# Town of Porter

71 Main Street · Porter, ME 04068
Phone: (207) 625-8344 · Fax: (207) 625-4120


## PORTER POLE ORDINANCE

Adopting a new Ordinance Regulating Utility Poles in the Public Right-of-Way.

THE **TOWN OF PORTER** HEREBY adopts this ordinance in its entirety as follows:

This Ordinance is adopted pursuant to and in accordance with the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions 30-A M.R.S. § 3001, (*Ordinance Power*), the provisions of the Planning and Land Use Regulation laws, 30-A M.R.S. § 4301 *et seq.*, and 35-A M.R.S. § 2501 *et seq.* (*Regulation of Facilities in the Public Way*)

**UTILITY POLES IN THE RIGHT OF WAY**

**Sec. 1. Scope, Authority to Regulate, and Utility Poles in Town Right of Way**

The Town of Porter's street rights-of-way are a critical Town asset serving many purposes including vehicular traffic, bicycle traffic, pedestrian traffic, hosting utilities, and providing an aesthetic to the Town. It is in the Town's interest to manage these rights-of-way to balance these uses in a manner that best serves its citizens, their safety, wellbeing, and prosperity. The purpose of this Ordinance is to manage above ground utility poles in a manner that achieves this balance in accordance with State and Federal law for utility accommodation, Public Way infrastructure management, and Americans With Disabilities Act (ADA) requirements.

**Sec. 2. Definitions.**

"Make-ready work" means the rearrangement or transfer of existing facilities, replacement of a pole, complete removal of any pole replaced, or any other changes required to make space available for an additional attachment to a shared-use pole. 35-A M.R.S. § 2524(1)(A).

**Sec. 3. Permitting New Poles.**

Permitting new poles shall be done through the Town Clerk in accordance with 35-A M.R.S. § 2501 *et seq.*. Applications must include:

- Name and address of the applicant,
- Purpose and use of the new installation,
- Co-located utilities anticipated
- Location sketch of the new installation with field-measured distances to key features such as right-of-way **monuments** (*stonewalls, granite posts, pins, etc.*) curbs, catch basins, underground utilities, trees, buildings and sidewalk features, where applicable,
- Minimum height of wires and other fixtures,
- **Distance from centerline of roadway to each pole**,
- Proposed guy wires or anchors including their proposed location,

• Acknowledgment that the **proposed location has been marked in the field for review,**
• **Proposed date of installation**, and
• Other site-specific pertinent and reasonable information requested by the Municipal Officers, Road Commissioner, or delegated authority.

The application shall include payment for a review fee established by the Select Board in the **Municipal Fee Schedule**. The Town Clerk will coordinate a review of such applications with the Select Board, Road Commissioner, or delegated authority, as appropriate, and will issue a written permit or denial within 14 days of receiving a complete application.

**Sec. 4. Safety Zone.**

Poles associated with public utilities are to be placed at least **18 feet from roadway centerlines** and must avoid alteration of existing monuments (*e.g. stone walls*).

An applicant for a pole permit may seek a waiver from this requirement upon a showing to the satisfaction of the Select Board, Road Commissioner, or delegated authority that there exists no practicable alternative that would allow for maintaining utility services to adjacent properties, based on roadway alignment in relation to existing right-of-way monument boundaries.

Upon such a showing, the Select Board, Road Commissioner, or delegated authority may reduce the minimum setback from roadway centerline to **15 feet** where obstructions or road limitations exist that prohibit or negate plowing, ditching, shoulder grading/back-up gravels.

Any guy wires or other appurtenances associated with utility poles and extending over any sidewalk must provide for a minimum 9 feet of clearance above any sidewalk or existing access.

The Utility or private pole installer will be required to relocate any object violating these standards and repair any damage done as a result of such work.

**Sec. 5. Replacement Poles and Unsafe Conditions.**

Replacement poles do not require a new permit under most circumstances. To maintain the right-of way for all allowed uses, including the free flow of pedestrian and vehicular traffic, the replacement pole must not infringe on other uses of the right of way. Replacement poles must meet the requirements in Section 4. If a replacement pole is proposed that will further infringe on the standards above, then a New Pole Permit will be required per Section 3. In no case shall a new or replacement pole restrict access to less than ADA design standards or infringe in the safety zone of a public way. Replaced poles must be removed from the right of way and repairs made within 180 days of placement of the replacement pole. All coordination with collocated utilities is the responsibility of the pole Owner.

If the Select Board, Road Commissioner, or delegated authority identifies a potentially unsafe condition related to a pole installation, guy wire or anchor, the pole Owner will be notified in writing. The pole Owner shall respond to the Town within 30 days of such notice with their plans to mitigate the potential safety condition. After an acceptable plan is approved by the Select Board, Road Commissioner, or delegated authority, the work must be completed within thirty days unless the Town grants an extension related to winter conditions. Prior to correction, the

Owner is required to take the necessary steps to provide such temporary measures as are necessary to ensure public safety.

**Sec. 7. Municipal Access to Poles.**

In accordance 35-A M.R.S. § 2524 and other applicable State law, space shall be made available on each pole, below the electric power company's wires and above the telephone and or cable television company's lines or cables to accommodate the attachment of the Town's facilities to that shared-use pole. This space shall be reserved on all poles planted within the Town Right of Way. In order to safeguard access to infrastructure essential to public health, safety and welfare, an Owner of a shared-use pole and each entity attaching to that pole is responsible for that Owner's or entity's own expenses for make-ready work to accommodate the Town attaching its facilities to that shared-use pole. This space shall be available to the Town for municipal purposes, free of charge including no make-ready fees.

Until October 1, 2028, the pole Owner of a shared-use pole may require a municipality to purchase and maintain a general liability insurance policy meeting the pole Owner's insurance requirement in accordance with 35-A M.R.S. § 2524(3).

**Sec 8. Permit Revocations – Highway and Sidewalk Projects.**
The Town of Porter will notify Utilities owning poles, guy wires and anchors within the Town's right-of-way of the need to relocate their facilities due to a town road or sidewalk construction project, in writing no less than 180 days prior to commencement of construction. Town will work with the Utility as the project is designed. It is the pole Owner's responsibility to coordinate with all co-located utilities. All costs for the pole, guy wire or anchor relocation shall be the responsibility of the pole Owner and collocated utilities. If the poles are not moved within the 180 days or a date agreed to in writing between the Owner and the Town, the Town Clerk may revoke the pole permits for the subject poles.

**Sec. 9 Removal of Replaced Poles.**

In several locations, Porter has double utility poles (*original and replacement*), further impeding sidewalks and Town rights of way. These double poles are the result of installation of replacement poles without removal of the replaced poles. In many cases, not all of the utility lines on the replaced poles were moved to the replacement pole. For those existing double poles, the pole Owner shall remove such replaced poles from the right of way and make necessary repairs made within 180 days of notification to the Utility of the existence of double poles by the Town. It is the pole Owner's responsibility to coordinate with all co-located utilities to relocate any remaining utilities to the replacement pole. All costs for the relocation, attachments, pole, guy wire or anchor removal shall be the responsibility of the pole Owner and co-located utilities.