changes in the work as proposed in the permit application shall require the permit holder to submit revised drawings for approval by the Township Supervisor, or his designee, before any additional work may be performed.

#### **SECTION 7. INSURANCE**

**7.1. Required Coverage:** Each permittee shall secure and maintain insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under the permit, as required by the Township.



**7.2. Proof of Insurance:** Proof of insurance shall be provided before the issuance of the permit and maintained throughout the duration of the permit.

## **SECTION 8. INDEMNIFICATION**

**8.1. Hold Harmless:** The permit holder agrees to indemnify, defend, and hold harmless the Township, its officers, employees, and agents from and against any and all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the work authorized by the permit, provided that any such claim, damage, loss, or expense is caused in whole or in part by any negligent act or omission of the permit holder, anyone directly or indirectly employed by the permit holder, or anyone for whose acts the permit holder may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the Township.

## **SECTION 9. SECURITY**

**9.1. Security Fund:** Before the permit is issued, the applicant shall deposit with the Township a security fund, in the form of a letter of credit, performance bond, or cash deposit, to guarantee the performance of the work and compliance with all terms, conditions, and requirements of the permit.

## **SECTION 10. PERMIT SUSPENSION AND REVOCATION**

**10.1. Grounds for Suspension or Revocation:** The Township may suspend or revoke a permit for any of the following reasons:

- a. Violation of any provision of this ordinance or any other applicable law.
- b. Noncompliance with any condition set forth in the permit.
- c. An unforeseen circumstance requiring suspension or revocation to protect public safety.

**10.2. Notice of Suspension or Revocation:** The Township shall provide written notice to the permit holder stating the grounds for suspension or revocation and the effective date thereof.

## **SECTION 11. CHANGE OF OWNERSHIP, IDENTITY, OR LEGAL STATUS**

**11.1. Notice Requirement:** If a permit holder transfers ownership or changes its legal status, the new owner or entity shall notify the Township within thirty (30) days of such change and provide the necessary information for updating the permit.

## **SECTION 12. GENERAL CONSTRUCTION STANDARDS**

**12.1. Standards:** All work shall conform to the current standards and specifications established by the Township and any other applicable state and federal requirements.

## **SECTION 13. TRAFFIC CONTROL**

**13.1. Traffic Control Plan:** The permit holder shall submit a traffic control plan to the Township for approval before commencing any work that will disrupt traffic flow.

#### **SECTION 14. LOCATION OF FACILITIES**

**14.1. Minimize Interference:** Facilities shall be located to minimize interference with the use of streets, sidewalks, alleys, and other public ways and places.

#### **SECTION 15. CONSTRUCTION METHODS AND MATERIALS**

**15.1. Standards:** Construction methods and materials shall comply with the current standards and specifications established by the Township and any other applicable state and federal requirements.

#### **SECTION 16. VEGETATION CONTROL**

**16.1. Tree Protection:** The permit holder shall take measures to protect trees and other vegetation in the right-of-way during construction activities.

#### **SECTION 17. REMOVAL, RELOCATION, MODIFICATIONS OF FACILITIES**

**17.1. Authority:** The Township reserves the right to order the removal, relocation, or modification of facilities in the right-of-way as necessary to protect public safety and convenience.

#### **SECTION 18. CLEANUP AND RESTORATION**

**18.1. Restoration:** Upon completion of the work, the permit holder shall restore the right-of-way to its original condition to the satisfaction of the Township.

#### **SECTION 19. MAINTENANCE AND EMERGENCY MAINTENANCE**

**19.1. Routine Maintenance:** The permit holder shall maintain the facilities in good condition and repair.

**19.2. Emergency Maintenance:** In case of emergencies, the permit holder may perform necessary repairs without prior notice but shall notify the Township as soon as practicable.

#### **SECTION 20. VARIANCES**

**20.1. Authority to Grant Variances:** The Township Board of Trustees may grant variances from the strict application of this ordinance upon a finding that the variance is necessary to avoid undue hardship, and that the variance will not be detrimental to the public health, safety, or welfare.

#### **SECTION 21. PENALTIES**

**21.1. Fines:** Any person who violates any provision of this ordinance shall be subject to fines as provided in the Township Code and/or Highway Code.

**21.2. Separate Offenses:** Each day a violation continues shall constitute a separate offense.

## **SECTION 22. ENFORCEMENT**

**22.1. Authority:** The Township shall have the authority to enforce the provisions of this ordinance and may institute any appropriate action or proceeding to prevent, restrain, correct, or abate a violation of this ordinance.

## **SECTION 23. ANNUAL REGISTRATION REQUIRED**

Every permittee that occupies the right-of-way within the Township shall register on January 1 of each year with the Supervisor, or his designee, providing the applicant's name, address, and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the applicant in connection with emergencies involving the applicant's facilities in the right-of-way, and a twenty-four (24) hour telephone number for each such person and evidence of insurance as required in this Ordinance in the form of a certificate of insurance.

## **SECTION 24. MANAGEMENT OF OBSTRUCTIONS**

**24.1. Prohibition of Obstructions:** No person shall place, maintain, or allow any obstruction in the public ways or rights-of-way that hinders or prevents the free and safe passage of pedestrians or vehicles, or that interferes with the flow of water inside gutters or ditches, without first obtaining a permit from the Township.

**24.2. Permit for Temporary Obstructions:** A permit may be issued for temporary obstructions necessary for construction, maintenance, or special events. The application for such a permit shall include: (a) A description and location of the obstruction; (b) The duration for which the permit is required; and (c) Measures to ensure public safety and minimize disruption. Temporary obstructions must be clearly marked and, if necessary, illuminated to ensure visibility.

**24.3. Maintenance of Clear Pathways and Drainage:** Property owners adjacent to the public ways are responsible for maintaining clear pathways and ensuring that no obstructions encroach into the right-of-way or interfere with the free flow of water inside gutters or ditches. The Township shall conduct regular inspections to ensure compliance and may issue notices of violation to property owners or responsible parties.

**24.4. Removal of Unauthorized Obstructions:** The Township reserves the right to remove any unauthorized obstruction from the public ways or rights-of-way without prior notice if it poses an immediate hazard to public health, safety, or welfare, or if it interferes with the flow of traffic. For non-hazardous obstructions, the Township shall provide 10 days' notice to the property owner or responsible party. If the obstruction is not removed within that time, the

Township may remove the obstruction, fill any ditch or excavation, regrade side gutters or ditches, and recover the cost from the property owner or responsible party. Costs recovered for removal shall be deposited into the Township's road fund and used for the maintenance or construction of public highways. The 10-day notice requirement shall not apply to any obstruction that interferes with traffic flow or violates the provisions of a permit issued by the Township.

**24.5. Penalties for Violations:** Any person who places, maintains, or allows an obstruction in the public ways or rights-of-way in violation of this ordinance shall be guilty of a petty offense and subject to a fine of not less than \$50 nor more than \$500. An additional fine of up to \$50 per day may be imposed for each day the obstruction remains after notice has been provided by the Township. Each day an obstruction remains in violation constitutes a separate offense.

## **SECTION 25. FENCES IN RIGHTS-OF-WAY**

**25.1. Permit Required:** No person shall construct, install, or maintain any fence within the public ways or rights-of-way without first obtaining a permit from the Township.

## **SECTION 26. DRIVEWAYS INTERSECTING PUBLIC WAYS**

**26.1. Permit Required:** No person shall construct, install, or maintain any driveway intersecting a public way without first obtaining a permit from the Township.

## **SECTION 27: DRAINAGE AND WATER MANAGEMENT**

**27.1. Drainage Work Permit:** No person shall plow, dig, or perform any drainage work that interferes with the flow of water inside gutters or ditches in the public ways or rights-of-way without first obtaining a permit from the Township. Persons wishing to drain their land into ditches within the right-of-way shall notify the Township Supervisor or his designee and secure written permission before performing any work.

**27.2. Protection of Drainage Systems:** Any interference with the free flow of water inside gutters, ditches, or drainage systems is prohibited without prior Township approval. The Township may regrade, fill, or remove any ditch or obstruction interfering with drainage, and recover the costs of such actions from the responsible party, as permitted under Section 9-117 of the Illinois Highway Code.

**27.3. Exceptions:** This section shall not apply to persons who, after giving notice to the Township and securing written permission, perform lawful drainage work necessary for the drainage of adjoining farmland or other property, as provided in Section 9-117 of the Illinois Highway Code.

## **SECTION 28. SEVERABILITY**

If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or



provision shall not affect any of the remaining sections, paragraphs, or provisions of this Ordinance.

**SECTION 29. REPEAL**

All prior Ordinances and Resolutions in conflict or inconsistent with this Ordinance are hereby expressly repealed but only to the extent of such conflict or inconsistency.

**SECTION 30. EFFECTIVE DATE**

This Ordinance shall be in full force and effect upon its passage and approval, as provided by law, and shall be applicable to bids issued after the effective date of this Ordinance.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

\_\_\_\_\_  
Jeff Urso, Township Supervisor

ATTEST:

\_\_\_\_\_  
Vanessa Grum, Township Clerk

## CERTIFICATION

I, the undersigned, do hereby certify that I am the Township Clerk of Shields Township, Lake County, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance \_\_\_\_\_, enacted on \_\_\_\_\_, and approved on \_\_\_\_\_, as the same appears from the official records of Shields Township.

\_\_\_\_\_  
Vanessa Grum, Township Clerk

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